

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 (where a dock is licensed, associated stairs, marine rail systems, retaining walls and boatlifts without hard tops or sides are included in the license)

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 (where a boathouse is licensed, associated stairs, marine rail systems, retaining walls and boatlifts without hard tops or sides are included in the license)

Eligible Owner: any property owner who lives within 400 m of their dock.

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

Background:

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

Accordingly, many dock and boathouse encroachments 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.

There is a need for uniformity in dock and boathouse License administration throughout the City of Kawartha Lakes.

Philosophy:

Schedule A sets out the proactive docking plan for private docks and boathouse encroachments on City property. This does not constitute a comprehensive list of docking on City property, but identifies the areas of concern, which will be addressed through proactive enforcement. Areas of concern are areas where neighbourhood conflicts exist due to docking, or docking is resulting in encroachment into a travelled roadway with resultant hazards.

Shoreline Road Allowances

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 road allowances leading to water, or on water access parcels.

Eligible Owners

Licenses will only be issued for Eligible Owners as access to water is limited and the shoreline areas do not have enough space to accommodate all non eligible owners.

If a non-Eligible owner currently has a Dock License Agreement, that Agreement will remain in effect until such time as it expires.

Waterfront Owners

Licenses will not be issued for waterfront owners as they have alternative access to docking.

Conditions to Approval

Approval for 5 or 10 year License Agreements will be issued for structures in conformity with this policy and 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 (in areas with Back Lot Owners utilizing the shoreline, shoreline use will not be exclusive; dock or boathouse use will be exclusive)
- Minimum six feet spacing between structures
 - Where adequate spacing does not exist, the license will not transfer to subsequent purchasers/ transferees, except in the case where the owner of the dock owns property immediately across from the dock and adjacent to the road allowance (a “Front Lot Owner”)
- Use does not adversely affect the ability of the City to use, access and maintain its property
 - All docks, boathouses, decks, stairs, and handrails should be set back a minimum of three metres from the edge of a travelled road, to allow for snow plowing and snow storage, and to minimize the strike hazard if a vehicle leaves the travelled road
 - Structures will be required to come into compliance at the time of major repair to the structure
 - Winter storage of docks on the road allowance is permissible where a three metre setback can be maintained. Otherwise, winter storage is to occur in the back yard or side yard of the associated residence.
- No fires on licensed property
- Federal and provincial permits are the obligation of the dock/boathouse owner
- Use does not result in erosion or degradation of fish habitat
- Existing crib docks to be replaced with post/floating docks upon repair
- Continued obligation on the dock/boathouse owner to maintain an active insurance policy on the dock/boathouse with The Corporation of the City of Kawartha Lakes listed as an additional insured
- Continued obligation on the dock/boathouse owner to maintain the dock/boathouse in good repair
- Obligation to post permit number on dock (in Category 2 areas only – see below) and notice of private property
- Obligation on the dock/boathouse owner to make the following payments:
 - \$125.00 application fee
 - Additional \$150.00 per year, increased annually by the Cost of Living Index, as License Fee for docks

- Additional \$400.00 per year, increased annually by the Cost of Living Index, as License Fee for boathouses
- Licensee's with a dock and boathouse will be required to pay \$550.00 per year, increased annually by the Cost of Living Index
- Licensees will have the option to pay for the entire 5 or 10 year term upfront without the fee being increased per the Cost of Living Index

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

Policy:

Where the dock is located directly across the road from the residence (licensee is a Front Lot Owner), the resident, if approved, will be eligible for a ten year license.^{1,2}

Where the dock is not located directly across the road from the dock (licensee is a Back Lot Owner), the resident, if approved, will be eligible for a five year license.

Transfer of License

Where there is not sufficient space for a 6 foot separation between docks, the license will not be transferable unless the owner is located directly across the road and their property fronts on the road.

Conflict for Space

Where there are two docks competing for a specific dock space, priority will be given to the dock that is most in compliance with the policy.

Parking

Parking by licensees is prohibited on Hazel Street and Cedar Glen Road other than when the owner is putting their boat into the water at the beginning of the season or taking their boat out of the water at the end of the season.

¹ The intent is that all licenses within an area will have the same term. If Front Lot and Back Lot dock owners exist on the same shoreline road allowance (i.e. Cedar Glen & Hazel Street), all licenses for that area will issue for 5 year terms.

² Areas with erosion concerns (Lake Dalrymple Road, Long Beach Road and Hazel Street) will only be eligible for 5 year licenses.

Existing Boathouses

Boathouse use as living accommodation is not permitted on the City Owned Lands along the waterfront.

Hydro

Hydro is permitted for the purposes of lighting docks, boathouses and staircases and to power water bubblers for water intake lines. Hydro is not permitted for the purposes of allowing living accommodation on City Owned Lands along the waterfront.

New Docks and Boathouses

Where persons approach the City to locate a new dock or boathouse on City property, these requests will be denied by Realty Services. Licenses will not be approved for structures not in existence as of the date of the passing of the Encroachment By-law.

Docks on Road Allowances Leading to Water & Docking on Open Space, Common Water Access Blocks

Docks will be permitted to remain on road allowances leading to water & on open space or common water access blocks, if approved, provided the dock is available for common/public use and the structures do not impact public water access and use.

Fire pits, Barbeques and other sources of fire or flames

Fire or flames are not permitted on docks or in boathouses, including but not limited to fire pits, fire bowls, fireplaces and barbeques.

Areas Not Identified for Proactive Enforcement

Where persons are not in areas set out for proactive enforcement in Schedule A (i.e. Jessie Avenue), they may approach the City to obtain approval for an existing dock on City property, they will be required to make an application to Realty Services and submit a fee of \$125.00. If the Land Management Committee has already made a decision concerning the area, Realty Services will notify the applicant in writing of that decision. If the Land Management Committee has not previously made a decision concerning the area, the Committee will review the request and make a determination concerning the entire area.

Areas Identified for Proactive Enforcement

The Realty Services Division of the CAO's Department will reach out to residents with docks/boathouses on City-owned land in the areas scheduled for licensing as per Schedule A.

When an area is to be proactively licensed, the following procedure will be followed:

1. Realty Services will reach out to residents in the area and advise them that their area will begin the licensing process. Prior to contacting property owners, the Ward Councillor will be notified.
2. The initial correspondence from Realty Services will advise residents that they must submit an application to the Realty Services Division (via the Law Clerks in the Realty Services Division) to begin the process. An application will only be considered complete when it includes:
 - 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 dock and/or boathouse and all associated structures
 - Application fee (currently \$125.00)
3. 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 the City Lands Encroachment By-Law 2018-017.
4. After notification, the dock/boathouse owner will have 30 days to submit a complete application to the City.
5. 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.
6. Once the 30 day deadline has passed, 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.

7. If the dock/boathouse is across the street from the associated residence, the structure will be eligible for a 10-year License Agreement, if approved. Otherwise, the structure will be eligible for a 5-year License Agreement, if approved.
8. Where a decision has been rendered not in favour of the applicant, the Realty Services Division will notify the applicant of the decision, and the fact that the applicant can make a deputation to Council if they disagree with the decision.
9. 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 License Agreement:
 - \$150.00 per annum for the applicable term for a dock (increased annually by the Cost of Living Index)
 - \$400.00 per annum for the applicable term for a boathouse (increased annually by the Cost of Living Index)
 - If a survey is required by the Land Management Committee, then a deposit sufficient from the applicant to cover the costs will be required prior to proceeding
 - Stairs, boat lifts, retaining walls, water intake lines and decks are included in the license fee. Sheds are charged a further \$125 per annum (increased annually by Cost of Living Index)
10. Once the applicant has confirmed they are agreeable to all the associated costs, the Realty Services Division will provide a License Agreement 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.
11. Once an executed License Agreement, Certificate of Insurance, and applicable payment (first annual payment or amount for the full term) are received by the Realty Services Division, the City Solicitor will execute the License Agreement in accordance with Signing Authority By-Law 2016-009.
12. Once the License Agreement has been fully executed, Realty Services will send the fully executed License Agreement and – in the case of a Category 2 area – 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.
13. If any of the required documents (executed License Agreement, Certificate of Insurance, and applicable payment) are not received within the 60 day deadline,

- Realty Services will send a final notice requiring the applicant to submit any outstanding documents 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 structure at the applicant's expense, pursuant to City Lands Encroachment By-Law 2018-017.
14. 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 \$125.00 application fee (for the administrative costs associated with the transfer of the License Agreement).
 15. 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 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.

Harrassment or Workplace Violence

A member of staff who is concerned that a member of the public is threatening the staff member's safety will contact his/ her manager. The manager will review the matter and determine whether or not it can be determined, by reliable evidence such as emails or recorded voice mails, that the member of the public has threatened or engaged in violence or harassment. If so, the manager will communicate to the applicant/ licensee, specifying the problematic communication and the manager's determination as to the nature of the communication (i.e. violence/ harassment). The manager will direct the applicant to respond to the allegations to the satisfaction of the manager or to not engage in further communications of that nature with City Staff. That same applicant/ licensee will be afforded the opportunity to work with the City through an agent, including his/her Councillor, directly with Management, or entirely by written communication should further communications (1 or more) result in a similar determination of management. If the applicant/ licensee elects to continue to send violent or harassing communications to Staff despite Management's attempts to intervene, Management will draft a Confidential Staff Report requesting direction to terminate the application or license agreement. The applicant/ licensee will be afforded an opportunity to review the allegations and respond, which response will form part of the Staff Report seeking direction.

Complaints about Encroachments

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/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

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.

Revision History:

Proposed Date of Review:

Revision	Date	Description of changes	Requested By
0.0	February 13, 2018	Initial Release	
1.0		<p>Prevent licensing docks and boathouses on road allowances leading to water and water access parcels; licensing of shoreline road allowances only</p> <p>Set out process for proactive enforcement of the City Lands Encroachment By-Law 2018-017 with respect to dock and boathouse encroachments</p> <p>Provide proactive docking plan – new Attachment A.</p> <p>Allow Realty Services to make the determinations on whether individual docks/boathouses comply with the policy.</p>	

		<p>In the event of an application for an area that has not been reviewed by the Land Management Committee, the Committee will review the application and make a determination for the entire area</p> <p>Increase the annual fee for boathouse encroachments</p> <p>Add recommended setbacks of 3 metres from the travelled road, with transition provisions</p> <p>Add required spacing of 6 feet between structures, with transition provisions</p> <p>Add Schedules to outline Proactive Dock Licensing Plan, Areas of Concern, and Eligible Owners</p> <p>Prohibit fires on City property</p>	

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Schedule A

Long-Term Docking Plan to be implemented in Phases – Areas for Proactive Enforcement

Area Number	Area Name	Plan	Target License Period
1	Hazel Street, Thurstonia	Completed: Approximately 176 docks and 13 boathouses licensed with 5 year term ending Dec 31 2023. 10 dock licenses will not be renewed and will need to be removed when the existing lease ends on Dec 31 2023 if the walking distance requirement is enacted.	2024-2029
2	Kenstone	Completed: 16 docks licensed on 5 year term ending 2023. Water lot owned privately. Recommend not renew any of the docks if cannot obtain permission from owner	2024-2029
3	Cedar Glen, Dunsford	City acquired title. 9 dock licenses will not be licensed and will need to be removed in 2022 if the walking distance requirement is enacted.	2022-2027
4	Hickory Beach	Currently, entire area licensed to association. Current license expires May 31, 2023 Association to follow the policy on renewal.	2023-2028
5	Stanley Road – Open Space Block	City is unable to obtain title to waterfront portion, so cannot regulate docking.	N/A

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6	Stanley Road – Road Allowance	Surplus and sell northern portion of RA to adjacent owners (running along waterfront) License encroachments at southerly portion of RA (adjacent to open space water access block)	2024-2029
7	Grove Road, Fenelon Falls	Sell where sufficient setbacks exist License docks 10 y Transition clause to 3 m setback from road.	2025-2035
8	Avery Point Road	Sell Westerly SLRA License docks 10 y on travelled/ improved RA	2026-2036
9	Long Beach Road	some portions of untravelled road allowance adjacent to the waterfront purchased Consider whether other waterfront parcels can be purchased. If not, eligible for license.	2027-2032
10	Lake Dalrymple Road		2027-2032

Schedule B

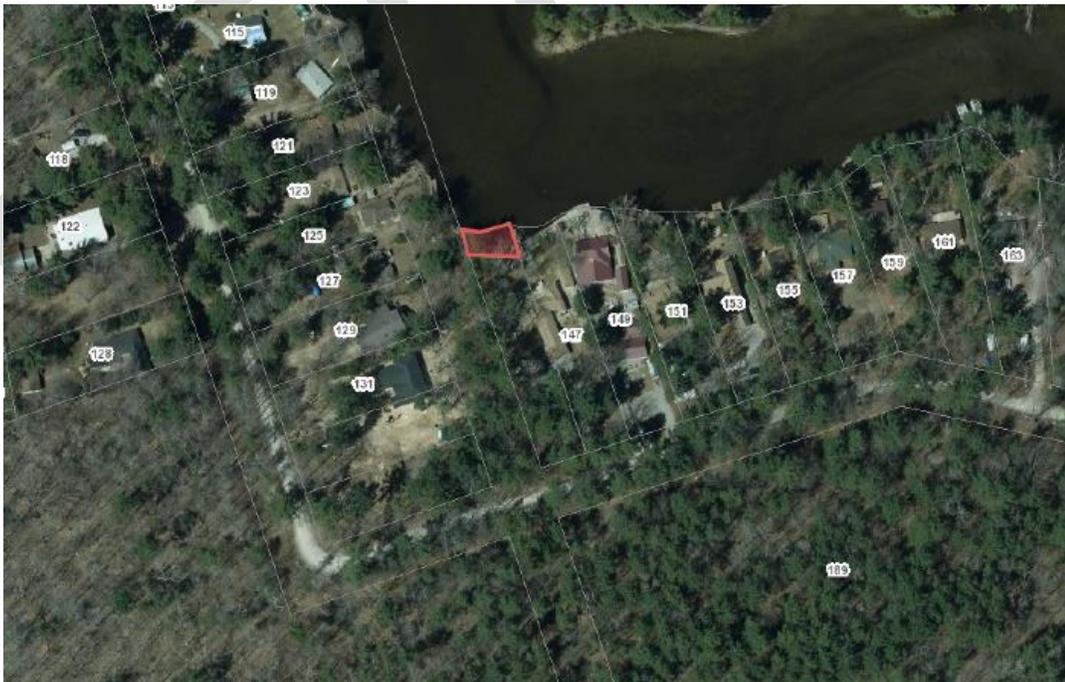
Hazel Street, Thurstonia



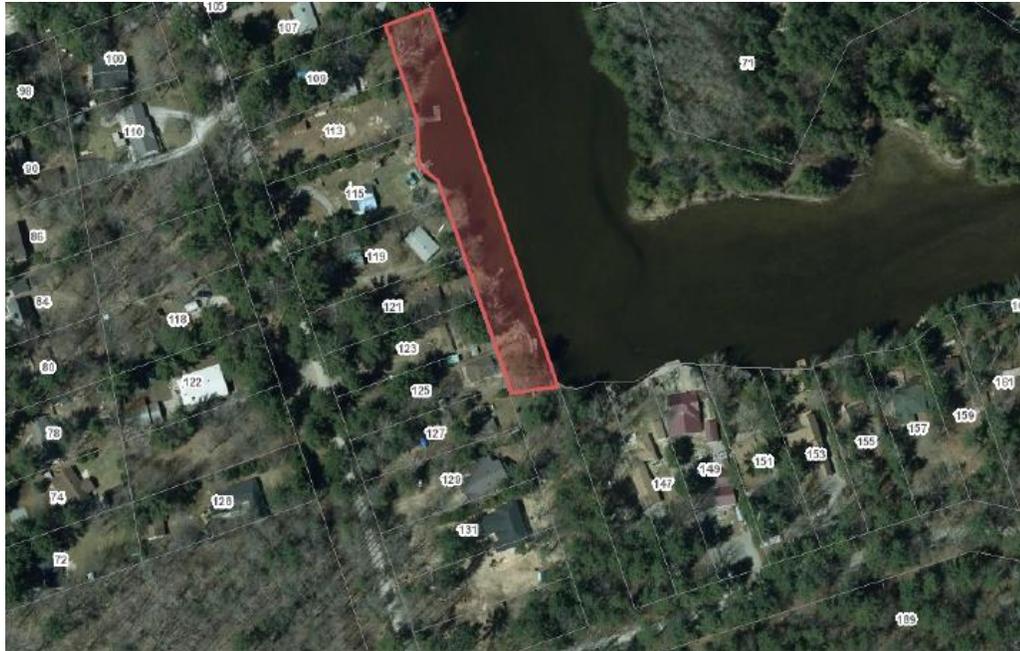
Hickory Beach



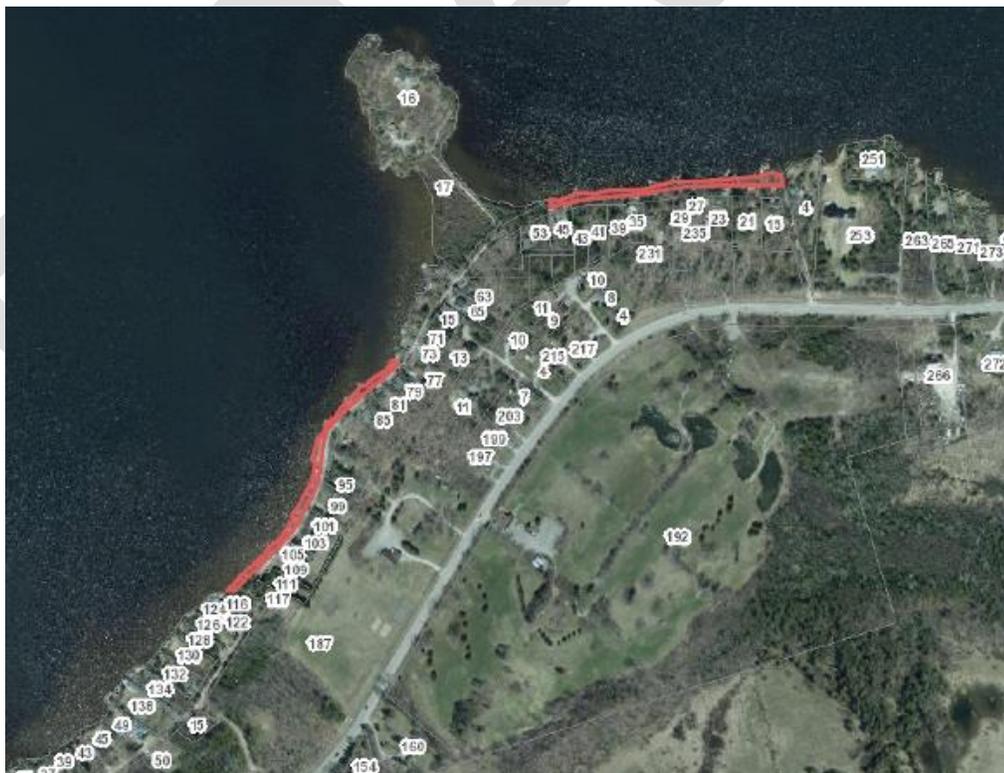
Stanley Road – Water Access Block



Stanley Road – Road Allowance Leading to Water



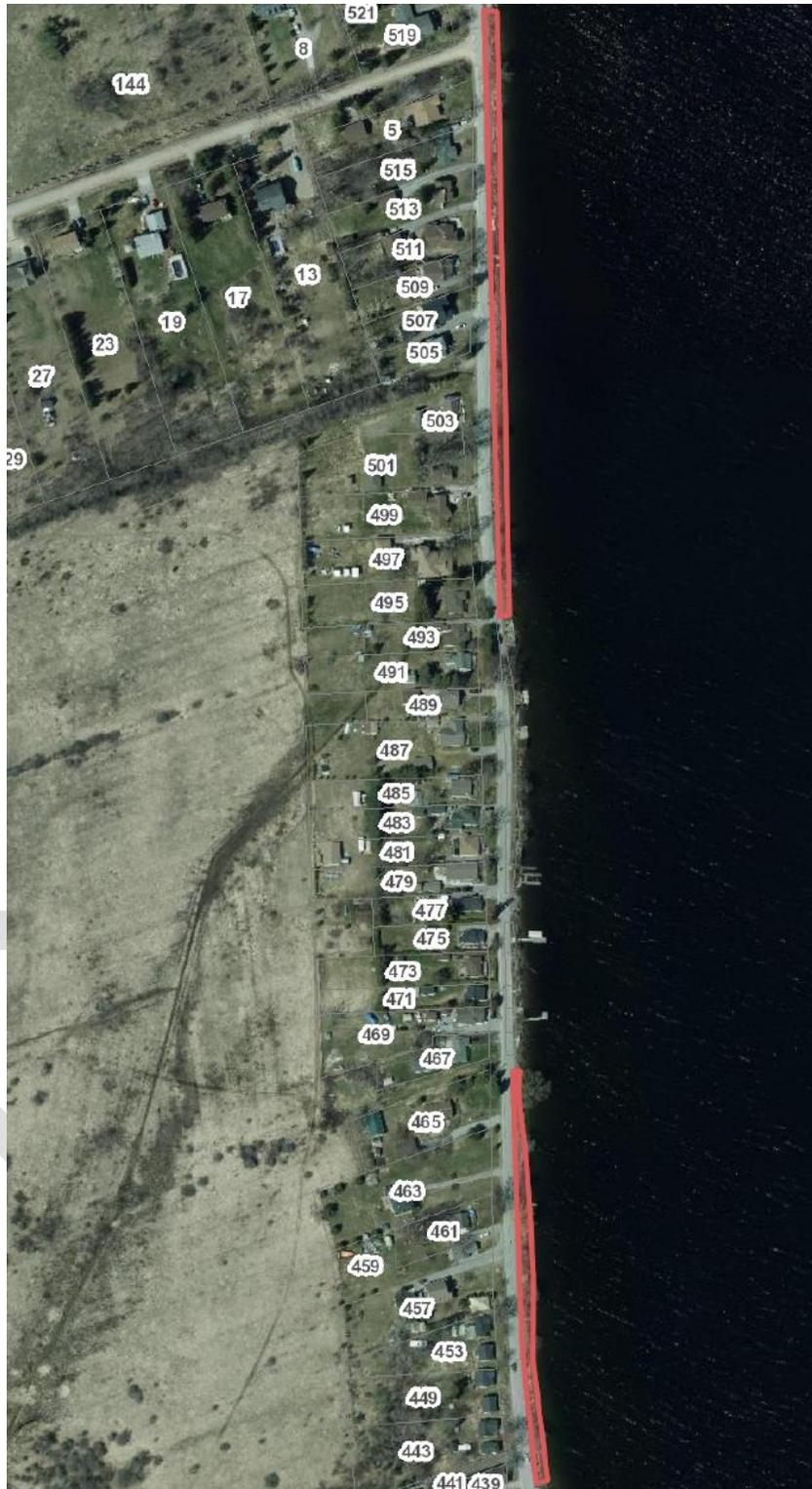
Grove Road



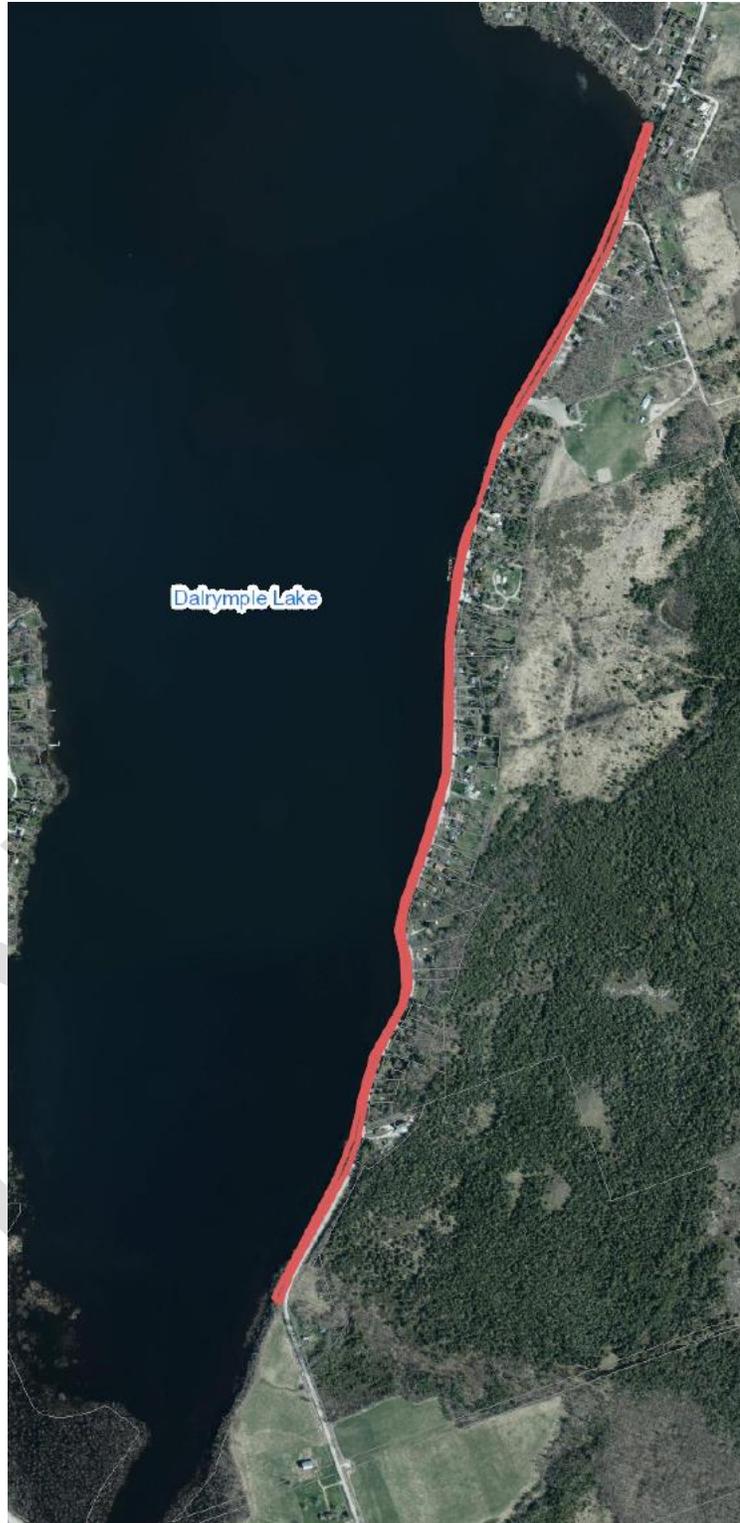
Avery Point Road



Long Beach Road



Lake Dalrymple Road



Schedule C



Green – Front Lot Owners

Red – Back Lot Owners

Blue – Dock Licensing Area

