

## About The Following Terms of Reference

This Terms of Reference includes requirements to create a complete application for consideration of a Planning Act application (e.g. a Site Plan or a Plan of Subdivision) contemplating the use of Private Communal Water and Wastewater Systems. The purpose of this document is to identify Regional requirements and related documentation to facilitate Regional review of proposed private communal water and/or wastewater systems to service development in York Region. Specifically, these Terms of Reference for the Collaborative Application Preparation process (CAP) is provided to guide the preparation of a Private Communal Systems Report. In most cases an Official Plan amendment is required, with the Private Communal Systems Report submitted at the time of the amendment request. In the event of a Private Communal System being a permitted use, the Report shall be an appendix to the Functional Servicing Report and are to be considered in conjunction with other Regional guidelines identified in the appendices.

The Private Communal Systems Report helps Region staff assess Private Communal System(s) and any risks that may impact the Region entering into the required Municipal Responsibility Agreement (MRA). Requirements for the Region to enter into a MRA continues to exist notwithstanding any Community Infrastructure and Housing Accelerator (CIHA) approval or Minister's Zoning Order (MZO).

Local municipalities and/or external agencies (e.g. Ministry of the Environment, Conservation and Parks) may require additional studies or analysis of specific technical components to support assessment of the proposed communal water or wastewater systems. The Region may also request additional information be provided beyond what is outlined in this Terms of Reference depending on the nature of the proposed development under consideration.

## Private Communal Water & Wastewater Systems

A private communal drinking water system is defined as a privately held system that services six (6) or more year-round private residences under Section 1 of O. Reg. 170/03. For wastewater, systems with a total daily design sanitary sewage flow of greater than 10,000 L/d servicing more than six (6) year-round residences are considered communal systems.

Private communal water and/or wastewater systems may be appropriate in certain limited circumstances in accordance with the Region's Private Communal Water and Wastewater Guideline (see Appendix A). A private communal system is not permitted in areas where municipal servicing exists and must conform with provincial policies along with policies and land uses under applicable Regional and Local Official Plan(s). If a proposed private communal system does not conform with applicable Official Plan(s), an Official Plan amendment will be required. It is important for proponents to note that many provisions currently in the Regional Official Plan will be added to Local Official Plans following the proclamation of Bill 23 and its associated regulations. The Region and Local Municipalities will review applications based on the Official Plans in place at the time of the application.

## Applicable Legislation

*Clean Water Act, 2006*

*Environmental Assessment Act*

*Lake Simcoe Protection Act, 2008*

*Municipal Act, 2001*

*Ontario Water Resources Act*

*Safe Drinking Water Act, 2002*

*Sustainable Water and Sewage Systems Act, 2002*

## **Private Communal Water and Wastewater System Report**

### **Who should prepare this?**

A Private Communal System Report must be prepared by the proponent (referred to henceforth as the “Owner”), to articulate how the proposed system(s) meet requirements under the Region’s guideline and provincial standards. To be considered, a private communal system must be designed by a licensed professional engineer qualified in civil/water resources engineering. All drawings and reports must be stamped, signed, and dated by a professional engineer, licensed in the Province of Ontario.

The Owner shall ensure this report is prepared by qualified professionals with expertise in hydrogeology, ecological, and/or environmental functions and processes. Additional qualified personnel may be required, depending on the system.

### **Why do we need this?**

The Region has a legislated responsibility under the *Safe Drinking Water Act, 2002*, *Ontario Water Resources Act* and the *Clean Water Act, 2006* to provide clean, safe, reliable drinking water and manage wastewater responsibly to Region residents. To ensure safe drinking water and wastewater services, design of private communal water and/or wastewater systems must be to the satisfaction of the Region from administrative, environmental, engineering, and financial perspectives as set out in the *Sustainable Water and Sewage Systems Act, 2002*. The *Municipal Act, 2001* also requires consent from the Region to construct, maintain or operate a water or sewage system.

All private communal system owners are required to enter into a legally binding Municipal Responsibility Agreement with the Region. The attached Guideline helps ensure systems will be safe and effective in the long term, which is a prerequisite for the Region to enter into a Municipal Responsibility Agreement.

### **How should this be prepared?**

The process to design, consult on, obtain permits/approvals for, and build a private communal system can be lengthy and implementation timelines will be longer than a typical development connecting to a municipal system. It is recommended that Owners engage York Region Public

Works staff at the inception of the process (prior to submission of a planning approval application) to better understand the undertaking. Engagement with Region staff throughout the design process can help accelerate timelines.

York Region Communal Water and Wastewater Guidelines (Appendix A) are to be used by Owners when planning and designing private communal water and wastewater systems and are the Region's minimum requirements for these systems. All proposals must provide sufficient details in the Private Communal System Report for water and/or wastewater systems to allow Regional staff to assess the administrative, environmental, engineering and financial implications of the private communal servicing option proposed.

### **Private Communal System Report**

Developments proposing a private communal system(s) must prepare a Private Communal System Report. In most cases, an Official Plan amendment is required, with the Private Communal Systems Report submitted at the time of the amendment request. In the event of a Private Communal System being a permitted use, the Report should be an appendix to the the Functional Servicing Report as outlined in this Terms of Reference. This report will outline how the proposed system meets requirements outlined in the Private Communal Water and Wastewater Systems Guideline (see Appendix A). An application shall not be deemed to be complete unless this report and aspects proposed within are deemed satisfactory, in writing by the Region. Notwithstanding any planning approvals granted as a result of a LOPA, ROPA CIHA, or MZO; a Private Communal Systems Report is required to articulate and address any environmental issues and public safety concerns associated with the proposed system. The Private Communal System Report will also support the Region's process for the entering into a Municipal Responsibility Agreement.

Private communal system designs will be reviewed by the Region and/or the Region's representative based on the Region's technical design standards in the Guidelines. Designs for both private communal water and wastewater systems are to be provided to the Region for review via the Private Communal Systems Report.

The Private Communal Systems Report is to be used to demonstrate how the project achieves requirements in the Guideline under Appendix A, which should include, but not be limited to the following:

- Description of project
  - Number of units serviced
  - Location of treatment facilities on site
- Justification of need for a communal system
  - What other servicing options were considered
  - If municipal servicing is planned for the area within the Region's Master Plan, why waiting for municipal servicing is not feasible
- Demonstration of lack of environmental harm through appropriate studies:
  - Hydrogeological reports
  - Master Environmental Servicing Plan
  - Environmental Impact Study (EIS, please refer to the EIS TOR, with scope to be determined through a pre-consultation meeting)

- Sourcewater protection considerations
  - Onus is on Owners to demonstrate via the Report and design of the system that the system does not represent a risk to source water, including but not limited to groundwater sources for municipal wellheads
- Maps, drawings and engineering details
  - Detailed designs must be completed by a professional engineer and drawings developed to a minimum 30% detailed engineering design for the proposed system (refer to Communal Water and Wastewater Design Standards) provided with this report
  - If multiple sub-systems are proposed an engineering requirement shall be included this engineering details section
- Compliance with Provincial legislation and design guidelines
  - Owners must demonstrate how the proposed system meets provincial requirements, including water quality standards, effluent criteria, and include confirmation that there will be a provincially certified operator to operate the system
  - A list of significant provincial requirements is included in the resources section below and additional requirements may apply depending on system design being proposed. Owners should consult with Ministry of the Environment, Conservation and Parks to understand these requirements.
- Alignment with Region technical design standards
  - Water treatability study if proposing a water system
  - Confirmation facility can meet effluent requirements for a wastewater system
  - Pre-design (a minimum of 30% design as described in the Communal Water and Wastewater Design Standards) submission outlining the treatment processes and other requirements outlined in the Guidelines
  - Case studies of successful implementation of the proposed system at a similar or larger scale must be provided
  - If proposing a non-traditional system, a rationale must be provided for the alternate approach for the Region's consideration.
- Capital works plan for long-term management
  - Plans must demonstrate long-term capital works considerations and long-term viability of the system
- Demonstration of financial viability for the life cycle of the system
  - Owners must provide a financial plan for the proposed system in alignment with [O. Reg. 453/07: Financial Plans](#). The Region is extending this requirement to wastewater systems to provide a consistent way to demonstrate long-term viability.
- Design considerations for decommissioning and future connection to municipal systems
  - Outline system design considerations to allow for connection to a future municipal system in a cost-effective manner
- Governance structure for construction and operation of system
  - An organizational structure and positions responsible for key responsibilities must be provided for each aspect of the proposed system

- Confirmation that pre-consultation process has been initiated for an Environmental Compliance Approval (ECA) with the Ministry of the Environment, Conservation and Parks (MECP)
  - An indication of a formal engagement with MECP staff
  - Attestation from the Owner acknowledging that an MRA is required as a condition of a plan of subdivision
- Confirmation of a planned Condominium Corporation to manage long-term operation
  - Attestation that a condominium corporation will be established to administer and pay for long-term operation of the system
  - Attestation that a provincially certified operator will be maintained at all times to operate the system in accordance with legislated requirements

## What else should we know?

This Terms of Reference addresses requirements to create a complete application for consideration of a Planning Act application (e.g. a Site Plan or a Plan of Subdivision) and to support the MRA development process. This references but does not include provincial requirements, such as indigenous consultation under the Environmental Assessment process and any required permits. There will also be additional requirements after the Region and the Owner agree to a design that will be added as conditions on the Site Plan and Plan of Subdivision/Condominium approvals, including the following, but not limited to:

### 1. Environmental Assessment

Private communal systems servicing residential units may require a Municipal Class Environmental Assessment to be completed, as required under the *Environmental Assessment Act* and the *Ontario Water Resources Act*. Owners will need to determine the type of assessment required in collaboration with Ministry of the Environment, Conservation and Parks. An environmental assessment also will help provide information required under the Private Communal Systems Report.

### 2. Municipal Responsibility Agreement (MRA)

Private communal systems servicing any residential units require a MRA to be entered into by the Region and the Owner. Entry into a MRA for a private communal system is at the sole discretion of the Region, regardless of any other approvals received.

An MRA may not be required for systems that solely service employment or industrial uses. However, these systems remain subject to other requirements. Please refer to Appendix A for further detail on these requirements.

Conditions shall be imposed on the Draft Plan of Subdivision and/or Condominium/Site Plan approval requiring a MRA to be executed with York Region ahead of final approval.

### 3. Region support for MRA ahead of Environmental Compliance Approval (ECA) application

The Region may agree in principle to enter into an MRA, subject to the Owner obtaining an ECA for the proposed communal water and/or wastewater system.

Conditions on the Draft Plan of Subdivision and/or Condominium/Site Plan will not be released until the Owner has received an ECA from the Ministry of the Environment, Conservation and Parks, which will be appended to and form part of the MRA to be signed and executed.

#### 4. Other Permits and approvals

Owners are required to obtain all necessary permits and approvals from regulatory agencies prior to the Region clearing conditions on the Plan of Subdivision and/or Condominium.

#### 5. Monitoring and inspection

Owners will be required to develop and submit an Operating Manual and Emergency Preparedness Plan for the proposed system(s) to ensure safe operation and mitigate risks to public health. Acceptance of the plan is at the sole discretion of the Region.

#### 6. Financial surety and reserve fund

As a part of executing a MRA, Owners will be required to provide the Region with a financial security for the private communal system(s). Condominium corporations will also be required to fully fund system operating costs and maintain a reserve fund for the system. The reserve fund is held by the Region and the Owner is required to make annual contributions to the reserve fund.

#### 7. Notification to purchasers of system and costs

Owners will be required, in wording satisfactory to York Region, to provide notice to prospective buyers of the private communal system and the long-term financial responsibilities in all offers of purchase and sale for the condominium units. Please refer to Appendix A on what this may include.

## What other resources are there?

Key provincial laws and regulations apply to non-municipal drinking water system owners and operators as set out in:

- [MECP Design Guidelines for Drinking Water Systems](#)
- [MECP Design Guidelines for Sewage Works](#)
- [Municipal Act, 2001](#)
- [Ontario Regulation 128/04](#) (Certification Of Drinking Water System Operators And Water Quality Analysts)
- [Ontario Regulation 169/03](#) (Ontario Drinking Water Quality Standards)
- [Ontario Regulation 170/03](#) (drinking water systems)
- [Ontario Regulation 205/18 \(Municipal Residential Drinking Water Systems in Source Protection Areas\)](#)
- [Ontario Regulation 243/07](#) (flushing, sampling and testing for lead)
- [Safe Drinking Water Act, 2002](#)



Key provincial laws and regulations that apply to non-municipal wastewater systems owners and operators are set out in:

- [Clean Water Act, 2006](#)
- [Municipal Act, 2001](#)
- [O. Reg. 129/04](#)
- [Ontario Water Resources Act](#)
- [Lake Simcoe Protection Act, 2008](#)

### Appendices

- Appendix A: York Region Private Communal Water & Wastewater Systems Guideline

### Notes

If the proposed development is revised, the Owner shall submit an updated Private Communal Systems Report with the attestations updated to reflect the revisions, including specifically indicating any changes.

A peer review of submitted documents and studies may be required. The cost of the peer review will be borne by the applicant.

If any submitted study is incomplete, is authored by an unqualified individual or does not contain adequate analysis, the application will be considered incomplete and returned to the applicant.



# Draft Private Communal Water & Wastewater Systems Guideline

---

Approved By: Mike Rabeau, General Manager, Capital Infrastructure Services,  
Public Works

Approved On: May 23, 2024

---

## Guideline Statement

To establish criteria and evaluation process for new or expanded private communal water and/or wastewater systems proposed in development applications.

## Application

This guideline applies to any proposed new or expanded private communal water or wastewater system within York Region boundaries that would service residential or mixed-use developments.

This guideline applies to applications for new or expanded systems that have not yet received approval or conditions from the Region. This guideline continues to apply in cases where a Community Infrastructure and Housing Accelerator (CIHA) approval or a Minister's Zoning Order (MZO) is issued. This guideline also helps outline the conditions for the Region to enter into a Municipal Responsibility Agreement (MRA).

Notwithstanding any suspension of planning-related provisions under a CIHA or MZO, the requirement to enter into an MRA remains in effect.

A private communal water system is defined as a privately-held system that is intended to service six (6) or more year-round private residences as defined as non-municipal year-round systems under section 1 of O. Reg. 170/03.

A private communal wastewater system is defined as a privately-held system that meets all of the following:

- Intended to service six (6) or more year-round private residences.



- 
- Total daily design sanitary sewage flow of greater than 10,000 L/d

### **Permissibility of system**

A Private communal system is not permitted in areas where municipal servicing exists.

Private communal system must align with permitted uses under the Regional Official Plan and the Official Plan of the local municipality where the private communal system will be located. If a proposed private communal system does not align with Official Plans, a Regional and/or Local Municipal Official Plan amendment would be required.

A private communal system will not be considered if it represents a risk to sourcewater under [the Source Protection Plan for the Credit Valley-Toronto and Region-Central Lake Ontario \(CTC\) Source Protection Region](#) or the South Georgian Bay Lake Simcoe Source Protection Plan, as applicable to the location of the system.

A private communal wastewater system will not be considered if it discharges to a Provincially Significant Wetland or a similar sensitive natural feature.

## **Purpose**

This guideline is to ensure reliability of drinking water and wastewater services by providing criteria for when private communal servicing will be considered and identify system requirements to ensure the protection of public health and the environment. The Region has a legislated responsibility under the *Safe Drinking Water Act, 2002* and the *Clean Water Act, 2006* to provide clean, safe, reliable drinking water to Region residents.

This guideline articulates how York Region will assess the administrative, environmental, engineering, and financial criteria required for consideration of a private communal systems.

## **Definitions**

**Condominium Corporation:** a corporation created or continued under the *Condominium Act, 1998*, S.O. 1998, c. 19

**Local Municipal Official Plan:** Refers to the current Official Plan of the local municipality where a private communal system will be sited.

**MRA:** Municipal Responsibility Agreement, refers to agreements outlined under [Ministry Guideline D-5-2](#)

---

**Ministry:** Ministry of the Environment, Conservation and Parks (MECP), as renamed from time to time, that is responsible for oversight of drinking water and wastewater in Ontario

**Owner:** Includes, in respect of a private communal drinking water or wastewater system, every person who is a legal or beneficial owner of all or part of the system. Upon incorporation of a Condominium Corporation, the definition of Owner would apply to the Condominium Corporation.

**Private communal wastewater system:** a sewage works within the meaning of the *Ontario Water Resources Act* (OWRA) that serves six or more lots or private residences, is not owned by a municipality and subject to Section 53 of the OWRA and require an Environmental Compliance Approval (ECA) issued by the Ministry.

**Private communal water system:** a non-municipal drinking-water system within the meaning of section 2 of the *Safe Drinking Water Act, 2002* that serves six or more lots or year-round private residences

**Public Works Staff:** York Region Public Works staff (primarily Infrastructure and Asset Management) staff responsible for consideration and approval of private communal systems

**Region:** The Regional Municipality of York

**Regional Official Plan (ROP):** Refers to the 2022 York Region Official Plan, as approved by the Ministry of Municipal Affairs and Housing.

**Supporting materials:** Additional guidance documents, templates, or agreements developed by Region staff to support application of the guideline.

**Wellhead protection area:** A wellhead protection area is the area around a wellhead where land use activities have the potential to affect the quality and quantity of water that flows into the well as defined in ROP Map 6 and the *Clean Water Act, 2006*.

**The Works:** The communal water and/or communal wastewater systems and all related buildings and infrastructure

## Description

### Guidance and supporting materials

Region staff may develop guidance, templates, or agreements to support application of this guideline (supporting materials). Supporting materials will be appended to this guideline.

---

Region staff may revise supporting materials from time-to-time to reflect changing legislation, technology, or other conditions without an amendment to this guideline. It is the responsibility of the Owner to ensure applications reflect supporting materials on the date an application is submitted.

No private communal system servicing any multi-lot residential units shall be approved or constructed without an MRA being entered into by the Region and the Owner. Entering into an MRA for a private communal system shall be at the sole discretion of the Region.

An MRA may not be required for systems that solely service employment or industrial uses. However, these systems remain subject to other requirements under this guideline.

### **Requirement to connect to municipal services**

Should municipal servicing be extended to an area serviced by a private communal system, Owners shall be required to connect to the municipal system and decommission the private communal system at no cost to the Region or the local municipality in accordance with timelines set out in the MRA.

Private communal system and associated infrastructure shall be constructed in a manner that will allow for connection to a municipal system if/when municipal services are extended to the area in the future at the owner's expense.

### **Requirement for a condominium corporation**

Private communal systems will only be considered for developments that will establish a condominium corporation for long-term administration of the system, including eventual decommissioning of the private communal system and connection to municipal systems, should servicing be provided in the area.

### **Requirements under a Municipal Responsibility Agreement (MRA)**

The MRA shall address matters, including but not limited to:

- Reporting obligations to support environmental and other contractual compliance
- Granting of any easements as maybe required by the Region;
- Obligations of the Condominium Corporation, including the requirement to enter into a Reciprocal Agreement and obligations under *Condominium Act*;
- Insurance and indemnification requirements;
- Financial obligations for maintenance, operation and eventual replacement of private communal system;
- Contingency plans and other plans as required to meet regulatory requirements

- 
- Decommissioning of private communal systems and connection to municipal systems when municipal water or wastewater services become available at no cost to Region or local municipality

## **Collaborative application preparation process**

### **Requirement to follow collaborative application preparation (CAP) process**

All developments proposing a private communal system shall follow the CAP process. Owners are to engage the Region under the pre-consultation phase of this process but formal Regional review will not occur until the Private Communal System Report is submitted. In most cases an Official Plan amendment is required, with the Private Communal Systems Report submitted at the time of the amendment request. In the event of a Private Communal System being a permitted use, the Report shall be an appendix to the Functional Servicing Report and are to be considered in conjunction with other Regional guidelines identified in the appendices.

An application for a Plan of Subdivision/Condominium or Site Plan shall not be deemed complete under the CAP process until Region comments on the Private Communal System Report have been addressed to the satisfaction of the Region.

In the event of a LOPA, ROPA, CIHA, or MZO; the Private Communal Systems report continues to be required to enable the MRA process. In these cases, early submission of a Private Communal Systems can help streamline the Region's review and the MRA process to accelerate the approvals process to support the goals of the CIHA/MZO tools to build housing faster.

### **Early engagement**

Public Works staff can and should be engaged prior to submittal of a Private Communal System Report and continue to be consulted throughout the process.

### **Environmental Assessment**

Private communal system servicing any residential units require a Municipal Class Environmental Assessment to be completed, as required under the *Environmental Assessment Act* and the *Ontario Water Resources Act*. Depending on the type of system proposed, either a Schedule B or C assessment may be required. Owners will need to determine the need for and type of assessment required in collaboration with Ministry of the Environment, Conservation and Parks.

### **Single-system preferred option**

---

Private communal system should be sized to service the proposed development, systems should not be split into multiple sub-systems without a specific engineering requirement to do so.

If the Owner believes that more than one system may be required, rationale must be discussed with Region staff in the pre-consultation stage.

Acceptance or rejection of multiple systems is at the sole discretion of the Region.

## Pre-consultation and Private Communal System Report

### Private Communal System Report

A Private Communal System Report is required to detail how a proposed communal system meets the requirements outlined in this guideline. Additional detail on this report has been included in the Private Communal System Terms of Reference provided under the CAP process.

In cases where an Official Plan amendment is required, the Private Communal Systems Report should be included as a part of amendment application.

In cases where a private communal system is permitted under an official plan, the Functional Servicing Report must include a Private Communal System Report Appendix.

### Justification of need for communal system

The Owner is required to provide a servicing justification report to identify:

- What other servicing options were considered and why those are not feasible options to service the development (e.g. private wells, private septic systems).
- In the event that municipal servicing is planned for the area in either *Public Works' 10-year Capital Plan* or the Region's *Water and Wastewater Master Plan*, the servicing justification report will need to justify why the development cannot wait for municipal servicing and a private communal system is the preferred option.
- Please note, if municipal servicing exists in the area with capacity to service the development, an application for a private communal system will be rejected.

### Engineering

Owners shall retain a qualified Design Engineer, at their sole expense, to design the private communal system(s). Detailed design documentation will be required to be submitted to the Region as a part of the Private Communal System Report.

---

Design of private communal system(s) and associated infrastructure shall consider and plan for impacts related to inflow and infiltration in both the near and long-term.

Design of private communal system(s) and associated infrastructure shall consider all applicable system design guidelines and standards, including the Region's technical guidance.

### **Consideration of Communal Water and Wastewater Design Standards**

Private communal system designs will be reviewed by the Region based on the Region's Communal Water and Wastewater Design Standards.

Region Communal Water and Wastewater Design Standards for a private communal system shall be considered by Owners when proposing such systems.

Owners are permitted to propose innovative system designs but will be required to demonstrate how an alternate design meets the performance requirements outlined in the Communal Water and Wastewater Design Standards included in the appendix.

If an Owner intends to pursue a non-traditional system design, the Region will require the Owner to provide a rationale for pursuing the alternate system design. This must include case studies of where the proposed system design has been built and operated effectively in an environment/climate and scale similar to the proposed project to demonstrate it is a feasible solution.

Acceptance of an alternate system design shall be at the sole discretion of the Region.

### **Provincial requirements – drinking water**

For drinking water system, owners are required to complete pre-design studies for water source quality and quantity, along with considerations of the multi-barrier approach, as outlined under Section 3.2 of the MECP [Design Guidelines for Drinking Water Systems](#).

If a proposed private communal drinking water system falls within a source protection area, as defined under the *Clean Water Act, 2006*, as amended, the owner is required to engage the Source Protection Authority per requirements under [O. Reg. 205/18: Municipal Residential Drinking Water Systems in Source Protection Areas](#).

### **Provincial requirements – wastewater**

For private communal wastewater system, owners are required to complete soil evaluations and assessments of the impacts of discharges on surface water and/or groundwater, as identified under sections 22.4 and 22.5, respectively of MECP [Design Guidelines for Sewage Works](#), as updated from time-to-time. A detailed scope of items

---

to be included in these assessments can be found under section 22.6 of the *Design Guidelines*.

Owners of private communal wastewater systems are required to use results of assessments completed under sections 22.4, 22.5, and 22.6 of the MECP [Design Guidelines for Sewage Works](#) to develop a detailed design for the system. This design shall also conform to design consideration found under section 22.7 of the *Design Guidelines*. Although detailed design is not required within the pre-consultation stage, the proponent will need to identify potential designs.

### **Environmental Compliance Approval pre-consultation initiated**

Owners shall provide proof of a formal engagement with MECP on the process for an Environmental Compliance Approval within the Private Communal Systems report.

### **Onus on owner to demonstrate compliance**

Provincial requirements identified above are to provide Owners key considerations when proposing a private communal system but may not include all legislative or agency (e.g. MECP) requirements.

The onus shall be on the Owner to demonstrate how all relevant legislation and guidance from the MECP and other approval agencies have been considered (e.g. conservation authorities) within the Private Communal System Report.

### **Source water protection**

Applicants must demonstrate in the Private Communal Systems Report that their application(s) comply with policies of the applicable source water protection plan.

Region staff are to be engaged in scoping soil and surface water/groundwater assessments to reflect local conditions. Staff may reject an application if they determine the private communal system presents a risk to source water.

This guide does not supersede the role of York Region Water Resources staff under the Ministry's Permit to Take Water process and the *Clean Water Act, 2006*, who are engaged to assess impacts on water supplies and/or risks related to well interference.

Source Protection Authority under the *Clean Water Act, 2006* or Region staff may apply conditions to the Plan of Subdivision/Condominium and Site Plan approval to mitigate potential sourcewater impacts.

The onus shall be on the Owner to demonstrate in the Private Communal Systems Report how source water protection risks and plans have been addressed in the design of the system. Acceptance of source water protection measures will be at the sole discretion of the Region's Risk Management Official as defined under the Clean Water Act.



---

## **Demonstration of lack of environmental harm**

The onus shall be on the Owner to demonstrate that construction and operation of private communal system and associated works do not represent a risk to the natural environment and ecological integrity of surrounding environment in consultation with the Ministry to the satisfaction of the Region.

## **Approval by Region**

Designs for both private communal water and wastewater systems shall be provided to the Region for review via the Private Communal Systems Report. Approvals for systems shall be at the sole discretion of Region staff.

## **Financial requirements**

Owners shall demonstrate to the satisfaction of the Region that the private communal system(s) are financially viable for the duration of the proposed life of the system including user rate estimations to ensure adequate funding through the life cycle of the asset.

Owners of drinking water systems and wastewater systems shall prepare a financial plan in alignment with [O. Reg. 453/07: Financial Plans](#) to assess costs associated with the system and its long-term operation to be provided in the Private Communal System Report. Although O. Reg. 453/07 is limited to drinking water systems, to create a consistent approach to financial planning, the Region will require the same requirements be followed for wastewater system financial plans.

The Region has the authority to develop standards for financial plans that exceed those in O. Reg. 453/07. Region standards may be updated from time-to-time to provide guidance for completion of these financial plans to support Owners in meeting the satisfaction of the Region. In the event standards and/or guidance are developed, they shall be appended to this guideline and be considered an extension of this guideline. Region standards may be updated from time-to-time to reflect current conditions.

Based on the financial plan, an estimated annual per-unit cost breakdown shall be provided within the Private Communal Systems Report to help assess financial viability of the system.

Specific financial requirements will be included within the MRA, this will include, but not be limited to provision of financial security or guarantees (e.g., Letters of Credit, Guarantor Agreement) so sufficient funds are available to fund operation, maintenance, repairs, or any other aspect required for effective operation, should they be required.

The Region is not responsible or liable for any costs incurred by the Owner throughout the private communal system development and approvals process, including in cases where a private communal system is not approved.

---

## **Capital works plan**

Capital works plans shall be prepared for review in the Private Communal System Report. If, in the opinion of Region staff and advice of external consultants, amendments to the plan are required they will be provided as a part of the review process.

## **Decommissioning and/or future connections to municipal systems**

Private Communal Systems Report must demonstrate how systems will be constructed in a manner that allows for connection to a municipal system, should municipal services be extended to the areas in the future.

If/when municipal services are extended to the area where there is a private communal system, Owners/Corporations shall decommission private communal water and wastewater systems and connect to the municipal system at no cost to the Region or the local municipality, within the timeline determined by the Region.

## **Governance**

Within the Private Communal System Report, the Owner is required to provide the Region with a proposed governance structure for the system identifying key responsibilities for management of each aspect of the system. A final version of the governance structure shall be provided prior to the finalization of the MRA.

# **Complete application for Plan of Subdivision and/or Condominium and Site Plans**

## **Acceptance of Private Communal Systems Report**

An application shall not be deemed complete until Region staff input has been addressed to the satisfaction of the Region in the Private Communal Systems Report. Region staff shall notify the owner in writing when the Region is satisfied with the Private Communal System Report.

## **Regional Conditions of Draft Plan approval**

The Region may impose conditions to the Draft Plan of Subdivision and/or Condominium and Site Plan approval, including but not limited to the need to complete an environmental assessment, develop and enter into an MRA, obtain provincial permits, and any other such requirements the Region deems fit.

---

# Clearance of conditions for Draft Plan of Subdivision and/or Condominium

## Conditions on Draft Plan of Subdivision and/or Condominium

The Owner shall demonstrate to the satisfaction of the Region that it has satisfied all conditions applied to the Draft Plan of Subdivision and/or Condominium prior to the registration of the Plan of Subdivision and/or Condominium and Site Plan approval.

## MRA required for all systems servicing residential

No private communal system for either water or wastewater servicing any multi-lot residential units shall be constructed without an MRA being entered into by the Region and the Owner.

Entering into an MRA is at the sole discretion of the Region, regardless of any other approvals received.

Matters related to amendments, arbitration, and termination of the MRA are to be defined under the MRA.

Execution of a MRA shall not proceed until the Region is provided all supporting materials required under the MRA (e.g. finalized governance, monitoring, and inspection plans etc.). Conditions on the Draft Plan of Subdivision and/or Condominium shall not be cleared until the MRA has been executed.

## Region support for MRA ahead of provincial Environmental Compliance Approval (ECA) application

The Region may agree in principle to enter into an MRA, subject to the Owner obtaining an ECA and any other permits required for the system.

Conditions on the Draft Plan of Subdivision and/or Condominium shall not be released, nor shall a Site Plan approval be issued until the Owner has received an ECA from the Ministry, which will be appended to the MRA prior to it being executed.

## Monitoring and inspection

The Owner is required to develop and submit a proposed monitoring and inspection protocol to ensure safe operation and mitigate risks to public health in the Private Communal System Report. Acceptance of the protocol shall be at the sole discretion of the Region.

---

## **Permits and approvals**

The Owner is required to obtain all necessary permits and approvals from regulatory agencies prior to the Region clearing conditions on the Draft Plan of Subdivision and/or Condominium and issuing a Site Plan approval.

## **Obligations of Condominium Corporations**

If the Owner proposes a private communal system, which is intended to service more than one unit owner, the Condominium Corporation to be created for the development shall be required to enter into a Reciprocal agreement with the Owner for the joint obligations of ownership and proper operation and maintenance of the private communal system(s), pursuant to the terms of the MRA.

## **Notification to purchasers of system and costs**

The Owner shall agree in the Agreement, in wording satisfactory to York Region and the local municipality, to provide for warning clauses in all offers of purchase and sale for the condominium units. This may include, but not be limited to:

- The private communal system is privately owned and operated and is not the responsibility of York Region or the local municipality
- Operating costs to operate the system are the sole responsibility of condominium owners and provide estimated rates as compared to municipal services
- Special levies may be charged against condominium unit owners to correct and/or rectify system deficiencies and malfunctions or for covering shortfalls that may arise from unanticipated or occasional expenses
- Future connection of communal system to Regional infrastructure or local infrastructure will be at the cost of the Condominium Corporation or the individual home owner (however it's resolved per comments above).

## **Reserve Fund**

The Condominium Corporation shall be required to provide the Region with proper and sufficient financial security and annual replacement reserve fund contributions to ensure sufficient funds are available to operate and maintain the communal water and wastewater systems at no expense to its ratepayers outside of the development. This security and reserve fund may be leveraged in the event the Region is the subject of an Order pursuant to the provisions of the *Ontario Water Resources Act*, the *Safe Drinking Water Act, 2002*, or other legislation, or pursuant to the terms of the MRA due to default by the Owner.

The Condominium Corporation/Owner shall retain a Professional Engineer to develop a Capital Works Plan for the private communal system(s), which shall set out the contribution to the Replacement Reserve Fund, maintaining an adequate reserve fund as defined in Sections 93 and 94 of the *Condominium Act* and any requirements under the MRA. The Condominium Corporation shall also maintain adequate reserves to

---

connect to municipal systems and decommission the private communal system at no cost to the Region should municipal services be extended to the area.

If the Region deems the Owner or Condominium Corporation to be in default of its obligations under the MRA, the Region will require the Owner/Condominium corporation to develop a rectification plan and/or draw down on the financial security provided or the Corporation's reserve fund to rectify the issue(s).

## **Responsibilities**

### **York Region Public Works staff:**

Review private communal system(s) reports and documentation as outlined in this guideline and any other supporting materials.

Maintain Communal Water and Wastewater Design Standards required to support this guideline.

Ensure development application(s) meet the terms of this guideline and a MRA is in place prior to releasing conditions on a Plan of Subdivision and/or Condominium and issuing a Site Plan approval.

Lead engagement with other Regional departments on private communal systems.

### **York Region Finance staff:**

Provide Public Works and Planning staff support on assessing reserves required to ensure the long-term viability of a private communal system and a sufficient financial surety for the Region.

### **York Region Legal Services staff:**

Prepare legal agreements and provide Public Works and Planning staff with legal support to effectively administer requirements under this guideline.

### **Local municipal planning staff:**

Ensure York Region Public Works staff are engaged at the outset of the planning process on any development that proposes a private communal system as a servicing option.

Refer Owners of any proposed development in an area without municipal servicing to Official Plan requirements and this guideline.

Ensure local municipal planning practices align with guidance under this guideline.

---

Provide the CAP Terms of Reference for private communal systems to any developer considering such a servicing option.

**Owner:**

Engage with Region staff if development proposes private communal system servicing from the outset of the proposal and ensure that any proposal aligns to requirements under this guideline.

Provide a Functional Servicing report and Private Communal Systems Report and any other documentation required by this guideline or its appendices

Enter into an MRA with the Region if there are any residential servicing component for the private communal system.

Obtain all permits and ECAs required for the system

Submit applications in line with this guideline and as outlined in the CAP TOR

## Compliance

The Owner and/or Condominium Corporation shall be solely responsible for ensuring that all aspects of a private communal system comply with provincial and federal legislation, policies, and guidelines along with Region requirements defined in this guideline and appendices and align with provincial and municipal land use plans.

All proposed private communal systems must fully comply with the current Official Plans.

The Owner, at its own expense, shall be responsible for obtaining, holding, maintaining and complying with any approvals for the works required by the Ministry, Region, local municipality, conservation authority, or any other approval agency.

The Owner shall ensure an operator for the system is maintained at all times that is certified to operate the system under the *Safe Drinking Water Act, 2002* and *Ontario Water Resources Act*, as applicable. It is the owner's responsibility to comply with Ministry requirements in operating a drinking water or wastewater system.

If the Region deems the Owner or Condominium Corporation to be in default of its obligations under the MRA or that there is a possible health or environmental hazard, the Region will require the Owner/Corporation to develop a rectification plan and implement actions cost until the default is rectified on a full-cost recovery basis at the Owner or Corporation's cost.

For drinking water systems, Owners shall demonstrate their designs achieve MECP design guidelines, including, but not limited to: [Design Guidelines for Drinking Water](#)

---

[Systems](#), [Design Guidelines for Sewage Works](#), [B-7 guidelines](#) for systems that discharge to groundwater and B-1-1 guidelines for systems that discharge to surface water, as updated from time-to-time.

Every Owner and operator of a private wastewater system must ensure that it has an Environmental Compliance Approval in place and maintains compliance with this approval at all times.

## Reference

In addition to requirements of this guideline, key provincial laws and regulations that apply to non-municipal drinking water system owners and operators are set out in:

- [Safe Drinking Water Act, 2002](#)
- [Ontario Regulation 128/04](#) (Certification Of Drinking Water System Operators And Water Quality Analysts)
- [Ontario Regulation 169/03](#) (Ontario Drinking Water Quality Standards)
- [Ontario Regulation 170/03](#) (drinking water systems)
- [Ontario Regulation 243/07](#) (flushing, sampling and testing for lead)

Key provincial laws and regulations that apply to non-municipal wastewater systems owners and operators are set out in:

- [Clean Water Act, 2006](#)
- [Lake Simcoe Protection Act, 2008](#)
- [O. Reg. 129/04](#)
- [Ontario Water Resources Act](#)

## Contact

Carolyn Truong, Project Manager, Capacity Monitoring & Development Services, Public Works

eDOCS #13572007

Accessible formats or communication supports are available upon request.