

## **RURAL MUNICIPALITY OF EAST ST. PAUL**

### **BY-LAW NO. 99 - 23**

Being a by-law of the Rural Municipality of East St. Paul to outline certain jurisdiction respecting municipal roads and public reserves.

WHEREAS subsection 232(1) of the Municipal Act S.M. 1996, c. 58 – Cap. M225 provides in part as follows:

232(1) A council may pass by-laws for municipal purposes respecting the following matters:

- (b) people, activities and things in, on or near a public place or a place open to the public, including parks, municipal roads, recreation centres, restaurants, facilities, retail stores, malls, and private clubs and facilities that are exempt from municipal taxation;
- (e) private works on, over, along or under municipal roads;
- (f) property adjacent to highways or municipal roads, whether the property is publicly or privately owned;
- (o) the enforcement of by-laws.

NOW THEREFORE the Council of the Rural Municipality of East St. Paul in open session enacts as follows:

1. A designated officer may remove and dispose of any grass, hay, brush, or weeds found or being upon any municipal road, or part thereof, or public place, within the Rural Municipality of East St. Paul.
2. Subject as herein expressly otherwise provided, no person shall make, create, cause, leave, or permit any encroachment or nuisance on or in a municipal road or public reserve.
3. A designated officer may
  - (1) prevent, control, permit or license any act, or the placing or maintaining of any thing, on a municipal road or public reserve;
  - (2) prevent or control a nuisance or dangerous condition on or near a municipal road or public reserve, and abate or remedy any such nuisance or dangerous condition at the expense of the person causing or permitting it;
  - (3) subject to section 4, remove from a municipal road or public reserve anything placed or maintained thereon in contravention of a by-law, or otherwise without lawful authority;
  - (4) beautify, improve, maintain, and preserve any municipal road or public reserve, and construct or operate thereon any work or undertaking deemed by the council to be beneficial to the Rural Municipality of East St. Paul.

4. The removal of anything from a municipal road or public reserve as provided in subsection 3(1) except as otherwise herein provided, shall be at the expense of the owner of that thing, or, in the case of a projection from, or object attached to, an adjoining building or land, at the expense of the owner of the building or land.
5. Any expense incurred by the Rural Municipality of East St. Paul in removing any scaffolding, building material, waste matter, or other structure, matter or thing, placed on a municipal road or public reserve in connection with the construction of a building on land adjacent thereto, or in making good any damage to a municipal road, public reserve or any property of the Rural Municipality of East St. Paul caused by, or arising out of, any such construction, including subsidence of a municipal road or public reserve owing to faulty or insufficient back filling or the use of improper material for back filling in connection with the construction, shall be paid to the Rural Municipality of East St. Paul by the owner of the land; and the expense may be recovered by the Rural Municipality of East St. Paul from the owner by process of law, and may be added to the taxes on the land and collected in the same manner as the general municipal taxes of the Rural Municipality of East St. Paul.
6. A designated officer may require a person applying for a permit to use or excavate any part of a municipal road or public reserve for, or in connection with, work thereon or on adjacent property, to secure the Rural Municipality of East St. Paul, by a bond or cash deposit, against any such expense or damage caused by or arising out of the work.
7. Where a claim for damages is made against the Rural Municipality of East St. Paul arising out of an obstruction, structure, encroachment or nuisance, placed, caused or permitted on a municipal road or public reserve by a person other than an employee of the Rural Municipality of East St. Paul, or by the Rural Municipality of East St. Paul at that other person's request, whether or not pursuant to a permit or agreement with the Rural Municipality of East St. Paul, or any claim for damages otherwise arising as the result of an act or default on the part of a person other than such an employee is made, the person placing, causing, performing, making, or permitting the obstruction, structure, encroachment, nuisance, act, or default, shall indemnify and save harmless the Rural Municipality of East St. Paul from all costs, damages, and expenses arising therefrom, or in connection therewith; and, whether or not a claim is made against the Rural Municipality of East St. Paul in respect thereof, that person is directly responsible for the obstruction, structure, encroachment, nuisance, act, or default to any person, including the Rural Municipality of East St. Paul, suffering damage therefrom.
8. In this by-law the expression "private works" includes private roadways, crossings, openings, signs or other advertising devices and other structures constructed, erected, installed or maintained on a municipal road or public reserve

- for the use or benefit of owners or occupants of property adjoining or connected therewith.
9. A designated officer may
    - (1) permit private works on a municipal road or public reserve;
    - (2) prescribe the terms and conditions upon which private works may be installed, constructed, reinstalled, reconstructed, maintained or used;
    - (3) make such annual or other charge for the privilege conferred, and for the use of the private works, as the designated officer deems reasonable; and
    - (4) enforce the payment of those charges by adding them to, and recovering them in like manner as, taxes payable in respect of the land abutting the particular work;
    - (5) require that all private works shall comply with the requirements of the Rural Municipality of East St. Paul as to location, construction, materials, workmanship, and other matters in connection with the installation, construction, reinstallation, reconstruction or maintenance thereof;
  10. The Rural Municipality of East St. Paul may, at any time, reconstruct, alter, or remove any private works in existence on any municipal road or public reserve.
  11. The cost of all work done by the Rural Municipality of East St. Paul in the construction, reconstruction, maintenance, removal, or alteration of a private crossing or roadway or other approach to private property, or of a sidewalk built or improved by an owner, or of any other structure laid or constructed on a municipal road or public reserve to serve adjoining land, shall, if the Rural Municipality of East St. Paul so requires, be paid by the owner of the land fronting thereon upon or before the completion of the work.
  12. The annual charge, if any, made by the Rural Municipality of East St. Paul in respect of any private works shall be paid by the owner of the land fronting thereon, forthwith upon demand made by the Rural Municipality of East St. Paul, and if not so paid, may be added to the taxes on that land and collected in the same manner as the general municipal taxes of the Rural Municipality of East St. Paul.
  13. Subject to The Manitoba Hydro Act, The Highways and Transportation Department Act, and The Manitoba Telephone Act, no person other than the Rural Municipality of East St. Paul shall
    - (1) construct any sidewalks, poles, or other works that are to be constructed on any municipal road, including a departmental road within the meaning of The Highways and Transportation Department Act; and
    - (2) maintain and repair such sidewalks, poles, and works so constructed or being constructed.
  14. A designated officer may cause any tree, hedge, shrub, or sapling, growing or planted on a municipal road or public reserve to be removed, if and when the

- removal is deemed necessary for any purpose of public improvement in connection with the municipal road or public reserve, or any case of failure of the owner of adjacent land to comply with the terms of any by-law relating thereto.
15. No tree, hedge, shrub, or sapling, to which section 14 applies in the Rural Municipality of East St. Paul shall be removed as provided in the section unless one month's notice of the proposed removal is given to the owner of the adjacent land; and neither that owner nor any other person, unless so authorized by law, shall remove, cut down, or injure any such tree, hedge, shrub, or sapling, for any cause or reason, without the express written permission of the Rural Municipality of East St. Paul.
  16. A designated officer may enter upon any land upon either side of a municipal road that intersects another municipal road, or that intersects a departmental road as defined in The Highways and Transportation Department Act and fell or remove any trees, hedges, shrubs, saplings, or other obstructions that, in the opinion of the designated officer, prevent persons upon the municipal road, and at any place within 100 yards of the intersection, from having a clear and unobstructed view of traffic approaching the intersection; and for any such purpose the council may fix, and order payment of, such compensation to the owner of the land as it deems just.
  17. A designated officer may enter on any land adjacent to a municipal road or public reserve, for the purpose of causing any tree, hedge, shrub, or sapling, growing or planted thereon, to be trimmed at the expense of the owner when deemed necessary for the convenient use of the municipal road or public reserve, or for the safety of traffic on a municipal road, without being liable in damages or for compensation therefor; and the designated may levy and collect the cost of such trimming, as certified by the superintendent of public works or other appropriate designated officer of the Rural Municipality of East St. Paul, in the same manner as taxes levied against the land on which the tree, hedge, shrub, or sapling is situated.

Done and passed as a by-law of the Rural Municipality of East St. Paul at East St. Paul in the Province of Manitoba this 28<sup>th</sup> day of October, 1999.

Originally Signed By Phil Rebeck  
Reeve

Originally Signed By Ernie Epp  
Chief Administrative Officer

Read a first time this 12<sup>th</sup> day of October, 1999.  
Read a second time this 28<sup>th</sup> day of October, 1999.  
Read a third time this 28<sup>th</sup> day of October, 1999.