

BY-LAW TO REGULATE

— THE —

Running At Large of Animals

— AND FOR —

 Other Purposes 

IN THE TOWNSHIP OF

TYENDINAGA



PASSED APRIL 2ND., 1912.



THE ONTARIO PRINT

Belleville

1912.

BY-LAW No. 612.

A BY-LAW restraining and regulating the running at large of animals in the Township of Tyendinaga, in the County of Hastings, explaining the powers and duties of Pound-keepers, establishing the fees and remunerations to be taken by them, and describing what shall be deemed a lawful fence in said Township aforesaid.

Passed, this 2nd day of April 1912.

Whereas, it is necessary and expedient that the By-Laws of Township of Tyendinaga repulating the Running at Large of Animals, determining what shall constitute a lawful fence, and in what manner damages are to be appraised when done by animals running at large contrary to the provisions of the By-Laws of said Township, or by animals breaking into enclosed fields or gardens; for defining the duties of Pound-keepers, determining the compensation they are to receive for their services and expenses incurred in carrying out the provisions of the By Laws of said Township, passed under the authority of Section 546 of the Municipal Act, with respect to animals impounded or distrained and detained in the possession of the distrainer, and that the same should be stated and set forth in a plain and a connected manner, for the guidance of Township Officers and all persons concerned or interested.

Be it therefore enacted by the Municipal Council of the Township of Tyendinaga, and it is hereby enacted by the authority of the same :—

1st: That at the second meeting of each new Council there shall be appointed in each year, at least three Pound-keepers in each Concession of the Township of Tyendinaga.

2nd. That the Township Clerk shall immediately mail to each Pound-keeper so appointed a notice of his appointment, and unless such nominee shall at the next meeting of the Council give satisfactory proof of his inability to provide a proper enclosure and attendance for animals placed in his keeping, and shall name some other person in his neighborhood who is in a position to perform the duties appertaining to the office, it shall be held as sufficient proof of his acceptance of the appointment, and he shall be liable to the penalties provided under Section 702, sub-section 1 of THE MUNICIPAL ACT; and on satisfactory proof before any Justice of the Peace, in the County of Hastings, that he has neglected or refused to make the declaration of office required by law, or to perform the duties required of him as such Pound-keeper, he shall be liable to a fine of not less than five, nor more than twenty dollars, with costs.

3rd. That all horses and cattle of every description, sheep, swine, geese, turkeys, and all other fowls are hereby restrained from running at large upon the public roads or highways in the Township of Tyendinaga, and may be impounded if found so trespassing; or if complaint is made by any ratepayer of the municipality to any Justice of the Peace having jurisdiction, the owners or owners of every animal found so trespassing shall be subject to a penalty of 25 cents together with costs for each and every animal found so trespassing or running at large, and 10 cents for each goose; turkey or other poultry, the fine to be paid by the convicting Justice, to the Treasurer of the municipality; or if a complaint be made by any ratepayer to the pathmaster of the road division in which animals or poultry are found trespassing, he shall at once drive or take such animals or poultry to the nearest pound, putting in a bill of 20 cents for each horse, cow or other cattle, 15 cents for each hog or sheep, and 10 cents for each goose or other poultry, which the Pound-keeper shall collect with his own fees, paying to said pathmaster or distrainer of said animals or poultry the amount of his bill upon application being made thereof.

4th That any entire horse young or old, any bull, ram or boar found running at large in the Township of Tyendinaga shall subject the owner thereof to a fine of not less than \$1, nor more than \$5, at the pleasure of the convicting Justice; provided that on the occasion of the first offence at least twelve hours notice had been given the owner that he was required to take charge of his animal; but no want of notice shall exempt the owner of such animal from liability for damage or trespass caused by such animal; all fines or penalties imposed by or under this section to be paid by the convicting Justice to the Treasurer of the municipality.

5th Any horses, cattle, sheep or swine entering any enclosure from the road or highway and doing any damage, may be impounded or retained in the possession of the party into whose enclosure said horses, cattle, sheep or swine were trespassing and the fees and charges hereinafter set forth in the schedule of this By-Law collected, although the fence enclosing the premises was not a lawful fence according to the provisions of this By-Law; if the horses, cattle, sheep or swine enter into any enclosure from an adjoining enclosure and do any damage, no fees or charges can be collected if the premises entered was not enclosed, with a lawful fence according to this By-Law.

6th The owner or occupant of any land shall be responsible for any damage or damages caused by any animal or animals under his charge and keeping, as though such animal or animals were his own property; and the owner of any animal or animals found trespassing on the premises of another person shall be liable for damage done even though they entered through the premises of a third party unless it is shown that said third party neglected or refused to make his portion of line fence between his land and the land of the owner of the animal or animals found so trespassing; and in case of such neglect or refusal the aforesaid third party shall be liable for the damages,

7, If not previously replevied, the Pound-keeper shall impound any horse, bull, ox, cow, sheep, pig or other cattle, geese or other poultry, distrained for unlawfully running at large, or for trespassing and doing damage, delivered to him for that purpose by any person resident within his division who has distrained the same; or if the owner of geese or other poultry refuses or neglects to prevent the same from trespassing on his neighbor's premises after a notice in writing has been served upon him of their trespass, then the owner of such poultry may be brought before any Justice of the Peace and fined such sum as the Justice directs.

8th When the common pound wherein a distress has been made is not secure, the Pound-keeper may confine the animal in any enclosed place with the limits of the Pound-keeper's division within which the distress was made.

9th The owner of any animal impounded shall at any time be entitled to his animal, on demand made therefore, on the payment of any poundage fees and on giving satisfactory security to the Pound-keeper for all costs and damages that may be established against him; but the person distraining and impounding the animal shall, if such are demanded, deposit the poundage fees at the time of impounding and within twenty-four hours thereafter deliver to the Pound-keeper duplicate statements in writing of his demands against the owner for damages (if any), not exceeding \$20 done by such animal exclusive of such poundage fees and shall also give his written agreement (with a surety if required by the Pound-keeper) in the form following or in words to the same effect;—

“ I (or we), do hereby agree that I (or we), will pay to the owner of the (describing the animal) by me (A B) this day impounded, all costs to which the owner may be put in case the distress by me the said A. B. proves to be illegal, or in case the claim for damages now put in by me, the said A. B. fails to be established.”

10th In case the animal distrained is a horse, bull, ox, cow, sheep, pig or other cattle, and if the same is distrained by a resident of the municipality for staying within his premises, such person, instead of delivering the animal to a pound-keeper may retain the animal, in his own possession, provided he makes no claim for damages done by the animal, and duly gives the notices hereinafter in that case required of him.

11th If the owner is known to him, he shall forthwith give to the owner notice in writing of having taken up the animal.

12th If the owner is unknown to the person taking up and retaining possession of the animal, such person shall within forty-eight hours deliver to the Clerk of the municipality a notice in writing of having taken up the animal and containing a description of the color, age, and natural and artificial marks of the animal, as near as may be.

13th The Clerk on receiving such notice shall forthwith enter a copy thereof in a book to be kept by him for that purpose, and shall post the notice he receives, or a copy thereof, in some conspicuous place, on or near the door of his office, and continue the same so posted for at least one week, unless the animal be sooner claimed by the owner.

14th If the animal or animals taken up at the same time is or are of the value of \$10 or more, the distrainer shall cause a copy of the notice to be published in a newspaper in the county, and to be continued therein once a week for three consecutive weeks.

15th In case the animal is impounded, notices for the sale thereof shall be given by the Pound-keeper or person who impounded the animal within forty-eight hours afterwards, but no pig or poultry shall be sold till after four clear days nor any horse or other cattle till after eight clear days from the day of first impounding them.

16th In case the animal is not impounded, but is retained in the possession of the party distraining the same, if the animal is a pig or sheep, the notices of the sale thereof shall not be given for one month, and if the animal is a horse or other cattle, the notices shall not be given for two months after the animal is taken up.

17th The notices of Sale may be written or printed, and shall be affixed and continued for three clear successive days, in three public places in the said municipality, and shall specify the time and place at which the animal will be publicly sold, if not sooner replevied or redeemed by the owner or someone in his behalf paying the penalty imposed by law (if any), the amount of the injury (if any) claimed or decided to have been committed by the animal to the property of the person who distrained it together with the lawful fees and charges of the Pound-keeper, and also of the fenceviewers (if any); and the expense of the animal's keeping.

18th Every Pound-keeper and every person who impounds or confines, or causes to be impounded or confined, any animal in any common pound or in any open or close pound or in any enclosed place, shall daily furnish the animal with good and sufficient food, water and shelter, during the whole time that such animal continues impounded or confined.

19th Every such person who furnishes the animal with food, water and shelter may recover the value thereof from the owner of the animal, and also a reasonable allowance for his time, trouble and attendance in the premises; but any person distraining or detaining in his possession any animal to be allowed no poundage fees and in no case more than one-half of the allowance provided by this By-Law for Pound-keepers.

20th The value or allowance as aforesaid may be recovered with costs, by summary proceedings before any Justice of the Peace in the County of Hastings, in like manner as fines, penalties or forfeitures for the breach of any By-Law of the municipality may by law be recovered and enforced by a single Justice of the Peace; and the Justice shall ascertain and determine the amount of such value and allowance when not otherwise fixed by law, adhering so far as applicable, to the tariff of Pound-keeper's fees and charges established by the By-Laws of the municipality.

21st. The Pound-keepers or persons so entitled to proceed, may instead of such summary proceeding, enforce the remuneration to which he is entitled in a manner hereinafter mentioned.

22nd. In case it is proved by affidavit before one of the Justices aforesaid to his satisfaction, that all the proper notices had been duly affixed and published in the manner and for the respective time above prescribed, then if the owner or some one for him does not within the time specified in the notices, or before the sale of the animal replevy or redeem the same in manner aforesaid, the Pound-keeper who impounded the animal, or if the person who took up the animal did not deliver such animal to any Pound-keeper, but retained the same in his own possession, then any Pound-keeper of the municipality may publicly sell the animal to the highest bidder at the time and place mentioned in the aforesaid notices, and after deducting the penalty and the damages (if any), and fees and charges, shall apply the product in discharge of the value of the food and nourishment, loss of time, trouble and attendance so supplied as aforesaid, and of the expense of driving or conveying and impounding or confining the animals, and of the sale and attending the same, or incidental thereto, and of the damage when legally claimable (not exceeding \$20), to be ascertained as aforesaid, done by the animal to the property of the person at whose suit the same was distrained, and shall return the surplus (if any) to the original owner of the animal, or if not claimed by him within three months after the sale, the Pound-keeper shall pay such surplus to the Township Treasurer of and for the use of the municipality.

23rd If the owner within forty-eight hours after the delivery of such statements, as provided in Section 9, disputes the amount of the damages so claimed, the amount shall be decided by the majority of three fenceviewers of the municipality, one to be named by the owner of the animal, one by the person distraining or claiming damages, and the third by the Pound-keeper; the fenceviewers for their appraisalment and award as hereinafter mentioned shall receive and be paid \$2 each.

24th Such fenceviewers or any two of them shall, within twenty-four hours after notice of their appointment as aforesaid, view the fence and ground upon which the animal was found doing damage, and determine whether or not the fence was a lawful one according to the By-Law in that behalf at the time of the trespass, and if it was a lawful fence, then they shall appraise the damages committed; the fenceviewers shall have regard to Section 5 in making their appraisalment and award for damages, and within 24 hours after having made their view, shall deliver to the Pound-keeper a written statement signed by at least two of them of their appraisalment and other lawful fees and charges.

25th If the fenceviewers, having regard to the last clause of Section 5, decide that the fence was not a lawful one, they shall certify the same in writing under their hands, together with a statement of their lawful fees to the Pound-keeper, who shall upon payment of all lawful fees and charges, deliver such animal to the owner if claimed before the sale thereof; but if not claimed, or if such fees and charges are not paid, the Pound-keeper, after due notice as required by this By-Law, shall, sell the animal in the manner before mentioned, at the time and place appointed in the notices.

26th In case a Pound-keeper or person who impounds or confines, or causes to be impounded or confined, any animal as aforesaid, refuses or neglects, to find, provide and supply the animal with good and sufficient food, water or shelter as aforesaid, he shall, for every day during which he so refuses or neglects, forfeit a sum not less than \$1, nor more than \$4.

27th Any fenceviewers neglecting his duty as arbitrator as aforesaid, shall incur a penalty of \$2 to be recovered for the use of the municipality, by summary proceedings before a Justice of the Peace, upon the complaint of the party aggrieved, or of the Treasurer of the municipality.

28 Every fine and penalty imposed by this By-Law may be recovered and enforced, with full costs, by summary conviction, before any Justice of the Peace for the county or of the municipality in which the offence was committed; and in default of payment the offender may be committed to the common gaol of the county, there to be imprisoned for any time in the discretion of the convicting and committing Justice, not exceeding fourteen days, unless the fine and penalty and costs, including the costs of committal are sooner paid.

20th Upon the hearing of any information or complaint exhibited or made under this By-Law, any person (including the person giving or making the information or complaint) shall be a competent witness, notwithstanding such person may be entitled to any part of the pecuniary penalty on conviction of the offender.

30th If any person shall rescue or shall aid in rescuing any horse, bull ox, cow, sheep, pig or other cattle, geese or other poultry from any person taking the same to pound, or shall take any horse, cow or other animal, geese or other

poultry from any common pound; or any open or closed pound, or any enclosed place where such cattle or poultry have been impounded or confined, without the consent of the Pound-keeper, such person on conviction shall forfeit and pay over and above the penalties, fees and damages awarded and liable against such animal or poultry, or against the owner thereof a sum not less than \$5 or more than \$10, and in default of payment the offender may be committed to the common gaol of the county, there to be imprisoned for any time in the discretion of the convicting and committing Justice, not exceeding fourteen days, unless such fines, penalties and costs, including the costs of committal, are sooner paid.

31st When not otherwise provided every pecuniary penalty recovered before any Justice of the Peace under this By-Law shall be paid by the convicting Justice, within three months from the date of conviction, to the Township Treasurer for the use of the municipality.

32nd Any fence four feet 6 inches high and of proportionate strength and closeness shall be deemed a lawful fence under the provisions of the By-Law;

33rd It shall be lawful for each Pound-keeper to demand and receive from the owners of any horses, bulls, oxen, cows, sheep, swine or other cattle, geese, turkeys or other poultry so impounded, the following rate of fees, and to collect from the owner of such animals or poultry and to pay the same to the person driving or taking the same to pound, 20 cents for each horse, cow or other cattle, 15 cents for each hog or sheep, and 10 cents for each goose or other poultry.

34th Whereas it is necessary to define the term RUNNING AT LARGE, it shall be understood to mean animals allowed to remain on the roads or highways in the Township of Tyendinaga with the knowledge and consent of the owner, and shall not be understood to include animals temporarily out of the charge of the owner, or animals that may have escaped from stable or pasture without the owner's knowledge or consent unless it can be shown that the owner had been informed of their escape and had sufficient time to take charge of said animals. This shall not exempt from liability for damages the owner of animals found actually trespassing on the lands or premises of another person.

SCHEDULE OF FEES.

	EACH.
For horses or colts admitted into pound	30c
For each day after the first day that they remain in pound, each	15c
For each day's feed and care	25c
For notifying the owner	30c
For admission of cattle into pound, each	30c
For each day after the first day they remain in pound	15c
For each day's feed and care	25c
For notifying the owner	40c
For hogs and sheep (not rams out of season) admission into pound	15c
But not more than \$2 shall be demanded for any flock of sheep impounded at one time.	
For each day after the first they remain in pound	10c
For each day's feed and care	15c
For notifying the owner	40c
For studs, rams, or boars admitted into pound, each	75c
For each after the first they remain in pound	30c
For each day's feed for stud	40c
For ram or boar each	25c

For notifying the owner	40c
For notice to fenceviewers, each	15c
For each mile travelled in serving notice	10c
For notice of sale each	15c
For each mile travelled posting notices of sale	10c
For advertising in newspaper, net cost	
For selling any animal or animals impounded	\$1.00
For admitting geese or other poultry into pound, each	10c
For each day after the first they remain in pound, each	5c
For each day's feed, each	5c
For hay per 100 lbs	\$1.00
For peas or corn per bushel	\$1.00
To include in all cases a sufficient supply of water.	

35th Every Pound-keeper and every other person; under the provisions of Section 16 of this By Law, distrains any animal, shall on or before the 15th day of January in every year, file with the clerk of the municipality a statement for the year ending on the 31st day of December prior to that in which the statement is filled, showing :—

- (1) The number of animals impounded or distrained, as the case may be ;
- (2) The number of animals sold and the amounts received ;
- (3) The sum received as poundage fees and cost of keep by the pound-keeper or party distraining ;
- (4) The amount of damage paid by any party ;
- (5) All disbursements and to whom paid ;
- (6) Any other receipts and expenditures in connection therewith. 56 V., 47, s. 1 (26).

36th The said statement shall be certified to by the Pound-keeper or the person distraining as a true and accurate statement for the year ending on the 31st day of December prior to that in which the statement is filed.

37th Any Pound-keeper or other person required to file such return, neglecting or refusing to file the same on or before the 15th day of January in any year shall be subject to a penalty not exceeding \$5, to be recovered as are other penalties under this By-Law.

38th That all By-Laws, or parts thereof in any way conflicting with any of provisions of this By-Law, are hereby repealed.

39th That this By-Law come into force and have effect immediately on and after the passing thereof.

(L. S.)

P. SHAUGHNESSY, Clerk.

DENIS HANLEY, Reeve,

FORM OF NOTICE OF SALE.

Notice is hereby given that I, the undersigned Pound-keeper in division No. _____ of the _____ concession of the Township of Tyendinaga, in the County of Hastings, have on the _____ day of _____ at the request of Mr. A. B., of the Township of Tyendinaga, impounded in the common pound of said division in said Township, on Lot No. _____ in the _____ concession, one horse, (or, as the case may be), which was trespassing on the land of the said A. B. (or as the case may be), and unless the owner thereof, or someone on his behalf shall within _____ days from the date thereof, redeem the said _____ by paying to me the amount of legal charges against the same, I shall proceed to sell the said _____ at public auction to the highest bidder, on _____ the _____ day of _____ at the hour of _____ o'clock at the said pound, pursuant to the By-Law in such case made and provided.

C. D. Pound-keeper,

Division.....Lot.....Concession.....

Tyendinaga, this.....day of.....191

FORM OF APPRAISER'S AWARD.

We, the undersigned Fenceviewers, in the Township of Tyendinaga, appointed in accordance with By-Law No, 379 of said Township, to view and appraise certain damages done by some horses (or as the case may be) belonging to Mr. A. B.. and to determine upon the lawfulness of the fences of the enclosure wherein the said damage was done (or as the case may be) and the amount of said damage do hereby certify the amount therefore to be _____ dollars and _____ cents; and touching the sufficiency of the fence, we find that the said fence is good, lawful and sufficient, or, bad and insufficient, or as the _____ were illegally running at large, we have not taken the condition of the fence into consideration (as the case may be).

C. D.

E. F.

G. H.

Township of Tyendinaga, thisday of.....191