

Risk Management Office

Ausable Bayfield Conservation Authority

abca.ca/watersourceprotection/riskmanagement/

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Drinking Water Source Protection - Screening Protocol for Section 59 Notice

For Municipal Planning and Building Staff from the following Municipalities/Townships: ACW; Bluewater; Central Huron; Huron East; Huron-Kinloss; Morris-Turnberry; North Huron; North Perth; plus relevant Counties

This protocol supports the delivery of Risk Management services related to source water protection, as provided by Ausable Bayfield Conservation Authority (ABCA) on behalf of partner municipalities. The intent is to provide direction regarding applications under the Planning Act, Condominium Act and the Building Code Act, to determine if:

- a Notice under section 59 of the Clean Water Act is required, as part of a complete Application;
- the proposed activity/land use is a potential threats to drinking water (See Appendix A for list of threats);
- the activity is subject to Section 57 (Prohibition) or Section 58 (Risk Management Plan) policies.

Background

Section 59 of the *Clean Water Act* (CWA) is intended to serve as a '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. A s.59 Notice is required from a Risk Management Official (**RMO**) before an application or approval under the Planning Act can proceed or a building permit issued. See Appendix B for the s.59 SPP Policy.

Applicable Vulnerable Areas:

- Wellhead protection areas, Zones A, B and C (WHPA-A, WHPA-B, WHPA-C), and
- Event based area (EBA) - Huron-Kinloss only

Protocol

The attached flow chart outlines the Section 59 Notice screening process.

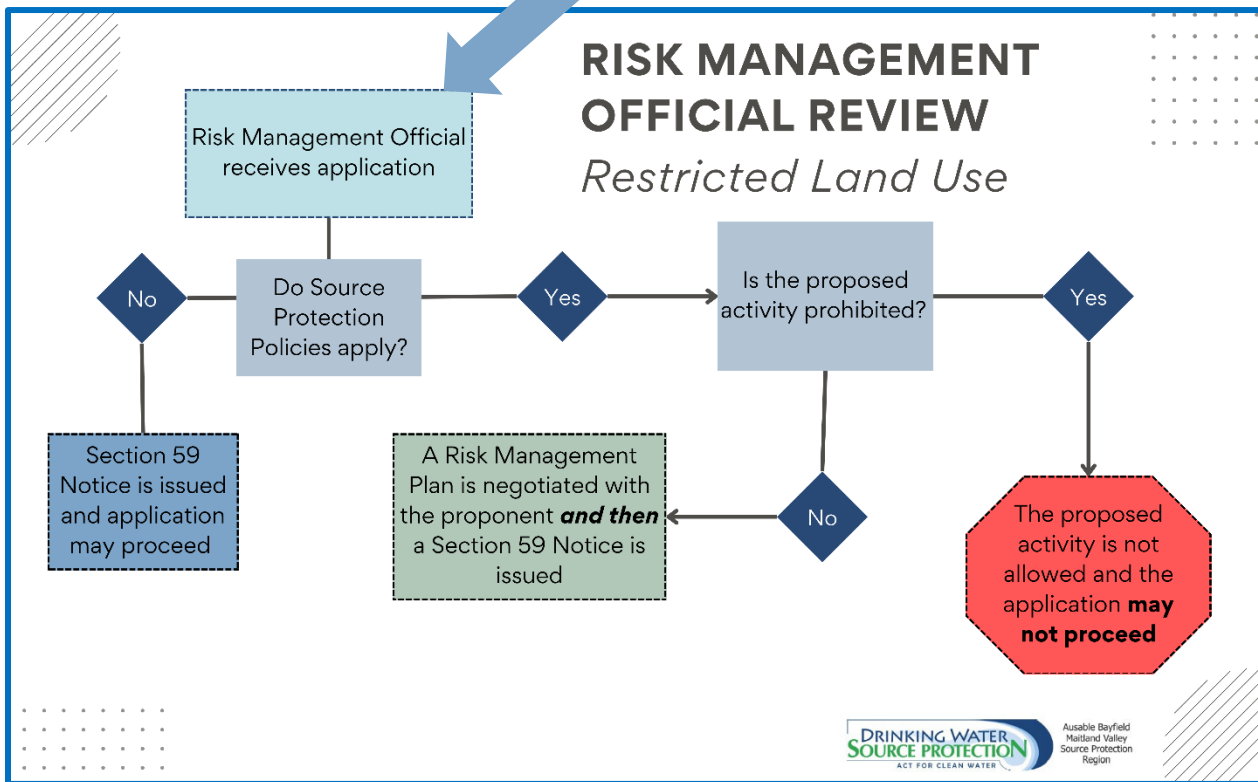
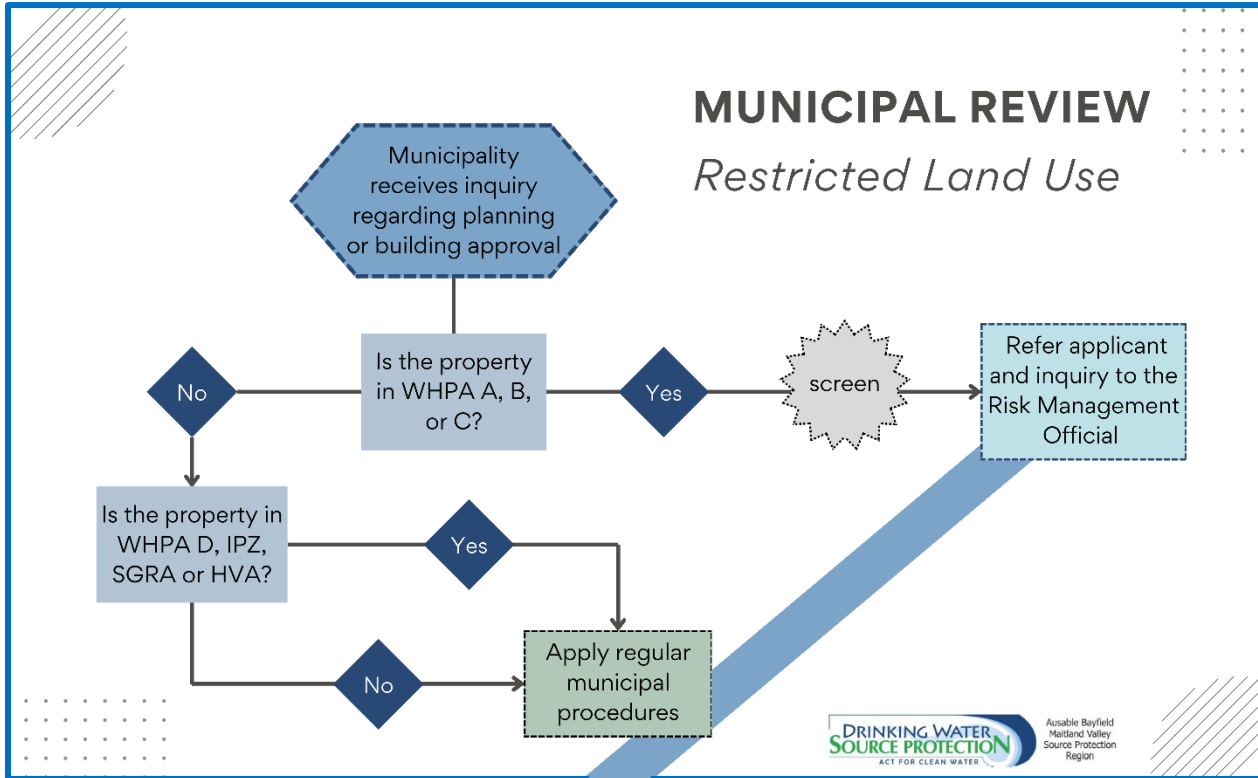
1. Proponent contacts the municipality regarding a planning approval or building permit
2. Is the proposal within zones A, B or C of the wellhead protection area (WHPA A, B & C)
 - If the property is NOT in WHPA-A,B or C, circulation to the Risk Management Official (RMO) is NOT required. Proceed with normal municipal application process

- If the property is in WHPA-A,B or C, the RMO may need to issue a s59 Notice. See Table 1 below for list of applications that do NOT require RMO review for the s.59 Notice. Proceed to Step 3. *
3. Have the proponent fill out the Restricted Land Use Screening Form and submit to the Risk Management Official (**RMO**) at Ausable Bayfield Conservation Authority, or direct them to the RMO at rmo@abca.ca. The screening form is intended to identify ‘threat’ activities. See Appendix A for list of threat activities.
 4. The RMO will review the screening form and determine if Prohibition or Risk Management Plan (RMP) policies apply:
 - If neither Prohibition nor RMP applies, RMO will issue the s59 (a) Notice to the proponent and copy the municipality.
 - If RMP is required, the RMO will issue the s59 (b) Notice to proceed **upon RMP completion**
 - If the activity is prohibited, the application cannot proceed.

*Table 1: Examples of applications that do **NOT** require RMO review. If unsure, contact the RMO.

	Plumbing permits not related to septic system
	Septic systems outside WHPA-A and B with vulnerability score of 10
	Decks, porches, balcony railings
	Swimming pools (including fences)
	Life safety permits (i.e. fire alarms) or accessibility upgrades
	Structural beams, roof repairs and covers not associated with waste, chemical, fuel, nutrients (fertilizer and manure), pesticides storage or livestock
	Sign permits
	Residential garages and sheds, with no handling or storage of chemicals /fuel (if uncertain, send application to RMO)
	Residential minor renovations
	Tent permits
	Demolition Permits
	Minor variance or Zoning for solely residential use

Flow Chart



Appendix A

Prescribed drinking water threats, per Clean Water Act (CWA) O. Reg 287/07

1. The establishment, operation or maintenance of a waste disposal site within the meaning of Part V of the Environmental Protection Act.
2. The establishment, operation or maintenance of a system that collects, stores, transmits, treats or disposes of sewage.
3. The application of agricultural source material to land.
4. The storage of agricultural source material.
5. The management of agricultural source material.
6. The application of non-agricultural source material to land.
7. The handling and storage of non-agricultural source material.
8. The application of commercial fertilizer to land.
9. The handling and storage of commercial fertilizer.
10. The application of pesticide to land.
11. The handling and storage of pesticide.
12. The application of road salt.
13. The handling and storage of road salt.
14. The storage of snow.
15. The handling and storage of fuel.
16. The handling and storage of a dense non-aqueous phase liquid.
17. The handling and storage of an organic solvent.
18. The management of runoff that contains chemicals used in the de-icing of aircraft.
19. An activity that takes water from an aquifer or a surface water body without returning the water taken to the same aquifer or surface water body.
20. An activity that reduces the recharge of an aquifer.
21. The use of land as livestock grazing or pasturing land, an outdoor confinement area or a farm-animal yard.
22. The establishment and operation of a liquid hydrocarbon pipeline.

Appendix B

Section 59 'Restricted Land Use' Policy;

Ausable Bayfield and Maitland Valley Source Protection Plans (SPP); Effective Date - April 1st, 2015

Note: Part IV powers of the Ontario Clean Water Act include the following:

- Section 57 – Prohibition
- Section 58- Risk Management Plan
- Section 59 – Restricted Land Use

Source Protection Plan Policy P.12.1 – Section 59 Restricted Land Use Policy:

In accordance with Section 59(1) of the Clean Water Act, all land uses set out within the official plans or zoning by-laws for the municipalities where this Source Protection Plan is in effect, are designated as restricted land uses in all areas where designated threats are or would be significant. In effect, a person shall not construct or change the use of a building in any location, or make an application under the Planning Act or Condominium Act where Section 57 (Prohibition) or Section 58 (Risk Management Plan) applies unless the risk management official issues a notice under s. 59 to the person.

Despite the above policy, a **Risk Management Official may issue written direction specifying the circumstances under which a planning authority or building official may be permitted to make the determination that a site specific land use is not designated for the purposes of Section 59.** Where such direction has been issued, a site-specific land use that is the subject of an application for approval under the Planning Act or Condominium Act, or for a permit under the Building Code Act, is not designated for the purposes of Section 59, provided that the planning authority or building official, as the case may be, is satisfied that:

- The application complies with the circumstances specified in the written direction from the Risk Management Official; and
- The applicant has demonstrated that a significant drinking water threat activity designated for the purposes of Section 57 or 58 will not be engaged in, or will not be affected by the application.