

Risk Management Office

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Drinking Water Source Protection – Section 59 Screening Protocol

June 21, 2016

Saugeen, Grey Sauble, Northern Bruce Peninsula Region Source Protection Plan;
Planning Act and Building Code Act Application Screening Protocol

Attention:	Municipality of Arran-Elderslie	Municipal Clerk, Chief Building Official
	Town of the Blue Mountains	Municipal Clerk, Chief Building Official
	Municipality of Brockton	Municipal Clerk, Chief Building Official
	Township of Chatsworth	Municipal Clerk, Chief Building Official
	Township of Georgian Bluffs	Municipal Clerk, Chief Building Official
	Municipality of Grey Highlands	Municipal Clerk, Chief Building Official
	Municipality of Kincardine	Municipal Clerk, Chief Building Official
	Municipality of Meaford	Municipal Clerk, Chief Building Official
	Town of Saugeen Shores	Municipal Clerk, Chief Building Official
	Municipality of South Bruce	Municipal Clerk, Chief Building Official
	Town of South Bruce Peninsula	Municipal Clerk, Chief Building Official
	Municipality of West Grey	Municipal Clerk, Chief Building Official

Purpose

This protocol is written to support the delivery of Risk Management Office services on behalf of partner municipalities. Further to the Source Protection Plan Part IV Enforcement Transfer Agreement, this direction is to be considered as a protocol for the circulation of certain applications to the Risk Management Officials as per section 3.2 of the Agreement.

The intent of this protocol is to provide clear direction regarding the *Planning Act*, *Condominium Act* and applications under the *Building Code Act* to determine if the proposed activities are subject to Section 57 (Prohibition) or Section 58 (Risk Management Plan) policies. This protocol applies to the Municipality of Arran-Elderslie, Municipality of Brockton, Township of Chatsworth, Township of Georgian Bluffs, Municipality of Grey Highlands, Municipality of Kincardine, Municipality of Meaford, Town of Saugeen Shores, Municipality of South Bruce, Town of South Bruce Peninsula, Town of the Blue Mountains, and Municipality of West Grey.

Background

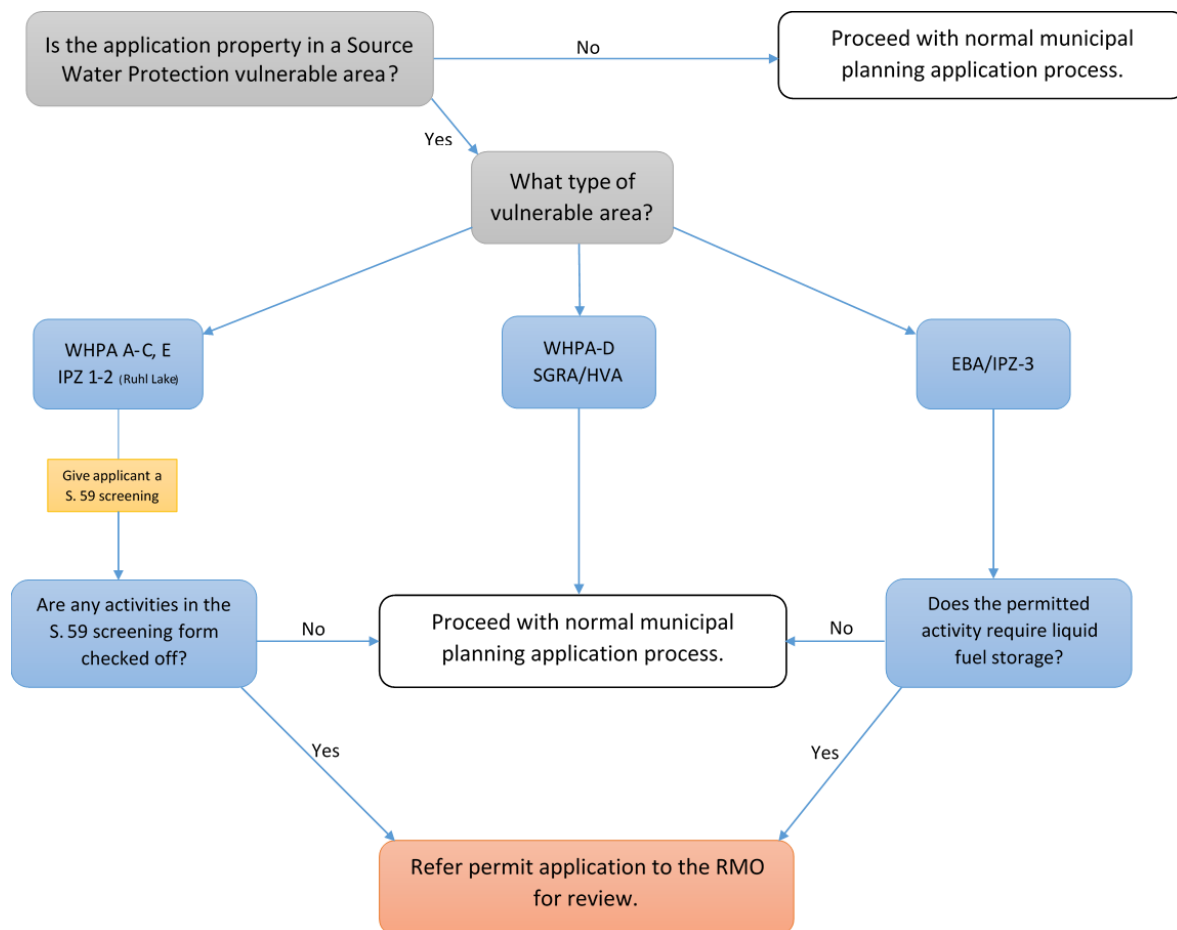
Section 59 of the *Clean Water Act* (restricted land use policies) is intended to serve as a 'red flag' so that building permit and Planning Act applications can be reviewed in areas where Section 57 (Prohibition) and Section 58 (Risk Management Plans) requirements are in effect for vulnerable areas.

The vulnerable areas, as delineated in the Source Protection Plan, identify the locations where restricted land use activities may apply. Restricted Land Use Policies G-01– Non-residential, G-02– Residential, and G-03 – Non-residential for Fuel Near Intakes specify the types of activities designated as restricted land uses for the purpose of Section 59 (See Appendix B).

A Notice to proceed is required from a Risk Management Official before an application or approval under the *Planning Act* can proceed or a building permit issued (See Appendix A for excerpt of Section 59 of the *Clean Water Act*).

Protocol

The following flow chart outlines the Section 59 screening protocol:



Description of Application Screening Process

Step 1: Determine if the property parcel is located in a vulnerable area as identified under the Source Protection Plan.

- If the property parcel is not located in a vulnerable area, no circulation to the Risk Management Official is required
- If the property parcel is located in the vulnerable area, proceed to Step 2

Step 2: Determine the current land use of the subject property parcel using the existing Official Plan and Zoning By-law.

- If the property parcel is zoned residential, refer to Policy G-02 / Screening Form to determine if any of the activities listed apply
- If the property parcel is zoned non-residential, refer to Policies G-01 and G-03 / Screening Form to determine if any of the activities listed apply
- **If any activities noted above are associated with the application, then circulate the application to the Risk Management Official (RMO)**

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Step 3: Risk Management Official reviews application.

- **The Risk Management Official reviews the application and determines if other Source Protection Plan policies that utilize prohibition under Section 57 or Risk Management Plans under Section 58 of the *Clean Water Act* apply**
- Risk Management Official will issue a Section 59(a) Notice if other policies apply or a Section 59(b) Notice if not. Best efforts will be made to issue the Notice within 5 business days, pending sufficient information to make a decision
- If a Risk Management Plan under Section 58 applies to the activity, it must be agreed to or established with the Risk Management Official prior to issuance of a notice to proceed

APPENDIX A: Section 59 – Clean Water Act

Restricted land uses

59. (1) If a source protection plan that is in effect designates a land use as a land use to which this section should apply and an area within which this section should apply,

(a) a person shall not make an application under a provision of the *Planning Act* prescribed by the regulations for the purpose of using land for that land use at any location within that area; and

(b) despite section 58, a person shall not construct or change the use of a building at any location within that area, if the building will be used in connection with that land use,

unless the risk management official issues a notice to the person under subsection (2). 2006, c. 22, s. 59 (1).

Issuance of notice

(2) The risk management official shall, on application, issue a notice to a person for the purpose of subsection (1) if, and only if, the applicant has paid all applicable fees and,

(a) neither section 57 nor section 58 applies to the activity for which the land is to be used at the location where the land is to be used; or

(b) section 58 applies to the activity for which the land is to be used at the location where the land is to be used and a risk management plan that applies to that activity at that location has been agreed to or established under section 56 or 58. 2006, c. 22, s. 59 (2).

Time for application

(3) If section 58 applies to the activity for which the land is to be used at the location where the land is to be used, an application for the issuance of a notice under subsection (2) may be made at the same time that an application is made in respect of the activity under section 58 or 60. 2006, c. 22, s. 59 (3).

Copies

(4) If a risk management official issues a notice under subsection (2), he or she shall give a copy of the notice to the persons prescribed by the regulations. 2006, c. 22, s. 59 (4).

Definitions

(5) In this section,

“building” has the same meaning as in the *Building Code Act, 1992*; (“bâtiment”)

“construct” has the same meaning as in the *Building Code Act, 1992*. (“construire”) 2006, c. 22, s. 59 (5).

APPENDIX B – Restricted Land Use Policies

POLICY TEXT ID	POLICY TEXT
<p>G-01</p>	<p>Restricted Land Use – Non-residential</p> <p>The policy applies to the following activities in all vulnerable areas where the activity is or would be a significant drinking water threat (existing activity or future activity):</p> <ol style="list-style-type: none"> 1. The Establishment, Operation or Maintenance of a Waste Disposal Site Within the Meaning of Part V of the Environmental Protection Act 2. The application of agricultural source material to land; 3. The storage of agricultural source material; 4. The application of non-agricultural source material to land; 5. The handling and storage of non-agricultural source material; 6. The application of commercial fertilizer to land; 7. The handling and storage of commercial fertilizer; 8. The application of pesticide to land; 9. The handling and storage of pesticide; 10. The application of road salt; 11. The handling and storage of road salt; 12. The storage of snow; 13. The handling and storage of fuel; 14. The handling and storage of a dense non-aqueous phase liquid (DNAPL); 15. The handling and storage of an organic solvent; 16. The management of runoff that contains chemicals used in the de-icing of aircraft; 17. An activity that takes water from an aquifer or surface water body without returning the water taken to the same aquifer or surface water body; 18. An activity that reduces the recharge of an aquifer; 19. The use of land as livestock grazing or pasturing land, an outdoor confinement area or a farm-animal yard. <p>All non-residential land use designations and zones described in a municipal official plan and zoning by-law, as amended from time to time, are designated as restricted land uses for the purpose of s. 59 of the <i>Clean Water Act</i>.</p> <p>For clarity, the activities identified above are those which are the subject of other source protection plan policies that utilize prohibition under s. 57 of the <i>Clean Water Act</i> or utilize Risk Management Plans under s. 58 of the <i>Clean Water Act</i>.</p> <p>The policy takes effect on the effective date of the Source Protection Plan.</p>
<p>G-02</p>	<p>Restricted Land Use – Residential</p> <p>The policy applies to the following activities in all vulnerable areas where the activity is or would be a significant drinking water threat (existing activity or future activity):</p> <ol style="list-style-type: none"> 1. The handling and storage of fuel; 2. The handling and storage of a dense non-aqueous phase liquid (DNAPL); 3. The handling and storage of an organic solvent 4. An activity that takes water from an aquifer or surface water body without returning the water taken to the same aquifer or surface water body;

POLICY TEXT ID	POLICY TEXT
	<p>5. An activity that reduces the recharge of an aquifer.</p> <p>All residential land use designations and zones described in a municipal official plan and zoning by-law, as amended from time to time, are designated as restricted land uses for the purpose of s. 59 of the <i>Clean Water Act</i>.</p> <p>For clarity, the activities identified above are those which are the subject of other source protection plan policies that utilize prohibition under s. 57 of the <i>Clean Water Act</i> or utilize Risk Management Plans under s. 58 of the <i>Clean Water Act</i>.</p> <p>The policy takes effect on the effective date of the Source Protection Plan.</p>
G-03	<p>Restricted Land Use – Non-Residential for Fuel Near Intakes</p> <p>The policy applies to the following activities in all Events-based Areas where the activity is or would be a significant drinking water threat (existing activity or future activity):</p> <ol style="list-style-type: none"> 1. The handling and storage of fuel. <p>All non-residential land use designations and zones described in a municipal official plan and zoning by-law, as amended from time to time, are designated as restricted land uses for the purpose of s. 59 of the <i>Clean Water Act</i>.</p> <p>For clarity, the activities identified above are those which are the subject of other source protection plan policies that utilize prohibition under s. 57 of the <i>Clean Water Act</i> or utilize Risk Management Plans under s. 58 of the <i>Clean Water Act</i>.</p> <p>The policy takes effect on the effective date of the Source Protection Plan.</p>