

License of Occupation Policy – Submitted Questions

<p>1 Does the township not already have their own insurance coverage for the township property they own (including the shoreline they are offering us licenses of occupation for)? If not, why? If they do, will they continue to insure this property when we are also insuring it?</p>	<p>The Township insurance does not cover private infrastructure on public lands. The Municipal Act requires municipalities to keep a highway in a state of repair that is reasonable in the circumstances, and provides statutory defences to municipalities if it did not know and could not have reasonably been expected to know about the state of repair of the highway Which would include original shoreline road allowances. A similar provision exists with respect to unopen road allowances made by Crown Surveyors, which again would include original shoreline road allowances.</p>
<p>2 Will this "license of occupation" exclude public access and/or be referred to as a lease, as some of our insurance companies have indicated that insurance will otherwise not be possible</p>	<p>The intent of the policy is to allow private infrastructure on Township land for the exclusive use of the applicant. The license of occupation should not be termed a lease. Under common law, a licence is in the nature of a right or privilege to enter upon and use the grantor's land in a certain manner or for a specified purpose. It is a personal right between the licensor and licensee and does not create any estate or interest in the property. In the common law provinces, a lease generally confers an interest in the real property, binding on the property owner and on other persons.</p>
<p>3 If our insurance company requires significant improvements to structures which require a building permit, will AH issue us those building permits specifically required by our insurance company.</p>	<p>A building permit cannot be issued until a license of occupation has been issued.</p>
<p>4 What happens if we agree to the lease and then can't meet our end of the lease agreement at some point (fees/insurance/etc.)</p>	<p>The Township of Algonquin Highlands reserves the right to terminate a license of occupation at its sole discretion.</p>
<p>5 Are there any scenarios in which the township can revoke our lease - i.e. behind on taxes, unapproved/unpermitted work on property, etc.?</p>	<p>The Township of Algonquin Highlands reserves the right to terminate a license of occupation at its sole discretion.</p>

<p>6 How will the insured boundary between Twp road and our leased area be defined? X metres from edge of pavement? Other? Some people have significantly more room between the edge of road and the lake than others.</p>	<p>Each application will be reviewed individually. The intent is to include the area of land adjacent to the maintained portion of the Township Road. Docks must be a minimum of 3m from the travelled portion of the Township Road.</p>
<p>7 Will the township be implementing a similar bylaw on the remaining unowned shoreline road allowances (if not, why?)</p>	<p>No. Where there is no Township road between a property and the water there is a lesser risk to the Township as it is not reasonably expected to know the state of those lands and is not required to maintain the lands as it is where a Township road exists.</p>
<p>8 Does this bylaw not actually increase your chances of a lawsuit with property owners? (i.e. lawsuit for removing our implied right to the water that has been in place forever / lawsuit from someone hurting themselves when we remove our stairs/fences/etc and stop maintaining this property on the townships behalf (cutting down dangerous trees/cleaning up obstacles/reinforcing collapsing embankments/etc).</p>	<p>No. There is no legal non-complying rights that extend onto Township lands.</p>
<p>9 How many property owners in Algonquin Highlands are being impacted by this new policy? (i.e. # of properties adjacent to a lake but separated by a road)</p>	<p>Approximately 250-350 properties will have an opportunity to enter into a License of Occupation</p>
<p>10 What is the analysis to support a notion that property taxes paid by owners separated from the lake by a road are or are not paying appropriate and equitable taxes commensurate with the reduced uses allowed for such properties? (i.e. as compared with those with direct lake access who own their shore allowance)</p>	<p>The Municipal Property Assessment Corporation is responsible for individual property assessment throughout the Province of Ontario. They have advised that while yes properties with a Township Road running between their property and the water are assessed as waterfront property the assessment is adjusted to reflect that. Property owners that are concerned with the current assessment of their property should reach out directly to the Municipal Property Assessment Corporation to best address their questions.</p>

<p>11 If this License of Occupation can be applied retroactively to those of us who have already been using the shoreline and associated structures, then will you also be charging us the yearly lease fee retroactively to the time we purchased?</p>	<p>Fees associated with the License of Occupation will not be applied retroactively.</p>
<p>12 Would purchasing our insured area and adding it as a "together/with" to our main property be an option. There are numerous examples of properties on North Shore and Halls Lake Road that extend across both sides of the Municipal Road. Allowing us to buy the shoreline would eliminate the liability issue and increase township revenue, so if liability is really the reason for this policy, then purchasing should be an option - and clearly it can be done if the township is willing.</p>	<p>It is in the best interest of the Township to maintain ownership of an entire road allowance where a Township road exists for future works as needed.</p>
<p>13 Can the township subsidize all or a portion of the costs involved in the lease, as they would with other township assets? For example bridges and roads that are only used by a few people.</p>	<p>This would need to be at the direction of Council.</p>
<p>14 \$2500 legal fee deposit is surprisingly high, does the township have an actual expected cost for legal?</p>	<p>Legal fees are expected to be much less than \$2500. There may be situations where the legal costs are more than a typical application and this amount is expected to be sufficient enough to cover those. Any balance remaining from the deposit once the license of occupation has been registered and the final legal invoice has been received will be refunded to the applicant.</p>
<p>15 Is \$500/yr really necessary? Once the lease is in place, what costs are the \$500/yr expected to cover?</p>	<p>Council has determined it is reasonable to expect the beneficiaries of this policy to cover a majority of the costs of administering it as it will only benefit the individual property owners applying for the license. It was also a result of the Service Delivery Review completed by the County of Haliburton where a recommendation was made that the Planning Departments of the Lower tier Townships align their fee structures for consistency across the County. This was supported by Councils across the County.</p>

16 Will the lease term be 10 years? Can the yearly lease fee be increased during this term or locked in?	The license of occupation term is 10 years. The yearly fee would not be increased during this term.
17 What happens after 10 years? Do we automatically get to resign for 10 more years? New application? More legal fees? More rules/conditions?	After 10 years a new application and associated fees would be required. The policy will be reviewed and amended as needed.
18 What happens if at some point during the term of the lease, we become unable to pay the \$500/year?	The applicant would be in contravention of the terms of the license of occupation and it would be terminated.
19 Can the township provide us with an insurance company if ours will not provide insurance? Group rate would likely lower pricing significantly and simplify everything?	We cannot provide specific recommendations.
20 Has the township researched the expected monthly/yearly insurance cost that they expect will be required by us for \$5 million liability?	No.
21 Would a waiver of liability be acceptable?	No.
22 What are the consequences of turning down the lease offer?	A license of occupation is only required where a property owner wishes to construct anything or alter the Township lands across a Township Road. If there is no structures on that land a license of occupation is not required. If there are existing structures and a property owner refuses to enter into a license of occupation the structures would be required to be removed.
23 If we decide for any reason not to participate in the lease, will there be a time limit, after which we can no longer be eligible for this opportunity?	No.
24 How do we differentiate a minor repair vs. a major repair as described in the draft bylaw when evaluating what repairs we will be allowed to complete?	Minor repairs are repairs not requiring a building permit.
25 Will some people be excluded from the lease offer due to prior disputes with the township? Will everyone have the exact same set of rules?	Each application will be reviewed individually on its own merits.
26 The township could technically build a road in between the lake and cottages on other unowned shoreline road allowances,	If a Township road was constructed then yes a license of occupation would then be required.

would that then mean they have to lease the property they use?	
27 Is this really an urgent liability concern relative to many other ignored issues - jumping from bridges, poor road conditions, unmaintained boat launches, public parks, etc	Yes. The Township has been advised this is a significant liability concern.
28 Why does MPAC consider our homes to be waterfront dwellings with Right of Way access to the lakes? They are the governing body in determining taxable property value used by township. Who is right, you or them?	The Municipal Property Assessment Corporation should be contacted directly for comment.
29 Is the intention for the existing property lot lines to be projected to lake at the same angle as they already exist?	Yes, however in circumstances where this could result in negative impacts to adjacent property owners a letter of support from all involved properties will be required.
30 What happens when structures on one persons lot turn out to be in someone else's insured area? Do those need to be removed? Who pays?	Each application will be reviewed individually on its own merits.
31 Due to varying property line angles, some property owners will wind up with only a few metres of shoreline, while others will have 30+ metres. Will there be alterations to allow for a more reasonable amount of room for those who wind up with a small amount, and if so, how do you intend to deal with that specific issue?	In circumstances where this could result in negative impacts to adjacent property owners a letter of support from all involved properties will be required.
32 What level of government has jurisdiction on any given lake in Algonquin Highlands from the high water mark out into the lake	The Ministry of Natural Resources and Forestry.
33 If someone already has deeded access, are they exempted from the need to lease their shoreline area?	Applications will be reviewed on an individual basis. Anyone who believes they have such a lease can forward supporting documentation to the Township for review.
34 Would agreeing to the proposed License of Occupation as currently drafted automatically put many dock owners in contravention of the existing Comprehensive zoning bylaw 2022-49 (4.2.9) with respect to shoreline structures (i.e. docks) or would grandfathering continue, for example on dock length?	Existing structures in contravention of this policy as of the date of its passing, within the Township of Algonquin Highlands shall be allowed to remain. Replacement of existing structures in contravention to this Policy will not be permitted. Minor repairs to existing structures shall be permitted at the discretion

	of the Township of Algonquin Highland's Chief Building Official.
35 Is there a distinction between the "shore allowance" and "road allowance" with respect to the proposed license?	Both are considered highways as defined in the Municipal Act and are considered Township property.
36 How and when will the policy requirements be equally applied to other property owners who have direct lake access but have not purchased the adjacent shore allowance?	This policy does not apply to those properties.
37 There is a perception by some that property owners who are separated from a lake by a road are not paying lakefront/lake access taxes. What is the MPAC formula for calculating property taxes (via assessed value) on properties that have a road between their property and the lake vs. direct water access?	The Municipal Property Assessment Corporation should be contacted directly for comment.
38 What portions of the License of Occupation will be transferable to subsequent property owners?	The \$750 application fee, \$500 annual fee for that year if already paid, site plan.
39 What are the estimated costs and components (initial and annually) of executing and enforcing this new policy? (i.e. staff/equipment/admin/etc.)	It is expected that significant amounts of staff time will be required to administer the License of Occupation Policy including additional staff and a vehicle. Staff will also be investigating options to contract out the matter.
40 It is not clear if the License of occupation will be applied retroactively or applied on a go forward basis as recommended by the Planner (Staff report PL-070-23). Please clarify, particularly the wording in the policy "Docks" in reference to existing structures.	Council has directed the policy be applied retroactively.
41 Does this license apply to Hwy 35 and 118 properties or is that specifically an issue with the MTO and the Municipality is exempting them?	No. Those properties are subject to MTO Approval.
42 Why is \$5 million dollars required - this is rare for residential insurance.	Through discussions collaboration with the CAO it was confirmed that \$5million is an industry standard and is an appropriate level of insurance to require for private infrastructure located on public land given the level of risk to the Township.

<p>43 For those who decide to enter into this, since now we have to pay these fees and whatnot, is AH going to reimburse for the damage caused to docks by the water levels. Up to now, we've paid out almost \$10k in new docks, boat damage etc. How will that work?</p>	<p>No.</p>
<p>44 The one question I think needs to be asked is pertaining to docks on shorelines, but not structures on their property. The Public Land Use Act, O. Reg. 239/13: ACTIVITIES ON PUBLIC LANDS AND SHORE LANDS - WORK PERMITS AND EXEMPTIONS, exempts docks under 15 sq.m from being regulated. What gives the municipality the authority the supersede a provincial act?</p>	<p>The Township is not in violation of the Public Lands Act. The "Public land" that is referred to in the Public Lands Act is a defined term and it does not include a municipal road allowance or shore road allowance. The definition from the act States: "public lands" includes lands heretofore designated as Crown lands, school lands and clergy lands; ("terres publiques")</p>
<p>45 If my dock does not physically touch the shoreline (ie. is below the highwater mark) is it exempt from this BYLAW. If it is and I don't enter into a license of occupation, can I still put it out and access it by crossing the shoreline allowance?</p>	<p>If no structures occupy the Township Road allowance a license of occupation is not required. The portion of road allowance would remain open to the public without a license of occupation.</p>
<p>46 If council decides to move ahead with a proposed annual fee (it was discussed in the meeting that this fee be removed), is that a cost we would have to incur in the first year as part of registration or is that fee only on subsequent years?</p>	<p>The annual fee is due on the date of execution of the Agreement and on January 1st of each year thereafter during the currency of the Agreement.</p>
<p>47 I purchased my property 5 years ago and the infrastructure that currently is there was there on purchase. I did not install this infrastructure. If I opt out of the agreement will I have to remove it or have it removed? If I don't will the town remove it and charge me? If it is the latter, please tell me why you would have the right to charge me?</p>	<p>Should such a case arise the Township will discuss the matter with the owner of the property across the road.</p>
<p>48 In 2010 / 2011, the town and bylaw office gave us permission to build the deck at the water. We built the deck to</p>	<p>More information is required to comment on this specific case. Each application will be reviewed individually.</p>

<p>the specs that were given to us by the bylaw department. Why now in 2023 do we have to either tear it down or pay for the license of occupation?</p>	
<p>49 In contacting the planning department at Dysart, Highlands East and Minden, where a license of occupation has been implemented, it was discovered they have no one that has been forced to adhere to it for shoreline use and structures. Is this because it was implemented as non retroactive and if so why are we moving forward as retroactive? Can you supply a case where a license of occupation for structures and shoreline use as intended by our proposed bylaw. It is important so we can follow up with an actual person to find out their experience before we move forward with this legally binding contract.</p>	<p>This is a new policy for the Township so there is no existing licenses issued under this Policy within Algonquin Highlands.</p>