



Committee of the Whole Report

Report Number: RS2021-004
Meeting Date: February 9, 2021
Title: **Proposed Amendments to Dock Encroachment Policy CP2018-001**
Description: Proposed Amendments to Create a Proactive Approach to Licensing Docks and Boathouses Within the City of Kawartha Lakes
Author and Title: Sharri Dyer, Manager – Realty Services

Recommendations:

That Report RS2021-004, **Proposed Amendments to Dock Encroachment Policy CP2018-001**, be received;

That staff be directed to obtain public input on the proposed policy and report back to Council by the end of Q3;

That By-law 2018-017, "City Lands Encroachment By-Law", as amended to date, be further amended to update the fees associated with dock and boathouse encroachments;

That By-law 2016-009, "Signing Authority By-law", as amended to date, be further amended to delegate signing authority to the City Solicitor for dock licenses with 10-year terms;

That an amending by-law be advanced to Council for adoption, accordingly; and

That these recommendations be brought forward to Council for consideration at the next Regular Council Meeting.

Department Head: _____

Financial/Legal/HR/Other: _____

Chief Administrative Officer: _____

Background:

At the Council Meeting of February 13, 2018, Council adopted the following resolution:

CR2018-074

Moved By Councillor Dunn

Seconded By Councillor James

That Report 2018-006, **Proposed By-law to Regulate Encroachments onto City Property**, be received;

That the City Lands Encroachment By-law attached as Appendix A be approved;

That the policy entitled, Dock Encroachments, attached as Appendix B to Report 2018-006, be adopted and numbered for inclusion in the City's Policy Manual;

That the Consolidated Fees and Charges By-law 2016-206 be amended accordingly; and

That the necessary by-laws be brought forward for adoption.

Carried

The framework of CP2018-001 – Dock Encroachments allows the City to deal with dock encroachments in a reactive manner, by offering License Agreements if an application is received directly from a dock owner, or if a complaint is received by Municipal Law Enforcement regarding an encroaching dock.

Currently the only areas that are regulated by License Agreements are Thurstonia and Kenstone Beach. In both cases, the dock encroachments were historically permitted by the former Townships, and continued to be allowed upon amalgamation through a permit system run through Community Services. When the permits for those areas expired in 2018, both areas became regulated under CP2018-001 and dock owners were offered License Agreements for a 5-year term in accordance with that policy.

One of the major complaints received from Thurstonia and Kenstone Beach residents was that they felt that it was unfair that they were required to pay annual License fees and maintain insurance on their docks, when there are other areas within the City where docks exist on City property without any formal agreements in place.

The purpose of this Report is to provide Council with proposed amendments to Dock Encroachment Policy CP2018-001, which will allow the City to regulate areas on a proactive basis and therefore create a fair process City-wide.

Rationale:

The proposed amendments to Dock Encroachments Policy CP2018-001 (attached as Appendix A) adds details to clarify certain aspects that were found to be too vague within the existing policy, and allows the City to take a proactive approach to regulating dock encroachments.

Conditions for Approval

The proposed amendments to CP2018-001 will add in several conditions for approval, including requirements regarding spacing between structures and spacing from the travelled road.

Specifically, the proposed amendments set out a requirement for 10 metres (33 feet) spacing between each structure. This is in keeping with Trent Severn Waterway's desire to allow enough space to draw a vessel between structures. Further, the required spacing will prevent overcrowding, which in turn creates a more pleasing aesthetic of the waterfront area.

A further spacing requirement sets out that structures must be set back a minimum of three metres from the edge of the travelled road. This will protect the motoring public that leaves the roadway. This, in turn, will result in reduced exposure to costs to the municipality.¹ This setback also lessens the strike hazard during snowplow operations and allows sufficient space for snow storage.

Clarity is added to the requirement that the dock/boathouse owner maintain an active insurance policy on the licensed structure, with the City of Kawartha Lakes added as an additional insured to the policy.

The fees associated with a License Agreement for a dock or boathouse have been updated to reflect separate amounts for each type of structure. This was another common complaint from Licensees in Thurstonia and Kenstone, that it was unfair to charge the same fee for a small dock as a large boathouse structure.

¹ The City is currently paying \$224,000.00 per year in increased insurance costs relating to one incident where a driver left the travelled roadway and struck a stump within the road allowance.

The fee for a dock is proposed to be updated to \$400.00 annually, and the fee for a boathouse is proposed to be set at \$250.00 per wall (an increase from the current fee of \$150.00). A structure with a roof but no solid walls will be considered equivalent to a four-walled structure for the purposes of the annual fee, given the increased risk of injury if the structure is moved or dislodged by wind. The increased fees are to reflect the fact that dock/boathouse space on municipal property is a privilege that not all residents are afforded, accordingly it should result in covering the costs of City staff administering the License Agreements, as well as a profit to the City.

Categories

A further proposed change is to distinguish licensed areas into two categories. Currently, CP2018-001 only allows for the City to enter into License Agreements for five year terms. The proposed amendments will create two categories:

Category 1 – docks and boathouses are located directly across from the property owner. Approved structures in these areas would qualify for a 10-year term.

Category 2 – docks and boathouses are not located directly across from the property owner. Approved structures in these areas would qualify for a five-year term.

As areas come into compliance with all the requirements set out in the amended Dock Encroachment Policy, categorization would be re-evaluated at the time the License Agreements are to be renewed and could potentially move from five-year terms to 10-year terms.

Process

Realty Services will determine which area is to be licensed each year. A site visit will be completed by Realty Services staff to review the area and take photos to assist in determining the most likely owner of each structure.

Realty Services staff will reach out to the area residents to advise them that the area is to be licensed and to provide an application and instructions for completing the licensing process.

Residents will be required to submit a completed application form, recent photos of their structure (inclusive of full extent of encroachment, e.g. dock, boathouse, stairs, handrails, etc.), measurements of the dock/boathouse and associated structures, a recent tax bill (as confirmation of ownership in the licensed area), and the application fee of \$125.00.

If Realty Services staff is unable to determine a likely owner for a structure, the Municipal Law Enforcement Office will post notice on the structure requesting that the owner contact Realty Services within thirty days, or to remove their structure within thirty days, or face removal under the Encroachment By-Law 2018-017.

Applicants will have thirty days to submit all the required documents. If a completed application is not received within thirty days, the structure will be removed pursuant to Encroachment By-Law 2018-017.

The timeline will be strictly adhered to in order to lessen the burden of administration and to keep the timeline for the completion of the License Agreement process consistent for each area.

Once the thirty-day deadline has passed, the Realty Services division will determine which structures should be approved and which structures should be denied, based on the criteria in the amended Dock Encroachment Policy. This is a change from the current policy wherein the Land Management Committee is to approve or deny each structure. In order to streamline the process, this has been delegated to the Realty Services division.

The proposed amendments clarify that backlot owners will not be approved for a License Agreement. This is to assist with the requirement that there be a minimum of 10 metres spacing between each structure and to prevent overcrowding in each area. Further, this will allow for dock spaces to be provided to property owners directly across the street from the waterfront, giving them a similar benefit afforded to those who live on a shoreline road allowance where a travelled road does not exist.

For all those residents whose structures are not approved for a License Agreement, they will be informed by letter (with a copy to the Ward Councillor) and advised that they have thirty days to remove their structure or to appeal the decision by making a deputation to Council. Should the structure not be removed, or request for a deputation made, within thirty days, the structure shall be removed by the City, with the costs payable by the dock/boathouse owner.

For those residents whose structures have been approved, they will be advised by letter sent by Realty Services staff. Once provided with a License Agreement, the Licensee will have 60 days to return a signed License Agreement, payment of the applicable License Fee, and proof of acceptable insurance. If any of the required items are not received within 60 days, Realty Services will send a final letter advising that any

outstanding items must be provided within 30 days or the dock/boathouse shall be removed in accordance with City Lands Encroachment By-Law 2018-017.

This timeline is necessary in order to lessen the time associated with the administration of the License Agreements and to provide a fair and consistent timeline for all Licensees to complete the process.

A further proposed amendment clarifies that new boathouse structures will not be approved, given the increased risk of injury, spills, costs of removal, and – in the case of Category 2 areas – overcrowding.

Also, while existing boathouses and non-compliant structures (e.g. oversized docks, docks owned by backlot owners, etc.) may be approved for License Agreements initially, they will be approved on the basis that they are to be maintained and repaired only. Expansion or replacement of these structures will not be permitted.

Licensees will be required to inform Realty Services if they are selling their property and intend to transfer their existing License Agreement to the new property owner. The new owner will be required to pay a fee of \$125.00 to cover the costs associated with effecting the transfer. The intended Licensee will be required to return a signed License Agreement and approved insurance upon closing of the property sale.

If a Licensee does not notify Realty Services of an intended transfer, the original Licensee will remain responsible for all fees and insurance requirements until such time as Realty Services is notified that a transfer of the License Agreement is required.

The proposed amendments further specify that any applicant or Licensee who acts in a manner that is contrary to the City of Kawartha Lakes Management Directive MD2016-013 “Workplace Violence and Harassment” will not be approved for a License Agreement, or will have their License Agreement revoked and their structure removed at the applicant/Licensee’s sole expense.

Funds from License Agreements

The current CP2018-001 directs that the funds received from the Dock License Agreements are to be deposited into the Property Reserve to assist with future land acquisitions and capital improvements. The proposed amendments will place the funds into a general reserve to help offset the cost of administering the Dock License program.

Proposed Amendments to City Lands Encroachment By-Law 2018-017

By-Law 2018-017 sets out the minimum annual fees for various types of encroachments, including docks and boathouses. Given the proposed amendments to CP2018-001, amendments will be required to By-Law 2018-017 to update the minimum fees related to docks and boathouses.

Public Input

As this policy will affect residents throughout the entire City of Kawartha Lakes, Realty Services feels that it would be appropriate to seek out the opinions of the residents with regards to the general idea of a proactive licensing policy, as well as specific aspects, such as cost and standards for dock and boathouse structures.

Other Alternatives Considered:

Option 1

Council could decide to consider the implementation of the proposed policy without seeking public input. This is not recommended, as a major complaint following the approval of By-Law 2018-017, being the City Lands Encroachment By-Law, was that the public was unaware that these changes were coming into effect. As this policy will affect many residents throughout the City of Kawartha Lakes, including those who have had docks on City lands for many years, Staff feel that obtaining public input will provide more transparency in advance of the implementation of the proposed policy. Further, obtaining public input will allow all residents, not just those with docks on City lands, to provide their opinions on the proposed policy.

Option 2

Council could decide not to implement the proposed Dock License Policy and continue to deal with dock encroachments through CP2018-001 – Dock Encroachments. This is not recommended, as CP2018-001 allows only for a reactive approach to dock encroachments. Unless a dock owner submits an application to the Land Management Committee or a complaint regarding the dock encroachment is received by Municipal Law Enforcement, the City is unable to regulate dock encroachments in a designated area. This creates an unfair circumstance where some areas may be subject to License Agreements and the associated fees and insurance requirements for many years while other areas remain exempt because a complaint has not been received and the residents have not sought out License Agreements on their own.

Alignment to Strategic Priorities

The recommendations set out in this Report align with the following strategic priority:

- Good Government
 - Asset Management

Financial/Operation Impacts:

Proactive enforcement of the Encroachment By-law in relation to docks will assist capital works on the roads in the identified neighbourhoods. In other words, it will allow for upgrades to roads in the areas identified.

Proactive enforcement of the Encroachment By-law in relation to docks is anticipated to have a staffing pressure on Municipal Law Enforcement Office and Realty Services Division for the time period set out in Appendix C, attached. The addition of 1 FTE – perhaps through annual contract – to each of these Divisions for the time period set out in Appendix C will allow these Divisions to continue to process existing workloads without a slowdown in service delivery.

It is anticipated that Municipal Law Enforcement Office will require an additional \$25,000.00 per year to remove non-complying structures, for the time period set out in Appendix C, attached.

Additional budget and staffing may be requested in the 2022 budget for program implementation.

Consultations:

Senior Management Team
Trent Severn Waterway

Attachments:

Appendix A – Proposed Amendments to Dock Encroachment Policy CP2018-001 (track changes)



Appendix A -
Proposed Amendme

Appendix B – Proposed Amendments to Dock Encroachment Policy CP2018-001 (clean copy)



Appendix B -
Proposed Amendme

Appendix C – Proposed Plan for Pro-active Enforcement of By-law 2018-017 relating to Docking Encroachments



Appendix C -
Long-Term Docking

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