

# CHAPTER 4

## Cottage Property

### Introduction

The field of cottage sales is an exciting, demanding and increasingly complicated facet of real estate sales. Originally, the concept of rural sales including cottages was viewed as a basic extension of the urban residential market. In recent years, registrants in the rural marketplace have needed to acquire specialized knowledge to deal with unique issues faced by cottage sellers and buyers.

The proliferation of legislative controls has been a driving force. Few would remember the time when constructing a cottage involved a hasty visit to the township office for a building permit. Now complex issues face anyone developing, building or renovating cottage and rural properties. In particular, environmental controls affecting waterfront properties have increased dramatically given the environmental movement and the associated government agencies and a host of planners involved in the process.

In previous pre-registration courses, most notably *Land, Structures and Real Estate Trading*, many topics were covered that affect both rural and urban registrants such as property ownership, planning and land use, and structural types/components. This chapter takes a closer look at specific issues when targeting the cottage marketplace. Some overlap with previous subject matter is unavoidable.

Chapter 4 focuses on unique considerations in cottage construction, an overview of water well and waste disposal issues affecting recreational properties, waterfront improvements, and associated regulatory requirements concerning boat houses, docks, dredging waterfront areas and aquatic plant control. Applicable clauses are highlighted when drafting offers. The discussion then centres on access challenges particularly with properties located on private roads, typical zoning restrictions that apply to cottages and, lastly, various servicing issues (hydro, telephone and municipal services) that must be investigated as such services may be limited or unavailable. Registrants contemplating a career in cottage and rural recreational sales should pursue advanced courses that meet their specific needs.



## Learning Outcomes

At the conclusion of this chapter, students will be able to:

- Identify significant construction issues involving cottages, with particular reference to structural movements, sagging roofs, decks/porches, drainage and winterization.
- Discuss key considerations involving water wells and sewage systems, including appropriate clause drafting.
- Identify key approval procedures and related requirements concerning the installation of boathouses and docks, including appropriate clause drafting.
- Outline regulatory provisions concerning dredging and aquatic plant control.
- Explain key issues regarding cottage access from the perspective of both public roads and private deeded or undeeded access.
- Outline typical zoning provisions that relate to waterfront cottages, as distinct from requirements for other residential uses.
- Identify and discuss important limitations that may be encountered when trying to obtain hydro or telephone services in recreational areas.
- Identify and discuss municipal services that may or may not be available to recreational properties.
- Review the cottage and recreational property checklist.



## COTTAGES AND THE RECREATIONAL MARKET

The term *cottage* conjures up an image of an idyllic Muskoka or Haliburton waterfront retreat, but various types of property fulfill the same urge to escape the urban commotion and seek solitude, whether by a lake or simply on a remote lot. The recreational market contains many alternatives, the most notable of which are:

### Seasonal Cottages

The largest category of recreational property involves non-winterized structures used during the summer months (although increasingly year-round use is favoured given escalating prices and increasing services and facilities offered to the rural recreational home). In many cases, however, terrain, water access only, uncleared road access during winter and snow/ice conditions make such winterization unrealistic or impossible. The most expensive and popular cottages are those that border a lake or river.

### Winterized/Year Round Cottages/Homes

This expanding category involves a greater investment with buyers often investing funds in expanding, renovating or building a permanent home for either full or part-time use. The typical scenario involves a couple with children who convert a cottage into a winterized home for seasonal use, with the ultimate plan to retire and move there permanently.

### Country Homes

At one time, affluent city dwellers enjoyed the benefit of a fully furnished country home, but the trend now encompasses many middle income families seeking the solitude of an off-water acreage beyond the hustle and bustle of urban life.

### Chalets

These fully equipped homes are typically purchased for winter sports use. Skiing is a major attraction, but the growth of these developments in Barrie, Collingwood and Huntsville areas in particular, have given rise to a wide range of facilities and services for the chalet owner. Ownership options now range into condominium, timeshare and co-ownership.

### Hobby Farms

Hobby farms were originally purchased to further a personal hobby, such as training animals, and growing a limited variety of crops. The stereotyped purchaser was typically a full-time professional seeking the exercise and enjoyment of pursuing a small enterprise. In recent years, hobby farms are often simply country homes in disguise. While purchased with the intent of an enterprise, many become simply a second home away from urban congestion.

The focus in this chapter is on cottages (seasonal and year round), but many of the topics discussed apply equally to other types of recreational housing.



## CONSTRUCTION

The listing and sale of cottage property necessitates specialized knowledge regarding construction issues not frequently encountered in most urban markets. Cottages must meet all requirements of the Ontario Building Code, as do all other new structures, but older structures may suffer from various defects, problems and deficiencies given the time period in which they were constructed and now largely fall beyond the scope of municipal inspectors, unless modifications are made.

### Structural Movement

Many recreational properties have been built on perimeter walls and not full foundations. As a result, some structures may have cracks in walls or other visual signs of building

movement and settling, such as uneven floors. Often, seasonal cottages are built using concrete block and telltale cracks appear in foundation walls.

### ***FOOTINGS***

The problem may involve inadequate footings, which can be expensive to repair. Older cottages are particularly prone to this problem as the footings may have been installed on weak soil or were of an insufficient size/depth to support structural weight. Also, the footing may not have extended below the frost line, resulting in heaving following the winter period and the spring thaw.

### ***PIERS***

Given local terrain, some cottages are constructed using piers. Structural movement may occur because the piers used are not adequate, deterioration (e.g., wood rot) has occurred or the span between the piers is too large. Once again, signs of movement include structural cracks, sagging and piers that are out of alignment. The problem may also be due to inadequate footings below the piers.

## **Roof Construction/Pitch**

Older cottages may suffer from inadequate roof construction, such as insufficient roof trusses, large spacing between trusses and/or generally poor construction quality resulting in sagging. Further, cottage roofs may have been built or extended with a low pitch, resulting in deterioration as a result of heavy snow load or ice damming.

Low pitch roofs are particularly prone to ice damming as snow and ice collect in a certain area of the roof, often the eaves. Melting snow on the upper roof areas cannot be drained properly, as the thawing and runoff is prevented by the ice accumulation. Water then backs up under the shingles, penetrates the underlying roof structure and ultimately leaks into the exterior walls and main building structure. Interior ceiling or wall stains are a telltale sign that ice damming is occurring.

## **Decks/Porches**

Deficiencies in the main structure are also found with decks and porches, given improperly constructed footings and piers. In some instances, cottage owners may have improved the structure from a living perspective (e.g., enclosed the deck or porch area) or expanded the area without taking into consideration the added load and needed structural modifications.

## **Drainage**

Many older cottages were built on low lands near the water's edge with poor drainage. Often, the original owner was not overly concerned as no basement was ever contemplated and the entire structure was built on concrete block pilings or a perimeter wall with a crawl space. However, the lack of drainage can result not only in long term moisture damage to the structure, but also erosion near or under the structure and damage due to spring runoff from higher elevations surrounding the building area.

Improper drainage can also pose a health hazard should surface water enter a well that is located in a low, wet area. Further, poor drainage surrounding the absorption bed for a sewage (septic) system located in a similar area may create significant problems. See additional discussion later in this chapter.

## Do It Yourself Work

Prospective buyers should be particularly cautious when investigating any cottage regarding structural or other changes. Often, weekend owners spend their time altering or adding to the existing cottage. Appropriate approvals may not have been obtained, workmanship can be substandard and improper materials may have been used.

## Wood Stoves

Wood burning appliances in existing cottages may not have been installed according to the Ontario Building Code and Ontario Fire Code. Prospective buyers are well advised to have these appliances inspected by a certified member of the Wood Energy Technology Transfer Inc. (WETT Inc.). WETT is a non-profit training and education association that promotes the safe and effective use of wood burning systems in Canada.



### WEB LINKS

**WETT** Go to the Wood Energy Technology Transfer Inc. (WETT Inc.) site for additional information ([www.wettinc.ca](http://www.wettinc.ca)).

## Winterization

No clear definition exists for the term *winterizing* and yet it is commonly used in reference to cottages that have been converted from seasonal to year round use. Unfortunately, the phrase *a fully-winterized cottage* is relative to the person making the statement. For example, one person may be speaking of a cottage that is occupied year round, while another may refer to one that is occupied during specific weeks in the winter and otherwise left unheated during the balance of that season.

As there are no universally accepted standards, cottage buyers should carefully consider the following:

<b>Varying Amounts of Insulation</b>	The cottage may be considered by the seller to be winterized (i.e., he or she could spend winter weekends there), but some areas of the cottage may be insulated, while others are not.
<b>Windows</b>	Cottage owners may winterize without replacing windows. Often, the original windows were sliders (glass sliders in tracks) with limited insulation value and prone to leakage. A new owner would undoubtedly face a costly replacement program involving casement windows with double or triple glazing. Further, extensive use of glass (e.g., a solarium) may forewarn of potential heating and ventilation problems unless proper construction methods and materials were used. The same applies to skylights which are prone to leakage, unless professionally installed.
<b>Unheated Areas/Cold Areas</b>	Floors above certain unheated areas (such as a crawl space) may not be insulated. Keep in mind that corrective action will require adequate space to install insulation, improve ventilation and install heating ducts (if applicable). Proper ventilation and vapour barriers are typically needed to reduce the potential for damage due to moisture build-up. As a further caution, the owner may have added insulation, but not installed the vapour barriers given the difficulty of doing so on a retrofit basis.

**Water/  
Septic  
Systems**

Even though the owners may use the cottage in the winter, it still begs the question as to what extent of water and waste disposal winterization has occurred. If the cottage is an unheated structure during most of the winter, water lines must be carefully drained to avoid freezing and anti-freeze placed in traps leading to the sewage system.

Also, where are the pumps located and what procedures must be followed for these during winter months? Other pertinent questions include:

- How deep are the water lines between the cottage and well?
- Are heated water lines used?

Heated water lines are specially designed water pipes for recreational property to facilitate year round water supply. The lines normally consist of an automatic thermostatic control combined with a heating element that extends through the plastic water line. For temporary installations, these lines lay on the ground, however, the heating elements can also be installed in existing buried water lines.

**Vaulted  
Ceilings**

The structural design of uninsulated vaulted ceilings may prevent the cost-effective installation of proper insulation. A significant retrofit project may be the only way to resolve this problem.

## Retaining Walls

Retaining walls are often used for shore areas, landscaping and driveways due to challenging terrain. The difficulty for buyers lies in assessing the quality of construction because the important components are buried in the wall itself. Well constructed retaining walls must have adequate drainage (proper gravel behind the wall with outlets at the base), adequate footings and quality materials.

### DRAFTING CLAUSES

Buyers will typically seek out expert advice on matters regarding the structural integrity of a cottage and other matters such as outside decks, degree of winterization and related matters. A sample clause is shown on the following page.

SCENARIO	CLAUSE
<p><b>Condition Regarding Inspection</b></p> <p>A buyer is submitting an offer and wants an inspection completed by a specific individual who is a builder in the area and is very familiar with cottage properties.</p>	<p><b>INSP-7      Condition—Inspection of Property—Third Party</b></p> <p><i>This Offer is conditional upon the inspection of the subject property by _____ and the obtaining of a report satisfactory to the Buyer at the Buyer's own expense. Unless the Buyer gives notice in writing delivered to the Seller personally or in accordance with any other provisions for the delivery of notice in this Agreement of Purchase and Sale or any Schedule thereto not later than ____ p.m. on the ____ day of _____, 20____, that this condition is fulfilled, this Offer shall be null and void and the deposit shall be returned to the Buyer in full without deduction. The Seller agrees to co-operate in providing access to the property for the purpose of this inspection. This condition is included for the benefit of the Buyer and may be waived at the Buyer's sole option by notice in writing to the Seller as aforesaid within the time period stated herein.</i></p>

## WATER WELLS AND WASTE DISPOSAL SYSTEMS



**NOTE:** *Land, Structures and Real Estate Trading* contained detailed discussions regarding wells, including installation requirements and bacteriological testing, as well as classifications of waste disposal systems (Classes 1 through 6). Current content expands this resource material in relation to cottages.

### Water Quality

The protection of water quality and quantity primarily falls under two statutes and associated regulations; i.e., the *Ontario Water Resources Act* and the *Safe Drinking Water Act*. Real estate registrants most commonly encounter water quality issues relating to private well systems in rural and cottage areas. Matters involving a private system for use by a residential household including a cottage fall under the *Ontario Water Resources Act*.

The Ministry of the Environment licenses well contractors under the *Ontario Water Resources Act* and all work must meet minimum well construction requirements. Once constructed, the well owner is responsible for monitoring, maintaining and preventing contamination of the well (including the aquifer). An aquifer refers to a water-bearing formation that is capable of transmitting water in sufficient quantities to serve as a source of water supply. Well records are maintained by the Ministry of the Environment.



#### WEB LINKS

**Water Quality/Well Records** Go to the Ministry of the Environment site ([www.ene.gov.on.ca](http://www.ene.gov.on.ca)) for additional information about drinking water systems and water quality.

### WATER SOURCES

Cottages rely on various water sources. Newer cottage wells are typically either drilled or bored. Dug wells may be found in older cottages. Drilled wells involve small diameter pipes, while a bored well can be two to three feet in diameter and considerably more shallow than the drilled well. Registrants may also encounter shared systems in which a well is located on one cottage property, but shared with others nearby. A buyer facing this situation should have a clear understanding of the sharing arrangement (i.e., a written agreement) and associated rights, responsibilities and maintenance costs.

Cottages may also rely on a shore well that is located near the water's edge. Such wells are particularly prone to contamination. Alternatively, river or lake water may be pumped through an above ground or below ground pipe from the shore to the building. Obviously, the risk of contamination is much higher and water purification equipment is typically installed. Alternatively, some cottage owners may rely on a well for drinking water and restrict lake water use for other daily needs.

### CONTAMINATION/TESTING

Water well contamination is generally due to two factors: poor construction (e.g., lack of proper depth and inadequate application of sealing materials) and surface water contamination often arising from drainage problems. As a consequence, continuous bacteriological testing of private well systems is strongly recommended. Such testing is typically done by the local health authorities, but private laboratories also provide this service.

Three separate samples are recommended and should be collected one to three weeks apart. Following initial testing, one or two tests per year appear adequate, unless some occurrence has taken place that would affect the water supply. For seasonal properties, two or three samples are recommended during any particular season, with the first being conducted at the start of the season.

#### **PREVENTATIVE MEASURES**

Various measures should be taken by cottagers to ensure high water quality and prevent contamination from leaking into the well:

- Seal from the outside any openings to the well using durable sealing materials. Further, check that all connections (e.g., electrical lines, water lines and pumps) are water-tight and properly sealed.
- Ensure that the sanitary well seal and well cap are firmly situated and watertight.
- Make certain that well vent pipes are properly screened or otherwise protected so that foreign matter does not enter the well.
- The well casing should be visible to ensure easy access if repair work is required. If the existing well is below ground level, it is advisable to have the casing raised to a minimum of 40 cm above ground surface.

#### **WELL DISINFECTING**

Water disinfecting can be accomplished using chlorine. Chlorine is a greenish-yellow, incombustible, water soluble poisonous gas. Chlorination is used with new or reworked wells (dug or drilled), cisterns, springs, pumps and pipes. Disinfecting the water by chlorination extends to electrical cables, ropes, pipes, well, well cap, and plumbing lines and fixtures in the house presently drawing water from the well. Bacteria may get into the water supply during construction or repair.

Disinfecting is the final step after all defects in location and construction have been corrected and before samples are collected for bacterial examination. Typically, a predetermined amount of chlorinated household bleach is poured into the well based on water depth, then all taps are opened until a chlorine odour is detected. The water in the pipes is then left to stand for a minimum of six hours and subsequently flushed. It is recommended that residents store enough clean water for three days for drinking, washing and watering plants before well disinfecting. Another option is to boil all water used from the source. A bacteriological retesting of the water follows after several days. Meanwhile, all water used from that source must be boiled.

Cottagers may elect to pour bleach (chlorine) into an existing well given that a bacteriological test has indicated contamination. While this immediate chlorine infusion will undoubtedly produce a *safe water* test, the underlying problem (such as ground water seepage) remains. The chlorine has temporarily removed the bacteria, but the bacteria will likely return.

#### **PRIVATE WELL—WATER TREATMENT**

Two of several water treatment systems for private wells are included for general description purposes. The method used will vary based on particular water issues. Registrants should research other common systems used in the local area.

##### **Chlorination Injector Unit**

This water treatment device is used primarily in recreational property that feeds a weak solution of chlorine into the water distribution system immediately after it comes from



the well. The water must then be pumped into a pressure or storage tank that is large enough to ensure that the water will be stored for a specified period of time to effectively destroy any bacteria. An alternative treatment device called a super chlorination unit is installed either before, or immediately after, the pump. As the water pump is activated, the unit feeds a strong solution of chlorine into the water. The water is then passed through an activated carbon filter to dechlorinate the treated water.

#### *Reverse Osmosis*

This procedure involves the removal of dissolved solids and minerals (e.g., chloride and sulphate) from a water supply that is frequently used in recreational properties. Reverse osmosis entails forcing water through a semi-permeable membrane. The membrane passes fresh water, leaving behind minerals and other solid content. Such units have limited gallonage-per-day capacities.

#### **DRAFTING CLAUSES**

SCENARIO	CLAUSE
<p><b>Condition Regarding Private Well</b></p> <p>A buyer is submitting an offer on a cottage and wants to ensure that the water well provides both a sufficient quantity and quality of water. In addition, the condition must include a provision that the pump and related equipment is in proper working order.</p>	<p><b>SEWER/WATER-2 Condition—Water Supply—All Well Types</b></p> <p><i>This Offer is conditional upon the Buyer determining, at the Buyer's own expense, that:</i></p> <ol style="list-style-type: none"> <li><i>(1) there is an adequate water supply to meet the Buyer's household needs;</i></li> <li><i>(2) the pump and all related equipment serving the property are in proper operating condition; and</i></li> <li><i>(3) the Buyer can obtain a Bacteriological Analysis of Drinking Water from the authority having jurisdiction indicating that there is no significant evidence of bacterial contamination.</i></li> </ol> <p><i>Unless the Buyer gives notice in writing delivered to the Seller personally or in accordance with any other provisions for the delivery of notice in this Agreement of Purchase and Sale or any Schedule thereto not later than ____ p.m. on the ____ day of _____, 20____ that these conditions have been fulfilled, this Offer shall become null and void and the deposit shall be returned to the Buyer in full without deduction. These conditions are included for the benefit of the Buyer and may be waived at the Buyer's sole option by notice in writing to the Seller as aforesaid within the time period stated herein. The Seller agrees to allow access to the subject property to the Buyer or the Buyer's agent for the purpose of satisfying this condition.</i></p>

**IMPORTANT:** The following note is included in the *Guidelines for Residential & Commercial Clauses* (OREA, 2009):

*Sale of Property with a well and/or septic system involves specific knowledge of the system. There is a difference in a well's performance depending on many variables; e.g. the amount of available water, the delivery capacity of the well system, the amount of water that can be delivered over a certain period of time and seasonable variables. The type of well, drilled, bored or dug, can also affect performance. Expert advice should be sought.*

## Sewage (Septic) System

Sewage systems may be outdated, inadequate to handle current demands or otherwise not operating properly (e.g., due to poor drainage). New septic tank installations fall under the Ontario Building Code. An approval certificate is required (Certificate of Installation and Approval) and an appropriate permit issued before the system can be operated. This applies both in the case of new structures as well as additions. A buyer should insist on seeing this documentation. With older cottages, no paperwork may exist.

Buyers should be aware that cottages were frequently built as seasonal residences, but then were expanded and modernized. For example, the septic system might have been originally built for one kitchen, one bath and two bedrooms, but a much larger winterized home now boasts three bathrooms, three bedrooms and a guest cottage—all reliant on that original system. Installation of a new sewage system may be required. The size of the system is determined by the total fixtures within the cottage, total finished area and number of bedrooms.

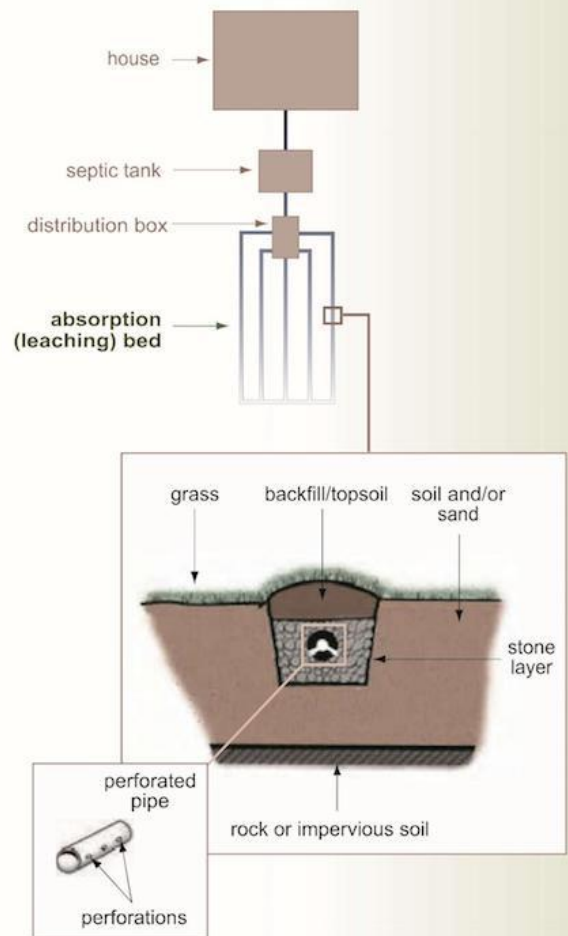
Most septic problems involve the absorption (leaching) bed. Specifics regarding waste disposal systems were addressed in *Land, Structures and Real Estate Trading*, but special emphasis should be focused on raised absorption beds, as often a raised bed is needed given rocky locations, inadequate drainage or poor percolation due to soil conditions often found in northern recreational areas.

### RAISED ABSORPTION BED

A raised absorption bed is constructed on or above the existing terrain as part of a sewage system using approved, imported soil and/or special filters. Given special absorption qualities of approved filter sand, the overall leaching bed size is reduced in comparison to conventional leaching beds used with a sewage system. Clearances from adjacent wells and structures are increased by an amount equal to two units horizontal for each unit vertical height of the surface of the leaching bed above natural grade. For example, if the clearance to a well was 15 metres for a standard leaching bed, a raised absorption bed might require a minimum clearance of 30 metres or more.

Raised absorption beds are frequently encountered where there is a lack of soil depth to accommodate a standard leaching system, such as in rocky terrain typical in many northern recreational areas. Raised absorption beds have a life expectancy of between 25 and 35 years, as is the case with standard leaching beds, however, this can vary depending on circumstances.

Details are provided for education purposes only. Contact the building department of the local municipality for guidance. Information can be obtained concerning installation requirements and minimum distribution pipe clearances from structures, property lines, wells and other water sources such as a lake, river, pond, stream or reservoir. Information is also available at local health units.



## DRAFTING CLAUSES

SCENARIO	CLAUSE
<p><b>Condition Regarding Sewage System</b></p> <p>A buyer is submitting an offer on a cottage and wants to ensure that the sewage system meets all requirements and is in good working order.</p>	<p><b>SEWER/WATER-1      Condition—Sewage Systems—Approvals</b></p> <p><i>This Offer is conditional upon the Buyer determining, at the Buyer's own expense, that at the time of installation:</i></p> <ol style="list-style-type: none"> <li><i>(1) all sewage systems serving the property are wholly within the setback requirements of the said property and had received all required Certificates of Installation and Approval pursuant to the Environmental Protection Act;</i></li> <li><i>(2) all sewage systems serving the property had been constructed in accordance with the said Certificates of Installation and Approval;</i></li> <li><i>(3) all sewage systems serving the property had received all required use permits under the said Act or any other legislation; and further, that on inspection, the septic bed is in good working order.</i></li> </ol> <p><i>The Buyer shall be allowed to retain at the Buyer's own expense, a professional in the septic business to make an examination of the septic system.</i></p> <p><i>Seller agrees to allow access to the property for the purposes of a septic inspection and agrees to allow the Buyer to request information as outlined above from the appropriate authorities having jurisdiction.</i></p> <p><i>Unless the Buyer gives notice in writing delivered to the Seller personally or in accordance with any other provisions for the delivery of notice in this Agreement of Purchase and Sale or any Schedule thereto not later than _____ p.m. on the _____ day of _____, 20____, that these conditions have been fulfilled, this Offer shall become null and void and the deposit shall be returned to the Buyer in full without deduction. These conditions are included for the benefit of the Buyer and may be waived at the Buyer's sole option by notice in writing to the Seller as aforesaid within the time period stated herein.</i></p>

An additional warranty from the seller regarding working order should also be added to the agreement of purchase and sale.

CLAUSE	
<p><b>SEWER/WATER-4</b></p>	<p><b>Sewage System—Good Working Order—Warranty</b></p> <p><i>The Seller represents and warrants, to the best of the Seller's knowledge and belief, that, during the Seller's occupancy of the building, the sewage system has been and will be in good working order on closing. The Parties agree that this representation and warranty shall survive and not merge on completion of this transaction, but apply only to the state of the property existing at completion of this transaction.</i></p>

## WATERFRONT IMPROVEMENTS



Waterfront cottage owners may have constructed boat houses, docks or other improvements on the bed of a lake or river that is not owned. An overview of relevant legislation is necessary to fully understand this issue,

### Public Lands Act

Public lands, pursuant to the *Public Lands Act*, are administered by the Ministry of Natural Resources and Forestry (MNR) and involve the management and disposition of public lands and forests. The Act and Regulations set out requirements for issuance of work permits regarding public lands, sale or lease of such lands, roads on public lands, alterations affecting these lands and the construction of dams or other water-related improvements.

Real estate registrants most frequently encounter public lands and the MNR in relation to work permits and shoreline ownership issues. The Act provides that no person shall, without a permit, carry on logging, mineral exploration or industrial operations on public lands, construct or place a building, structure or thing on public lands, clear or cause to be cleared any public lands, dredge or cause to be dredged any shore lands and fill or cause to be filled any shore lands. Shore lands, for purposes of the Act, refer to public or private lands covered by the waters of a lake, river, stream or pond and include adjacent lands that are seasonally inundated by water.

Registrants are reminded that waterfront properties may also fall under both provincial and federal jurisdictions; e.g., federally-controlled canals/waterways such as the Rideau or Trent-Severn systems. Further, such properties will be subject to zoning provisions relating to their waterfront location (e.g., setbacks) and possibly flood plan restrictions imposed locally by the conservation authority.



#### WEB LINKS

**Ministry of Natural Resources and Forestry** Go to the Ministry of Natural Resources and Forestry website ([www.mnr.gov.on.ca](http://www.mnr.gov.on.ca)) for detailed information regarding the administration of public lands and requirements specifically focused on cottages.

### Boathouses/Docks

The construction of boathouses/docks can impact both shoreline waters and fish habitat. Permits for construction of these structures fall to the Ministry of Natural Resources and Forestry, as such structures are normally built on public lands as defined under the *Public Lands Act*; i.e., lands that fall below the high water mark for most water bodies in Ontario. As mentioned above, if a property fronts on the Rideau or Trent-Severn Waterway, in-water or shoreline works must also be approved by federal authorities. Currently, the appropriate federal contact is the Department of Canadian Heritage, Parks Canada. Zoning provisions will also apply regarding location and size of the structure, along with appropriate approval by the relevant municipality. See subsequent discussion in this chapter.

**Work Permit** The requirement for a work permit from the Ministry of Natural Resources and Forestry will depend on the type of work being completed. Buyers and sellers should contact the MNR for guidance and specifics regarding permits. The following is provided as a general discussion for education purposes only. All matters concerning permits must be directed to the Ministry.

PERMIT NOT REQUIRED	PERMIT REQUIRED
<p>Docks and boathouses DO NOT normally need a work permit for the following:</p> <ul style="list-style-type: none"> <li>• Cantilever docks where the footings are located off the shore lands.</li> <li>• Floating docks and floating boathouses.</li> <li>• Docks and/or boathouses supported by posts, stilts, poles, cribs or other supporting structure—provided that the area of the supporting structure on the bed of the lake or river does not exceed 15 square metres.</li> <li>• Boat lifts and marine railways where the occupied area of the bed of the water body is less than 15 square metres.</li> <li>• Removal of an old dock or boathouse.</li> </ul>	<p>Docks and boathouses that DO require a work permit:</p> <ul style="list-style-type: none"> <li>• Any docks and/or boathouses where the total surface area of cribs, or other supporting structures, to be constructed or placed on the bed of the water body exceeds 15 square metres.</li> </ul>

Shore lands are defined in regulation as *lands covered or seasonally inundated by the water of a lake, river, stream or pond*. All docks and boathouses must be located directly in front of the applicant's property and must not interfere with his or her neighbours' use or enjoyment of their property. *Reminder:* Municipal zoning and related requirements still apply.

#### **TWO-STOREY OR SINGLE-STOREY BOATHOUSE WITH LIVING ACCOMMODATION**

Land use occupational authority is required under the *Public Lands Act*. Property owners considering boathouses or docks should contact the ministry for detailed information and current regulations. Individuals contemplating such projects are also reminded that the federal *Fisheries Act* provides for the protection of fish habitat. Violations can involve substantial fines. The MNR provides a range of guidelines to assist and to better ensure that boathouse/dock projects minimize environmental harm.

Registrants are also reminded that most alterations/additions to such structures must comply with municipal regulations (e.g., the Ontario Building Code and building/property restrictions found in zoning by-laws).

#### **Boathouse Lease Program**

#### **CAUTION**

In 2006, the Ministry of Natural Resources and Forestry reinstated its boathouse lease program and demanded rent for boathouses that are situated on public lands. The Ministry requires that the property owner enter into a lease agreement to confirm the lease arrangements and fees payable. The MNR also requires that the owner pay for registering the lease on title and associated legal costs. The Ministry is particularly focusing its attention on boathouses with a second storey and/or having living accommodation.

## DRAFTING CLAUSES

SCENARIO	CLAUSE	
<p><b>Condition Regarding Boat House or Dock</b></p> <p>A buyer wants to purchase a cottage with an existing boathouse. Accordingly, she submits an offer with the following clause to ensure that the boat-house has received all necessary approvals and permits.</p>	DOCKS-1	<p><b>Condition—Docks/Boathouses</b></p> <p><i>This Offer is conditional upon the Buyer determining, at the Buyer's own expense, that the [boathouse, dock, pier, etc.], used in conjunction with the property, and passing to the Buyer on completion, [has/have] received all necessary approvals and permits from the Ministry of Natural Resources, the Federal Government under the Navigable Waters Protection Act, Canada, from [insert appropriate conservation or canal authority as required], and from all other relevant authorities. Unless the Buyer gives notice in writing delivered to the Seller personally or in accordance with any other provisions for the delivery of notice in this Agreement of Purchase and Sale or any Schedule thereto not later than ____ p.m. on the _____ day of _____, 20____, that this condition has been fulfilled, this Offer shall become null and void and the deposit shall be returned to the Buyer in full without deduction. This condition is included for the benefit of the Buyer and may be waived at the Buyer's sole option by notice in writing to the Seller as aforesaid within the time period stated herein.</i></p>

## Dredging and Related Activities

Dredging is broadly classified as any activity that involves the removal or displacement of material from a lake, river or stream bed. As mentioned previously, the beds of most bodies of water are legally public land and fall under the *Public Lands Act*. The following is provided as a general educational discussion only. All matters concerning permits must be directed to the Ministry of Natural Resources and Forestry.

PERMIT NOT REQUIRED	PERMIT REQUIRED
<ul style="list-style-type: none"> <li>• Installation of a cable, water line or heat loop for private use; e.g., a single cottage or residence.</li> <li>• Submarine cables where laid on a lake or river bottom.</li> </ul>	<ul style="list-style-type: none"> <li>• Boat channels or swimming areas.</li> <li>• Installation of a cable, water line or heat loop for commercial purposes; e.g., a marina or large scale development.</li> <li>• Removal of rocks/boulders from shorelands or the bottom of lakes/streams to fill a crib or create a beach.</li> </ul>

Individuals contemplating dredging should contact the Ministry of Natural Resources and Forestry for detailed information, current regulations and permit applications. The MNR may need to visit the site and, accordingly, adequate time should be allowed for the application process. Local conservation authorities may also be involved in the approval process if projects fall within regulated areas.

Individuals contemplating dredging should also be reminded that the federal *Fisheries Act* provides for the protection of fish habitat. The MNR provides a range of guidelines to assist in that regard and to better ensure that a dredging project minimizes harm to fish habitat. The quantity of material to be removed, the maintenance of bankside and shoreline vegetation, the protection of aquatic plants and the disposal of dredged materials are all taken into consideration when reviewing dredging proposals.

## Summary: When a Work Permit is Required

The following is reprinted from the Ministry of Natural Resources and Forestry website as further clarification on work permits.

### WORK PERMITS

A work permit is required to:

- fill shore lands such as creating a beach and constructing shoreline protection works (e.g. break wall, groyne, seawall);
- dredge shore lands such as:
  - creating a boat slip, boating channel or swimming area;
  - installing a water line, heat loop or cable for commercial use (i.e. marina, resort or large scale development); and
  - removal of rocks/boulders from shore lands or the bottom of a lake or stream;
- construct a dock or boathouse where the total surface area of the supporting structure (e.g. pipes, cribs) placed on the bed of the water body exceeds 15 square metres;
- construct a building on public land;
- construct a road on public land, except where constructed under the authority of the *Crown Forest Sustainability Act*;
- construct a trail on public land, except where constructed under the authority of the *Crown Forest Sustainability Act* or for purpose of mineral exploration;
- construct a water crossing (e.g. bridge, culvert and causeway) on public land, except where constructed under the authority of the *Crown Forest Sustainability Act*; and remove aquatic vegetation.

Some types of activities do not require a work permit including:

- minor road maintenance on public land;
- cantilever docks where the footings are located off the shore lands;
- floating docks and floating boathouses;
- docks or boathouses where the total surface area of the supporting structure (e.g. pipes, cribs) placed on the bed of the water body is less than 15 square metres;
- removal of an old dock or boathouse;
- ice fishing huts; and
- installation of a water line, submarine cable or heat loop for private use.

For detailed information on the Ministry's requirements for work permits, please refer to *Policy PL 3.03.04—Public Lands Act Work Permits* (Section 14).

If in doubt about whether a work permit is required or not—applicants are encouraged to contact their local Ministry of Natural Resources and Forestry office well in advance and make an appointment to speak with a Ministry staff person.

Please note that while some boathouses or floating docks may not require a work permit, they may require permission for occupational authority (e.g. land use permit, lease) from the Ministry because they are located on Crown lake bed, or they may need to be reviewed by Transport Canada for potential impacts on navigation. Public Lands Act work permit approvals do not apply to federal waterbodies such as the Trent-Severn and Rideau Canal waterways. For further information on approval requirements for these waterbodies, please contact:

**Trent-Severn Waterway Office**  
 P.O. Box 567  
 2155 Ashburnham Drive  
 Peterborough Ontario K9J 626  
 705-755-4900

**Rideau Canal Waterway Office**  
 34A Beckwith Street  
 Smith Falls Ontario K7A 2B3  
 613-283-5170