

TOWNSHIP OF LAKE OF BAYS POLICY MANUAL

Chapter:	Administration	Index No.	AD-2.1
Section:	Municipal Property	Effective Date:	06/19/07
Subject:	Licence of Occupation Policy and Procedures	Revision Date:	03/10/09
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1 PURPOSE:

- 1.01 To establish standard Licence of Occupation Agreement Application procedures for the authorization of new and existing structures/encroachments located on Township – owned property, including but not limited to, original road/shore road allowances that:
- in conjunction with the issuance of building permits that require a Licence of Occupation Agreement; and/or
 - are pre-existing structures/encroachments that do not require a building permit, but are cited by staff as encroachments on Township property, that require a Licence of Occupation Agreement

That have been located or are being constructed for the benefit of the Applicant's land (referred to herein and in the Licence of Occupation Agreement as the "principal property").

2 GENERAL:

- 2.01 The initial application fee, as per the Township's User Fee By-Law, shall include:
- a) Review of the application and creation of the new file;
 - b) Circulations to various departments;
 - c) Correspondence with applicant pre approval;
 - d) Preparation of agreement for signature(s)
 - e) Preparation of monthly summary report to Council, if deemed necessary
 - f) Preparation of agreement and correspondence to applicant
 - g) Yearly renewal of application
- 2.02 If other administrative action is required exceeding the initial fee, the applicant shall pay any additional fee, as per the Township's User Fee By-Law. (i.e. incomplete application, insufficient sketch, etc.).
- 2.03 The Applicant(s) shall also pay all costs associated with consultants retained by the Township including any legal and survey costs incurred in connection with the review and processing of a Licence of Occupation Application.
- 2.04 The applicant shall carry general comprehensive liability insurance in the amount not less than two million (\$2,000,000.00) dollars naming the Township as an additional insured, and shall provide the Township with proof of insurance, as part of the initial Application, and on January 1st of **each year thereafter**.
- 2.05 The Licence of Occupation Agreement shall have a maximum term of 20 years, is non-transferable and therefore shall be deemed to be **terminated** upon any change of ownership of the subject property, and thereby shall **not** be transferred to the new owner.
- 2.06 It shall be the licencees responsibility to advise the Township of change of ownership of property.
- 2.07 New owners shall be required to initiate a new Licence of Occupation Agreement Applicatin to authorize the continuation of any existing structures/encroachments on Township-owned property in accordance with standard procedures.
- 2.08 A Licence of Occupation Agreement Application shall be required for the following:
- (a) New and existing structures/encroachments on original road allowances, and/or original shore road allowances owned by the Township adjacent to the applicant's property.
 - (b) New and existing structures/encroachments on original shore road allowances owned by the Township that are not adjacent to the applicant's property, and that are located between the straight line projection of the side lot lines of the subject property, (e.g. a municipal road

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(c) allowance or road that lies between the original shore road allowance (OSRA) and the applicant's property)

(d) New and existing structures/encroachments on Township property that may or may not be adjacent to the applicant's property

- 2.09 Where applicable, the applicant prior to the issuance of a building permit must sign a Licence of Occupation Agreement.
- 2.10 A building permit application will be processed concurrently upon receipt of a completed Licence of Occupation Application, and applicable Licence of Occupation fee, as per the Township's User Fee By-law.
- 2.11 The Building and Planning Services Department upon noting or becoming aware of any pre-existing encroachments/structures on Township-owned property through a plan review or site visit, shall notify the Clerk's Department of the potential requirement for a Licence of Occupation agreement.
- 2.12 Upon receipt of such notification from the Building and Planning Services Department, the Clerk's Department shall conduct a comprehensive search of Township records, and in the absence of an existing Licence of Occupation Agreement for the encroachment or structure in the name of the current registered owner, the Clerk's Department shall issue to the individual/owner of the principal property benefiting from the encroachment or structure a written request to enter into a Licence of Occupation Agreement with the Township.
- 2.13 Should the owner refuse to enter into a Licence of Occupation Agreement after a structure/encroachment has been noted, staff shall issue a letter requesting removal of encroachment/structures from the original road/shore road allowance, and/or any Township property, and if required, may pursue legal action to ensure the removal, the costs of which shall constitute a debt owing to the Township by the owner of the principal property benefiting from the encroachment/structure and shall be collectible therefore by the Township in the same manner as taxes in accordance with the provisions of the *Municipal Act, 2001*, as amended.
- 2.14 A clause shall be included in the Licence of Occupation Agreement whereby the applicant agrees to indemnify and save harmless the Township.
- 2.15 The Licence of Occupation Agreement Application form shall include the following undertaking:
- We hereby undertake to enter into a Licence of Occupation Agreement with the Township of Lake of Bays relating to the portion of the original road/shore road allowance, and/or Township property in and/or in front of Lot _____, Concession _____ of the former Township of _____, now in the Township of Lake of Bays, on which there has been, and/or will be constructed a _____ within sixty days of receipt of this Application.
- And agree to pay all costs associated with consultants retained by the Township including any legal and survey costs incurred in connection with the review and processing of this Licence of Occupation Application.
- And further, if other administrative action is required exceeding the initial fee, the applicant agrees to pay any additional fee, as per the Township's User Fee By-Law. (i.e. incomplete Application, insufficient sketch, etc.).
- 2.16 Final inspection will be withheld for building permits issued for structures/encroachments on the original road/shore road allowance and/or Township property until the Licence of Occupation Agreement has been finalized.

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- 2.17 Should the owner refuse to sign the Licence of Occupation Agreement after a structure/encroachment has been erected, as a result of expediting the issuance of a building permit, staff shall issue a letter requesting removal of structures from any original road/shore road allowance, and/or Township property, and if required, pursue legal action to ensure such removal.
- 2.18 Staff shall have the authority to approve a Licence of Occupation Agreement Application for proposed or existing structures/encroachments on Township property adjacent to the Applicant's property prior to the issuance of a building permit.
- 2.19 Staff may forward a controversial or significant Licence of Occupation Agreement Application for Council approval at their discretion.
- 2.20 Staff may approve or deny, in principle, requests for proposed continuation of a Licence of Occupation Agreement with respect to a potential change in ownership, provided, in the case of an approval, no issues exist or unforeseen issues arise between the approval in principle being given and the actual transfer in ownership.
- 2.21 A Licence of Occupation Agreement Application will be considered **expired** if it has been inactive for a period of **six (6) months**.
- 2.22 Requests for renovation or replacement of structure(s) where more than 10% of the structure(s) is on the road allowance leading to water will require that the structure(s) be re-located directly in front of the principal property and comply with all required setbacks unless otherwise varied and approved by Council.

3 POLICY:

- 3.01 Township staff will receive and consider a Licence of Occupation Agreement Application for the duration of the Applicant's ownership of the property that may be automatically renewable annually up to a maximum of 20 years. Upon expiry of the automatic renewal limitation period, a new Licence of Occupation Agreement Application must be submitted.
- 3.02 A Licence of Occupation Agreement Application shall be submitted to the Township accompanied by the following:
- (a) Application fee, as per the User Fee By-law;
 - (b) Seasonal (summer) pictures of current shoreline vegetation, where applicable;
 - (c) A detailed sketch or site plan, "to scale", which clearly shows the following:
 - The location and measurements of all existing, and/or proposed structures/encroachments on the applicant's property;
 - The location and measurements of all existing, and/or proposed structures/encroachments on the abutting township property including septic system, and well;
 - The distance from the structures/encroachments to the abutting lot lines, and from the shore line;
 - Vegetation; and
 - Driveways and paths
 - (e) Proof of comprehensive liability insurance to be updated as required in accordance with this Policy
 - (f) If the Applicant deems it necessary to use an agent, a letter of authorization, from the Applicant, must be attached to the Application.

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- 3.03 Applications with insufficient sketches/site plans will be deemed incomplete, and additional fees, exceeding the initial fee may apply, as per section 2.02 above, and as identified in the Township's User Fee By-law.
- 3.04 Staff comments through circulation and review of an Application, shall be required from Building and Planning Services, and where applicable Public Works.
- 3.05 After completion of the staff review, the Clerk's department or designate shall prepare the necessary Licence of Occupation Agreement, and forward the Agreement to the Applicant(s) for **witnessed** signature(s).
- 3.06 The duly signed Agreement, by the applicant(s), and the annual fee, as per the Township User Fee By-law, are due on the **date of execution** of the Agreement, and on January 1st of **each year thereafter** along with a copy of **liability insurance**.
- 3.07 One original copy of the Agreement will be returned to the Applicant upon receiving authorization by the Clerk or designate.
- 3.08 A Licence of Occupation Agreement Application will be considered **expired** if there has not been significant activity for a period of **six (6) months**.

4 NEW AND EXISTING STRUCTURES/ENCROACHMENTS ON ORIGINAL ROAD/SHORE ROAD ALLOWANCES THAT ARE NOT ADJACENT TO THE APPLICANT'S PROPERTY:

- 4.01 A Licence of Occupation Agreement, signed by the Applicant, shall be required prior to the issuance of a building permit for new and existing structures/encroachments that are located on the original shore road allowance that are not adjacent to the subject property.
- 4.02 The principal property should be directly across the road, (i.e. located between the straight line projection of the side lot lines of the subject property), must be of sufficient size to obtain a building permit, and all structures must conform to applicable by-laws and/or regulations.
- 4.03 A structure shall not be located closer than 10 feet to the traveled portion of the Township road.
- 4.04 A structure will not be permitted on lands designated as public parks.
- 4.05 New docks are the only permitted structure that cannot be larger than a total square footage of 300 square feet.
- 4.06 Improvements to legally existing structures are limited to the same size/square footage as the original structure, but not necessarily the same configuration, subject to applicable by-laws and/or regulations, i.e. the Development Permit By-law, Comprehensive Zoning By-laws, Department of Fisheries and Oceans, and Ministry of Natural Resources.
- 4.07 Requests for renovation or replacement of structure(s) where more than 10% of the structure(s) is on the road allowance leading to water will require that the structure(s) be re-located directly in front of the principal property and comply with all required setbacks unless otherwise varied and approved by Council.

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5 NEW AND EXISTING STRUCTURES/ENCROACHMENTS ON ORIGINAL ROAD/SHORE ROAD ALLOWANCES ADJACENT TO THE APPLICANT'S PROPERTY:

- 5.01 Prior to the issuance of a building permit for new or existing structures/encroachments located on an original road/shore road allowance, the landowner is required to either own the original road/shore road allowance or apply for a Licence of Occupation allowing the structures/encroachments on said land.
- 5.02 In the case of permanent structures/encroachments, such as boathouses, cottages, etc. purchase of the original shore road allowance is recommended.
- 5.03 Costs of demolition and/or removal of abandoned structures/encroachments shall be the responsibility of the owner and deemed to be a debt owing to the Township and collectible as such and may be added to the tax roll for the principal property in accordance with the provisions of the *Municipal Act, 2001*, as amended.
- 5.04 Improvements to legally existing structures/encroachments are limited to the same size/square footage as the original structures/encroachments, but not necessarily the same configuration, subject to applicable by-laws and regulations, i.e. the Development Permit By-law, Comprehensive Zoning By-laws, Department of Fisheries and Oceans, and Ministry of Natural Resources.
- 5.05 Requests for renovation or replacement of structure(s) where more than 10% of the structure(s) is on the road allowance leading to water will require that the structure(s) be re-located directly in front of the principal property and comply with all required setbacks unless otherwise varied and approved by Council.

6 ADMINISTRATION:

- 6.01 The Chief Building Official, Planner and Clerk, or designate(s), shall follow this procedure in the processing of licence of occupation application agreements and applicable building permit applications.

7 ATTACHMENTS:

- 7.01 Attachment A – Application for Use of Original Road Allowances
- Attachment B – Application for Use of Original Shore Road Allowances
- Attachment C – Application for Use of Township Land
- Attachment D – Sample Licence Agreement

Resolution No. #8(f)(iii)(a)/03/10/09

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Attachment B

APPLICATION FOR USE OF ORIGINAL "SHORE" ROAD ALLOWANCES

A. Applicant(s)

Name: _____

Address: _____

Phone: _____

Submitted herewith is the following:

- (a) Application Fee of \$250.00;
- (b) Seasonal (summer) pictures of current shoreline vegetation; and
- (c) A detailed sketch or site plan, "to scale", which clearly shows the location and measurements of all existing and/or proposed structures/encroachments on the applicant's property and all existing and/or proposed structures/encroachments on the abutting township property (i.e. septic systems, well, vegetation, driveways and paths)
- (d) Proof of comprehensive liability insurance in accordance with Policy Manual Requirements Required
- (e) A letter of authorization, from the applicant appointing an agent Yes No

B. Structure / Installation

Nature of Installation _____

Existing / Proposed _____

Location of Installation: Lot _____, Conc. _____, Ward _____

Parts _____, Plan _____

Roll # _____

Civic Address _____

We, the undersigned, hereby apply for permission to install/use the structures described herein on the Original Shore Road Allowance abutting the lands described above.

We hereby undertake to enter into a Licence of Occupation Agreement for the original shore road allowance in front of Lot _____, Concession _____ of the former Township of _____, now in the Township of Lake of Bays, on which there has been/will be constructed a _____ with the Township of Lake of Bays within sixty days of receipt of this Application.

And agree to pay all costs associated with consultants retained by the Township including any legal and survey costs incurred in connection with the review and processing of this Licence of Occupation Application.

And further if other administrative action is required exceeding the initial fee, the applicant agrees to pay any additional fee, as per the Township's User Fee By-Law. (i.e. incomplete application, insufficient sketch, etc.).

Date: _____

Owner

Owner

Authorized Agent (please attach letter of authorization)

APPLICATION FEE: \$ 250.00

YEARLY RENEWAL FEE: \$ 100.00

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Attachment C

APPLICATION FOR USE OF TOWNSHIP LAND

A. Applicant(s)

Name: _____

Address: _____

Phone: _____

Submitted herewith is the following:

- (a) Application Fee of \$250.00;
- (b) Seasonal (summer) pictures of existing encroachment/structure;
- (c) A detailed sketch or site plan, "to scale", which clearly shows the location and measurements of all existing and/or proposed structures/encroachments on the applicant's property and all existing and/or proposed structures/encroachments on the abutting township property (i.e. septic systems, well, vegetation, driveways and paths);
- (d) Proof of comprehensive liability insurance; and
- (e) A letter of authorization, from the applicant appointing an agent Require
Yes No

B. Structure / Installation

Nature of Installation _____

Existing / Proposed _____

Location of Installation: Lot ____, Conc. ____, Ward _____

Parts _____, Plan _____

Applicant's Roll # _____

Township Property Roll # _____

Civic Address _____

We, the undersigned, hereby apply for permission to install/use the structures described herein on township land abutting the property described above.

We hereby undertake to enter into a Licence of Occupation Agreement for the Township land in Lot ____, Concession _____ of the former Township of _____, now in the Township of Lake of Bays, on which there has been, and/or will be constructed a _____ with the Township of Lake of Bays within sixty days of receipt of this Application.

And agree to pay all costs associated with consultants retained by the Township including any legal and survey costs incurred in connection with the review and processing of this Licence of Occupation Application.

And further if other administrative action is required exceeding the initial fee, the applicant agrees to pay any additional fee, as per the Township's User Fee By-Law. (i.e. incomplete application, insufficient sketch, etc.).

Date: _____

Owner

Owner

Authorized Agent (please attach letter of authorization)

APPLICATION FEE: \$ 250.00

YEARLY RENEWAL FEE: \$ 100.00

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Attachment D

LICENCE AGREEMENT

BETWEEN:

THE CORPORATION OF THE TOWNSHIP OF LAKE OF BAYS

hereinafter called the "Licensor"

- and -

_____ hereinafter called the "Licensees"

WHEREAS the Licensee is the owner adjacent to the original road/shore road allowance, and/or Township land, Lot _____, Concession _____, of the former Township of _____, now in the Township of Lake of Bays, herein called the "principal property" owned by the Licensor;

AND WHEREAS pursuant to section 26 & 30 of the *Municipal Act*, S.O. 2001, c.25, herein after called the "Act", there is vested in the Licensor that portion of the original road/shore road allowance, and/or Township land, in and/or in front of Lot _____, Concession _____, of the former Township of _____, now in the Township of Lake of Bays, on which there has been, and/or will be constructed a _____ hereinafter referred to as the "improvement", owned by _____ and shown on the measured drawing attached;

AND WHEREAS the Licensor has agreed that the use, occupation and maintenance of the aforesaid improvements may continue in accordance with the terms of this agreement and that the Licensee may use that portion of the original road/shore road allowance, and/or Township land, in and/or in front of Lot _____, Concession _____, of the former Township of _____, now in the Township of Lake of Bays, listed under principal property assessment roll number 4427-____-____-____-____ and, if applicable, Township property assessment roll number 4427-____-____-____-____ only in conjunction with said improvements;

NOW THEREFORE THIS AGREEMENT WITNESSETH in consideration of the premises, the parties hereto covenant and agree with each other as follows:

1. The Licensor hereby grants to the Licensee full permission and authority to enter upon, use, occupy and maintain said Part of Lot _____, Concession _____, of the former Township of _____ now in the Township of Lake of Bays in conjunction with the aforesaid improvements.
2. This licence shall commence on the date of execution thereof by the parties hereto and shall remain in effect until one or more of the following events occur:
 - (a) The Licensor terminates this licence in accordance with paragraph #4 thereof;
 - (b) The Licensee dispose by deed or otherwise, the principal property;
 - (c) Upon the expiration of 20 years from the date of this agreement;
 - (d) The destruction by fire or removal otherwise of the said improvements.
3. Upon the termination of the licence for any reason whatsoever, the Licensee shall at _____ expense within one (1) year remove the improvements and shall leave the original road/shore road allowance in a neat and tidy condition.

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Attachment D

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4. The Licensor may, notwithstanding anything herein contained, whenever it deems necessary or appropriate in the public interest to do so, terminate this licence upon six (6) months' written notice to the Licensee, by prepaid registered mail addressed to the address shown on the tax rolls of the Licensor.
5. The Licensee acknowledge that the improvements, for the purposes aforesaid, are at the will and at the pleasure of the Licensor, and no permanent rights of any kind whatsoever are conferred by this licence. In the event of termination of this licence, the Licensee shall not at any time make any claim or demands for compensation or reimbursement of any loss, costs or damages directly or indirectly attributable to such termination.
6. The Licensee hereby covenant to indemnify and save harmless the Licensor from and against any and all claims of loss, costs, damages and/or compensation which the Licensor may incur as the direct or indirect result of the permission herein granted.
7. The Licensee shall obtain and maintain at _____ expense during the currency of this licence, general comprehensive liability insurance in the amount not less than two million (\$2,000,000.00) dollars naming the Township as an additional insured and shall provide the Township with proof of insurance as part of the initial application, and on January 1st of **each year thereafter**.
8. The Licensee shall, at _____ expense, keep the said improvements in a clean and sanitary condition and in a good state of repair.
9. The Licensee shall not assign or transfer this licence, and in the event that the principal property is disposed of the Licensee shall forthwith notify the Licensor in writing.
10. In an effort to maintain an appropriate balance between a natural shoreline and built form within a waterfront lot, structures shall be placed in a defined activity area which is limited in extent. The extent of this area will be based on achieving no more than 25% of the shoreline frontage or up to a maximum of 23 metres (76 feet), whichever is lesser. The remaining shoreline frontage should be retained or restored as a natural vegetative buffer, which is at least 15 metres (50 feet) in depth from the normal controlled water mark, in order to: a) protect the riparian and littoral zones and associated habitat; b) prevent erosion, siltation and nutrient management; c) maintain shoreline character; and d) minimize the visual impact of development. Manicured areas (lawns) should cease to exist in the long term and allowed to return to a natural state, unless they are located within the identified activity area.

Within the identified activity area, subject to the required approvals, the following may be permitted: docks, boathouses, gazebos and cleared areas. Paths not exceeding 3 metres (10 feet) in width may be permitted outside of this identified area.

11. The Lessor is the owner of the portion of public highway hereby leased pursuant to section 30 of the Municipal Act, 2001; has the power to lease same pursuant to sections 8 and 11; and on execution of this lease has terminated the public right of passage during the term pursuant to section 35.
12. The Licensee shall, until the licence is fully terminated, pay to the Licensor the sum of \$100.00 on the date of the execution of the within agreement and on January 1st of each year thereafter for the term of this licence.

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IN WITNESS WHEREOF the Licensor has hereunto affixed its seal duly attested by the hands of its proper officers on its behalf, and the Licensee have hereunto set their hands and seals.

DATED at _____ this
 _____ day of _____, 2007.

 (witness)
 Licensee

 Licensee

DATED at Dwight, Ontario this _____ day of _____, 2007.

THE CORPORATION OF THE
 TOWNSHIP OF LAKE OF BAYS

 Mayor

 Clerk

(applicant name)
 (civic address)
 (Roll #)