

FIVE STRANDS:

A Landowner's Guide
to Fence Law in Texas

Tiffany D. Lashmet

Assistant Professor
and Extension Specialist

James D. Bradbury

Partner, James D. Bradbury, PLLC
Austin–Fort Worth

Kyle K. Weldon

Student, Texas A&M University School of Law



Preface

This book arose out of a late afternoon call from a rural county in Texas. Two landowners could not agree on a fencing question and called the county for help. The county judge called us, and after a few minutes of discussion regarding the question, we realized that Texas landowners need a field guide for fencing questions. The three of us work with Texas landowners, and we get more questions about fencing than any other topic. And, while there are thousands of miles of barbed wire across the state, we lack an easy-to-use resource to answer the everyday questions that arise between landowners. Another lengthy law book would not fit in the glove box of a pickup, so we kept this short and easy-to-follow. It may not answer every question, but it should cover most. And, remember, the law will never substitute for an understanding between two neighbors over a cup of coffee.



Table of Contents

iii Preface

1 Introduction

3 Liability for Livestock on the Roadway

3 Open Range vs. Closed Range

3 Local Stock Laws

7 U.S. and State Highways

9 Landowners and Emergency Responders

9 Road/Highway Liability Examples

11 Liability for Livestock on Neighboring Land

11 My neighbor's cattle are on my land.
How do I remove them?

13 Stray livestock are on my land.
How do I remove them? (Estray Laws)

14 How do the adequate fence standards
of the Agriculture Code apply?

17 Responsibility for Fence Building and Maintenance

17 Perimeter Fence between a Landowner
and a State Highway

17 Building and Maintaining a Boundary Fence
between Neighbors

19 Clearing Brush to Build a Fence on a Boundary Line

20 Cutting Down a Tree Hanging Over a Property Line

21 Adverse Possession

23 Responsibility for Fencing Around Oil and Gas Operations

25 Appendix: Landowner Checklist/Stock Law Examples

28 Notes

29 Acknowledgments

30 Photo Credits



Introduction

The old saying that “good fences make good neighbors” still applies today. Texas has thousands of miles of fences; with the vast majority of them located along boundary lines and roadways, disputes do arise. Unfortunately, there are many misconceptions and dead guesses about fence laws. Who is liable when vehicles on a roadway hit livestock? What are a landowner’s rights if another person’s livestock are on his or her property? Who is responsible when it comes to building and maintaining fences?

This book gives landowners a background on how Texas fence laws originated, explains the current laws that landowners should know, and details a few common fence dispute scenarios and solutions.



Liability for Livestock on the Roadway

To understand Texas' current approach to fence law as it relates to landowner liability in the event of an accident, you must first understand the concepts of open range versus closed range.

Open Range vs. Closed Range

Texas is an open-range state, tracing its roots back to the trail drives and cattle barons of the 1800s. Open range means exactly that—livestock owners are not required to fence in their livestock to prevent them from roaming at large. The Texas Supreme Court supported the open-range policy more than a century ago when it stated, “if the cattle of one person wander upon the [unenclosed] lands of another...they are not trespassers, and the owner is not liable for any damage that they may inflict.”¹ As recently as 1999, the Texas Supreme Court upheld this concept, holding that “[i]t is the right of every owner of domestic animals in this state...to allow them to run at large.”² While the common law of open range is still in effect, there are two exceptions: 1) the passage of local, county-based ordinances (stock laws), and 2) the development of U.S. and state highways, that have changed large portions of the state from open range to closed range.

Local Stock Laws

As Texas developed, laws changed and counties enacted restrictions on open range. Such closed-range laws make livestock owners responsible for fencing-in their livestock on

their property. The Texas Legislature allows local governments to pass stock laws that modify the law for that location from the common-law rule of open range to closed range.³ Local voters consider these stock laws, which can apply to all or a portion of a county. The stock laws state that certain species of animals (such as cattle, horses, jacks, jennies, and sheep) may not run at large within the limits of the particular county. When these laws are in place, the common-law rule of closed-range law essentially replaces the common-law rule of open range. As a result, landowners in closed-range areas have a duty to prevent their livestock from running at large, usually by maintaining a fence to keep their livestock on their property.

Because each local stock law is unique, the following questions are crucial when evaluating the law in a particular county:

- Does a stock law exist in the area?
- Which animal species does the law cover?
- Did the landowner meet the required standard outlined in the local stock law?



Does a stock law exist in my county?

Unfortunately, there is not a consolidated list that details which Texas counties are still considered open range or closed range. The best option is to contact the county sheriff's office or ask the county clerk to search the election records to determine if a local stock-option election has been held to close the range. Since many of these stock law elections occurred between 1910 and 1930, it may take extensive research to determine the status of your county.

In 1981, the Texas Legislature exempted some counties from adopting a local stock law regarding running cattle at large, leaving these counties as open range if the land is not adjacent to a highway (see page 8). These counties include Andrews, Coke, Culberson, Hardin, Hemphill, Hudspeth, Jasper, Jefferson, Kenedy, Kinney, La Salle, Loving, Motley, Newton, Presidio, Roberts, Schleicher, Terry, Tyler, Upton, Wharton, and Yoakum.⁴ For examples of stock laws, see pages 26 and 27 in the Appendix.

Which animal species does the law cover?

If a stock law does exist in an area, determine which livestock species it covers. The Texas Agriculture Code allows stock laws that regulate cattle, domestic turkeys, donkeys, goats, hogs, horses, jacks, jennets, mules, or sheep.⁵ Based on the particular law, it is possible that the same area may be closed range for horses and donkeys, but open range for cattle. The statute also requires separate stock laws for each livestock species (one for cattle, one for horses, and one for other animals). In an opinion issued by the Texas Attorney General, stock laws that are not separated by species may be regarded as ineffective.⁶

Have I met the standard outlined in the local stock law?

Although they differ by county, most local stock laws establish a standard of care a landowner must meet to avoid liability if his or her livestock roam at large. Some stock laws state that a landowner may not “knowingly permit” an animal to run at large, while others set a stricter standard that animals may not run at large at all.

Many local stock laws prohibit landowners from permitting their animals to run at large. If a third party is injured, a landowner is liable only if he or she permitted the livestock to run free. Texas courts have interpreted “permit” to mean to expressly or “formally consent” or to “give leave,” and that merely making it possible for an animal to run at large is insufficient to impose liability on a landowner. In determining a landowner’s liability for livestock roaming at large, courts look to the owner’s actions, because an animal in the roadway does not always constitute a violation of a stock law.

Landowner actions that might result in liability include

- leaving a gate open,
- authorizing a lessee to allow cattle to run at large,
- having notice that the livestock were out in the roadway and failing to remove the livestock,
- having knowledge that livestock previously escaped from the property, and
- failing to maintain the fences surrounding the pasture.

U.S. and State Highways

Land along U.S. and state highways in Texas is considered to be closed range. State law requires that landowners with property adjacent to U.S. and state highways prevent their livestock from entering these highways. Whether the area is



open or closed range does not matter if it includes a highway. The Texas Agriculture Code states that “[a] person who owns or has responsibility for the control of a horse, mule, donkey, cow, bull, steer, hog, sheep, or goat may not knowingly permit the animal to traverse or roam at large, unattended, on the right-of-way of a highway.”⁷ To determine the scope of this statute, it is necessary to define

- what constitutes a highway,
- what “knowingly permit” means, and
- who “owns or has responsibility for the control of” the animal.

What constitutes a highway?

For purposes of this statute, all U.S. and state highways are closed range under Texas law, but farm-to-market roads are open range unless a local stock law modifies the farm-to-market road at issue.⁸

What does “knowingly permit” mean?

For U.S. and state highways, a landowner may not “knowingly permit” his or her animals to run at large. This standard is higher (more favorable to the landowner) than the standard found in many local stock laws. For example, a court ruled that a landowner acted knowingly when

- he was aware that the fences were unable to withstand rainfalls,
- he knew that cattle had escaped through the weak fences during rainstorms many times before the accident,
- the police had previously informed him that his cattle were on the roadway, and
- he did not inspect the fences before the accident occurred.⁹



Conversely, a livestock owner who keeps his gate locked and chained, and has no prior knowledge of his cattle escaping on a roadway, would not act “knowingly.”¹⁰

Landowners and Emergency Responders

Landowners are not liable “for damages arising from an incident or accident caused by livestock of the landowner due to an act or omission of a firefighter or a peace officer who has entered the landowner’s property with or without the permission of the landowner, regardless of whether the damage occurs on the landowner’s property.”¹¹ For example, if emergency responders must cut a portion of fence alongside a highway to put out a fire, the landowner will not be liable if any livestock escape onto the highway.

Road/Highway Liability Examples

The law regarding closed and open range comes into play most often when a vehicle strikes livestock on a roadway. In the event of an accident, local stock laws and the statute regarding U.S. and state highways determine whether a livestock owner may be liable to an injured motorist.

The following examples include various scenarios of accidents with livestock on a roadway and the basic rules for determining potential livestock owner liability:

- ***An accident occurs in an open-range county on a U.S. or state highway.*** The party that controls the livestock or real estate may be liable if the party knowingly permitted the cattle to get on the roadway.
- ***An accident occurs in a county that has adopted a stock law on a U.S. or state highway.*** The party that controls the livestock or real estate may be liable if the party knowingly permitted the cattle to get on the roadway.
- ***An accident occurs in an open-range county on a farm-to-market road or smaller roadway.*** The party that controls the livestock or real estate has no duty to prevent livestock from entering the roadway by their natural behavior.
- ***An accident occurs in a county that has adopted a stock law on a farm-to-market road or smaller roadway.*** The party that controls the livestock or real estate may be liable if the party negligently permitted the cattle to get on the highway.¹²



Liability for Livestock on Neighboring Land

In addition to disputes between landowners and motorists regarding livestock and fences, questions often arise between neighboring landowners regarding the obligations they owe one another concerning fences and livestock.

My neighbor's cattle are on my land. How do I remove them?

The answer depends on whether this situation occurs in an open-range county or in one that has passed a stock law making it a closed range.

Open Range

In an open-range county, the landowner is responsible for keeping livestock off his or her land by building an adequate fence. According to the Texas Supreme Court, “[i]t follows that one who desires to secure his lands against the encroachments of livestock running at large, either upon the open range or in an adjoining field or pasture, must throw around it an [enclosure] sufficient to prevent the entry of all ordinary animals of the class intended to be excluded. If he does not, the owner of animals that may encroach upon it will not be held liable for any damage that may result from such encroachment.”¹³ However, the defense that a landowner failed to maintain a suitable fence is likely unavailable in an action for trespass where it appears that the livestock owner intentionally allowed the livestock to enter the property.¹⁴ In an open-range county, if a landowner has built an adequate fence and livestock still get onto his or her property, the

landowner can recover crop or property damages from the animal's owner. On the other hand, if a landowner fails to build an adequate fence in an open-range county, he or she has no recourse against a livestock owner when animals enter his or her property.

Closed Range

In a county that has passed a stock law (making it a closed range), livestock owners must restrain their livestock by fencing them “in” their property. Allowing livestock (that are covered by the stock law) to run at large in a closed-range county is a violation of the law. Nevertheless, the grass does tend to be greener on the other side and livestock may get out on occasion. Understanding this, the Texas Supreme Court explained that sometimes, “animals may often escape without fault on the part of their owners, when the latter will be guilty of no offense against the law...the mere fact that an animal is at large is not necessarily a violation.”¹⁵ In most cases, the livestock that have escaped and entered your land are there by accident. Notifying your neighbor and helping him or her retrieve the livestock off your property is the best course of action. But, if the neighboring livestock owner has permitted the livestock to enter your property, depending on what the laws of your county are, he or she could be breaking the law. Because some counties do not have stock laws containing the “knowingly permit” or “permit” language when describing the intent of livestock owners, it is important to understand the law of your county.

In a closed-range county, a landowner may be able to recover damages from a livestock owner whose animals come onto the landowner's property if the livestock owner failed to meet the requirements of the closed-range county. However, if the livestock owner met the requirements, and the livestock still got out, the landowner may be unable to seek recovery under the law.

Lessee Liability

Many Texas livestock producers lease the land they run their livestock on. This presents a question of who is responsible for fencing the land the livestock run on—the landowner or the lessee? Absent an agreement allocating responsibility between the landowner and the lessee, these laws could apply to both the landowner and the lessee who runs the livestock on a ranch.

Stray livestock are on my land. How do I remove them? (Estray Laws)

Under Chapter 142 of the Texas Agriculture Code, a landowner who finds stray or “estrays” livestock on his or her property should “as soon as reasonably possible, report the presence of the estray to the sheriff of the county in which the estray is discovered.”¹⁶ Providing the location, number, and a description of the stray livestock helps the sheriff's office find the true owner and remove the livestock from your property. Once stray livestock are reported, the sheriff will attempt to contact the owner. If the owner is found, he or she may recover the livestock in accordance with the procedures set forth by statute. If an owner is not found or fails to redeem the



livestock within 5 days, the sheriff will impound the animal. If the animal is not recovered from impound, the sheriff will sell the animal at public auction.

Just because stray livestock are on one's land does not mean the landowner can automatically claim them or remove them by other methods. Disposing of estrays outside of the procedure in Chapter 142 may be considered livestock theft.

How do the adequate fence standards of the Agriculture Code apply?

The Texas Agriculture Code establishes the requirements for a "sufficient fence;" however, these fencing standards apply only in open-range counties where fences are meant to keep livestock "out" rather than "in."¹⁷ These sufficient fence standards do not apply in a closed-range county, nor can they be used to determine negligence or liability in a roadway accident situation.



In an open-range county, it is the landowner's duty to build fences that keep animals permitted to roam at large off their property. The fence standard in the Ag Code determines if a landowner who built a fence to keep livestock off his or her property can recover property or crop damage from an animal's owner if the animal got onto the landowner's property.

Section 143.028 provides the following guidelines:

(a) A person is not required to fence against animals that are not permitted to run at large. Except as otherwise provided by this section, a fence is sufficient for purposes of this chapter if it is sufficient to keep out ordinary livestock permitted to run at large.

(b) In order to be sufficient, a fence must be at least four feet high and comply with the following requirements:

- 1. A barbed wire fence must consist of three wires on posts no more than 30 feet apart, with one or more stays between every two posts;*
- 2. A picket fence must consist of pickets that are not more than six inches apart;*
- 3. A board fence must consist of three boards not less than five inches wide and one inch thick; and*
- 4. A rail fence must consist of four rails.¹⁸*



Responsibility for Fence Building and Maintenance

Having an accurate survey that shows the correct boundary line is paramount when building boundary fences. Without a survey showing where property lines end and begin, fence building is an inaccurate guess and could lead to future headaches.

Perimeter Fence between a Landowner and a State Highway

In Texas, all interstate and state highways are closed range. The Texas Agriculture Code states “[a] person who owns or has responsibility for the control of a horse, mule, donkey, cow, bull, steer, hog, sheep, or goat may not knowingly permit the animal to traverse or roam at large, unattended, on the right-of-way of a highway.”¹⁹ To keep livestock off of interstates and state highways, it is the landowner’s responsibility to build/maintain a fence along an interstate or state highway. However, if a landowner does not intend to have any livestock on his or her property, there is no independent obligation to build a fence.

Building and Maintaining a Boundary Fence between Neighbors

Frequently, questions arise regarding how neighboring landowners must share in the costs of building and maintaining boundary fences.

A landowner in Texas has no legal obligation to share in the costs or future maintenance of a fence built by his or her

neighbor on the dividing property line, unless he or she has agreed to do so. The Texas Supreme Court has held that, “if one proprietor [encloses] his land, putting his fence upon his line, the owner of the adjacent land may avail himself of the advantage thereby afforded him of [enclosing] his own land without incurring any liability to account for the use of his neighbor’s fence.”²⁰ Even if a boundary fence is destroyed by natural causes, a neighbor still has no obligation to contribute toward its reconstruction.²¹ However, if the neighboring landowner does not participate in the costs of erecting the fence, it is not considered a common fence; rather, it is the exclusive property of the builder.²² Similarly, if a fence is built not on the property line, but instead on one landowner’s property, then the fence is also considered exclusive property of that landowner.

If the neighbors agree that each will maintain a portion of the fence, such agreement is legally binding and can be enforced.²³

These agreements are rare, but may be extremely useful for neighboring landowners to specify their rights and obligations regarding fences before an issue arises. Once neighbors reach a friendly agreement, it should be written down and a copy given to each owner.

Clearing Brush to Build a Fence on a Boundary Line

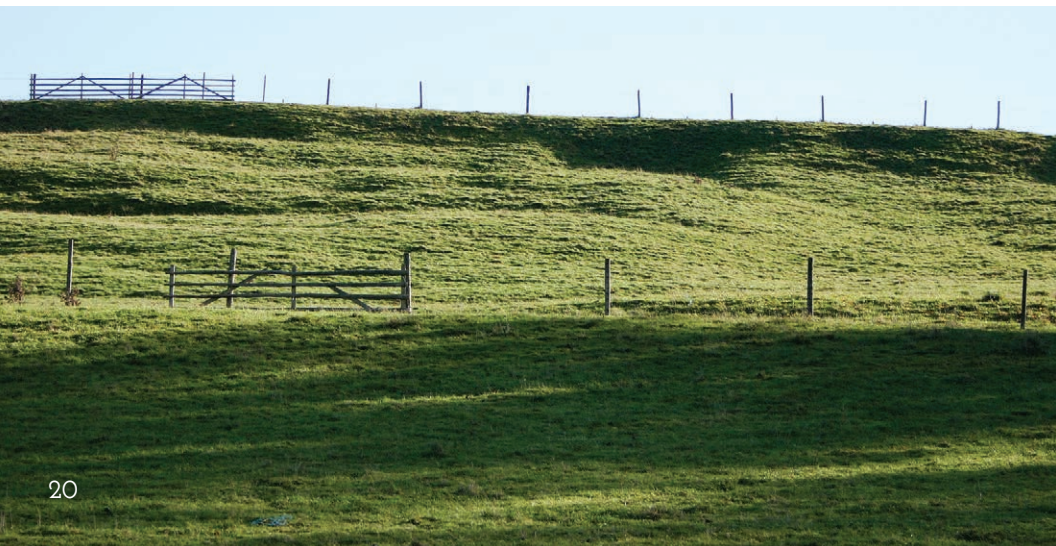
Sometimes a landowner building a fence along a boundary line must clear brush on both his or her own property and the neighbor’s property. If this is necessary, the landowner should always seek permission from the neighbor before entering his or her property and before clearing any brush. Without such permission, entering a neighbor’s property



and removing the brush could be considered trespassing and subject the acting landowner to damages. It is always better to ask for permission ahead of time. If permission is denied, the landowner may have to back the fence up on his or her property.

Cutting Down a Tree Hanging over a Property Line

Assume that a tree grows on the neighbor's property, but the limbs and branches overhang another's land. What rights do the parties have in that situation? In Texas, the location of the trunk of the tree determines who owns it, even if the roots or branches grow onto an adjoining neighbor's land. A landowner has the right to trim or cut off the limbs or branches of boundary trees or shrubbery that reach onto his or her property, as long as no damage to the other adjoining landowner occurs. However, the limbs or branches can be cut back only to the property line. The tree's owner is responsible for any damages caused to the adjacent owner from falling branches or roots. It is in the best interest of the tree's owner to control the growth of the tree so it does not create a source of potential damage to the neighboring landowner.



Adverse Possession

Adverse possession, commonly referred to as squatters' rights, is a legal concept that concerns many Texas landowners. The risk of adverse possession encourages landowners to make regular use of and inspect their property. Otherwise, an adverse possessor (squatter) can claim title to the land if a number of conditions are met. It is very difficult in Texas to take someone's land by adverse possession. Although rare, this situation may arise periodically in the context of fencing.

For example, assume that a landowner's fence is just inside his property line and his neighbor grazes livestock on the few feet of land belonging to the landowner, but not included within the fenced-in area. While that land does not technically belong to the neighbor who is using it, if several factors are met, the neighboring landowner may actually be able to seek title to that property.

In order for someone to lawfully gain possession of land by adverse possession, there must be

- a visible appropriation and possession of the property,
- that is open and notorious,
- peaceable,

- under a claim of right,
- adverse and hostile to the claim of the owner, and
- consistent and continuous for the duration of the statutory period.²⁴

Each of these elements requires in-depth legal analysis beyond the scope of this handbook to determine if they exist in a particular case. The key element a neighbor using another's land would have to prove is the "under a claim of right" element. The neighboring landowner needs to "designedly enclose" the property for his or her own use in order to adequately give notice to the record owner of the hostile claim.²⁵

Using a boundary fence line example, if Neighbor A builds his fence inside his property line, Neighbor B's cattle occasionally grazing on the land is not going to be enough to gain title. However, if Neighbor B builds his own fence just outside the current fence (and on the property of Neighbor A), that is more likely to be the sort of evidence that could be used to show that Neighbor A had sufficient notice that Neighbor B was staking a hostile claim to that strip of land. Simply grazing livestock on your land is not enough to gain possession by adverse possession.²⁶

A good practice if you have to build a fence inside your own boundary is to write your neighbor and let him or her know that you still intend to use your property to the boundary and consider filing a record of this fact in the real property records of your county.



Responsibility for Fencing Around Oil and Gas Operations

In Texas, oil and gas companies have the right to enter private property and locate their production facilities under the "reasonable right to use the surface." Oil and gas companies are under no legal obligation to place a fence around their operations areas in order to protect a surface owner's livestock. The mineral estate is dominant to the surface estate, meaning that a mineral owner or lessee has the implied right to use as much of the surface as is reasonably necessary to produce the minerals, without permission from or payment to the surface owner. "In the absence of a lease provision to the contrary, the only duty owed by the operator of an oil lease to the owner or lessee of the surface, who is pasturing cattle, is not to injure such cattle intentionally, willfully, or wantonly. There is no duty on the part of an operator to put fences around his operations."²⁷

If livestock are injured, a landowner may have legal claims if there is evidence that the oil and gas operator

- acted in an intentional, willful, or wanton manner to injure the livestock;
- acted negligently in producing the minerals; or
- used more of the surface than was reasonably necessary.

However, because each of these claims will likely be difficult to prove, the landowner is much better off to include contractual provisions that require the operator to fence off operations to protect livestock (ideally in the oil and gas lease itself). In the absence of a lease provision, communication with the oil and gas operator is key and likely the best course. The operator may be willing to put up a fence around its facilities in order to avoid potential liability.



Appendix

Landowner Maintenance Checklist

- Inspect and repair fences regularly.
- Check livestock frequently to be sure none have escaped.
- Get to know your neighbors.
- In case of emergency, share your contact information with neighbors and county officials (sheriff).

Stock Law Examples

The following examples are local stock laws passed in Hunt County, Texas, in 1907. These laws were often handwritten and included in the minutes of commissioner's court meetings held nearly a century ago. Unfortunately, there is no published compilation or other way to quickly and efficiently look up Texas stock laws.

Hunt County Stock Law

Vol H / 140

Stock Law Election Proclamation, for Hunt County, Texas.

Thereas on the 14th day of December A.D. 1907, an election was held in Hunt County, Texas, at the usual voting places in the several Election Precincts of said County, to determine whether or not horses, mules, jacks, snoutts and cattle should be permitted to run at large in Hunt County, Texas; And whereas at said election there were 1726 votes cast as follows:

For the Stock Law, -- 1516 votes
Against the Stock Law, -- 210 votes

And it appearing that three-fourths majority, cast for the Alesh
Law, of 1906, votes at said Election, and that said election
was held in accordance with law and the returns thereof,
having been opened by the undersigned, tabulated and counted
by the presence of Percy Hester, County Clerk of Hunt County,
Tenn., and C. A. Luddy, County attorney, and of H. H. Deal, an
acting respectable citizen, of Hunt County, Tenn., with the
result above stated.

Now therefore, I, J. H. Manning, County Judge in and for Hunt County, Texas, by virtue of the powers and pursuant to the authority vested in me by said constitution, do hereby declare said election to be in favor of the "Black Law" and from and after thirty days from this date, it shall be unlawful for Horses, Mules, Jacks, Donkeys and Cattle to roam at large within the limits of said Hunt County.

Witness my hand and official seal of Hunt County,
this 23^d day of December, A.D. 1907.

J. H. Manning, County Judge,
 Hunt County, Texas.

I, J. M. Manning, County Judge in and for Hunt County, Texas, do hereby certify that the above and foregoing proclamation was duly posted ~~in~~ ^{at} the Court House door at Greenville, Hunt County, Texas, for a period of more than thirty (30) days prior to this date, and that the law prohibiting Horses, Mules, Jacks and Jennettes and Cattle from running at large in Hunt County, is and shall be in force and effect from and after this date.

Witness my hand, this 24th day of January, 1908

Witness my hand this the 24th day of January, 1908

County Judge, Hunt County, Texas

Hunt County Stock Law of 1882 for Sheep, Goats, and Hogs

40

In the matter of the Petition
 of J. Crawford, H. Brigham
 J. Johnson & 13 others
 vs
 J. P. Peterson & others
 Petitioners vs
 Respondents
 for an Election to vote on a fence
 and Stock Law by the free
 holders in the herinafter described subdivision of Hunt County coming
 on to be heard and the Court after hearing the Petition Read &
 therefore ordered by the Court that there be an Election open
 and held in the bounds herinafter described and specified
 & Prohibit sheep goats & hogs from running at large in said
 bounds as herein after described and specified in accordance
 with an act entitled an act to carry into effect Section
 22 and 23 article 16 of the Constitution of the State of Iowa
 authorizing the passage of stock and fence Law approved
 August 15th 1876 and it appearing to the Court that the law
 has been complied with in all respects in Petition It is
 therefore ordered that on the 13th day of March 1892
 the same being on Saturday in accordance with the
 provisions of an act to determine whether or not said
 subdivision of Hunt Co shall enact a stock Law and
 fence Law and Prohibit the running at large of sheep
 goats and hogs in said limits which said limits
 and subdivisions is bounded as follows to wit Beginning
 at the mouth of Hawk Branch on South Sulphur thence with
 said Branch to L. R. Cooks farm leaving him out thence S. E. &
 R. Hall leaving him out thence South to Quarter Creek thence
 with said Creek to Smutte Lake thence East to Job. Fox taking
 him in thence Eastward leaving him out thence N. W. of James
 Simpsons taking him in thence East to County Line thence
 North to William. Lane taking him in thence West to Fred
 Cox taking him in thence N. to David. Jennings taking
 him in thence North to Widow Mitchells taking her in
 thence North to South Sulphur thence West with South
 Sulphur to the place beginning It is therefore ordered
 by the Court that said Election be held at Campbell and
 that Henry Brigham a free holder be appointed Presiding
 Officer and that said Election be held and that said
 Presiding Officer make due return of the same to
 the Law dis-cton

Notes

- ¹ *Clarendon Land, Investment & Agency Co. v. McClelland*, 23 S.W. 576, 577 (Tex. 1893).
- ² *Gibbs v. Jackson*, 990 S.W.2d 745, 747 (Tex. 1999).
- ³ TEX. AGRIC. CODE ANN. §§ 143.021–082. (West, Westlaw through 2015 Reg. Sess).
- ⁴ TEX. AGRIC. CODE ANN. §§ 143.072.
- ⁵ *Id.*
- ⁶ Texas Att’y General Opinion No. GA-0093 (2003).
- ⁷ TEX. AGRIC. CODE ANN. § 143.102. (West, Westlaw through 2015 Reg. Sess).
- ⁸ TEX. AGRIC. CODE ANN. § 143.101. (West, Westlaw through 2015 Reg. Sess).
- ⁹ *Weaver v. Brink*, 613 S.W.2d 581, 583-84 (Tex. App.—Waco 1981, writ ref’d n.r.e.).
- ¹⁰ *Evans v. Hendrix*, No. 10-10-00356-CV, 2011 WL 3621337 (Tex. App.—Waco, Aug.17, 2011) (mem. op).
- ¹¹ TEX. CIV. PRAC. & REM. CODE ANN. § 75.006(b). (West, Westlaw through 2015 Reg. Sess).
- ¹² *Lebas, David & Huffaker, John, Agricultural Law: Where’s the Beef? Legal Issues in the Texas Cattle Industry*, 73 Tex. B.j. 400 (May 2010).
- ¹³ *Clarendon Land, Investment & Agency Co. v. McClelland*, 23 S.W. 576, 577 (Tex. 1893).
- ¹⁴ *Posey v. Coleman*, 133 S.W. 937, 939 (Tex. Civ. App. 1911).
- ¹⁵ *Tex. & Pac. Ry. Co. v. Webb*, 114 S.W. 1171, 1173 (Tex. 1908).
- ¹⁶ TEX. AGRIC. CODE ANN. § 142.003(a). (West, Westlaw through 2015 Reg. Sess).
- ¹⁷ TEX. AGRIC. CODE ANN. § 143.028. (West, Westlaw through 2015 Reg. Sess).
- ¹⁸ *Id.*
- ¹⁹ TEX. AGRIC. CODE ANN. §143.102. (West, Westlaw through 2015 Reg. Sess).
- ²⁰ *Nolan v. Mendere*, 14 S.W. 167, 168 (Tex. 1890).
- ²¹ *Griffin v. Sansom*, 72 S.W. 864, 864 (Tex. Civ. App. 1903).
- ²² *Conner v. Joy*, 150 S.W. 485, 485 (Tex. Civ. App.—Fort Worth 1912, no writ).
- ²³ *Adair v. Stallings*, 165 S.W. 140, 141-42 (Tex. Civ. App.—Amarillo 1914, writ dismissed).

- ²⁴ Statutory periods vary with the claim (anywhere between 10 and 25 years)
- ²⁵ *McDonnold v. Weinacht*, 465 S.W.2d 136, 144 (Tex. 1987).
- ²⁶ *Perkins v. McGehee*, 133 S.W.3d 287, 292 (Tex. App.—Fort Worth 2004, no pet.).
- ²⁷ *Santana Oil Co. v. Henderson*, 855 S.W.2d 888, 889-90 (Tex. App.—El Paso 1993, no pet.).

Acknowledgments

The authors gratefully acknowledge the invaluable assistance of Ms. Amber Miller of Crenshaw Dupree & Milam, L.L.P. in Lubbock, and Mr. James Decker of Shahan Guevara Decker & Arrot in Stamford, who provided innumerable insights into the subject matter of this handbook and reviewed its contents. The authors would also like to thank Britt Fisk and Connie Loveland for their willingness to share their outstanding photographs with us.



Photo Credits

Britt Fisk, Britt Fisk Photography – front and back covers
Kay Ledbetter, Texas A&M AgriLife Communications – page 9
Connie Loveland, C. Loveland Photography – pages 14, 21, 29
Pexels – page 10
Pixabay – pages ii, iv, vi, 2, 4, 6–7, 13, 16, 18–19, 20, 22, 24, 30
Adam Russell, Texas A&M AgriLife Communications – page 15





The information given herein is for educational purposes only. The Texas A&M AgriLife Extension Service does not make recommendations for any legal action nor for the content of any legal document. Specific legal questions should always be directed to an attorney-at-law who is licensed in Texas and familiar with agricultural law.

Texas A&M AgriLife Extension Service

AgriLifeExtension.tamu.edu

More Extension publications can be found at AgriLifeBookstore.org

Texas A&M AgriLife Extension provides equal opportunities in its programs and employment to all persons, regardless of race, color, sex, religion, national origin, disability, age, genetic information, veteran status, sexual orientation, or gender identity.

The Texas A&M University System, U.S. Department of Agriculture, and the County Commissioners Courts of Texas Cooperating.