



Council Policy

Council Policy No.:	CP2018-001
Council Policy Name:	Dock Encroachments
Date Approved by Council:	February 13, 2018
Date revision approved by Council:	
Related SOP, Management Directive, Council Policy, Form	

Policy Statement and Rationale:

The Corporation of the City of Kawartha Lakes requires policies and procedures to regulate dock and boathouse encroachments onto City-owned land. This policy statements sets out the philosophy, principles and procedures for the management of privately-owned docks on land owned by the Corporation. This policy is to be used in conjunction with the City Lands Encroachment By-law.

Section 207 of the Municipal Act, 2001 requires municipalities to adopt policies regarding the sale and other disposition of municipally owned land. To promote consistent, transparent and equitable processes in disposal in a manner consistent with the best interest of the City.

Scope:

This policy covers all real property owned or to be acquired by The Corporation of the City of Kawartha Lakes.

Definitions:

Dock: a structure extending along the shore or out from the shore into a body of water, to which boats may be moored or by which people can access the water.

Boathouse: a structure at the edge of a body of water used for housing boats or gear for water enjoyment, including a structure that consists of no solid walls.

Backlot Owner: any property owner who does not live directly on the shoreline road allowance



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All definitions herein are as set out in the City Lands Encroachment By-law and the Land Management Policy.

Background:

The City ~~does not~~ currently ~~licensing/regulate~~ dock and boathouse encroachments ~~on~~ municipally-owned shoreline road allowances or municipally-owned waterfront property, with the exception of Thurstonia Park and Kenstone Beach (both of which are shoreline road allowances), which are currently managed by the Community Services Department.

Accordingly, many dock and boathouse encroachments currently exist in other areas that have never been expressly permitted by the City, nor have been required to relocate, despite passage of the City Lands Encroachment By-Law 2018-017.

~~The Community Services Department issues a 2-year license for the docks at Thurstonia Park and Kenstone Beach. The Realty Services Division of the CAO's Department currently issues 5-year License Agreements for the approved docks and boathouses located in Thurstonia Park and Kenstone Beach.~~

There is a need for uniformity in dock and boathouse License administration throughout the City of Kawartha Lakes. In 2010, the City passed the following resolution:

~~**Moved by Councillor Luff, seconded by Councillor Strangway,**~~

~~**RESOLVED THAT** Report LMC2010-048, "Unauthorized Dock Placement on Municipally Owned Land within the City of Kawartha Lakes", be received; and~~

~~**THAT** staff be directed to develop an Encroachment Policy for docks on municipal property based upon the following principles:~~

- ~~1. THAT such a policy be structured to deal with matters on the basis only where access to waterfront is being adversely affected;~~
- ~~2. THAT such a policy be structured to protect the general public's interest in access to the waterfront;~~
- ~~3. THAT such a policy be structured to ensure the municipality's rights as landowner, along with protecting the municipality from liability;~~
- ~~4. THAT such a policy contemplate a license, permit or encroachment agreement process for those residents wishing to ensure longer term use of municipal property and where previously referenced principles are not impacted; and~~

~~**THAT** staff be directed to bring forward a report to Council in 2011 with a DRAFT policy as outlined above.~~

~~**CARRIED CR2010-1206**~~

~~That policy was never brought forward in 2011 as required by the resolution, and is now being brought forward otherwise in accordance with the direction.~~



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~~The average dock length licensed under the Community Services program is 15 feet. Pursuant to the Consolidated Fees and Charges By-law 2016-206 Schedule D, a dock license costs \$11.25 per foot as of January 1, 2018 and is subject to increase annually (by cost of living index) pursuant to that by-law. The result is \$168.75 for a two year period.~~

Philosophy:

Approval for 5 or 10 year license agreements ~~terms~~ will be issued where the following conditions to approval have been met:

- ~~– Use of the dock or boathouse does not adversely affect the use by others of the property (shoreline use will not be exclusive; dock or boathouse use will be exclusive) –~~
- minimum 10 metre spacing between structures
- Use does not adversely affect the ability of the City to use, access and maintain its property
 - All docks, decks, stairs, and handrails must be set back a minimum of 3 metres from the edge of the travelled road, to allow for snow plowing and snow storage
- ~~– Use does not adversely affect the ability of the general public to use the area adjacent to the dock, and to access the water~~
- ~~– Use does not result in overcrowding of the waterfront~~
- ~~– Use does not adversely affect the aesthetics of the area~~
- Use does not result in erosion or degradation of fish habitat
- Federal and provincial permits are the obligation of the dock owner
- Existing crib docks to be replaced with post/ floating docks upon repair
- Continued obligation on the dock/boathouse owner to maintain ~~and insure~~ dekan active insurance policy on the dock and/or boathouse with The Corporation of the City of Kawartha Lakes added as an additional insured
- Continued obligation on the dock/boathouse owner to maintain the dock and/or boathouse in good repair
- Obligation to post permit number on dock and notice of private property
- Obligation on the dock/boathouse owner to make the following payments:
 - \$125.00 application fee to the Land Management Committee
 - Additional \$150400.00 per year (docks)
 - Additional \$250.00 - \$1,000.00 per year (boathouses)

Licenses will only be issued for private docks or boathouses on shoreline road allowances. Licenses will not be issued for private docks or boathouses on roads or road allowances leading to water, or water access parcels.

Upon default of any condition, the license agreement can be revoked on 30 days' notice. Structures left following deadline for removal will be considered abandoned and



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City may remove and charge the applicant for the costs of demolition and removal (pursuant to the City Lands Encroachment By-law).

Policy:

The Realty Services Division of the CAO's Department will reach out to residents with docks on City-owned land in one or more area(s) each year where docks and boathouses are currently encroaching in order to provide uniformity in how the different areas are treated. Realty Services will decide in which areas to begin this process each year.

Existing docks and boathouses will fall into one of two categories:

Category 1 The docks and boathouses are located directly across the property owned by the dock/boathouse owner (e.g. Jessie Avenue). Approved docks and boathouses in these areas will qualify for a 10-year License Agreement.

In ~~in~~ the event that the road is untraveled and unassumed, and in the event of no public or City use, the Realty Services division or the Land Management Committee, will recommend that the shoreline road allowance be stopped up, closed, and sold to the adjacent landowners, pursuant to the CP2018-013 Disposal of Real Property Policy and By-Law 2018-020 Disposition of Municipal Real Property, as amended.

Category 2 The docks and boathouses are not all located directly across from the property owned by the dock/boathouse owner (e.g. Thurstonia Park and Kenstone Beach). Approved docks and boathouses in these areas will qualify for a 5-year License Agreement.~~Where persons approach the City to locate a dock on City property, or to obtain approval for an existing dock on City property, the following procedure is followed:~~

Once Realty Services has determined which area(s) to license in a given year, the following process will be followed:

1. An application is made to the Land Management Committee via the Clerks in the Realty Services Division. The Realty Services division determines which area(s) will commence dock licensing for a given year. Upon determination, Realty Services staff will visit the area and take pictures of the existing structures and determine the likely owner(s).
2. The Realty Services Clerk takes the matter to the next regularly scheduled Land Management Committee — which meets monthly — for review. Realty Services presents the proposed area for consideration at a Land Management Committee meeting. If a member of the Committee is aware of a reason why the area

- should not be licensed at this time (e.g. planned works in the area which might significantly disrupt the area's use of docks/boathouses) or indicates that specific sections of an area would not be appropriate for licensing (e.g. shoreline is narrow and may be required for stabilization work to uphold the integrity of a travelled road, or shoreline is narrow and docks/boathouses would be too close to a travelled road to the extent that they would impede road maintenance operations), Realty Services will take the information into account and potentially revise the timeline for that area.
3. Realty Services then reaches out to the residents in the area and advises them that their area will begin the licensing process. Prior to contacting the property owners, the Ward Councillor will be notified.
 4. The initial correspondence from Realty Services will advise the residents that they must submit an application to the Land Management Committee (via the Law Clerks in the Realty Services division) to begin this process. An application will only be considered complete when the following documents are provided:
 - Application form (with all required information and signatures)
 - A recent photo of all structures requested for licensing (must show full extent of encroachments, including all stairs, decks, installed docks, boathouses, etc.)
 - Measurements of the dock/boathouse and all associated structures
 - A recent tax bill
 - Application fee (currently \$125.00)
 5. If there are any structures in an area for which Realty Services staff are unable to determine the likely owner, a Municipal Law Enforcement Officer will post a notice on the structure to notify all potential dock/boathouse owners in the area of the requirement to submit an application for license within 30 days' from the posting of the notice, or to remove the dock/boathouse within that timeframe, or face removal pursuant to City Lands Encroachment By-Law 2018-017.
 6. After notification, the dock/boathouse owner will have 30 days to complete the application process.
 7. If an application fails to be received for any of the items noted in the site visit conducted by Realty Services staff, that item will be removed pursuant to the City Lands Encroachment By-Law 2018-017.
 8. Once the 30 day deadline has passed, ~~The Land Management Committee analyzes the offer, considering the philosophy set out in this Policy~~ the Realty Services division will determine which applications should be approved and which applications should be denied, based on the criteria set out in this policy.

9. If the dock/boathouse is in a Category 1 area, the structure will be eligible for a 10-year License Agreement, if approved. If the dock is in a Category 2 area, the structure will be eligible for a 5-year License Agreement, if approved.

~~10. When an application comes in for a new or existing dock in an area where other encroachments exist, whether pursuant to encroachment license or not, the Municipal Law Enforcement Office will notify all dock owners in the area of the requirement to make application for license within 30 days' of the notice, or to remove the dock within that time, or face removal pursuant to the Encroachment By-law. Once every dock in the area has either removed their dock, made application to the Realty Services Division for a license, or has had their dock removed by the Municipal Law Enforcement Office, the Land Management Committee will consider the applications for all docks in the area at the same meeting of the Land Management Committee, in order to provide fair and consistent treatment to all dock owners. Prior to contacting the owners for enforcement, the Ward Councillor will be notified. The Realty Services division, or the Land Management Committee (which will review individual requests for a dock/boathouse License Agreement in an area that has not been previously reviewed by the Committee) will not approve dock/boathouse License Agreements for back lot owners.~~

If the Land Management Committee reviews an individual request for a dock/boathouse License Agreement, the Committee will make a determination concerning the entire area, but this will not affect the timing of practice licensing of the area.

~~If the Land Management Committee does not agree on treatment of the matter, then the Realty Services Manager shall determine the direction to be taken~~

11. New boathouses will not be approved for a License Agreement due to increased risk of injury, spills, costs of removal, and – in the case of Category 2 areas – overcrowding.

12. Existing boathouses and non-compliant structures constructed prior to the implementation of this policy may be repaired and maintained only. Expansion or replacement will not be permitted.

13. Where a decision has been rendered not in favour of the applicant, the Realty Services division will notify the Ward Councillor applicant will be notified of the decision, and the fact that the applicant can make a deputation to Council if they disagree with the decision.

14. Where a decision has been rendered in favour of the applicant, the Realty Services Division will notify the applicant of the decision, and the costs of proceeding with the application License Agreement:
 - (\$150400.00 per annum for a 5-year term the applicable term for a dock (increased annually by the Cost of Living Index)
 - Boathouse costs will be based on a charge per wall of the boathouse - \$250.00 per wall per annum (increased annually by the Cost of Living Index)
 - o If a boathouse has a roof, but no solid walls, the annual fee will be the same as a four walled structure (\$1,000.00), given the increased risk of injury if the structure is moved or dislodged by wind.
 - If a survey is required by the Land Management Committee, then a deposit sufficient from the applicant to cover the costs will be required ~~along with the costs of the license~~ prior to proceeding.
15. Once ~~all costs are collected~~ the applicant has confirmed that they are agreeable to all the associated costs, the Realty Services Division will provide a license for execution to the applicant. The applicant will have 60 days to obtain acceptable insurance and provide a copy of the Certificate of Insurance to the Realty Services division.
16. Once an executed License Agreement, eCertificate of Insurance, and applicable payment (first annual payment or amount for full term) is received by the Realty Services Division, the City Solicitor will execute the License Agreement in accordance with the Signing Authority By-law 2016-009.
17. Once the License Agreement has been fully executed, Realty Services will send the fully executed License Agreement and Dock Sign to the Licensee. Covering correspondence will note that the Dock Sign must be installed on the licensed structure so as to be visible from the road allowance, and that any replacement signs will be provided at the Licensee's sole expense.
18. If any of the required documents (executed License Agreement, Certificate of Insurance, and applicable payment) are not received within the 60 day timeframe, Realty Services will send a final notice requiring the applicant to provide any outstanding items within 30 days or to remove their structure, or face removal pursuant to City Lands Encroachment By-Law 2018-017. If the outstanding items are not received within the 30 day timeframe, Realty Services will close the file and arrange for removal of the items at the applicant's expense, pursuant to City Lands Encroachment By-Law 2018-017.
19. When a Licensee sells their property and the new owner wishes to have the existing dock/boathouse License Agreement transferred to them, they must pay a



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\$125.00 applicant fee (for the administrative costs associated with the transfer of the License Agreement).

- 20. Licensees must notify Realty Services at least 30 days in advance of their closing date to advise that a transfer of the License Agreement is required. If prior notice is not provided, the existing License Agreement will remain valid until such time as the new owner has completed the process and has signed a new License Agreement. The original Licensee will be responsible to maintain insurance coverage until such time as the new dock/boathouse License Agreement takes effect.
- 21. Any applicant or Licensee who acts in a manner that is considered to be any form of workplace violence or harassment against City of Kawartha Lakes employees as per 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 existing License Agreement terminated immediately. Removal of the dock/boathouse will be at the applicant/Licencee's sole expense.

Where a complaint is made about an encroachment on City property, the Municipal Law Enforcement Office will advise the owner that he/she has 30 days to remove the dock or boathouse, or make application to the Land Management Committee for a license, or face removal, in accordance with the Encroachment Policy. If an application is made, the above process is followed.

Financial Considerations: Accounting for Proceeds from Dock Licenses

~~In all circumstances~~Unless otherwise directed by Council resolution, the proceeds from the license of municipal property will be deposited into general reserves to offset the costs of administration of the docking program. ~~a corporate account for future land acquisition and capital improvements to existing property (including demolition of structures).~~

~~Council may direct the net proceeds from the license of any municipal property in a manner not provided for in this Policy.~~

Revision History:

Proposed Date of Review:

Revision	Date	Description of changes	Requested By
0.0	February 13, 2018	Initial Release	

<p><u>1.0</u></p>		<p><u>Prevent licensing dock and boathouses on roads leading to water and water access parcels; licensing of shoreline road allowances only</u></p> <p><u>Prevent licensing docks and boathouses in urban areas – available in rural areas only</u></p> <p><u>Set out process for proactive enforcement of the City Lands Encroachment By-Law 2018-017 with respect to dock and boathouse encroachments</u></p> <p><u>Provide that the Land Management Committee will set the overall docking plan for an area (e.g. determine if it is a Category 1 or Category 2 area), allow Realty Services to make the determinations on whether individual docks/boathouses comply with the policy. In the event of an application for an area that hasn't been reviewed by the Land Management Committee, the Committee will review the application and make a determination of the entire area</u></p> <p><u>Increase the annual fee for dock and boathouse encroachments</u></p> <p><u>Add required setback of 3 metres from the edge of a travelled road</u></p> <p><u>Add required spacing of 10 metres between structures</u></p>	<p><u>Realty Services</u></p>



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