

Being a By-law of the Summer Village of South View in the Province of Alberta to provide for the prevention, abatement and regulation of Untidy and Unsightly Premises

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**WHEREAS** a Council of a municipality may, pursuant to Section 7 of the Municipal Government Act, being Chapter M-26.1 of the Revised Statutes of Alberta 1994, and any amendments thereto, pass bylaws respecting untidy and unsightly premises;

**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 Untidy and Unsightly Premises 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. "Highway" has the same meaning as defined in the Highway Traffic Act;
3. "Litter" shall mean any solid or liquid material or product or combination of solid or liquid materials or products including but not limited to:
  - A) any rubbish, refuse, garbage, package, container, bottle, can, manure, human or animal excrement or sewage or the whole or part of an animal carcass; or
  - B) the whole or part of any article, raw or processed material, construction material, motor vehicle, or other machinery that is disposed of, or in a wrecked, discarded, or abandoned condition;
4. "Owner" shall mean any person who is registered under the Land Titles Act as the owner of the land;
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. "Premises" shall mean the exterior walls and the components of any building or structure and shall include the land, accessory buildings, fences and erections thereon;
7. "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;

8. “Unightly” means the premises that have not been maintained in order to prevent their deterioration due to weather, rot or insect and not free from loose and broken materials; it shall also mean any property, whether the premises or the yard, where materials are stored in the open so as to subject them to deterioration due to weather, rot or insect or where the various materials of all nature may become damaged, thus creating a hazard to safety.
9. “Untidy” shall mean the land that is not protected by suitable ground cover which prevents erosion of the soil or the devaluation of the neighboring property and shall also include grass, plants and vegetation which is not trimmed; it shall also mean the storage in an open area or yard surrounding a residence without care for its appearance to the street.

### **III. Prohibitions**

1. No person being the owner, agent, lessee or occupier of any land within the Village shall permit the land of which such person is the owner, agent, lessee, or occupier to be in or remain unsightly.
2. No person being the owner, agent, lessee or occupier of any land within the Village shall permit the land of which such person is the owner, agent, lessee, or occupier to be in or remain untidy.
3. No person being the owner, agent, lessee or occupier of any land within the Village shall permit the land of which such person is the owner, agent, lessee, or occupier to have materials defined as litter on the property causing the property to be unsightly or untidy.
4. The owner, agent, lessee, or occupier of any land within the Village shall cut the grass of the portion of the highway that lies between the boundary of this land and the center of the highway which abuts or flanks the property of which such person is the owner, agent, lessee or occupier.
5. The owner, agent, lessee or occupier may be required to construct a fence, wall, screen or similar structure to prevent the untidy land or unsightly premises from being viewed from any highway or other public place.

### **IV. Enforcement**

1. A Peace Officer may, for the purpose of performing his or her duties and exercising his or her powers under this bylaw, enter at any reasonable hour and inspect the land or premises.
2. Where any lands or premises in the Village are found to be in contravention of the bylaw, 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 may direct that this be done in such a manner as he or she deems advisable on or before a day to be named in the notice.

3. The Peace Officer shall give not less than seven (7) days notice from the date of delivery of the notice for its compliance.
4. A) Notice to Owner given by the Peace Officer under the provisions of this bylaw shall be in writing and in quadruplicate 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 to the assessed owner, one shall be delivered to the Administrator and the fourth 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 double registered mail in a paid cover addressed to the last known postal address of the person to whom the notice is addressed, or as shown on the assessment roll as the case may be; 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.
5. 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
6. Upon consideration of the report, Council may direct that a notice in writing be served upon the owner involved in the infraction.
7. 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:

- c) 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.
8. The notice shall be served upon the owner in the same manner as set out in Enforcement Section 4, not less than ten (10) days preceding the date of the order being considered by Council.
9. 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.
10. The owner may appeal before Council in person or by a representative.
11.
  - A. If, following the hearing, Council is of the opinion that there is an infraction, it may declare it to be so and order to be in Form C set out as a Schedule to this bylaw.
  - 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 untidy or unsightly condition of the premises 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 said person authorized in the order 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.
  - E. Where the owner neglects or refuses to pay the Summer Village of South View costs in obtaining compliance with the order, the Summer Village of South View may cause these costs to be added to the tax roll as a charge against the lands of the owner in the same manner as taxes and with the same priority as to lien and to payment thereof as is in the case of ordinary municipal taxes.
12. Any owner, agent lessee or occupier who receives a notice, order or direction requiring him to remedy any condition that constitutes untidy or unsightly premises, or that contravenes or fails to comply with this bylaw and who thinks himself aggrieved, may appeal within ten (10) days to the court of Queen's Bench

#### **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 is prohibited from doing herein:
    - b) failing to do any act or thing he is required to do herein:is guilty of an offence and is liable on summary conviction to a fine of not less than one hundred dollars (\$100.00) and not more than five hundred dollars (\$500.00) 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.

Summer Village of South View  
Bylaw 122

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- 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 clean up the nuisance, unsightly or untidy premises or land as the court considers appropriate.
2. a) Notwithstanding any other provisions for penalties in this bylaw, an Enforcement Officer may, in lieu of issuing a notice in respect to an alleged breach of any prohibition of this bylaw, issue a voluntary penalty ticket and the accused may within seven (7) days of the issuance of such ticket pay the Village the same monetary penalty as may be imposed under the provisions of this bylaw, as outlined in Section V.1.(A).
- b) By paying such monetary penalty as prescribed in this section, an accused shall be deemed to be guilty of the offense for which such penalty was paid.
- c) In the event that the prescribed voluntary penalty is not paid within the time allotted herein, an Enforcement Officer may thereafter issue a notice in respect to the alleged breach for which the voluntary penalty ticket was issued.

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

FIRST READING CARRIED September 22, 2001.

SECOND READING CARRIED February 8, 2002.

THIRD READING CARRIED April 27, 2002.

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Municipal Administrator

SCHEDULE TO BYLAW NO.122  
FORM A

NOTICE TO OWNER

TO: (Name of Owner)  
(Address)

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

WHEREAS Bylaw 122, Unsightly and Untidy Premises Bylaw of the Summer Village of South View provides:

Prohibitions

2. No person being the owner of any land or premise within the Summer Village of South View shall permit the land or premises to be or remain in an untidy or unsightly condition.

AND WHEREAS the following definitions are provided

- j) “Unsightly” means the premises that have not been maintained in order to prevent their deterioration due to weather, rot or insect and not free from loose and broken materials; it shall also mean any property, whether the premises or the yard, where materials are stored in the open so as to subject them to deterioration due to weather, rot or insect or where the various materials of all natures may become damaged, thus creating a hazard to safety.
- k) “Untidy” means the land that is not protected by suitable ground cover which prevents erosion of the soil or the devaluation of neighboring property and shall also include grass, plants and vegetation which is not trimmed; it shall also mean the storage in an open area or yard surrounding a residence without care for its appearance to the street.
- l) “Litter” shall mean any solid or liquid material or product or combination of solid or liquid materials or products including but not limited to:
  - a) any rubbish, refuse, garbage, package, container, bottle, can, manure, human or animal excrement or sewage or the whole or part of any animal carcass; or
  - b) the whole or part of any article, raw or processed material, construction material, motor vehicle, or other machinery that is disposed of, or in a wrecked, discarded, or abandoned condition.

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

NOW THEREFORE, pursuant to Bylaw No. 122, the Unsightly and Untidy Premises Bylaw of the Summer Village of South View, take notice that those premises located at ( Address ) in the Summer Village of South View, Alberta, have been found to be Untidy and Unsightly premises in that they :

(DESCRIPTION OF CONDITION)

AND FURTHER TAKE NOTICE that if the said untidy and unsightly condition is not remedied 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

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SCHEDULE TO BYLAW NO.122  
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. 122, Unsightly and Untidy Premises 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 HEREOFRE 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.122, the Unsightly and Untidy Premises 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

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SCHEDULE TO BYLAW NO. 122  
FORM C

ORDER

To: (Name)  
(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, indicating an infraction of Bylaw No. 122, Unsightly and Untidy Premises Bylaw of the Summer Village of South View occurring in respect to the above premises.

AND WHEREAS after reviewing the said report and hearing presentations, it is Council's opinion that the said premises at (address) in the Summer Village of South View is in contravention of Bylaw NO. 122, in that

*(description of problem)*

NOW THEREFORE BE IT ORDERED that the owner, namely: \_\_\_\_\_ of \_\_\_\_\_ do on or before the \_\_\_\_\_ day of \_\_\_\_\_, A.D., \_\_\_\_\_, remedy the said untidy and unsightly condition on those premises 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 premises 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, and are to be added to the tax roll as a charge against the lands of the said owner in the same manner as taxes and with the same priority as to lien and to payment thereof as in the case of ordinary municipal taxes.

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

Summer Village of South View

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Municipal Administrator