The Vermont Statutes Online

Title 24: Municipal And County Government

Chapter 109: Fences And Fence Viewers

§ 3801. Sufficient fences

Fences four and one-half feet high, in good repair and so constructed as to prevent the escape of sheep, and any natural barrier equivalent to such fence shall be deemed sufficient, except fences on the sides of highways that the owners of land are not bound to make and maintain. Occupied land bordering upon highways shall be deemed to be the enclosure of the owner or occupant. A person driving cattle, sheep, swine, or other stock upon a highway, and exercising reasonable care, shall not be liable for damages by reason of the escape of such animals into an enclosure adjoining the highway, unless the fence between the highway and the enclosure is a sufficient fence within the meaning of this section.

§ 3802. Maintenance

Owners or occupants of adjoining lands, where the lands of both parties are occupied, shall make and maintain equal portions of the division fence between their respective lands. The owner of unimproved and unoccupied land adjoining occupied land of another person shall make his or her proportion of a fence between such lands unless the selectboard of the town where the improved land lies, on request of either party, and on reasonable notice by the selectboard to parties interested, decides that such owner ought not to be compelled to make any part of such fence. The decision of the selectboard in such case shall be recorded in the town clerk's office and shall be final between the parties. The selectmembers shall receive for their services the fees of fence viewers.

§ 3803. When part of land unoccupied

When the selectboard decides that the owner of the unoccupied land is not bound to make a part of the fence, the owner of the occupied land may make the whole or such part as is necessary to protect himself or herself. When the other owner occupies the adjoining land so as to be benefited by such fence, he or she shall pay to the person so making it, for his or her equal portion thereof, its value at the time.

§ 3804. Pasturing land without division fence

When the lands of two or more individuals are lying without division fence, neither party shall put horses, cattle, sheep, swine, or other animals thereon to pasture or to run at large, until they agree to occupy the lands without division fence and in common. When they cannot agree, upon application of either party and notice to the opposite party, the fence viewers shall determine the number of animals each party may put upon such lands. When recorded in the office of the town clerk, the decision of the fence viewers shall be final.

§ 3805. When fence cannot be made on line

When the dividing line between lands is so situated that a fence cannot be made thereon by reason of water or otherwise, and the owners cannot agree on a place to make the same, either party may apply to the fence viewers. After giving reasonable notice to the opposite party, such fence viewers shall determine where the fence shall be made, how much and what part each shall make and maintain, and such decision shall be final.

§ 3806. Fence viewers to locate; effect

In such case, the fence viewers shall establish the line of the fence as near the line between the lands as, in their opinion, is practicable. Each owner of the land, at the time of such division of the fence, shall ever after be deemed in possession of that portion of his or her land enclosed with that of the other owner in consequence of the division. If disagreement arises in relation to the occupancy of such lands, the same shall be determined by the fence viewers, who shall decide such matter of disagreement on the application of either party and after suitable notice is given to the opposite party.

§ 3807. Damage by straying animals

When the lands of two or more individuals are so situated that none of them are compelled to make and maintain a fence on the dividing line between their land by reason of open or unoccupied lands or highways lying between, each owner or keeper shall be liable for the damages done on the occupied lands of others by an animal straying from his or her lands and being taken on such occupied lands. Such damages may be recovered in a civil action on this statute.

§ 3808. Liability of person bound to build fence

When a person bound to support a portion of the division fence does not make or maintain his or her portion, he or she shall be liable for damages done to or suffered by the opposite party in consequence of such neglect. An owner or occupant of adjoining lands, after 10 days from the time notice is given to the opposite party, may make or put in repair the fence and recover from the opposite party damages arising from the neglect, with the expense of building or repairing the fence. (Amended 1965, No. 194, § 10, operative Feb. 1, 1967; 2009, No. 154 (Adj. Sess.), § 184.)

§ 3809. Sudden destruction of fence; repairs; damages

When a division fence is suddenly damaged or destroyed by fire, winds, or floods, a person who ought to repair the same shall do so within 10 days after being thereto requested by a person interested therein, and shall pay the damages done to the opposite party by animals straying from his or her occupied lands to those of the other party during the time the fence is out of repair. If he or she does not make or repair his or her portion of the fence within 10 days after such request, the party sustaining damage thereby may make or repair the same at the expense of the person neglecting so to do, and may recover the same in a civil action on this statute.

§ 3810. Duties of fence viewers; division; penalty; appeal

On request, the fence viewers, or a majority of them, shall examine fences within the town and a division shall be made by them in cases proper for them to determine. If a fence viewer neglects to perform the duties required of him or her, he or she shall forfeit to the party aggrieved $5.00, with costs to be recovered in a civil action on this statute. Either party may appeal from the decision of the fence viewers to a Superior Court if such appeal is claimed within two hours from the rendition of the decision. Such appeal shall be taken as provided by Rule 75 of the Vermont Rules of Civil Procedure. (Amended 1965, No. 194, § 10, operative Feb. 1, 1967; 1973, No. 193 (Adj. Sess.), § 3, eff. April 9, 1974.)

§ 3811. Notice; certificate; effect of record

When called upon to act, the fence viewers shall give notice to parties interested, or to their tenants or agents, of the time when they will examine the fence or line between adjoining lands, before they make a division relating to the same. When fence viewers make a division of fence, or appraise the value of a fence made or repaired, or examine as to the sufficiency of a fence, they shall certify the same. When they make a division of fence and so certify, a record of the same in the office of the clerk of the town in which the line is situated shall be valid against the parties, their heirs, and assigns.

§ 3812. Agreement as to division

An agreement in writing between the owners of adjoining lands, relating to their division fence, signed by the owners, witnessed by two witnesses, acknowledged by the parties and recorded in the office of the town clerk in the town where the fence is situated shall be valid against the parties, their heirs, and assigns.

§ 3813. When fence is on a town line; division

When the line on which a division fence is to be made or maintained is the line between two towns, and the parties do not agree upon the division, the same shall be determined by a board of fence viewers consisting of one or more from each of the towns. Such board of fence viewers shall give notice to the parties, make the division, and make a certificate as provided in section 3811 of this title. Such certificate shall be valid against the parties, their heirs, and assigns, if recorded in the office of the town clerk in each of the towns.

§ 3814. Homesteader to maintain; liability

Each owner of a homestead shall be liable to make and maintain his or her portion of the division fence between his or her homestead and adjoining lands. The homestead shall be liable to attachment and levy of execution for damages and costs recovered for neglect so to do.

§ 3815. Records

Certificates and written agreements mentioned in this chapter shall be recorded and alphabetically indexed by the town clerk in a book kept for that purpose.

§ 3816. Recovery for expense

When, by the provisions of this chapter, owners of adjoining lands are required to pay to another the expense of making or repairing a division fence, or damages for the neglect of making, or for one-half the value of a division fence, the same with costs may be recovered in a civil action on such statute.

§ 3817. Unnecessary fence; maintenance prohibited; penalty

A person shall not erect or maintain an unnecessary fence or other structure for the purpose of annoying the owners of adjoining property by obstructing their view or depriving them of light or air. A person who violates a provision of this section shall be fined not more than $100.00.