

**Chapter 16.60 RCW
FENCES**

Sections

- 16.60.010 Lawful fence defined.
- 16.60.011 Other lawful fences.
- 16.60.015 Liability for damages—Restraint—Notice.
- 16.60.020 Partition fence—Reimbursement.
- 16.60.030 Partition fence—Erection—Notice.
- 16.60.040 Partition fence—Failure to build—Recovery of half of cost.
- 16.60.050 Partition fence—Hog fencing.
- 16.60.055 Fence on the land of another by mistake—Removal.
- 16.60.060 Partition fence—Discontinuance.
- 16.60.062 Assessing value of partition fence.
- 16.60.064 Impeachment of assessment—Damages.
- 16.60.075 Damages by breachy animals.
- 16.60.076 Proof.
- 16.60.080 Temporary gate across highway.
- 16.60.085 Temporary gate across highway—Auditor may grant permit.
- 16.60.090 Failure to remove gate—Penalty.
- 16.60.095 Fees.

RCW 16.60.010 Lawful fence defined. A lawful fence shall be of at least four barbed, horizontal, well-stretched wires, spaced so that the top wire is forty-eight inches, plus or minus four inches, above the ground and the other wires at intervals below the top wire of twelve, twenty-two, and thirty-two inches. These wires shall be securely fastened to substantial posts set firmly in the ground as nearly equidistant as possible, but not more than twenty-four feet apart. If the posts are set more than sixteen feet apart, the wires shall be supported by stays placed no more than eight feet from each other or from the posts. [1985 c 415 § 22; Code 1881 § 2488; 1873 p 447 § 1; 1871 p 63 § 1; 1869 p 323 § 1; RRS § 5441. FORMER PART OF SECTION: Code 1881 § 2489; 1873 p 447 § 2; 1871 p 64 § 2; 1869 p 324 § 2; RRS § 5442, now codified as RCW 16.60.011.]

RCW 16.60.011 Other lawful fences. All other fences as strong and as well calculated as the fence described in RCW 16.60.010 shall be lawful fences. [1985 c 415 § 23; Code 1881 § 2489; 1873 p 447 § 2; 1871 p 64 § 2; 1869 p 324 § 2; RRS § 5442. Formerly RCW 16.60.010, part.]

RCW 16.60.015 Liability for damages—Restraint—Notice. Any person making and maintaining in good repair around his or her enclosure or enclosures, any fence such as is described in RCW 16.60.010 and 16.60.011, may recover in a suit for trespass before the nearest court having competent jurisdiction, from the owner or owners of any animal or animals which shall break through such fence, in full for all damages sustained on account of such trespass, together with the costs of suits; and the animal or animals, so trespassing, may be taken and held as security for the payment of such damages and costs:

PROVIDED, That such person shall provide notice as required under RCW 16.04.020 and 16.04.025: PROVIDED FURTHER, That such person shall have such fences examined and the damages assessed by three reliable, disinterested parties and practical farmers, within five days next after the trespass has been committed: AND, PROVIDED FURTHER, That if, before trial, the owner of such trespassing animal or animals, shall have tendered the person injured any costs which may have accrued, and also the amount in lieu of damages which shall equal or exceed the amount of damages afterwards awarded by the court or jury, and the person injured shall refuse the same and cause the trial to proceed, such person shall pay all costs and receive only the damages awarded. [1985 c 415 § 26; Code 1881 § 2490; 1873 p 447 § 3; 1871 p 64 § 3; 1869 p 324 § 3; RRS § 5443.]

Trespassing animals—Restraint—Damages and costs: RCW 16.04.010.

RCW 16.60.020 Partition fence—Reimbursement. When any fence has been, or shall hereafter be, erected by any person on the boundary line of his or her land and the person owning land adjoining thereto shall make, or cause to be made, an inclosure [enclosure], so that such fence may also answer the purpose of inclosing [enclosing] his or her ground, he or she shall pay the owner of such fence already erected one-half of the value of so much thereof as serves for a partition fence between them: PROVIDED, That in case such fence has woven wire or other material known as hog fencing, then the adjoining owner shall not be required to pay the extra cost of such hog fencing over and above the cost of erecting a lawful fence, as by law defined, unless such adjoining owner has his or her land fenced with hog fencing and uses the partition fence to make a hog enclosure of his or her land, then he or she shall pay to the one who owns said hog fence one-half of the value thereof. [2011 c 336 § 426; 1907 c 13 § 1; Code 1881 § 2491; 1873 p 448 § 4; 1871 p 65 § 4; 1869 p 324 § 4; RRS § 5444.]

Hog fencing: RCW 16.60.050.

RCW 16.60.030 Partition fence—Erection—Notice. When two or more persons own land adjoining which is inclosed [enclosed] by one fence, and it becomes necessary for the protection of the interest of one party said partition fence should be made between them, the other or others, when notified thereof, shall erect or cause to be erected one-half of such partition fence, said fence to be erected on, or as near as practicable, the line of said land. [Code 1881 § 2492; 1873 p 448 § 5; 1871 p 65 § 5; 1869 p 325 § 5; RRS § 5445.]

RCW 16.60.040 Partition fence—Failure to build—Recovery of half of cost. If, after notice has been given by either party and a reasonable length of time has elapsed, the other party neglect or refuse to erect or cause to be erected, the one-half of such fence, the party giving notice may proceed to erect or cause to be erected the entire partition fence, and collect by law one-half of the cost thereof from the other party. [Code 1881 § 2493; 1873 p 448 § 6; 1871 p 65 § 6; 1869 p 325 § 6; RRS § 5446.]

RCW 16.60.050 Partition fence—Hog fencing. The respective owners of adjoining inclosures [enclosures] shall keep up and maintain in good repair all partition fences between such inclosures [enclosures] in equal shares, so long as they shall continue to occupy or improve the same; and in case either of the parties shall desire to make such fence capable of turning hogs and the other party does not desire to use it for such purpose, then the party desiring to use it shall have the right to attach hog-fencing material to the posts of such fence, which hog fencing shall remain the property of the party who put it up, and he or she may remove it at any time he or she desires: PROVIDED, That he or she leaves the fence in as good condition as it was when the hog fencing was by him or her attached, the natural decay of the posts excepted. The attaching of such hog fencing shall not relieve the other party from the duty of keeping in repair his or her part of such fence, as to all materials used in said fence additional to said hog fencing. [2011 c 336 § 427; 1907 c 13 § 2; Code 1881 § 2494; 1873 p 449 § 7; 1871 p 65 § 7; 1869 p 325 § 7; RRS § 5447.]

Reimbursement—Hog fencing: RCW 16.60.020.

RCW 16.60.055 Fence on the land of another by mistake—Removal. When any person shall unwittingly or by mistake, erect any fence on the land of another, and when by a line legally determined that fact shall be ascertained, such person may enter upon the premises and remove such fence at any time within three months after such line has been run as aforesaid: PROVIDED, That when the fence to be removed forms any part of a fence enclosing a field of the other party having a crop thereon, such first person shall not remove such fence until such crop might, with reasonable diligence, have been gathered and secured, although more than three months may have elapsed since such division line was run. [Code 1881 § 2495; 1873 p 449 § 8; 1871 p 65 § 8; 1869 p 325 § 8; RRS § 5448. Formerly RCW 16.60.070.]

RCW 16.60.060 Partition fence—Discontinuance. When any party shall wish to lay open his or her inclosure [enclosure], he or she shall notify any person owning adjoining inclosures [enclosures], and if such person shall not pay to the party giving notice one-half the value of any partition fence between such enclosures, within three months after receiving such notice, the party giving notice may proceed to remove one-half of such fence, as provided in RCW 16.60.055. [2011 c 336 § 428; Code 1881 § 2496; 1873 p 449 § 9; 1871 p 65 § 9; 1869 p 325 § 9; RRS § 5449.]

RCW 16.60.062 Assessing value of partition fence. In assessing the value of any partition fence, the parties shall proceed as provided for the assessment of damages in RCW 16.60.020. [Code 1881 § 2497; 1873 p 449 § 10; 1871 p 66 § 10; 1869 p 326 § 10; RRS § 5450.]

RCW 16.60.064 Impeachment of assessment—Damages. Upon the trial of any cause occurring under the provisions of RCW 16.60.010 through 16.60.076, the defendant may impeach any such assessment, and

in that case the court or the jury shall determine the damages. [Code 1881 § 2498; 1873 p 449 § 11; 1871 p 66 § 11; 1869 p 326 § 11; RRS § 5451.]

RCW 16.60.075 Damages by breachy animals. The owner of any animal that is unruly, and in the habit of breaking through or throwing down fences, if after being notified that such animal is unruly and in the habit of breaking through or throwing down fences as aforesaid, he or she shall allow such animal to run at large, shall be liable for all damages caused by such animal, and any and all other animals, that may be in company with such animal. [2011 c 336 § 429; Code 1881 § 2499; 1873 p 449 § 12; 1871 p 66 § 12; 1869 p 326 § 12; RRS § 5452. Formerly RCW 16.04.090, part. FORMER PART OF SECTION: Code 1881 § 2500; 1873 p 450 § 13; 1871 p 66 § 13; RRS § 5453, now codified as RCW 16.60.076.]

RCW 16.60.076 Proof. In case of actions for damages under RCW 16.60.010 through 16.60.076, it shall be sufficient to prove that the fence was lawful when the break was made. [Code 1881 § 2500; 1873 p 450 § 13; 1871 p 66 § 13; RRS § 5453. Formerly RCW 16.04.090, part.]

RCW 16.60.080 Temporary gate across highway. Whenever any inhabitant of this state shall have his or her fences removed by floods or destroyed by fire, the county commissioners of the county in which he or she resides shall have power to grant a license or permit for him or her to put a convenient gate or gates across any highway for a limited period of time, to be named in their order, in order to secure him or her from depredations upon his or her crops until he or she can repair his or her fences, and they shall grant such license or permit for no longer period than they may think absolutely necessary. [2011 c 336 § 430; Code 1881, Bagley's Supp., p 25 § 1; 1871 p 103 § 1; RRS § 5459. FORMER PART OF SECTION: Code 1881, Bagley's Supp., p 25 § 2; 1871 p 104 § 2; RRS § 5460, now codified as RCW 16.60.085.]

RCW 16.60.085 Temporary gate across highway—Auditor may grant permit. It shall be lawful for the auditor of any county to grant such permit in vacation, but his or her license shall not extend past the next meeting of the commissioner's court. [2011 c 336 § 431; Code 1881, Bagley's Supp., p 25 § 2; 1871 p 104 § 2; RRS § 5460. Formerly RCW 16.60.080, part.]

RCW 16.60.090 Failure to remove gate—Penalty. Any person retaining a gate across the highway after his or her license shall expire, shall be subject to a fine of one dollar for the first day and fifty cents for each subsequent day he or she shall retain the same, and it may be removed by the road supervisor, as an obstruction, at the cost of the person placing or keeping it upon the highway. [2011 c 336 § 432; Code 1881, Bagley's Supp., p 25 § 3; 1871 p 104 § 3; RRS § 5461.]

RCW 16.60.095 Fees. The fees of the auditor under RCW 16.60.080 through 16.60.095 shall be paid by the applicant. [Code 1881, Bagley's Supp., p 25 § 4; 1871 p 104 § 4.]