

PROCEDURES TO RESOLVE FENCE DISPUTES

Chapter 359A of the Iowa Code governs fence disputes. When reviewing the sections in this chapter, be sure to check for legislative amendments. A number of Iowa Supreme Court cases have also shaped the Iowa law on fences.

1. Complaining party makes a written request to non-compliant landowner. Complaint should be served by the County Sheriff's Office. (*Form FV-1*)
 2. If the non-compliant landowner does not erect or maintain the fence in thirty (30) days, the complaining party makes a written request to the Township Trustees. (*Form FV-2*) Township should collect Fence Viewer fee at this time.
 3. Fence Viewers give a minimum of five (5) days written notice to the other party or parties of the time and place of hearing. (*Form FV-3*) The Township Clerk completes the form. It is suggested that the notice be served by the County Sheriff's Office unless the parties accept service.
 4. Fence viewers make decision and set a time for to be completed. (*Form FV-4*)
 - Include a legal description of the fence location
 - Specify the kind of repairs each landowner is to make
 - Assign a dollar value of repairs and completion date to each party
 5. Work is done by landowners.
 6. If work is not done within thirty (30) days as ordered...
 - Complaining party must deposit with Fence Viewers a sum of money sufficient to pay for the work needed to be done.
 - Fence Viewers proceed to have work done.
 - The non-compliant landowner is billed for the costs.
 - If the owner with the duty to pay fails to do so within ten (10) days ...
 - Fence Viewers shall certify to the County Auditor the full amount due, including Fence Viewers' fee (*Form FV-5*)
 - The amount is collected as real property taxes.
 - Complaining landowner is repaid when taxes are collected.
 7. Fence Viewers' decisions may be appealed to the District Court within twenty (20) days of the decision.
-

The County Attorney should be consulted with respect to the procedures and the law involved in fence viewing. (Note that Section 359.18 of the Iowa Code does not require County Attorneys in counties with populations greater than 25,000 to provide legal assistance to townships.) The Township Clerk and Trustees should be familiar enough with the procedures and forms to handle the bulk of the problems encountered.

QUICK LINKS TO CHAPTER 359A OF IOWA CODE FENCES

- [359A.1](#) Partition fences.
- [359A.2](#) Trimming and cutting back.
- [359A.3](#) Powers of fence viewers.
- [359A.4](#) Decision--deposit.
- [359A.5](#) Contribution postponed.
- [359A.6](#) Default--costs and fees collected as taxes.
- [359A.7](#) Service of notice on nonresidents.
- [359A.8](#) Orders.
- [359A.9](#) Notice.
- [359A.10](#) Entry and record of orders.
- [359A.11](#) Record conclusive.
- [359A.12](#) Division by agreement--record.
- [359A.13](#) Orders and agreements--effect.
- [359A.14](#) Lands in different townships.
- [359A.15](#) Fence on another's land.
- [359A.16](#) Right to build fence on line.
- [359A.17](#) Fence on one side of line.
- [359A.18](#) Lawful fence.
- [359A.19](#) Duty to maintain tight fences.
- [359A.20](#) Tight fence.
- [359A.21](#) Duty to keep fence tight.
- [359A.22](#) Controversies.
- [359A.23](#) Appeal.
- [359A.24](#) Certification of decree.
- [359A.25](#) Record kept--fees of clerk

NOTICE TO ADJOINING LANDOWNER(S)

TO: _____

Name(s)

Address

You are hereby notified that a partition line fence between your real estate and that owned by Complainant is in need of erection, maintenance, rebuilding or repair. The legal description of the partition line fence in issue is as follows:

The nature of the complaint is:

You are further notified that this complaint is made pursuant to Iowa Code Chapter 359A, and will be turned over to the _____ Township Trustees, Clayton County, acting as fence viewers, if no action is taken to remedy the problem within thirty (30) days of the mailing of this notice.

Dated this _____ day of _____, 20____.

Very truly yours,

Complainant(s)

Address

ACKNOWLEDGMENT OF NOTICE

(Use only if personally served upon Adjoining Landowner)

The undersigned landowner(s) hereby accepts notice of a partition line fence complaint made by _____, Complainant(s), this ____ day of _____, 20____, at _____.

Respondent(s)

Address

(Have Acknowledgment of Notice signed by Respondent(s) or send by certified mail, return receipt requested, or give to Sheriff for personal service. Keep duplicate copy with proof of notice and return to Township Clerk.)

Original: To Adjoining Landowner
Copy: To Township Clerk with Proof of Service Attached
Copy: Retained by Complaining Landowner

3. A controversy has developed between the two adjoining owners in the following respects:
(Explain inadequacy of fence.)

Dated this _____ day of _____, 20____.

Complainant(s)

STATE OF IOWA

:

CLAYTON COUNTY

:

:

ss:

On this _____ day of _____, 20____, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared _____, known to me to be the identical person(s) named in and who executed the within and foregoing instrument, and acknowledged the he/she executed the same as his/her voluntary act and deed.

(SEAL)

Notary Public in and for the State of Iowa

NOTICE OF HEARING

TO: _____
Complaining Party

Address

Responding Party

Address

You are hereby notified that the _____ Township Trustees, Clayton County, Iowa acting as fence viewers under the authority of Iowa Code Chapter 359A, will meet to hear the fence controversy between the above-named landowners on the _____ day of _____, 20____, at _____ o'clock ____M. at: _____

You may be present and present any facts you desire for consideration in connection therewith.

The partition fence in dispute is located at: *(Describe location of fence in issue.)*

Govern yourselves accordingly.

Township Clerk
_____ Township
Clayton County, Iowa

COMPLAINANT'S ACKNOWLEDGMENT OF SERVICE

The undersigned landowner(s) hereby accepts due, timely and legal service of notice of the above and foregoing Notice of Hearing this _____ day of _____, 20____, at: _____

Complaining Parties

RESPONDENT'S ACKNOWLEDGMENT OF SERVICE

The undersigned landowner(s) hereby accepts due, timely and legal service of notice of the above and foregoing Notice of Hearing this _____ day of _____, 20____, at: _____

Responding Parties

NOTE: If all interested parties do not sign the above Acknowledgment of Service, those not signing must be served personally by the Sheriff at least five (5) days prior to date of the hearing.

SHERIFF'S RETURN OF SERVICE

STATE OF IOWA :
 :
 : ss:
CLAYTON COUNTY :

The undersigned being duly sworn hereby states that he/she is a duly sworn Sheriff/Deputy Sheriff in _____ County, _____ and that he/she served the attached Notice of Hearing on each of the person(s) whom the Notice is addressed, and named below, by delivering copies of the Notice at the times and places set opposite the person's respective names below:

<u>Persons Served</u>	<u>Date Served</u>	<u>City/Township</u>	<u>County</u>	<u>State</u>

Sheriff/Deputy Sheriff
_____ County,
State of _____

Subscribed and sworn to before me on this the ____ day of _____ in the year 20__.

(SEAL) _____
Notary Public in and for the State of _____

(A copy of this Notice is to be served on each party. A copy of this Notice showing acknowledgment or with proof of service shall be placed on record with the Clayton County Recorder.)

- Original: Township Clerk
- Copy to: Complaining Party
- Copy to: Responding Party
- Copy to: County Sheriff (of County where Responding Party resides)
- Copy to: Clayton County Recorder (with acknowledgments or proof of service)

(This page was intentionally left blank.)

4. At this time, the portion of fence assigned to _____ Responding Party, needs the following repairs: *(Insert legal requirements to be made by the Responding party, if any.)*

5. The work to be done on that portion of the partition fence assigned to the Responding Party has a value of \$ _____ and shall be completed on or before the _____ day of _____, 20____.

6. At this time, the portion of fence assigned to _____ Complaining Party, needs the following repairs: *(Insert legal requirements to be made by the Complaining party, if any.)*

7. The work to be done on that portion of the partition fence assigned to the Complaining Party has a value of \$ _____ and shall be completed on or before the _____ day of _____, 20____.

8. That the costs of this proceeding shall be paid on entry of this Order shall be borne as follows:

Recording Fees \$ _____ Copy Fees \$ _____
Trustee Fees \$ _____ Clerk Fees \$ _____

Complaining Party shall pay: \$ _____; Responding Party shall pay: \$ _____.

IN WITNESS WHEREOF, we have hereunto signed our names as Trustees of _____ Township, Clayton County, State of Iowa.

Dated this _____ day of _____, 20____.

TOWNSHIP TRUSTEES ACTING AS FENCE VIEWERS
(At least Two (2) Trustees must sign.)

_____, Trustee

_____, Trustee

Attest:

_____, Trustee

Township Clerk

STATE OF IOWA :
 :
CLAYTON COUNTY : **ss:**

I, _____, being first duly sworn on oath depose and state that I am the Township Clerk of _____ Township, Clayton County, Iowa; that I do hereby certify that the foregoing Order of Fence Viewers was recorded in the Township Book on the _____ day of _____, 20____; and that the foregoing Order is a true and correct copy of said Order as recorded in said Township Book.

Township Clerk
_____ Township
Clayton County, Iowa

Subscribed and sworn to before me on this the _____ day of _____ in the year 20____.

(SEAL)

Notary Public in and for the State of Iowa

NOTICE: APPEALS MAY BE MADE BY FILING A NOTICE OF APPEAL WITH THE CLERK OF DISTRICT COURT IN AND FOR CLAYTON COUNTY, IOWA WITHIN 20 DAYS AFTER THE DATE OF THIS DECISION.

Original: Retained by Township Clerk
Copy to: County Auditor
Copy to: County Recorder
Copy to: Complaining Party
Copy to: Responding Party

CERTIFICATE TO COUNTY AUDITOR FOR NON-PAYMENT OF COSTS

Pursuant to the provisions of Iowa Code Chapter 359A the undersigned Township Trustees hereby certify to the Clayton County Auditor as follows:

That on the ____ day of _____, 20____, the _____
Township Trustees, Clayton County, entered an Order as Fence Viewers in the dispute between
_____, Complainant(s), and
_____, Respondent(s).

That the Respondent(s) has failed to carry out the requirements set forth in said Order.

That the Complainant(s) has deposited a sum of money sufficient to carry out said Order.

That the Fence Viewers have caused said Order to be carried out and have paid the costs of work completed.

That the Respondent(s) has not paid said costs and remains in default for a period of more than ten (10) days.

That the full amount due from said party is in the amount of \$ _____.

That this certificate is made for the purpose of entering said amount upon the tax list to be collected as other taxes as by law provided.

Dated this _____ day of _____, 20____.

(At least Two (2) Trustees must sign.)

_____, Trustee

_____, Trustee

_____, Trustee

Attest:

Township Clerk

STATE OF IOWA :
 :
CLAYTON COUNTY : ss:

I, _____, being first duly sworn on oath depose and state that I am Township Clerk of _____ Township, Clayton County, Iowa; that I do hereby certify that the foregoing Certificate was recorded in the Township Book on the ____ day of _____, 20__; and that the foregoing is a true and correct copy of said Certificate as recorded in said Township Book.

Township Clerk
_____ Township
Clayton County, Iowa

Subscribed and sworn to before me on this the ____ day of _____ in the year 20__.

(SEAL)

Notary Public in and for the State of Iowa