



Explanation, Rational and Considerations of some Key Policies in the Township of Muskoka Lakes Draft Official Plan

Township of Muskoka Lakes (“TML”) is asking for the public’s input on some key policy proposals that are included in its Draft Official Plan. The Muskoka Lakes Association and Friends of Muskoka have worked with our professional planner to prepare the following explanation of these key policies and their impact on you. We have not yet taken a formal position on these policies but are providing you with information to help you understand the proposals before completing the Township’s online survey.

Next Steps:

1. Please review our explanation, below, of the key policies included in TML’s survey which relate to:
 - Lake System Health
 - Site Alteration
 - Recreational Carrying Capacity
 - The Creation of New Water Access Lots
 - Use of Main Floor of Boathouses
 - Commercial Accommodation (including Resorts)
 - Lot Creation in Rural Areas
2. Please complete the Township’s online [survey here](#). You must register before taking the survey. We’ve found it can take a few tries to register, so please keep trying. You are not able to retake the survey – so only click ‘submit’ at question 32 when you are comfortable with your answers. The survey closes on **November 24, 2021**.

[View Draft Official Plan and Survey](#)

Lake System Health

District of Muskoka policy establishes 'minimum standard' water quality policies that apply to all lakes in the District and identifies best management practices to achieve appropriate development in the Waterfront Area. These same District policies permit Area Municipalities such as Muskoka Lakes to exceed these standards based on local context. Following public input, Muskoka Lakes Council decided through the Policy Direction phase that the updated Official Plan would include enhanced lake system health policies to better protect our lakes - a source of drinking water for many.

Given this direction, a number of changes to the current policy framework that applies in the Waterfront Area are proposed and below are a number of topics covered in TML's survey questions.

TML's Survey Q1. The draft Official Plan proposes to **increase the minimum lot area and water frontage required for new lots** on the Township's lakes, i.e., increase lot size required for severed lots. (Section E4.3)

Township's Rationale:

- control the built form on the shoreline
- protect the environment and our lakes through limits on development
- fewer septic systems
- fewer trees removed

Other Considerations:

- may reduce the number of new lots that can be created through severing a property
- the majority of lot severance requests on the three large lakes are for lots with 300-foot frontages to accommodate two-storey boathouses
- Lake Joseph already has the minimum frontage (300 feet) and area requirements that are being proposed for the other large lakes
- the easily developable land is largely developed already, leaving properties that have features such as steep slopes or location on a narrow waterbody

TML's Survey Q3. The draft Official Plan **proposes to temporarily prohibit additional lot creation on lakes where water quality has been shown to be poor or significantly declining,** pending the results of a Causation Study to determine if development is the cause. (Section E4.2.3)

Township's Rationale:

- reduce potential for additional degradation of the lake through development
- allow time to determine cause of lake deterioration before allowing more lots to be created

Other Considerations:

- delays ability to sever a lot on a lake with poor or deteriorating water quality
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TML's Survey Q5. The draft Official Plan **proposes to require Site Plan Approval for most new development in the Waterfront Area** (Section M4). The reason is that **the District Official Plan which came into effect in 2019 now requires site plan control for all substantial development and redevelopment in the waterfront.**

Site plan approval is already required on all development on Lake Joseph properties, and on remote lakes, steep slopes, narrow waterbodies, and sensitive and over threshold lakes. It is now proposed that Site Plan Approval be required for:

- All new dwellings;
- Additions to existing dwellings and buildings that propose an increase in the ground floor area of more than 50 square metres (approx. 538 square feet);
- The relocation of an existing dwelling to another location on the lot;
- New sleeping cabins;
- New boathouses and expansions to existing boathouses that involve an increase in floor area of more than 50 square metres or the addition of a sleeping cabin in the second storey; and
- New accessory buildings that exceed 50 square metres of floor area.

Township's Rationale:

- ensures that the Township complies with the District's new site plan control requirement
- allows for greater Township input on development on a site, including: the appropriate location of buildings, structures, septic systems, driveway and amenity areas; the retention of tree cover; lighting; the restoration of vegetation; and stormwater management
- allows Township to consider each property's unique characteristics and waterfront on a site-by-site basis
- allows for the Township to have legally binding agreements with landowners, with monitoring and reporting requirements and posting of securities to help ensure compliance.

District of Muskoka's Rationale:

- site plan control on waterfront properties helps protect lake health: "Phosphorus enters waterbodies through anthropogenic sources such as changes in land use near waterbodies such as shoreline clearing, development, and also from stormwater runoff and individual on-site sewage system effluent. With increasing human activities, and when shoreline plants are removed or diminished and can no longer manage to properly filter out sediments in surface runoff, phosphorus levels rise. Because phosphorus is a nutrient, high phosphorus levels in waterbodies encourage excessive growth of aquatic plants and algae...The potential effects of multiple environmental stressors must now be considered, including, but not limited to, a changing climate with resultant changes in precipitation, temperature, runoff and evaporation that affect physical, chemical and biological conditions of waterbodies, invading species populating an increasing number of waterbodies, declining concentrations of calcium, and internal phosphorus loading from sediments. Appropriate shoreline development will contribute to the resiliency of each waterbody against a variety of environmental stressors."

Other Considerations:

- extra time and cost involved for a landowner and planning staff to enter into a site plan agreement

Site Alteration

TML's Survey Q7. The Township **proposes no changes to lot coverage (ie. 10% of a lot can be covered by roofed buildings on the big three lakes) but a new 3% limit on the amount of a lot that can be covered by amenities** – that is, unroofed structures such as sport courts, sun decks, firepit areas greater than 20m² (approx. 65sqft), swimming pools and related seating areas, helipads, outdoor saunas, hot tubs and related features that do not contain a roof. (Section E4.3 b) and c)) Driveways, septic systems, pathways and stairs are not included in the amenity area.

Township's Rationale:

- maximize amount of a lot that remains in its natural, unaltered state
- limit built form on the waterfront
- limit stormwater runoff and associated environmental impacts
- reduce tree removal

Other Considerations

- limits number and size of amenities allowed on a property
- it would be helpful to see examples of how this will impact what can be built

TML's Survey Q11. The draft Official Plan **proposes to require that no less than 75% of any lot in the Waterfront Area is left in an unaltered and natural state.** (Section E5c) This takes into account the maximum lot coverage and maximum amenity area coverages proposed to be permitted (total 13%) plus areas required for driveways, septic systems and walkways accessing the lake (another 12%).

Township's Rationale:

- protect water quality by minimizing run-off into the lake and mitigating impacts from pesticides, fertilizers and hard surface particulates on water quality
- minimize tree removal and significant removal of vegetation, for aesthetic and environmental reasons
- limit current trend of clearcutting beyond 200 feet from the water

Other Considerations:

- limits owner's ability to clear a significant amount of land beyond 200 feet from the water
- clarity will be required on the definition of "unaltered and natural state"

Recreational Carrying Capacity

TML's Survey Q13. The new Official Plan **proposes to establish caps on the creation of NEW lots and the expansion of existing commercial uses on lakes where the recreational carrying capacity has been exceeded. (Section E9)**

Recreational Carrying Capacity (RCC) is an estimate of the number of people and associated watercraft that can safely and enjoyably use the surface of a lake. It is a measure of social carrying capacity rather than environmental capacity, however the two are related. Net surface area is calculated by reducing the total waterbody surface area by the surface area within 30 metres (98.4 feet) of the shoreline and then permitting one residential lot for every 1.6 ha (4 acres) of the net surface area.

On this basis, 50 small and medium sized lakes in the Township would be deemed overcapacity, although there are still 430 existing vacant properties on these lakes which may yet be developed. **No new lot creation would be possible on these lakes.** RCC is a measure that is increasingly being used in the US to limit activity on busy lakes. It has also been adopted by Seguin and Haliburton.

Note: excludes lakes that have motorized boating limitations authorized by Transport Canada.

Township's Rationale:

- limit lot creation on lakes that already have a substantial amount of development
- there is a correlation between poor and deteriorating water quality and lakes being over recreational carrying capacity
- provides a mechanism to proceed in a cautious way with new lot creation on smaller, shallower lakes

Other Considerations:

- limits property owners' ability to create new lots on small and medium sized lakes

Potential Alternatives:

- use RCC as a tool to limit development when applications come forward, not as a hard cap on new lot creation
- allow RCC to be established through community-driven lake plans, should the lake community so choose

The Creation of New Water Access Lots

TML's Survey Q15. Proposal to require deeded access on a mainland property for docking of boats and car parking before new water access lots can be created. (Section E4.4.4)

Township's Rationale:

- provides certainty of long-term availability of mainland boat docking and car parking for water access lots.
- availability of mainland parking space is scarce in some parts of the Township
- current parking/docking agreements with marinas are difficult to enforce
- Township Council would like to hear the community's view of this option to help ensure there is long-term mainland docking and parking secured before a new water access lot is created.

Other Considerations:

- increases the cost of creating new water access lots, with potential negative impact on the value of island properties
- other options may be available, such as: more enforceable private parking/docking arrangements through marinas; permitting residential waterfront owners to provide parking/docking for up to two water access properties through an easement registered on title; or encouraging marinas to provide more parking

Use of the Main Floor of Boathouses

TML's Survey Q17. The Township's **by-laws currently prohibit the main floor of boathouses to be used for habitable space** – only boats, boating equipment, a small washroom and a fish cleaning station are permitted. **The proposal is that this will not change.** (Section E4.10) **However, some Councillors have suggested permitting a certain amount of living space (sofas, bar etc, but not bedrooms) in the main floor of boathouses, to permit people to get out of the sun (eg. 33% or a maximum square footage).**

Township's Rationale for continuing the prohibition:

- living spaces, with furniture, tv's, bars, and kitchens, in the main floor of a boathouse should be away from the water level where they are at risk of being flooded and swept into the water, causing pollution, water hazards and expensive property damage
- living areas at the water level are at risk of creating greater noise and light pollution that is amplified by the water (which could violate noise and dark sky bylaws)
- there is potential liability to the Township if it permits living space on the flood plain

Other Considerations:

- some members of our community would like to have some living space in the main floor of their boathouse to get out of the sun
- owners of smaller frontage properties will still not be able to have living space on the water if the prohibition remains (need minimum 300 feet of shoreline for a two-storey boathouse with living space on the second storey)

Commercial Accommodation (including Resorts)

A comprehensive set of policies on commercial accommodation uses is included in the draft Official Plan in Section F. The intent of these new policies is to ensure that accommodation uses such as hotels, motels, tent and trailer parks, cabin rental establishments and resorts are planned from the outset and continue to be commercial in nature and available to the travelling public to continue attracting visitors to the area.

TML's Survey Q19. The draft Official Plan **proposes to permit commercial resorts provided each unit generates a turnover of occupants through mandatory rental pools/programs, exchanges, timesharing, fractionalized ownerships.** This section indicates, amongst other things, that the unit can only be used by a unit owner for a maximum of 26 weeks in a calendar year and a maximum of 4 weeks in July and August. (Section F3.3)

Township's Rationale:

- ensure resorts and other commercial accommodation continue to be commercial in nature and available to the travelling public to continue attracting visitors to the area

Other Considerations:

- this is a lot better than the 40 weeks owner usage that the District has allowed at Villas of Muskoka and other resorts
- it will be very difficult to enforce a maximum usage by the unit owner
- other municipalities with similar rules have largely given up on the rental pool since it is hard to monitor and enforce which would mean the resort would effectively become high density cottages.
- Clause F3.3.2.1e is problematic. *"The unit owner may exceed the maximum 26 weeks per year occupancy where a reservation is not made more than seven days in advance and the unit has not already been reserved by the public. Such reservations shall not be made more than seven days in advance of the vacancy period and must not encroach upon nor compromise the integrity of the subsequent regular rental period."* This could limit the availability of rooms for those who make last minute plans and it does not generate any revenue for the hotel as there is no indication that the owner needs to pay to stay in their unit.

TML's Survey Q21. The draft Official Plan **proposes to support the development of single owner accommodation (eg resorts) and discourage the development of commercial condo resorts** outside of Bala and Port Carling (Section F2 c). It does not prohibit condo resorts, it simply sets out criteria that must be met to develop a new resort.

Township's Rationale:

- difficult to monitor and enforce rental pools in condo resorts which could lead to the resorts becoming high density cottages
- these condo units are being sold as cottages at higher density than other residential cottages, which is out of character with the rest of Muskoka

Other Considerations:

- by not going further and actually prohibiting condo resorts, it could make it difficult for new legitimate resorts to build on the lakes and for struggling ones to stay open
- current rules allow dense building at waterfront resorts. For example, Touchstone's 100 units on 1100 feet of shoreline is allowed under the current rules. Seguin Township limits the number of units per foot of shoreline (maximum 1 unit per 20 ft of shoreline). There may be other alternatives, such as a maximum amount of gross floor area (GFA) per foot of shoreline.
- We have a legal opinion that supports the Township only considering applications for new resorts at the time of a comprehensive review (approx. every 5-8 years) rather than on a piecemeal basis as applications come in. If this were included in the OP, it would allow the Township greater control over its resort inventory.

TML's Survey Q23. The draft Official Plan proposes **to require that resorts provide a variety of resort-related amenities and services on-site (Section F3.4.2 a) (such as restaurants, tennis courts, boat rental, etc), as well as in-person management** to respond to complaints, deal with emergencies, and assist guests and visitors (Section F3.4.2 b)).

Township's Rationale:

- in person management enables issues to be dealt with as they arise and greater peace of mind for resort guests
- distinguish a resort from a cottage with resort-related amenities
- provide amenities that guests to a resort would expect

Other Considerations:

- an additional cost to resort developer to provide resort-related amenities and in-person management

TML's Survey Q25. The current Official Plan does not permit the down-zoning of resort properties to permit their use for non-resort uses (eg for individual residential properties). **The draft Official proposes to permit conversion of resorts to another use provided appropriate justification is provided. (Section F3.6)**

Township's Rationale:

- allow an exit strategy for struggling resorts
- discourage struggling resorts becoming condos

Other Considerations:

- could reduce the number of small resorts

TML's Survey Q27. Are the proposed criteria in Section F3.6 appropriate?

Considerations:

- the proposed criteria would only allow a limited number of resort properties to downsize to residential (ie. those that are small or have some physical constraints that can't be overcome).

TML's Survey Q29. The draft Official Plan in Section F4 **proposes that the Township will explore options to regulate short-term private cottage rentals** such as licensing and/or other means. While there are many positive benefits from this form of accommodation, certain negative aspects and an uneven application of regulations have also been identified as concerns by traditional tourism operators. As a result, the draft Official Plan indicates that the Township will explore regulatory options to regulate this use.

Township's Rationale:

- some negative aspects of short-term cottage rentals can be addressed through regulations, such as licensing which has been adopted in other municipalities (including Lake of Bays)
- traditional tourism operators are concerned about uneven application of accommodation regulations.

Other Considerations:

- regulations could impact those who need to rent their cottages to pay taxes and other expenses, although the regulation could take this into consideration by only regulating rentals for less than a certain amount of time (for example, less than a month, as in Seguin Township)

Lot Creation in Rural Areas

The current Official Plan in most cases permits the creation of one new rural lot per landholding as of 1992, provided the new lot has a frontage and area of either 100 metres and 1.0 hectare or 182 metres and 4.0 hectares depending on location.

TML's Survey Q31. The draft Official Plan in Section H2.1.2 b) **proposes to remove limitations on the number of rural lots that can be created**, provided any new lot has a frontage of 150 metres and an area of 2.0 hectares.

Township's Rationale:

- allow large rural lot holders an opportunity to create more lots (eg. for family)

Other Considerations:

- could encourage rural sprawl if many new lots are created
- could help create affordable housing