

WCC344
Pelican Inlet "LOT DEVELOPMENT" Policy¹:

PURPOSE: The LOT DEVELOPMENT Policy of WCC344 Condominium Corporation, also known as the Pelican Inlet, is intended to protect and enhance the value of the 128 condominium lots as a common expectation for all condominium members/lot owners in this **COTTAGE COMMUNITY**. This policy is intended to ensure clarity and transparency for all current and future members of the condominium, towards legal compliance with the Development Agreement (attached as Annex 1) and the Condominium Declaration (attached as Annex 2) with respect to expectations of WCC344 Condominium Corporation, as respected and enforced by the Board of Directors, as well as by the Managing Agent.

1. LOT DEVELOPMENT:

As Pelican Harbour / Inlet lots were sold by the developer, purchasers were expected to comply with the Development Agreement signed between the Province of Manitoba and the Developers (dated January 27, 1992). This agreement included six conditions of sale, three of which were noted to be required in ALL sales agreements between the developer and ALL purchasers of condominium lots in the Pelican Harbor subdivision. All purchasers / owners are also expected to be in compliance with the Condominium Declaration as registered by the Developers with the Province of Manitoba in February 1995. All original and subsequent purchasers of lots in Pelican Inlet have been provided with these relevant documents. Two conditions from the Development Agreement are specific to the type of building and the required period of construction, as follows:

4. (a) *No building shall be erected or placed on a condominium lot other than a single family seasonal recreational dwelling unit which shall have a minimum floor area of six hundred (600) square feet;*
- (b) *The dwelling unit above described shall be constructed to a habitable state within Thirty-Six (36) months of the date of sale of the condominium lot by the Developers to the purchaser thereof.*

2. SEWAGE / SOLID WASTE MANAGEMENT:

The third condition of all lot sales states that, "private sewage disposal systems must comply with Manitoba Regulation 95/88R² and must be registered prior to installation and shall further advise that septic fields and pit privies are prohibited."

The Winnipeg Condominium Corporation (WCC) No. 344 Condominium Declaration Plan No. 32205, (dated February 15, 1995) states the following:

on page 5: 2.04 - Use Restrictions Applicable to Units (d) Law and Ordinances:

"Each owner shall promptly comply with all laws, statues, ordinances, rules and registrations of Federal, Provincial or Municipal governments or authorities applicable to the use, occupancy, construction and maintenance of any improvements upon any Unit."

3. TRAILERS (and any other structure on any unit used at any time as a habitation / residence, temporarily or permanently):

¹ This policy is intended to enhance compliance with and enforcement of the **"Development Agreement" and the "Condominium Declaration"**

² The **new** Manitoba Regulation for onsite wastewater management is Manitoba Regulation 83/2003

on page 5: 2.04 - Use Restrictions Applicable to Units Subsection (b) Temporary Structure:

“No structure of a temporary character, trailer, tent, shack, garage, barn, or other out-building shall be used on any Unit at any time as a residence, either temporary or permanently unless such use is authorized by the Board of Directors.”

on page 4: 2.04 - Use Restrictions Applicable to Units Subsection (a) Use as a Single Family Dwelling Item (ii):

“The owner of the individual dwelling located on the Unit shall be responsible for the maintenance of and shall maintain the interior and exterior of such dwelling in a clean, sanitary and attractive condition.”

on page 11: 10.08 - Units, Subject to Declaration, By-Laws and Rules:

“All present and future owners, tenants and residents of Units, their families, guests, invitees or licensees, shall be subject to and shall comply with the provisions of this Declaration, the By-laws, and any other rules and regulations of the Corporation.

The acceptance of a deed or transfer, or the entering into of a lease, or the entering into occupancy of any Unit, shall constitute an agreement that the provisions of this Declaration, the By-laws, and any other rules and regulations of the Corporation, or accepted and ratified by such owner, tenant, resident, or other person aforesaid, and all of such provisions shall bind any person having, at any time, any interest or a state in such Unit as those such provisions were recited and stipulated in full in each and every such deed or transfer or lease or occupancy agreement.”

4. PRIOR LACK OF ENFORCEMENT:

The WCC344 Plan No. 32205 Condominium Declaration clearly states the following on page 11: 10.10 Waiver:

*“The failure to take action to enforce any provision contained in the Act, this Declaration, the By-laws or any other rules and regulations of the Corporation irrespective of the number of violations or breaches which may occur, **shall not constitute a waiver of the right to do so there after, nor be deemed to abrogate or waive any such provision.**”*

5. IMPLEMENTATION / ENFORCEMENT PROCEDURES:

This policy is intentional towards the maintenance and protection of the quality of ***the cottage development known as Pelican Inlet***. It is intended to be enforced as of June 15, 2023 and all 128 lots and all members of the condominium corporation are expected to be in compliance, as per the terms and conditions noted herein below.

1. **All members that are currently using any structure of a temporary character, trailer, tent, shack, garage, barn, or other out-building at any time for ‘habitation’, as a residence, either temporary or permanently**, that is **NOT compliant with the Development Agreement specifications**, above, need to request in writing and receive written permission from the Board of Directors, on an annual basis.

Such permission will **only** be provided under the **following conditions**:

- a. The written / email request is submitted to the Board prior to January 31st of each year.
 - b. The member commits in writing regarding their intention to use a temporary (or permanent) sewage disposal system, commencing not later than the first day under which this policy comes into effect, and indicates clearly how it will be managed /emptied and the time frame for installation of a permanent sewage disposal system. The member demonstrates timely compliance with their written intention.
 - c. The member commits in writing regarding their intention to construct a permanent seasonal recreational dwelling with a minimum floor area of 600 Sq. feet, and submits an intended time frame, with visible, measurable incremental stages, for the completion of that structure to a habitable condition.
 - d. The expectation is that in both cases b. and c. above, the timeframe will not exceed 36 months.
 - e. The expectation is that there is some visible and incremental progress towards the completion of the permanent recreational dwelling, in each 12-month period, if there is a temporary structure or trailer in use for residential purposes in that same time period.
 - f. **Only one (1) trailer / temporary residential³ structure** is allowed per lot, during this period of lot development.
2. Members in violation of this policy (i.e. No written permission from the board, no temporary or permanent sewage disposal system in place, more than one trailer, etc.) will be issued a \$ 100 fine for each violation, on the first day of every month, commencing on the effective date of this policy.
 3. Members who continue to be in violation of this policy (as above) after the 12-month period, will be subject to removal of the trailer(s) or other temporary structure utilized as a residence, at the cost of the member.
 4. Vacant lots and/ or lots owned by members who are compliant with the development agreement, the condominium declaration and this policy on another Pelican Inlet lot, may maintain that status of their vacant or otherwise utilized lot, as long as they want, without penalty, as long as there is no intention for or actual use of any temporary or permanent structure, including trailers, as a habitation / residence.

With respect to the Manitoba Condominium Act of 2015:

Section 213(8)

What can a condominium corporation do if someone breaches the act or the corporation's declaration, by-laws or rules?

The condominium corporation can take reasonable steps to fix the breach, including:

- doing work to, or in, a unit or the common elements
- removing items from the common elements (see example below).

³ Garages, storage or utility sheds, etc., that are NOT used for any habitation are not prohibited.

However, before doing this, the condominium corporation must first give the unit owner:

- a written notice outlining details of the breach the corporation intends to fix
and
- a reasonable amount of time for the unit owner to fix the breach.

For example, if a condominium corporation's declaration says no unit owners may put up structures on their balconies, and a unit owner puts one up, the corporation must give the owner written notice to remove the structure and a reasonable length of time to do so.

If the unit owner doesn't comply, the corporation can have the structure taken down. The cost of the work may be added to the common expenses the unit owner must pay.

Section 215(1), (2), and (4)

Can a condominium corporation stop occupants from using a recreational facility (ex: pool) that is part of the common elements?

Yes. A condominium corporation may stop a unit owner, tenant, other occupant, or any other person allowed on the property, from using a recreational facility that is a common element for a reasonable length of time, if the person breaks a by-law or rule relating to the facility.

Before denying the use of a recreational facility, the condominium corporation must first give the person:

- a written notice with details of the breach or violation
and
- the opportunity to fix it or have it fixed (if this applies).

When a condominium corporation denies someone the use of a recreational facility, the person has the right to be heard by the board. This may include being heard at a board meeting.

Section 216

Fines

Can the board of a condominium corporation fine a unit owner when a by-law or rule is broken?

Yes, the board may fine a unit owner if a by-law or rule of the corporation is broken by:

- the unit owner
- a tenant or other occupant of the owner's unit
- a person allowed on the property by the unit owner, or a tenant or other occupant of this unit

The condominium corporation's by-laws must state the maximum amount a unit owner may be fined for breaking a by-law or rule. This amount is limited by section 42 of the Condominium Regulation, which says a condominium corporation may:

- charge no more than \$100 for each breach
- impose this fine only once every seven days for a continuous breach of a by-law or rule (see below for an example of a continuous breach)
- impose a fine no more than 12 times in a 12-month period for a continuous breach of a by-law or rule

An example of a **continuous breach** may be keeping a pet in a unit that is supposed to be pet-free, as opposed to having a party every Friday night (each party would be a **separate breach**).

Section 218 (1) to (4)
Condominium Regulation, Section 42

Does the board need to give a unit owner notice before imposing a fine?

Yes. The board must give the unit owner a written notice that includes:

- details of the breach
- the amount of the fine
- how many times, and how often, the fine may be imposed if the breach continues (if this applies).

The written notice must also give the unit owner a chance to reply and to be heard, in person, at a board meeting. As well, owners must be given the chance to take care of the problem.