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Open Range and Fencing

In Colorado, landowners have the inherent right to fence their land or leave it unfenced. In the early 1880's the Colorado legislature passed a "fencing" statute. This statute is commonly referred to as the "open range" or "fence out" statute. "Open range" is a definition of land, not a law.

Any person maintaining in good repair a lawful fence may recover damages for trespass from the owner of any livestock that break through such fence. Refer to CRS 35-46-102. Livestock invading fenced property is not a criminal offense, but civil recourse is available to the property owner.

Without a "lawful" fence, the landowner has no civil recourse for damage done to their property by trespassing livestock. Fencing your property, either as a good neighbor or in cooperation with the owner of the livestock, is a way to avoid future conflicts and problems. When property is protected by a lawful fence civil recourse is available to the landowner for damage caused by trespassing livestock. The burden of proof falls upon the landowner to prove the livestock broke through their legal fence and did not come through an open gate or an unfenced portion. It is legal to take custody of livestock found trespassing on your property. Keep in mind that when you do so, you become legally responsible for their care and feeding. Refer to C.R.S. 35-46-102. You must notify your local brand inspector and the sheriff's office when livestock is held for trespass damage.

"Open range" does not mean a stockman can simply allow their livestock to run at large without penalty. CRS 35-46-105 "Grazing on roads and in municipalities" and CRS 35-47-101 "Horses and mules running at large" are two statutes to deal with negligent livestock owners. These statutes can be used by local law enforcement to help curtail animals being allowed to run at large.

A livestock owner is not responsible for the accidental trespass of their livestock causing damage on another's property not protected by a "lawful" fence. A "lawful" fence is defined as a "well constructed three barbed wire fence with substantial posts set at a distance of approximately 20 feet apart, and sufficient to turn ordinary horses and cattle, with all gates equally as good as the fence, or any other fence of like efficiency." Fence law does not shield a livestock owner from an action of personal injuries caused by their livestock trespassing on the land of others. Most alarming is the fact that the "fence law" will not bar an action for escaped livestock involved in an accident on public highways.

Most livestock owners do not intend for their livestock to stray and will respond quickly to recover them. Be aware of who is running livestock in your neighborhood. If you find livestock running loose, try to notify the owner immediately. If you do not know who owns the livestock, contact the local brand inspector and the local sheriff's office. If the livestock are in danger and loose on a public road, try to contain the livestock and move them away from the road. Call for help immediately from neighbors, the sheriff's office and the local brand office or inspector. Any thing you can do to avoid an accident will be greatly appreciated by the livestock owner and the general public traveling on the road.

Any person who owns livestock in Colorado should follow common sense in fence practices to minimize potential liability:

- livestock should have sufficient water and pasture
- quickly recover any strays or escapees
- inspect your fences regularly
- coordinate with your neighbors on building and maintaining partition fences
- always maintain proper insurance

The necessity to have a fence to protect your property in rural areas is no different than in urban areas. In urban areas you need to have a fence if you do not want the neighbor's dogs or kids in your yard, pool, etc. The same rule is applicable in rural or country settings. The difference is the critters trespassing and the volume of space requiring a fence. Protecting yourself is the main idea.

Remember - Good Fences Make Good Neighbors

Laws and Regulations



Policies

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