

The Council of the Musisawya of the Credit Band of Indians at a meeting held November 15, 1955, makes the following by-law pursuant to paragraphs (f) and (r) of Section 80 of the Indian Act.

By-Law N o. \_\_\_\_\_

A by-law to provide for the construction and maintenance of line fences in the Musisawya of the Credit Indian Reserve, in the Province of Ontario.

1. (1) The holder of a certificate of possession or certificate of occupation of adjoining lands shall make, keep up and repair a just proportion of the fence which marks the boundary between them.
- (2) The holder of a certificate of possession or the holder of a certificate of occupation of unoccupied land which adjoins occupied land shall be liable to keep up and repair such proportion, and in that respect shall be in the same position as if his land had been occupied at the time of the original fencing, and shall be liable to the compulsory proceedings hereinafter mentioned.
2. Where a holder of a certificate of possession or a holder of a certificate of occupation desires fence viewers to view and arbitrate as to what portion of such fence each holder of a certificate of possession or of a certificate of occupation shall make, keep up and repair, or as to the condition of an existing line fence and as to repairs being done to the same.
  - (a) ~~might~~ either the holder of a certificate of possession or holder of a certificate of occupation may notify (form 1) the other holder of a certificate of possession or certificate of occupation that he will, on a day named, not less than one week from the service of such notice, cause three fence viewers of the reserve to arbitrate in the premises;
  - (b) the holder of a certificate of possession or holder of certificate of occupation so notifying shall also notify (form 2) the fence viewers not less than one week before their services are required;
  - (c) the notices in both cases shall be in writing signed by the person notifying, and shall specify the time and place of meeting for the arbitration, and the said notices may be served by leaving the same at the place of abode of the holder of a Certificate of Possession or holder of a certificate of occupation with some grown-up person residing thereat, or, in case the land being untenanted, by leaving the notice with any agent of such holder of certificate of possession or certificate of occupation.
3. An occupant, who is not the holder of a certificate of possession or holder of a certificate of occupation, notified shall immediately notify the holder of the certificate of possession or holder of a certificate of occupation and if he neglects so to do shall be liable for all damage caused to the holder of the certificate of possession or the holder of a certificate of occupation by such neglect.
4. The fence viewers shall examine the premises, and if required by either party shall hear evidence, and may examine the parties and their witnesses on oath.
5. (1) The fence viewers shall make an award (form 3) signed by any two of them respecting the matters in dispute and the award shall specify the locality, quantity, description and the lowest price of the fence awarded to be made and the time within which the work shall be done, and shall state by which of the parties or in what proportion the costs of the proceedings shall be paid.

(2) In making the award the fence viewers shall have regard to the nature of the fences in use in the locality, the pecuniary circumstances of the parties and the suitability of the fence to the wants of each of them.

(3) Where, from the formation of the ground by reason of streams or other causes, it is, in the opinion of the fence viewers, impracticable to locate the fence upon the line between the lands of the parties, they may locate it either wholly or partly on the land of either of the parties where it seems to be most convenient, but such location shall not in any way affect the rights of the parties in the land.

(4) The fence viewers may employ a duly qualified land surveyor and have the locality described by metes and bounds.

6. The award shall be deposited in the office of the Superintendent within one week from the making thereof and may be proved by a copy certified by the Superintendent, and notice in writing of its being made shall be given by the Superintendent ~~xxx~~ to all parties interested.

7. (1) The party desiring to enforce the award shall serve upon the holder of a certificate of possession or holder of a certificate of occupation of the adjoining land a notice in writing requiring him to obey the award (form 4) and if it is not obeyed within two weeks after service of the notice may do the work which the award directs.

(2) The party entitled to enforce the award may obtain a certificate from the Superintendent of the amount due with costs in respect of such award and shall lodge the same with the council and if the amount due with costs is not paid within thirty days, such amount shall be a charge against the land liable for the payment thereof.

8. (1) Any person dissatisfied with the award may appeal therefrom to the Council.

(2) The person appealing shall within one week from the time when he was notified of the award, serve upon the fence viewers and all interested parties a notice in writing of his intention to appeal and the notice may be served as other notices mentioned in this by-law.

(3) The person appealing shall also deliver a copy of the notice to the Superintendent who shall immediately notify the Council of such appeal and the Council shall fix a time and place for the hearing of the appeal, and if the Council thinks fit may order such sum of money to be paid by the person appealing to the Six Nations Indian Agency Trust Account as will be a sufficient indemnity against the costs of the appeal.

(4) The Superintendent shall notify the fence viewers and all parties interested of the time and place of the hearing in the manner hereinbefore provided for the service of other notices under this by-law.

(5) The Council shall hear and determine the appeal and may set aside, alter or affirm the award or correct any error therein, and may examine the parties and their witnesses on oath, and may inspect the premises and may order payment of the costs by either party and fix the amount of such costs.

(6) The decision of the Council shall be final and the award, as altered or affirmed, shall be dealt with in all respects as it would have been if it had not been appealed from.

9. (1) Each fence viewer shall be entitled to be paid at the rate of \$3.00 for each 1/2 day's work or less under this by-law, and a witness shall be entitled to the current rate of wages paid road labourers on the reserve for every day's work, and a surveyor the current rate of pay.
- (2) The Council shall, at the expiration of the time for appeal or after appeal as the case may be, by resolution recommend the payment to the fence viewers for their fees and shall, unless the same be forthwith repaid by the person adjudged to pay the same, place the same as a charge against the property liable for the payment thereof.
10. Any agreement in writing by a holder of a certificate of possession or holder of a certificate of occupation respecting a line fence may be filed with the Council of the Band and enforced as if it was an award of the fence viewers.
11. The owner of whole or part of a line fence which forms part of the fence enclosing the occupied or improved land of another person shall not take down or remove any part of such fence.
- (a) without giving at least six months' previous notice of his intention to the holder of a certificate of possession or holder of a certificate of occupation of such adjacent enclosure unless such last mentioned holder of a certificate of possession or holder of a certificate of occupation, after demand made upon him in writing by the owner of such fence, refuses to pay therefor the sum determined as provided by section 5, or
- (b) if such holder of a certificate of possession or holder of a certificate of occupation will pay to the owner of such fence or part thereof such sum as the fence viewers may award to be paid therefor under section 5.
12. (1) If any tree is thrown down by accident or otherwise across a line fence or in any way in and upon the land adjoining that upon which such tree stood, causing damage to the crop upon such land or to such fence, the holder of a certificate of possession or holder of a certificate of occupation of the land on which said tree stood shall remove the same forthwith, and also forthwith repair the fence and otherwise make good any damage caused by the falling of the tree.
- (2) On his neglect or refusal so to do for forty-eight hours after notice in writing to remove the tree the injured person may remove the same in the most convenient and inexpensive manner, and may make good the fence so damaged and may retain such tree to remunerate him for such removal and may also recover any further amount of damages beyond the value of such tree from the person liable to pay it as provided in subsection (2) of section 7.
- (3) For the purpose of such removal the owner of the tree may enter into and upon such adjoining land doing no unnecessary spoil or waste.
- (4) All questions arising under this section shall be adjusted by three fence viewers of the reserve, the decision of any two of whom shall be binding upon the parties.
13. The lawful fence shall be as follows: that is to say:-
- (a) Rail fence slant, staked doubled ridged, four feet six inches in height.
- (b) Rail and post fence, 4', 6" in height, the first three rails from bottom of fence shall not be more than 6 inches apart.
- (c) ~~Staked~~ Ficket fence, 4', 6" in height.

(d) Board fence, 4', 6" in height, the first three boards from bottom of fence shall not be more than 6 inches apart.

(e) Wire woven fence, stays not more than 22 inches apart, 4' 6" in height, bottom wire not to be more than 4 inches from the ground.

(f) Pine stump fence, banked, ridged or dyked at bottom of any of the herein described fences shall in all cases be considered as part of the height of fence.

(g) Any patent fence shall be recognized as a lawful fence, providing always that such fence shall be 4' 6" high and if rail, that the first 3 rails at the bottom are not further apart than 6 inches, and other rails not more than 10" apart.

(h) When any fence crosses uneven ground or ditches, the space below the lower rail or wire, if more than 4 inches from the ground shall be dyked or staked not more than 4 inches apart.

(i) A boundary line fence shall be considered lawful, always providing that the occupants of the adjoining properties are agreed as to style and kind of fence that is put up between their respective properties.

14. No person shall wilfully cut or destroy any fence whether in the composition of a fence or otherwise on the premises of another member of the Mississauga of the Credit Band.
15. No lease may be given for property unless all fences surrounding the property are in good condition.
16. Any person who violates the provisions of this by-law shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding one hundred dollars or imprisonment for a term not exceeding thirty days or both fine and imprisonment.

Passed in General Council this  
fifteenth day of November 1955

CHIEF. Fred W. King  
COUNCILLOR. Edward Hartman

COUNCILLOR. George King

By: [Signature]  
Supt.

**THE MISSISSAUGAS OF THE CREDIT OF MISSISSAUGA OF  
THE CREDIT RESERVE.**

**Respecting trespass by horses, cattle, etc.,  
and respecting pounds and poundkeepers.**

**WHEREAS** it is deemed expedient to pass a by-law respecting  
trespass by horses, cattle, etc., and respecting pounds and pound-  
keepers.

**NOW THEREFORE THE COUNCIL OF MISSISSAUGA OF THE CREDIT  
RESERVE OF THE MISSISSAUGA OF THE CREDIT RESERVE HEREBY ENACTS AS  
FOLLOWS:**

- 1. It shall be unlawful for horses, cattle, sheep, pigs or other animals to run or be at large, on the Reserve.**
- 2. The owner of pigs shall have a pig proof enclosure on his own property.**
- 3. Any animal or animals found running at large may be distrained by any resident of the Reserve and impounded, and the owner of said animal or animals so found and impounded shall be liable for all fees and damages.**
- 4. In case any animal or animals is or are distrained by a resident of the Miss. of the Credit Reserve for straying within his or her premises such person may retain the same in his or her possession, and such person shall duly give notice as hereinafter required, that is to say:**
- 5. If the owner is known notice shall be forthwith given to such owner, of having taken up such animal or animals, setting forth the nature and extent of his or her demand against the owner, and if the owner is not known, then within forty-eight hours from the taking up of the same, such person shall post up or affix in at least three public places in the neighbourhood and one on the door of the Miss. of the Credit Council House, New Credit, written notices announcing such taking up and retention and containing a description of the colour apparent age and natural or artificial marks of such animal or animals as near as may be, and such person shall during such retention provide such animal or animals with sufficient food, water and shelter, for which he shall receive the following remuneration, that is to say:**
- 6. For every horse, mare, filly or colt, \$1.00 per head and .50¢ for every twelve hours after the first twelve hours for each horse, colt, mare or filly.**
- 7. For every bull, ox, steer, cow or heifer the sum of \$1.00 per head, and .50¢ per head for every twelve hours after the first twelve hours.**
- 8. For every hog, and sheep the sum of .50¢ per head and .25¢ per head for every twelve hours after the first twelve hours**
- 9. That if the owner of the animal or animals so impounded, shall within twenty-four hours next after the delivery of the notice required by section 4, dispute the amount of damages so claimed, or the lawfulness of the fence within which the damage was done, the person retaining the said animal or animals shall forthwith call in the fence-viewers of the Reserve to determine the matter in dispute, and they shall within twenty-four hours after being so called in, deliver to such person retaining such animal or animals, a statement in writing containing their award in the matter so referred to them, and for each of their services, shall receive the sum of \$5.00 and any such fence-viewer refusing or neglecting to attend or perform his duty when so called on shall incur and be liable to a fine or penalty of \$5.00.**

10. That in all cases where the damage so claimed shall exceed the sum of \$5.00 and no objection is made thereto by reason of the owner being unknown and not being aware of such retention, it shall be the duty of the person retaining such animal or animals to cause such damages to be ascertained and in the same manner as provided in the preceding section; that in all cases where the owner is known, it shall be the duty of the person retaining such animal or animals to notify him forthwith of the said retention.

11. If the award of the fence-viewers, or any part thereof remains unpaid for seven days then the party in whose favour the award of the fence-viewers has been made may take civil action to recover judgment for the amount of the Judgment owing by the party liable in any court of competent jurisdiction having jurisdiction on the Indian Reserve and the amount of the Judgment may be recoverable from the real estate or personal property of the party liable and the Miss. of the Credit Council shall have the authority to seize and sell any portion of above mentioned property that shall be necessary to satisfy the full amount of judgment or any portion that is not paid.

12. In addition to any other conditions contained in this by-law the owner of any animal or animals found running at large shall be subject to a fine or penalty of not less than \$5.00 and costs for each animal so allowed to run at large.

13. That the expiration of three days after the detention or impounding of any animal or animals the same shall have not been redeemed or replevied, written or printed notices for the public sale thereof shall be given and put up by the person retaining such animal or animals in at least three of the most public places in the neighbourhood of where the animals are retained, and also one on the door of the Council House, New Credit, and in all cases where the owner or owners are unknown, and the value of the animal or animals to be sold shall in the Judgment of the fence-viewers exceed in value the sum of \$20.00 such notice shall be published at least six days before such sale, in a newspaper published nearest the person retaining or impounding such animal or animals, such notice to specify the time and place of sale, if such animal or animals are not sooner redeemed or replevied as herein before provided, provided always that no such sale shall take place until after the expiration of six days from the time of or putting up and publication (as the case may be) of such notice of such sale.

14. That at the time and place of such sale a person appointed by the Miss. of the Credit Council shall publicly sell such animal or animals (unless redeemed or replevied as aforesaid) to the highest bidder, and after deducting from the amount realized therefrom all damages fees and charges against the same, shall pay the surplus to the Superintendent of the Miss. of the Credit Reserve, to be by him transmitted to the Indian Affairs Branch, and held for the uses of the Miss. of the Credit, unless claimed by the owner or owners of the animal or animals sold, within twelve months of the time of the said sale.

15. The person appointed for conducting such sale shall be allowed the prevailing rate of fee.

16. That every person impounding, shall daily at proper times, furnish all animals impounded with good and sufficient food, water, and shelter, during the period that any such animal shall be impounded, and in default thereof shall upon summary conviction before a magistrate having jurisdiction in the Reserve, be liable to a fine or penalty of not less than \$5.00 and costs and not more than \$10.00 and costs.

17 That in the case of stock having done damage to crops and being removed before the owner of the crops has discovered the damage, and which can be proved as having been done by the said stock, the owner of the crop may, if the owner of the stock refuses to acknowledge the damage, call in the fence-viewers to determine the matter in dispute and they shall within twenty-four hours after having been called, deliver a statement in writing to the owner of the crop, containing their award in the matter referred to them; and for each of their services shall receive the sum of \$5.00 and any such fence-viewer refusing or neglecting to attend or perform his duties when so called on, shall be liable to a fine or penalty of \$5.00.

18. If the award of the fence-viewers, or any part thereof remains unpaid for seven days then that party in whose favour the award of the Fence-viewers has been made may take civil action to recover Judgment for the amount of the Judgment owing by the party liable in any court of competent jurisdiction having jurisdiction over the Indian Reserve and the amount of the Judgment may be recoverable from the real estate or personal property of the party liable and the Miss. of the Credit C. C. V. C. 11 shall have the authority to seize and sell any portion of above mentioned property that shall be necessary to satisfy the full amount of Judgment or any portion thereof that is not paid.

19. That if any person or persons shall be guilty of any pound breach, by the removal without lawful authority, from any pound, of any animal or animals therein impounded, or shall in any other manner interfere with or obstruct any poundkeeper in the discharge of his duties hereby imposed on him, such person or persons so offending shall be liable to a fine or penalty of not less than \$10.00 nor more than \$50.00 and costs, to be recovered on the complaint of such pound-keeper in the manner herein provided, and it shall be lawful for such pound-keeper in the manner herein provided, and it shall be lawful for such pound-keeper, and he is authorized and required to retake, repossess and impound, in furtherance of this by-law, all such animal or animals as may, by any such pound breach, be so unlawfully removed and taken therefrom. And all the provisions therein contained shall apply and extend to any persons who shall be guilty or rescuing from any person or persons any animal or animals on their way to any pound, or who shall in any manner obstruct or interfere with any such person or persons while engaged in the taking and conveying of any such animal or animals thereto; and such person or persons shall have the same remedy against any such offender or offenders as is herein provided in the case of poundkeepers.

*Passed in General Council this fifteenth  
day of November, 1955.*

*Fred W. King  
Edward Hartman*

*Ray King*