

## NAME: ENCROACHMENT AND TRESPASS POLICY

### PURPOSE:

As many structures do not conform to today's standards for development on regional park cottage subdivision properties, Lac Pelletier Regional Park (the Park) has developed the following policy to achieve compliance once trespass and/or encroachment issues have been identified.

To assist in achieving compliance, the Park has developed an Encroachment and Trespass Policy covering the key footprint requirements along with operating provisions containing content similar to municipal and Provincial Park documents. The Policy requires lessees to bring the existing development into compliance before any new development can take place. In some cases, non-compliant structures may be grandfathered and when renewed or assigned the lease may also be subject to a development freeze.

### POLICY GUIDELINES

#### 1. Grandfathering:

- When a structure does not conform to current building codes/standards, the following options are considered:
  - a) Permanent structures (cottage/garage/other permanent accessory buildings) situated on the property prior to May 5, 2014 will be grandfathered as long as the structure does not pose a threat to public safety. ***Structural changes to non-compliant structures that are not in Trespass will be reviewed upon application for any development/building permit and may be allowed as long as the changes do not increase the size of the structure, the element of non-compliance and as long as the changes otherwise comply with the current policy. Structural changes to structures in Trespass will not be considered.***
  - b) There will not be a grandfathering option for any non-compliant structures situated on the property after May 5, 2014. These structures will be required to be brought into compliance as soon as possible.
  - c) Trespassing or encroaching permanent structures that are grandfathered may impact new/proposed development on an adjacent property (space available for development may be impacted due to NBC requirements for separation between buildings). The Park may become involved to aid in the mitigation of these problems on behalf of the lessee of the adjacent property upon receipt of a development/building permit application from the impacted property. The lessee of the adjacent property would be provided an opportunity to appeal any conditions placed on permit approval related to the boundary infringement.

Upon successful appeal, the lessee with the Trespass and/or Encroachment situation may be required to bring the structure into compliance which could include relocation or other building alterations.

## 2. Trespass:

- When the offending structure, or a portion of the structure, is located off the leased property, the following options are considered:
  - a) move the non-conforming structure on to the leased property so it complies.
  - b) totally remove the non-conforming structure from the property.
  - c) lot boundary adjustments may be permitted between surveyed lots upon mutual agreement between lessees at their expense.
  - a) total lot development freeze will be applied until the trespass is brought into compliance.
  - b) where development before May 5, 2014 has resulted in a trespass affecting park land, lot adjustments will be assessed on a case-by-case basis.

## 3. Encroachment:

- When all or a portion of the structure is located in the setback area, but not off the property, the following options are considered:
  - a) move the non-conforming structure outside of the 1.5m (5ft) setback so it complies.
  - b) totally remove the non-conforming structure from the property.
  - c) structures constructed prior to May 5, 2014, which are encroaching will have a structural development freeze placed on them that will be removed once the non-conforming structures are brought into compliance.
  - d) the structural development freeze will remain in place until the non-compliant structure is replaced/altered such that it comes into compliance.
  - e) in an encroachment situation where a structural development freeze is placed on a structure, ***structural changes are allowed as long as they do not increase the size of the structure and the element of non-compliance and are known to otherwise comply with the policy.***
  - f) structures constructed after May 5, 2014 which are found to be encroaching will be required to be moved as soon as possible and brought into compliance.

## 4. Lot Adjustment:

- Adjustment of the lot boundary is restricted to permanent structures; and where trespass/encroachment issues between neighbors exist (limited to cottages and garages only).

- Resolution will require neighboring cottagers to agree to:
  - a) a change in the existing lot boundaries; and
  - b) the hiring of a Saskatchewan Land Surveyor to conduct the legal lot adjustment.
- Where development before May 5, 2014 has resulted in a trespass affecting park land, lot adjustments will be assessed on a case-by-case basis.
- Where development after May 5, 2014 has resulted in trespass affecting park land a lot adjustment will not be permitted.
- **Minor Variance:** The Park will consider approving a **10 per cent (6" on 5' setbacks and 24" on 20' setbacks)** variance of the standards established as per the Bylaw 2014-16 A Bylaw Respecting Buildings for encroachment issues identified where practical and reasonable to do so. Minor variance will only be considered for encroachment issues on permanent structures. If the variance is approved, then a development freeze based on this encroachment would be lifted. A copy of the variance approval will be dated and attached to the lease holder's lease on file.

#### 5. Review and Appeal:

- The Park has established the following appeal process to review written requests related to the interpretation and application of the policy:
  - a) If a "development freeze" is imposed or an application for a Development/Building Permit, lease renewal or assignment of lease is refused, cancelled or imposes new terms and conditions, the applicant will be provided with written notice which will document the decision. Application for review of the decision is to be made within 60 days of the notice. Notice must be provided in writing to the Chair of Board:
    - Lac Pelletier Regional Park Authority
    - Board Chair
    - Box 12, Site 6, RR#1
    - Wymark, SK S0N 2Y0
  - b) An appeal filing fee of \$100 must accompany all written appeals. Should an appeal be successful, the \$100 will be returned to the applicant or applied as a credit on their account. If an appeal is unsuccessful, the fee is forfeited to the Park.
  - c) As the Board is responsible for the Park and has ultimate authority for the decision, the Board will review the written appeal and if required communicate with the applicant, review location information and the pertinent facts of the situation prior to making a final decision. The applicant will be notified of the Board's final decision within 60 days of receipt written