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May 14, 2026

Ministry of Municipal Affairs and Housing  
Province of Ontario

***SENT VIA ERO POSTING***

**RE: City of Hamilton Comments on ERO 26-0302 - Communal drinking water and wastewater system municipal consent requirements**

Attached, please find City of Hamilton staff comments in response to the above noted ERO posting. Hamilton Planning Committee and City Council will be reviewing these comments at their June 16, 2026, and June 24, 2026, meetings.

Hamilton City Council may choose to amend or add to the enclosed comments which would be provided in a subsequent letter.

Should you have questions or comments, please contact myself or Steve Burke, Manager, Sustainable Communities Section, at (905) 546-2424 Ext. 5863 or by email at [Steve.Burke@hamilton.ca](mailto:Steve.Burke@hamilton.ca).

Regards,

A handwritten signature in black ink, appearing to read "Anita Fabac".

Anita Fabac, MCIP, RPP  
Acting Director of Planning and Chief Planner  
Planning Division  
Planning and Economic Development Department  
City of Hamilton

Enclosed.

**ERO 26-302: Communal drinking water and wastewater system municipal consent requirements.**

The following table provides the opportunity to comment on [ERO 26-302](#).

<a href="#">ERO 26-302: Communal drinking water and wastewater system municipal consent requirements.</a>	
Description	Comments
<p>If passed, the legislative amendments would be made to section 93 of the <i>Municipal Act, 2001 (MA)</i>, to require persons to apply for municipal consent to establish a non-municipal communal drinking water or wastewater system (public utility). The amendments would also create regulation-making authority to set conditions and criteria where, if the public utility meets those conditions and criteria, a municipality would be required to give consent. These future regulations would allow an applicant to make an application for municipal consent for a public utility with greater certainty, knowing that where prescribed criteria and conditions are satisfied, the applicant will receive the municipality's consent.</p> <p>What are your comments on the proposed changes?</p>	<p><b>General Comments</b></p> <p>This proposal appears to rely on a single set of provincial criteria for communal drinking water and wastewater systems across Ontario, without clearly addressing how local conditions and decision-making will be reflected. Municipalities are responsible for the planning, oversight, and long-term sustainability of drinking water and wastewater services and must consider local priorities, servicing strategies, growth patterns, and long-term financial risk when decisions are made. It is unclear how these local considerations would be incorporated into provincially prescribed criteria.</p> <p>As written, the proposal suggests that if provincial criteria are met, municipal consent must automatically be granted, effectively reducing the municipal role to an administrative function only. Municipal consent should remain a meaningful and substantive decision, recognizing the municipality's accountability for safe drinking water, effective wastewater management, and long-term risk within the community. Consideration should be given to the creation of WWPCs as voluntary rather than mandatory.</p>

Description	Comments
	<p>Communal water and wastewater systems may present risks to public health and safety, the surrounding environment, and the financial stability of the municipalities in which they are located. All such systems require comprehensive long-term planning and sustainable financing to ensure they remain in a state of good repair.</p> <p><b>Specific Comments and Concerns</b></p> <p>1. Overview and key concern            While the stated objective of the proposed legislative amendments under <i>the Building Homes and Improving Transportation Infrastructure Act, 2026</i> is to support housing supply, the proposal to mandate municipal consent for non-municipal communal water and wastewater systems represents a significant downloading of long-term financial, operational, and public health risk onto municipalities. Based on municipal experience across Ontario, these systems have historically proven to be a precursor to municipal assumption, resulting in higher water and wastewater rates, increased property taxes, and unfunded infrastructure liabilities borne by existing residents rather than developers or system owners.</p>

	<b>Comments</b>
	<p data-bbox="940 266 1323 297"><b>2. Municipal Financial Risk</b></p> <p data-bbox="940 305 1864 699">Although the proposal suggests that communal systems would remain “non-municipal”, in practice municipalities are routinely compelled to assume failing communal systems due to operator insolvency or default; inadequate reserve funds over the system lifecycle, and public health or environmental compliance failures. Once a communal system fails, municipalities face significant political, legal, and moral pressure to intervene to protect drinking water and the environment. This outcome is well documented in Ontario’s post Walkerton regulatory framework, which recognizes that safe drinking water requires stable, accountable, and professionally operated systems.</p> <p data-bbox="940 740 1881 881">The proposal acknowledges that “local impacts may vary” and that costs will be considered later through regulation, yet the legislation itself creates the obligation before safeguards are known, exposing municipalities to unknown future liabilities.</p> <p data-bbox="940 922 1304 953"><b>3. Increased Water Rates</b></p> <p data-bbox="940 961 1835 1102">When communal systems are assumed by municipalities, costs are transferred to the broader ratepayer and taxpayer base, including rehabilitation of substandard infrastructure, system upgrades to meet municipal design standards, long-term</p>

	<b>Comments</b>
	<p>operations under Drinking Water Quality Management System (DWQMS) requirements, and asset management obligations under municipal financial plans. Municipal water systems are subject to much more rigorous licensing, accreditation, and financial planning requirements under the <i>Safe Drinking Water Act</i>, DWQMS, and <i>Clean Water Act</i>. Communal systems, even when initially approved, will not have to meet these standards.</p> <p>4. Impossibility of enforcing long-term standards The proposal assumes municipalities can ensure communal systems are built to appropriate standards, properly operated and maintained indefinitely, and financially self-sustaining. Municipal enforcement authority is limited once a system is established, particularly decades after construction. Municipalities lack the staffing, inspection authority, and financial leverage to enforce private compliance over the full lifecycle of buried infrastructure.</p> <p>Municipal engineering standards exist because servicing infrastructure is a public asset with intergenerational consequences. Allowing systems that are not municipally owned to substitute for municipal servicing undermines decades of infrastructure planning, asset management, and risk reduction.</p>

	<b>Comments</b>
	<p>5. Development vs Provincial Planning Policy                      The proposal reflects a broader provincial trend of prioritizing development volume over long-term sustainability, a concern already raised by municipalities in response to recent planning reforms.</p> <p>The Provincial Planning Statement, 2024 requires that development be aligned with appropriate infrastructure, protect public health and safety, and support the long-term viability of rural areas. Encouraging communal systems in areas that cannot be sustainably serviced contradicts these principles and shifts risk away from developers and onto municipalities.</p> <p>6. Rural Development vs Affordable Housing                      The promotion of communal servicing to enable rural and ex-urban development is often framed as a housing affordability solution. In practice, this form of development results in large-lot, low-density housing, automobile dependency and high transportation costs, limited access to transit, healthcare, and social services, and increased pressure on agricultural land and rural infrastructure. Municipal and provincial policy recognize that rural systems are primarily resource-based landscapes, not urban substitutes. These systems are currently not permitted within the City’s Rural Hamilton Official Plan.</p>

	<b>Comments</b>
	<p>Extending quasi-urban servicing into rural areas promotes urban expansions, not affordability, and undermines agricultural systems.</p> <p>7. Source Water Protection Risks From a source protection perspective, communal systems introduce new drinking water threats, including clustered groundwater takings, cumulative septic or wastewater impacts, and reduced oversight over the quality and quantity of water resources compared to municipal systems. These risks are inconsistent with Ontario's multi-barrier approach to drinking water protection, which relies on accountability, science-based policies and professionally operated systems.</p> <p>8. Recommendations</p> <ul style="list-style-type: none"><li>• Maintain municipal discretion to refuse communal systems.</li><li>• Require full lifecycle financial securities, indexed and irrevocable, prior to approval.</li><li>• Provide assurances that municipalities will not be required to assume the financial and operational risks associated with failing communal systems.</li><li>• Prohibit mandatory municipal consent in the absence of finalized regulations.</li><li>• Align housing policy with existing municipal servicing and intensification strategies, rather than facilitating urban boundary expansions.</li><li>• Explicitly recognize that communal systems create future municipal liabilities, not private ones.</li></ul>

	<b>Comments</b>
	<p data-bbox="940 248 1346 277">9. Additional Staff Questions</p> <ul data-bbox="978 321 1879 938" style="list-style-type: none"><li data-bbox="978 321 1879 459">• It is unclear how similar financial sustainability will be ensured for communal systems. Should these systems fall into disrepair, they could pose significant health and safety risks to users, as well as environmental hazards.</li><li data-bbox="978 467 1879 605">• There is concern regarding potential municipal liability. What assurances can be provided that municipalities will not be required to assume the financial and operational risks associated with failing communal systems?</li><li data-bbox="978 613 1879 751">• Clarification is needed on the regulatory framework governing communal systems. Specifically, what oversight provisions will be established with respect to design standards and operational requirements?</li><li data-bbox="978 760 1879 938">• Furthermore, will the Ministry of the Environment, Conservation and Parks (MECP) undertake an inspection and oversight role for communal systems comparable to those currently applied to municipal drinking water and wastewater systems?</li></ul>