

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)

Front Lot Owner: any property owner who owns lives directly on a shoreline road allowance (see Schedule C for example).

Back Lot Owner: any property owner who does not live directly on a shoreline road allowance (see Schedule C for example).

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.

Front Lot Owners

Licenses will only be issued to front lot owners; not back lot owners.

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 (shoreline use will not be exclusive; dock or boathouse use will be exclusive)
- Minimum six feet spacing between structures
- 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.
- 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:

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

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

In the event that the road allowance 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 CP2018-013 Disposal of Real Property Policy and By-Law 2018-020 Disposition of Municipal Real Property, as amended. See, for example, Schedule B, showing a road allowance running parallel and west of Avery Point Road.

In the event that the road allowance is used by the public as an unassumed walking path, such as in the case of Jessie Avenue, no proactive enforcement will occur. Property owners may apply for 10-year license agreements should they choose to do so.

- Category 2 The docks/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/boathouses in these areas will qualify for a 5-year License Agreement.

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.

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

Harassment or Workplace Violence

If an applicant or Licensee acts in a manner that constitutes 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", the applicant/Licensee will be sent a letter outlining the incident of workplace violence or harassment and warning that a further incident will result in termination of the application or License Agreement. The applicant/Licensee may choose to work with the City through the use of a representative. If a second incident occurs, the applicant/Licensee will be sent a letter outlining the incident of workplace violence or harassment and advising that their application has been denied, or License Agreement has been terminated, as the case may be.

Removal of the dock/boathouse will be at the applicant/Licensee's sole expense.

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</p> <p>Add required spacing of 6 feet between structures</p> <p>Add Schedules to outline Proactive Dock Licensing Plan, Areas of Concern, and Front Lot vs. Back Lot Owners</p>	

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Schedule A

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

Area Number	Area Name	Category	Description of Area	Plan	Standard License Conditions of Potential Interest	Target License Period
1	Hazel Street, Thurstonia	2	X:1 ratio dock: house Assumed travelled road	Completed: Approximately 200 docks and a few boathouses licensed with 5 year term ending Dec 31 2023. Many of the existing licensed docks do not adhere to new policy and will need to be removed on renewal. Subject to Engineering review per Hazel Street Reconstruction in 2023, estimated that 140 docks will not be renewed in 2023	Winter storage of dock on the RA permissible where 3 m setback from roads edge can be maintained Otherwise, storage in side yard or back yard of house.	2024-2029
2	Kenstone	2	X:1 ratio dock: house Assumed travelled road	Completed: 16 docks licensed on 5 year term ending 2023. Water lot owned privately. Recommend not renew any of the docks if cannot	Winter storage of dock on the RA permissible where 3 m setback from roads edge can be maintained Otherwise, storage in side yard or back yard of house.	2024-2029

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				obtain permission from owner		
3	Cedar Glen, Dunsford	2	X:1 ratio dock: house Assumed travelled road Title issue	City to acquire title. All of the docks owned by backlot owners will not be licensed and will have to be removed.	Winter storage of dock on the RA permissible where 3 m setback from roads edge can be maintained Otherwise, storage in side yard or back yard of house.	2022-2027
4	Hickory Beach	2	X:1 ratio dock: house No adjacent travelled road Linear water access block, which looks like a small segment of SLRA	Currently, entire area licensed to association. Current license expires May 31, 2023 Will not renew existing license, and will enter individual licenses with front lot owners. All of the docks owned by backlot owners will not be licensed and will have to be removed.		2023-2028
5	Stanley Road	2	Water access block	Acquire title to waterfront portion. One public boardwalk permitted to remain. No private docking.	Existing boardwalk and stairs (in good shape) to be licensed, maintained and insured by one person for public use. No overnight docking allowed. Signed as "public access to water"	2024-2029
6	Stanley Road	1	Road leading to water adjacent to	Surplus and sell northern portion of RA to adjacent		2024-2029

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			water access block	owners (running along waterfront) License encroachments at southerly portion of RA (adjacent to open space water access block)		
7	Grove Road, Fenelon Falls	1	1:1 ratio dock: house Adjacent to Travelled Road w/ insufficient width Maintained per LSA (unassumed)		No hydro and no plumbing allowed Move structure back 3 m from road upon substantial repair	2025-2030
8	Avery Point Road	1	1:1 ratio dock: house Adjacent to Travelled Road w/ sufficient width	Sell Westerly SLRA License docks 10 y on travelled/ improved RA	Winter storage of dock on RA permitted if owner of dock can demonstrate sufficient storage space to allow 3 m clear zone from travelled road Otherwise, storage in side yard or back yard of house.	2026-2031
9	Long Beach Road	1	1:1 ratio dock: house	some portions of untravelled road allowance adjacent to the waterfront purchased	Winter storage on RA permitted if owner of dock can demonstrate sufficient storage space to allow 3 m	2027-2032

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			Adjacent to Travelled assumed Road w/ potentially insufficient width	Consider whether other waterfront parcels can be purchased. If not, eligible for license.	clear zone from travelled road. Otherwise, storage in side yard or back yard of house. Southernmost portion not owned by the City, so will not require license with City.	
10	Lake Dalrymple Road		1:1 ratio dock: house Adjacent to travelled assumed road		Winter storage on RA permitted if owner of dock can demonstrate sufficient storage space to allow 3 m clear zone from travelled road. Otherwise, storage in side yard or back yard of house.	2027-2032

Legend

LSA = Limited Service Agreement

RA = Road Allowance

SLRA = Shoreline Road Allowance

X = greater than 1. Indicates back lot owners on waterfront and crowding issues. Reflected in arguments between adjacent owners, insufficient snow storage locations, and poor aesthetics.

Assumed = maintained

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, docking is resulting in encroachment into the roadway with resultant hazards.

This list is in order of importance, with highest problem areas first and least problematic areas last. This indicates the order in which the areas will be addressed.

Schedule B

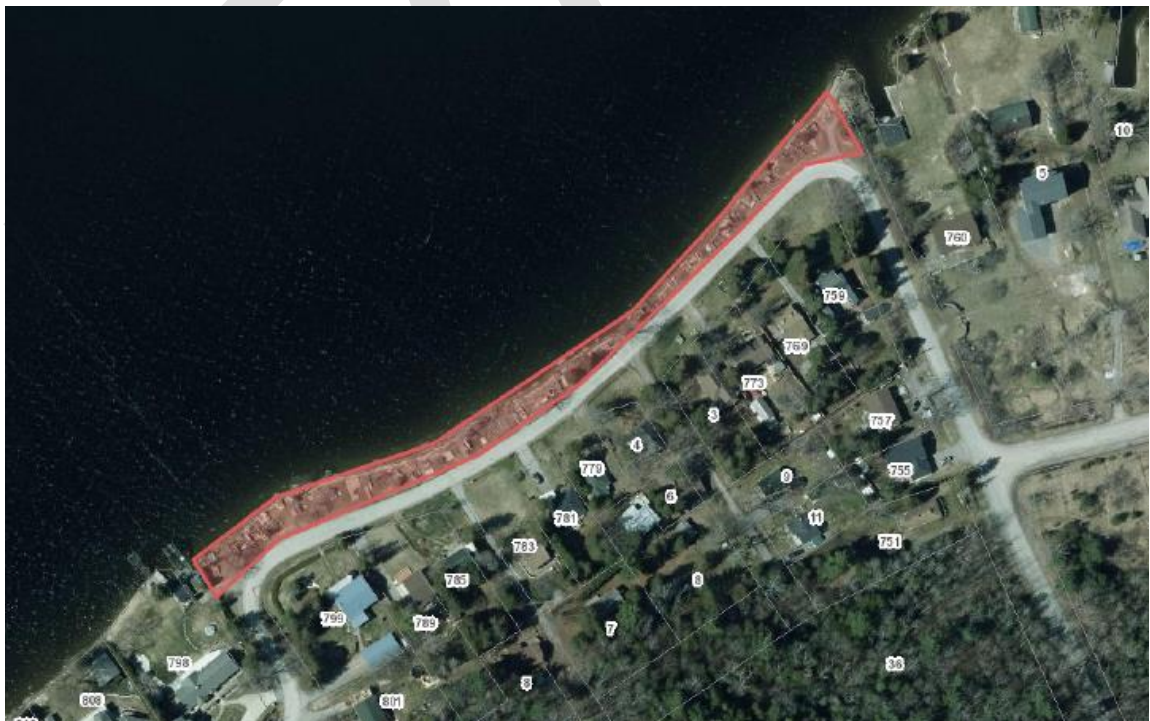
Hazel Street, Thurstonia



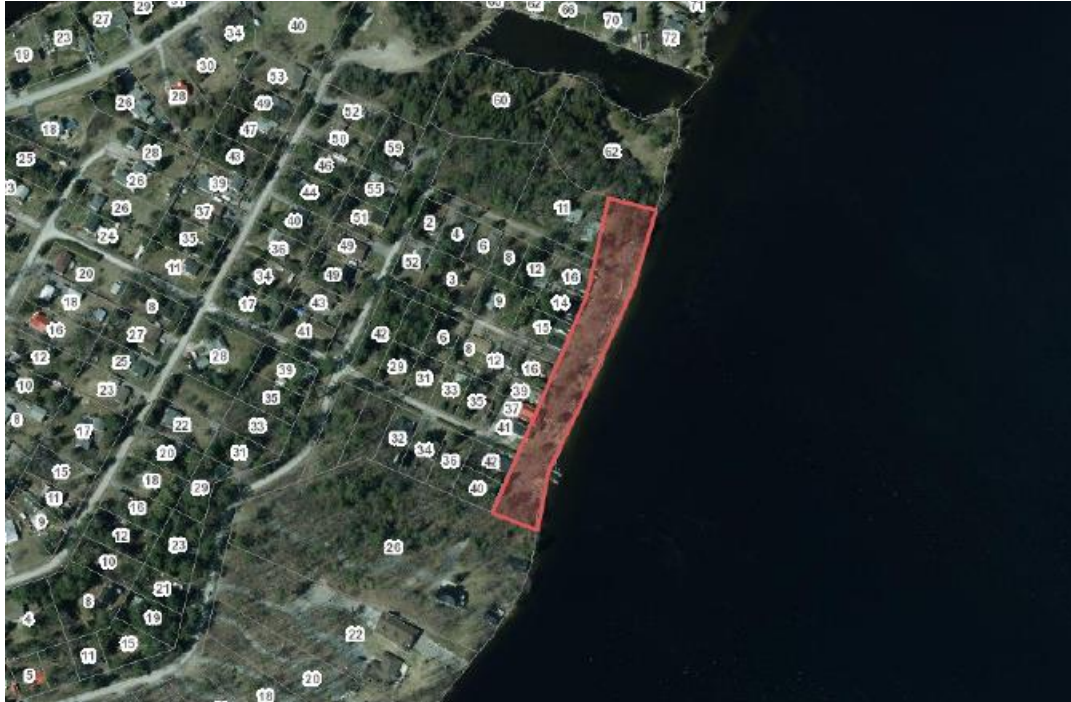
Kenstone Beach



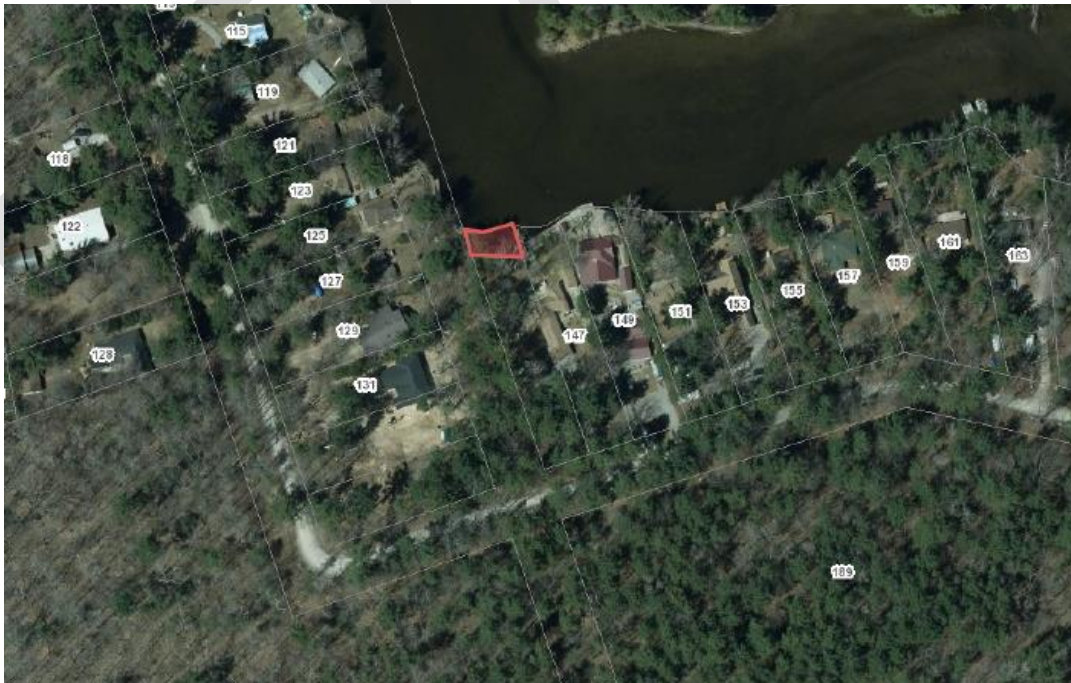
Cedar Glen Road, Dunsford



Hickory Beach



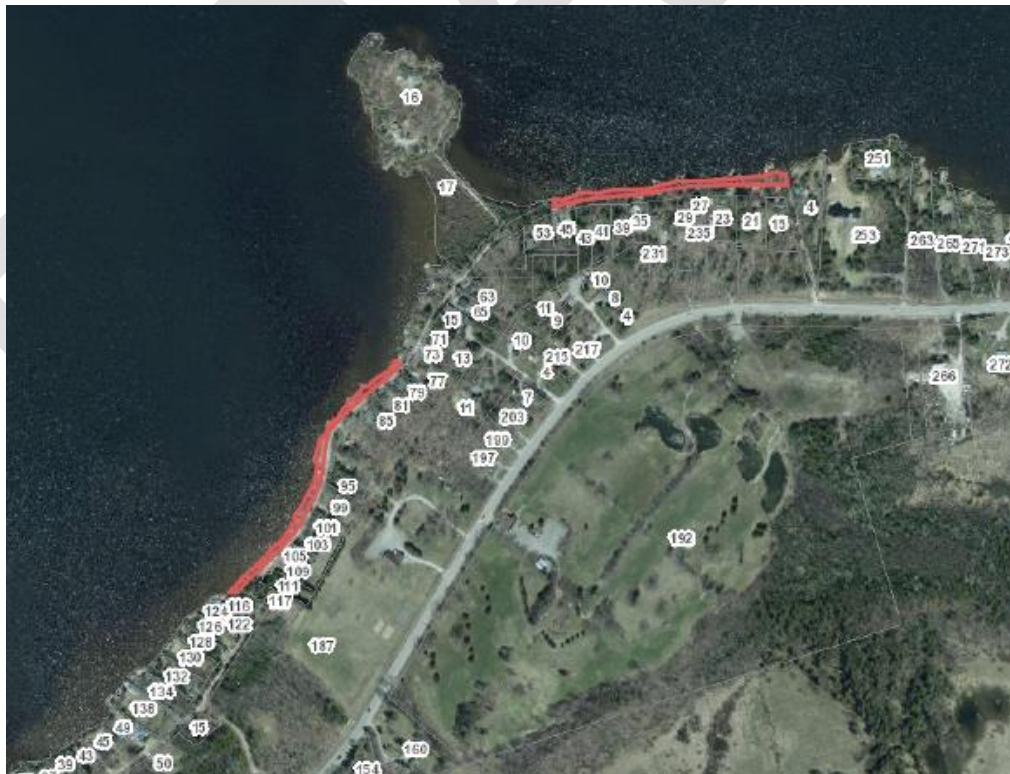
Stanley Road – Water Access Block



Stanley Road – Road Allowance Leading to Water



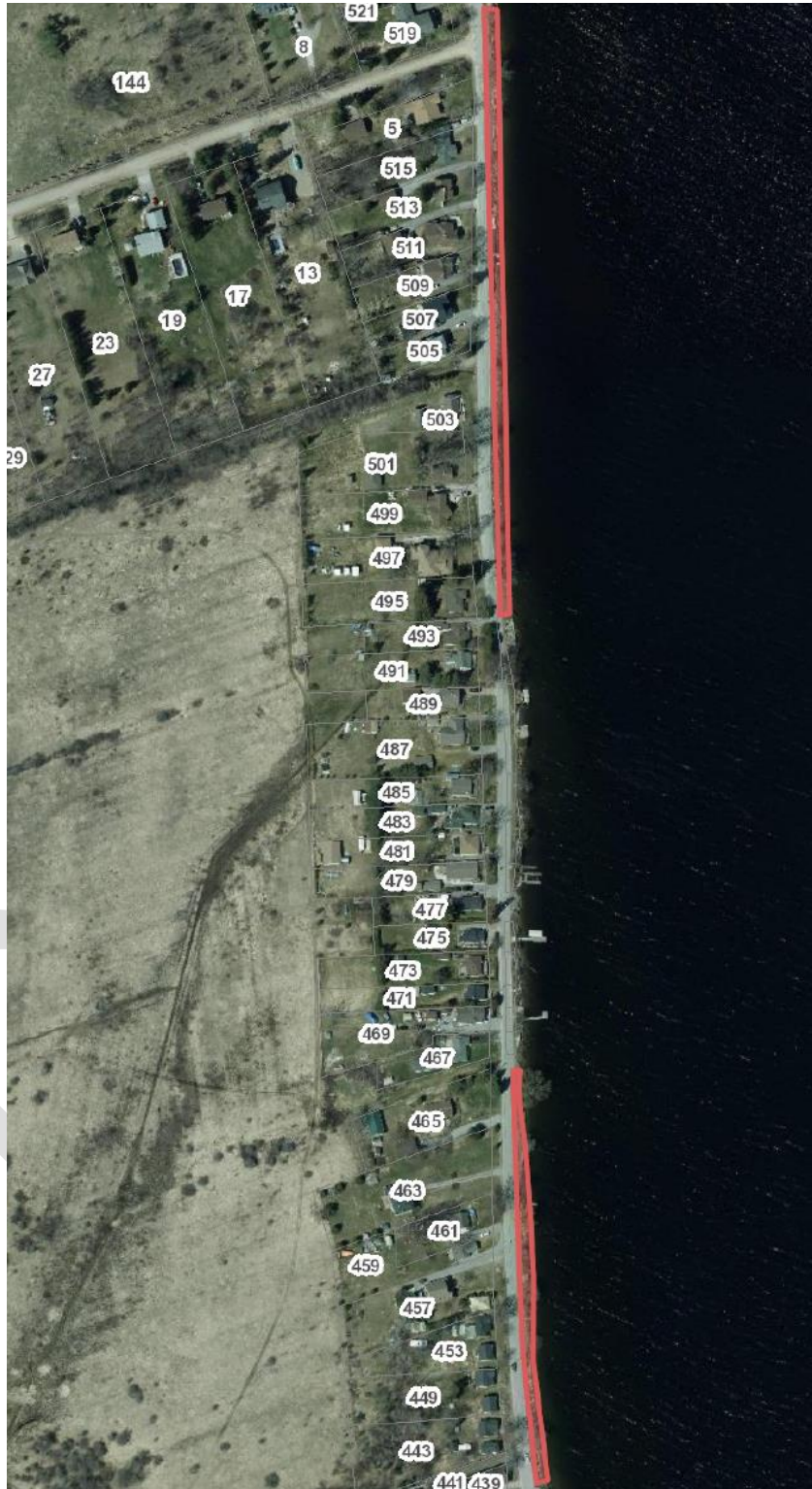
Grove Road



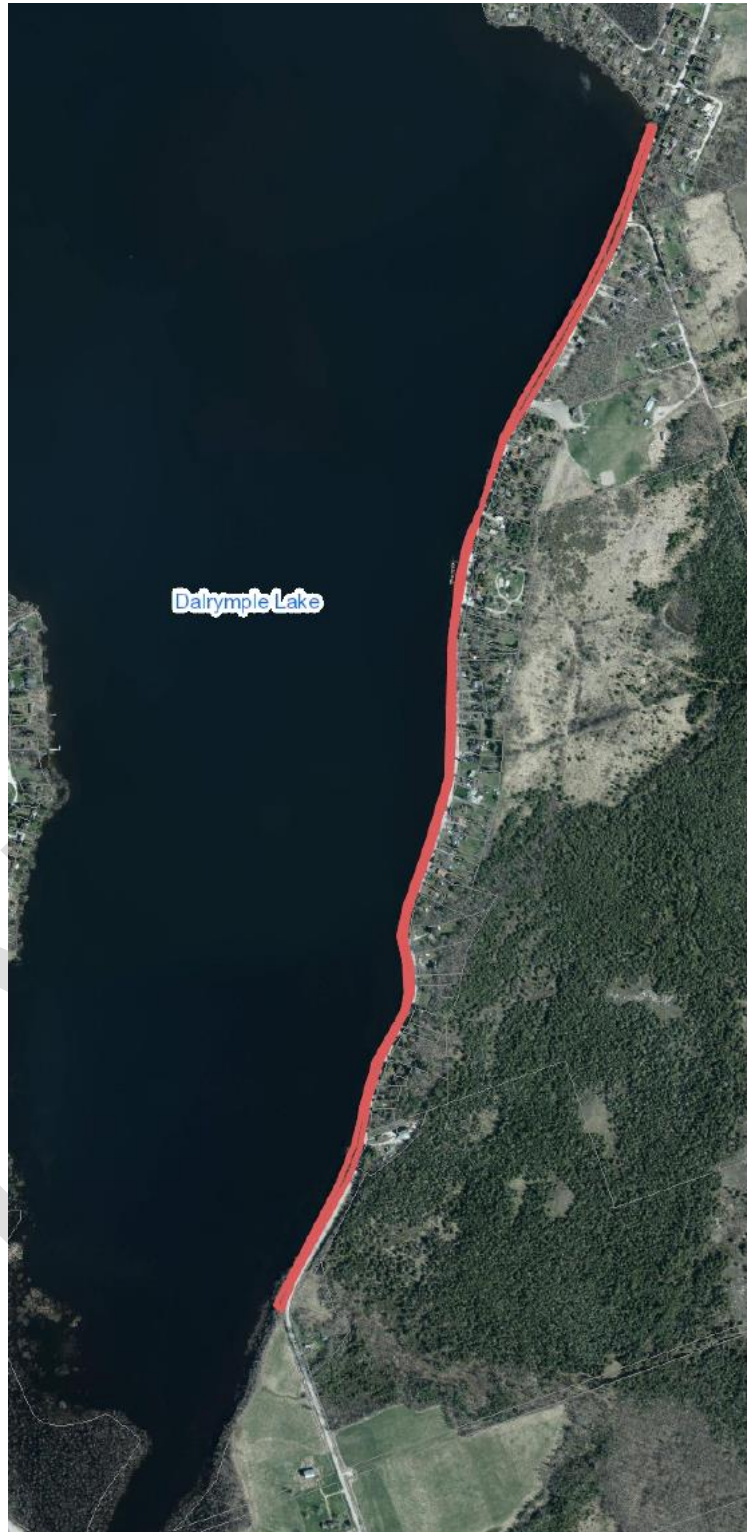
Avery Point Road



Long Beach Road



Lake Dalrymple Road



Schedule C



Green – Front Lot Owners

Red – Back Lot Owners

Blue – Dock Licensing Area