

Handbook of Florida Fence and Property Law: Adjoining Landowners¹

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Preface

With approximately 19,000 livestock farms in the state, along with horse farms; orange groves; croplands of soybeans, sugarcane, cotton, and peanuts; and many other agricultural and livestock facilities, livestock and farming have a significant impact on Florida's economy. Florida's agricultural economy has been required to coexist with rapid population and commercial growth in the state over the last twenty-five years. Conflicts between these interests bring prominence to issues such as the rights and responsibilities of adjoining landowners, farmers, and property owners in general. Due to the added importance placed on these areas of real property, the legal aspects of fences in the state of Florida have taken on significant importance.

This handbook is designed to inform property owners of their rights and responsibilities in terms of their duty to fence. Discussed areas include a property owner's responsibility to fence when livestock is kept on the property, the rights of adjoining landowners to fence, placement of fences, encroachments, boundary lines, easements, contracts, nuisances, and a landowner's responsibilities towards persons who enter his or her property.

This handbook is intended to provide a basic overview of the many rights and responsibilities that farmers and farmland owners have under Florida's fencing and

property law. Readers may value this handbook because it informs them about these rights and responsibilities. However, the reader should be aware that because the laws, administrative rulings, and court decisions on which this handbook is based are subject to constant revision, portions of this handbook could become outdated at any time. This handbook should not be viewed as a comprehensive guide to fencing and property laws. Additionally, many details of cited laws are left out due to space limitations. This handbook should not be seen as a statement of legal opinion or advice by the authors on any of the legal issues discussed within. This handbook is not a replacement for personal legal advice, but is only a guide to educate and inform the public on issues relating to fencing and property laws in Florida. For these reasons, the use of these materials by any person constitutes an agreement to hold the authors, the Institute of Food and Agricultural Sciences, the Center for Agricultural and Natural Resource Law, and the University of Florida harmless for any liability claims, damages, or expenses that may be incurred by any person as a result of reference to or reliance on the information contained in this book.

Readers wishing to find further information from the Florida Statutes may access those statutes online at <http://www.leg.state.fl.us/STATUTES/>.

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Adjoining Landowners

How does the law define an adjoining landowner?

Adjoining landowners are legally defined as individuals whose lands are separated by a common boundary line (Reaver v. Martin Theatres of Florida, 52 So.2d 682, 683 [Fla. 1951], 1 Florida Jurisprudence 2d *Adjoining Landowners* section 1 [2014]).

As an adjoining landowner, when am I required to raise a fence? If I raise a fence, am I entitled to some contribution from the other landowner?

Generally, owners of adjoining land are under no legal responsibility to fence their land at the common boundary line (3 Florida Jurisprudence Forms Legal and Business section 12:45 [2014]). However, an owner who does decide to fence his land has no legal claim of contribution by the adjoining landowner unless there is an agreement to contribute or the adjoining landowner notifies the owner that he will pay his proportionate share (27 Florida Jurisprudence 2d *Fences* section 6 [2014]).

Summary

Owners of adjoining land are generally not required to raise a fence at a common boundary line. If an owner does decide to raise a fence, he does so at his own cost and is not entitled to any contribution from the adjoining landowner, unless they have an agreement that says otherwise.

Further Information

Handbook of Florida Fence and Property Law <http://edis.ifas.ufl.edu/>

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