

STAFF REPORT: Planning & Building Services Department



REPORT TO: Planning & Building Services
Committee
MEETING DATE: December 5, 2011
REPORT NO.: PL.11.140
SUBJECT: Source Water Protection
PREPARED BY: Cindy Welsh, MCIP, RPP
Senior Policy Planner

A. Recommendations

THAT Council does hereby receive Planning Staff Report PL.11.140, Source Water Protection for information purposes.

B. Background

The South Georgian Bay Lake Simcoe Source Protection Region and the Saugeen, Grey Sauble, Northern Bruce Peninsula Source Protection Region have released their preliminary Source Protection Plan Policies for preconsultation with area municipalities. The Town of The Blue Mountains is located within both of these Source Protection Regions. On November 3, 2011, David Finbow, Director, Planning and Building Services and Cindy Welsh, Senior Policy Planner, attended the preconsultation for the South Georgian Bay Lake Simcoe Source Protection Region in Midhurst. Preconsultation for the Saugeen, Grey Sauble, Northern Bruce Peninsula Source Protection Region will occur on December 7, 2011, in Flesherton. Staff from Planning and Building Services will attend this meeting.

The *Clean Water Act*, 2006, came into effect in July 2007 and requires Source Protection Plans to be developed for Source Protection Areas in Ontario. The Source Protection Plans must be submitted to the Minister of the Environment (MOE) by August 2012. Both Source Protection Regions have developed preliminary policies that are the primary focus of their preconsultation period. Comments on the policies distributed as part of the preconsultation package need to be submitted on or before January 13, 2012.

Source Protection Plans outline the steps that need to be taken to keep water clean before it enters rivers, lakes and groundwater systems. Implementation of Source Protection Plans will require a collaborative approach involving municipalities, the Province, Conservation Authorities, landowners, industries and others. These plans are proposing steps to reduce the risks to sources of drinking water.

As part of the development of the Source Protection Plans, *Clean Water Act* regulations require that the Source Protection Committees contact any agencies that are being considered as a potential implementing body in a Source Protection Plan policy. Municipalities are included as agencies who may be involved in implementing Source Protection Plan policies.

The South Georgian Bay Lake Simcoe Source Protection Region has posted the following three documents on their Web site. The link to each is provided:

DRAFT Source Protection Plan -

http://www.ourwatershed.ca/documents/source_protection_plan.php

DRAFT Explanatory Document –

http://www.ourwatershed.ca/assets/downloads/spp/explanatory_document_draft_pre_consultation.pdf

Policy Tool and Implementing Body Summary Table-

http://www.ourwatershed.ca/assets/downloads/spp/summary_table_for_pre_consultation.pdf

Planning – Land Use Considerations

The Source Protection Plans consider a range of policy tools which are used to address activities. These policy tools are typically related to land use considerations that could fall under the *Planning Act* and *Condominium Act*. These policies may manage or eliminate (through prohibiting it from being established) a threat activity through a policy that is implemented through land use planning decisions (such as Official Plans, Zoning By-laws and Site Plan Controls).

The Source Protection Plans and the policies contained within them, once approved by the Minister of the Environment, will have legal effect in the Province. The requirements of the implementing bodies named in each policy vary according to the degree of threat the policy is addressing. It should be noted that provincial appeal bodies, such as the Ontario Municipal Board (OMB), are also bound by the legal effect of the various policies in the plan. There are three levels of legal effect being:

1. Must Conform To

Policies that are written to address significant drinking water threats must be complied with. Implementing bodies including provincial ministries, municipalities, source protection authorities and other agencies named must take the action specified in the policy under the authority provided by the *Clean Water Act*.

2. Have Regard For

Policies that are written to address moderate or low drinking water threats are less stringent than those for significant threats. These policies must be considered when implementing bodies are making decisions relevant to the policy. The decisions made by implementing bodies must be consistent with the intent of the policy.

3. Non Legally Binding

There are policies that are within the scope of Source Protection Plans that are considered recommendations and have no legal requirement.

Upon initial review of the land use planning policies, the majority of them have the legal effect of “must conform to”. Planning staff are still in the initial stages of our review and will report back to Council at the January 9, 2012 meeting.

Ontario Building Code

Private on-site sewage systems (small systems contained on one lot with a daily design flow of 10,000 L/day or less) are subject to the requirements of the Building Code. Recently, the Building Code was amended to require the development and implementation of an on-site sewage system maintenance inspection program.

The on-site sewage system maintenance inspection provisions of the Building Code came into force on January 1, 2011. The effective date for inspections required under the Building Code is dependent on the approval date of the local assessment report. Within mandatory program areas, i.e. vulnerable areas, inspections must be completed within five years of the approval of the assessment report and every five years thereafter. The purpose of the inspection is to determine whether an on-site sewage system is in compliance with the operation and maintenance requirements of the Building Code. At the November 3, 2011 South Georgian Bay Lake Simcoe Source Protection Region preconsultation, Town staff were advised that there will be a mandatory program area related to the Clearview Township Wellhead Protection in the vicinity of Grey Road 19 and Simcoe Road 33 (6th Street Extension).

The Building Code also governs discretionary maintenance inspection programs that principal authorities may establish in non-designated areas. The Town’s Chief Building Official will report back with respect to the administration of mandatory and discretionary inspection programs at a later date.

On-site sewage system maintenance inspections will generally follow a progressive audit approach. This means that initial inspections tend to be non-intrusive tests, but when concerns are identified, a more detailed inspection would be carried out. Where a system is not performing or being maintained as intended, the system may be declared unsafe by definition of the *Building Code Act*. It is noted that financial assistance may be available to owners to upgrade/repair/replace identified problematic systems under the Ontario Stewardship Program.

Under the Building Code, a properly functioning and maintained septic system:

- reduces or eliminates the release of pathogens into soil, groundwater, surface water and air;
- minimizes the risk of malfunction, damage or failure of a sewage system;
- provides adequate treatment of sanitary sewage and effluent; and
- minimizes the risk of injury as a result of contact with sanitary sewage or partially treated effluent.

Both the mandatory and discretionary programs, if it is so determined by Council, will be required to be enforced by the Town under the Building Code. The enforcement of the

maintenance inspection programs are required to be fully funded by the Town with it being noted that under the Building Code, enforcement bodies may charge fees to recover the costs of the inspection programs.

C. The Blue Mountains' Strategic Plan

1. Managing growth to ensure the ongoing health and prosperity of the community.

D. Environmental Impacts

No environmental impacts have been identified at this time.

E. Financial Impact

No financial impacts have been identified at this time.

F. In Consultation With

South Georgian Bay Lake Simcoe Source Protection Region.

Greg Miller, Manager, Building & By-law/CBO, Building & By-law Services, The Blue Mountains.

John Caswell, Water & Wastewater Services Manager, Department of Engineering & Public Works, The Blue Mountains.

G. Attached

1. Nil.

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