SUMMER VILLAGE OF SOUTH VIEW
BY-LAW NO. 123

Being a By-law of the Summer Village of South View in the Province of Alberta to control the roads and streets within the municipality

WHEREAS a Council of the municipality may, pursuant to Section 16 of the Highway Traffic Act, being Chapter H-8 of the Revised Statutes of Alberta 2000, and any amendments thereto, pass bylaws respecting the highways under its direction, control and management;

NOW THEREFORE the Municipal Council of the Summer Village of South View, duly assembled, hereby enacts as follows:

I. Title:

This Bylaw may be cited as the Roads and Streets Bylaw of the Summer Village of South View.

II. Definitions:

In this Bylaw:

1. "Council" shall mean the municipal Council of the Summer Village of South View duly assembled and acting as such;

2. "Encumbrance" shall mean any vehicle or other article of any nature that will interfere with the progress of vehicular or pedestrian traffic on the roads, streets and other public places within the municipality.

3. "Highway" shall mean a highway as defined in the Highway Traffic Act;

4. "Municipal Administrator" shall mean the Chief Administrative Officer for the Summer Village of South View;

5. "Peace Officer" shall mean a member of the Royal Canadian Mounted Police, a Bylaw Enforcement Officer, or a Special Constable as appointed by the municipality;

6. "Village" shall mean the Summer Village of South View, a municipal corporation of the Province of Alberta, and includes the area contained within the boundaries of the Village where the context so requires;

III. Prohibitions

1. No person who owns or is responsible for lands in the Village shall allow trees, hedges, or shrubs on private property within fifteen feet of a highway intersection, whether planted before or after the date of the passing of this Bylaw, to grow in such a manner that visibility for safe vehicular or pedestrian traffic flow is thereby interfered with.

   The Municipal Administrator may require any person who fails to comply with this provision to comply within ten days of being notified to do so. If the person fails to comply with such notice the Municipality may authorize an employee or agent to enter upon private property to carry out the necessary work and may charge the cost of doing so against the person in default

2. No person shall make or place an encumbrance of any kind, in, upon, or above any of the highways of the Village or place any building or structure of any nature in a manner that encroaches upon any portion of a highway.

   If such encumbrance is on a highway under the direction, control or management of the Village, the Village will take enforcement steps provided for in Part IV of this Bylaw.

IV. Enforcement

1. Where any roads, streets or highways within the municipality are found to be encumbered, the Peace Officer shall give notice in writing to a person who is under a duty imposed by this bylaw to prevent such a condition and to remedy the same, and the Peace Officer shall give notice, in writing, to the individual responsible for causing, placing or permitting the encumbrance on the highway.

2. The Peace Officer shall give not less than seven (7) days notice from the date of delivery of the notice for its compliance.

3. A) Notice to Owner of the encumbrance given by the Peace Officer under the provisions of this bylaw shall be in writing and in triplicate in Form A as set out in a schedule to this bylaw.

   B) One of the notices shall be served on the person to whom it is addressed, one shall be delivered to the Municipal Administrator and the third shall be retained by the official giving the notice.

   C) A notice given by the Peace Officer pursuant to any of the provisions of this bylaw shall be deemed to have been duly given and served on the person to whom it is addressed if:
      - i) the notice is personally delivered to the person to whom it is addressed; or
      - ii) the notice is left with a person apparently over the age of eighteen (18) years at the place of abode of the person to whom the notice is addressed; or
      - iii) the notice is sent by registered mail in a paid cover addressed to the last known postal address of the person to whom the notice is addressed; or
      - iv) posting the notice in a conspicuous place on the land referred to in the notice or on any building or erection thereon when the Peace Officer has reason to believe:
        - a) that the person to whom the notice is addressed is evading service thereof; or
        - b) for any reason it is improbable that the notice will be received by the person to whom it is addressed within three days of the date of the notice if it is delivered in any of the ways mentioned in this section.

4. If, after the day designated for the compliance in any notice given pursuant to this bylaw, the owner fails to remedy the condition stated in the notice, the Peace Officer may report the same to Council

5. Upon consideration of the Peace Officer's report, Council may direct that a notice in writing be served upon the owner involved in the infraction.

6. The notice shall be in form B set out as a Schedule to this bylaw with:
    a) a legal description of the land on which the infraction reported of is located:
    b) a description of the infraction reported:
    c) The date, time and place at which Council will consider the matter:
    c) That Council may make an order declaring an infraction and ordering the remedying of the condition or the removal of the contravention:
    that the owner shall be entitled, before enactment of the order, to make representation to the Council and set forth his reasons why an order should not be made.

7. The notice shall be served upon the owner in the same manner as set out in Enforcement Section 3, not less than ten (10) days preceding the date of the order being considered by Council.

8. When the owner is not resident in Alberta, or his/her present address is unknown, the notice shall be served upon him by mailing it to him/her at his latest known address as shown on the assessment roll not less than twenty-one (21) days preceding the date the order is to be first considered by Council.

9. The owner may appear before Council in person or by a representative, on the date set out in the Notice, in Form B, to the Owner, and shall be entitled to make a presentation to Council setting forth reasons why an Order, under Part IV.10 should not be made.

10. A. If, following the hearing, Council is of the opinion that there is an infraction, it may declare it to be so and an Order to be in Form C set out as a Schedule to this bylaw is to be served upon the owner involved in the infraction.
    B. Any such order may require the owner, within a period of time which shall not be less than fifteen (15) days from the date of making of the order, to remedy the encumbrance of the road, street or highway in the matter set forth in the order.
    C. If the owner does not remedy the condition within the period specified within the order, the Village shall remedy the condition to the extent directed in the order.
    D. Where the owner does not remedy the condition and the Village incurs costs in remedying the condition, such costs are chargeable to the owner and recoverable as a debt due to the Village.

    Notwithstanding the above, where an encumbrance of any kind exists in, upon or above any highway and, in the opinion of the Municipal Administrator creates an unsafe condition, the Municipal Administrator shall be entitled to take such measures as are required for the protection of life or property.

    If the Village is required to remove an encumbrance from a highway, either as directed in an Order in Form C, or in a situation where an encumbrance is creating an unsafe condition, and in remedying the condition the Village has removed property from a highway:

(i) the property may be removed to a place designated by the Municipal Administrator where it will remain impounded until claimed by the owner thereof or his authorized agent;

(ii) the owner or his authorized agent, or any property removed because of a contravention of this Bylaw, shall pay to the Village all storage and/or removal charges. Such charges shall be in addition to any fine or penalty imposed in respect of any such contravention.

(iii) In the event that the owner of the property does not claim such property, the storage and removal charges may be collected pursuant to the Motor Vehicle Administration Act or the Municipal Government Act, as the case may require.

V. Penalties

1. A) Any person who contravenes, disobeys, refuses or neglects to obey any provision of the bylaw by:

a) doing any act or thing which he/she is prohibited from doing herein: or

b) failing to do any act or thing he/she is required to do herein:

is guilty of an offence and is liable on summary conviction for the penalties set out in such section or set out opposite such section number in Schedule "A" hereto and in the event of failure to pay or the inability to pay any fine levied to imprisonment for a period of not less than three (3) days and not exceeding sixty (60) days or until such fines and costs of committal are paid.

B. If a person is convicted of an offence under this bylaw, the court may, in addition to a penalty under subsection (1), order that the convicted person remove the encumbrances from the highway in such manner as the court considers appropriate.

C. Except as otherwise provided in this Bylaw, a person who is guilty of an offence under this Bylaw for which a penalty is not otherwise provided, is liable to a fine of not less than one hundred ($100.00) dollars and not more than five hundred ($500.00) dollars and in default of payment, is liable to imprisonment for a term not exceeding six (6) months or to imprisonment for a term not exceeding six (6) months without the option of a fine.

This bylaw shall come into full effect on the final reading thereof.

FIRST READING CARRIED February 08, 2002

SECOND READING CARRIED February 08, 2002

THIRD READING UNANIMOUSLY CONSENTED TO AND CARRIED

_____
Mayor

_____
Municipal Administrator

SCHEDULE "A"

SECTION PENALTY

III.(1) Failure to Trim Shrubs,etc

III.(2) Placing an Encumbrance on a Highway

SCHEDULE TO BYLAW NO. 123

FORM A

NOTICE REGARDING ENCUMBRANCE

TO: (Name of Owner)
(Address)

RE: ENCUMBRANCE OF MUNICIPAL ROADWAY
(Address)
IN THE SUMMER VILLAGE OF SOUTH VIEW, ALBERTA

WHEREAS Bylaw 123, Roads and Streets Bylaw of the Summer Village of South View provides:

Prohibitions

2. No person shall be allowed to encumber the roads or streets or highways with any vehicles or other materials that will prevent the use of the said road, street or highway by vehicular or pedestrian traffic in a safe and free-flowing manner.

AND WHEREAS the following definition is provided

3. "Encumbrance" shall mean any vehicle or other article of any nature that will interfere with the progress of vehicular or pedestrian traffic on the roads, streets and other public places within the municipality.

AND WHEREAS a complaint has been received in respect to the above premises.

NOW THEREFORE, pursuant to Bylaw No. 123, the Roads and Streets Bylaw of the Summer Village of South View, take notice that those encumbrances located at (Address) in the Summer Village of South View, Alberta, have been found to be in contravention of Bylaw 123:

AND FURTHER TAKE NOTICE that if the said encumbrances are not removed on or before (DATE) that the matter may be reported to Council requesting an order directing you to do the said work.

DATED at the Summer Village of South View, in the Province of Alberta , the _____day of _____, A.D. _____.

SUMMER VILLAGE OF SOUTH VIEW

Per Peace Officer

SCHEDULE TO BYLAW NO.123

FORM B

NOTICE OF HEARING

TO: Name of Owner
Address

RE: THOSE PREMISES LOCATED AT
(Address)
IN THE SUMMER VILLAGE OF SOUTH VIEW, ALBERTA

WHEREAS at its regular meeting of Council held on the _____day of _____ A.D. ____, the Council of the Summer Village of South View considered a report of the Peace Officer, a copy of which is attached hereto, indicating an infraction of Bylaw No. 123, Road Control Bylaw of the Summer Village of South View;

AND WHEREAS Council passed a resolution directing that a notice in Form B be sent to you establishing a hearing into this matter;

NOW HEREFORE TAKE NOTICE that the Council of the Summer Village of South View at the hour of _____ on the _____ day of _____, A.D. _____, in the Summer Village of South View Council Chambers at the Civic Centre in the Village of Onoway, will consider the said report of the Peace Officer;

AND FURTHER TAKE NOTICE that you or your representative shall at such time be entitled to make a presentation to Council setting forth your reasons why an Order should not be made.

AND FURTHER TAKE NOTICE that following the Hearing, and whether or not you or your representative makes a presentation, Council may make an order declaring there has been an infraction of Bylaw No.123, the Road Control Bylaw of the Summer Village of South View, and ordering the remedying of the condition of the removal of the contravention.

DATED at the Summer Village of South View in the province of Alberta this _____ day of _____, A.D. _____.

SUMMER VILLAGE OF SOUTH VIEW

Per Peace Officer

SCHEDULE TO BYLAW NO. 123

FORM C

ORDER

To: (Name)
(Address)

RE: THOSE ENCUMBRANCES LOCATED AT
(address)
IN THE SUMMER VILLAGE OF SOUTH VIEW
ALBERTA

WHEREAS at its regular meeting of Council held on the _____ day of _____, A.D., _____., the Council of the Summer Village of South View considered a report of the Peace Officer, indicating an infraction of Bylaw No. 123, Roads and Streets Bylaw of the Summer Village of South View occurring in respect to the above encumbrances of which you are the owner.

AND WHEREAS after reviewing the said report and hearing presentations, it is Council's opinion that the said encumbrances at (address) in the Summer Village of South View are in contravention of Bylaw NO. 123, in that (description of problem)

NOW THEREFORE BE IT ORDERED that the owner, namely: _____ of _____ do on or before the _____ day of _____, A.D., _____, remove the said encumbrances from the road(s) described as (address), the Summer Village of South View, Alberta, by: (description of work to be done)

AND IT IS FURTHER ORDERED that if the said condition on the said road is not remedied in the manner above stated by the said date above established, that the Administrative Staff of the Summer Village of South View take immediate and necessary works and remedy the condition in the manner above stated.

AND IT IS FURTHER ORDERED that if the said owner does not remedy the condition and the Summer Village of South View incurs costs in remedying the condition, such costs are chargeable to the said owner.

ORDERED BY COUNCIL of the Summer Village of South View this _____ day of _____, A.D. _____

Summer Village of South View:

_____
Mayor

_____
Municipal Administrator