



**CORPORATION OF THE TOWN OF ERIN**  
5684 Trafalgar Road (WCR 24)  
RR2, Hillsburgh, ON N0B 1Z0  
(519) 855-4407 Ext. 240 Fax: (519) 855-4281  
EMAIL: [sally.stull@erin.ca](mailto:sally.stull@erin.ca)

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## STAFF REPORT

**File:** Water Connection requirement as a result of Development

**Date:** May 26, 2011

### **Background Report:**

As part of the consideration of the Water Rates and Service By-law the Town of Erin Council requested further information in regard to proposed Section 3 which would require anyone seeking a building permit or development approval to connect to municipal water prior to issuance of a building permit or approval of development if within the urban boundary and where municipal water works is adjacent to the property. Where no municipal water works is adjacent to the property, the building will be serviced by a private well.

### **Proposed:**

#### **Application of Municipal Water Works**

- 3.1 All properties requiring a potable water service within the **urban areas** of the villages of Hillsburgh and Erin shall only be serviced by a municipal water works; where no municipal water works is available adjacent to the property, a private well shall be permitted as a potable water service.
- 3.2 Where municipal water service is provided adjacent to property which requires a potable water source, as a condition of approval of development the owner shall be required to connect to the municipal service, and cease of use of any existing well on the property; the well shall be decommissioned to the satisfaction of the Town of Erin Water Department.

### **Proposed Definitions:**

**"Adjacent"** – For the purposes of Section 3, "Adjacent" means that a property line is within 30 metres of a municipal water main and that the building, which is to be serviced, is within 120 metres from where the municipal water service valve is located.

**"Development"** means any building or site works proposed which would require issuance of a building permit as defined under the Building Code Act; a consent approval, a site plan approval, or approval of a plan of subdivision or condominium as defined by the Planning Act. Mandatory connection to the water

service will not be required as a condition of building permit issuance for the following;

- pool enclosures,
- fences,
- uncovered decks,
- accessory structures of less than 108 ft<sup>2</sup>
- internal renovations not requiring septic system review in accordance with the Ontario Building Code

### Background Policy and Legislation

Municipal water supply systems were created to provide urban areas with safe drinking water where urban density creates potential problems with private well water quality and quantity.

The Town Erin Council passed in 2004 the following as the purpose of the Official Plan;

### **Section 1 Introduction;**

#### **1.2 Purpose**

The purpose of the Official Plan is to provide a municipal statement of intent on how future growth and development will be managed. It does not, by itself, control or regulate the development of land by private or public interests. Rather the principles and policies contained in this Plan are to provide guidance in the consideration of zoning and other by-laws, plans of subdivision or condominium, consents and minor variances, community improvement projects and other matters which relate to land use changes.

The Plan attempts to identify and safeguard the public interest, including important natural resources, cultural resources and economic resources.

The Plan contains goals, objectives and policies to guide the Council, its committees, the public, and review agencies in directing and managing change.

The Plan is to be a flexible policy document and a guide to the physical development of the municipality. It shall form the basis for the preparation of specific land use regulations contained in a zoning by-law.

#### **1.3 Relationship with the County of Wellington Official Plan**

The County of Wellington Official Plan came into effect in May of 1999. The County Official Plan provides a consistent set of planning policies for the entire County. The County Official Plan is an upper tier plan and in accordance with Section 27 of The Planning Act, RSO 1990, any local official plan must conform to the County Official Plan.

The County Official Plan designates three major land use systems - the Greenlands system, the Rural system and the Urban system. The Greenlands system consists of natural heritage features. The Rural system consists of prime and secondary agricultural areas, and the Urban system consists of hamlets and urban centres.

In the Town of Erin, there are two Urban Centres - Erin and Hillsburgh. The remainder of the Town is part of the Greenlands and Rural systems.

The County Plan also provides for local municipalities to rely on the County's planning policies or to develop their own more detailed policies for all or parts of their community. The Town of Erin has chosen to prepare its own local official plan.

It is the intention of the Town to seek amendments to the County Official Plan as needed to implement the detailed policies of this plan.

This Plan must be read in conjunction with the County Official Plan.

## **Town of Erin Official Plan – General Policies**

### **3.6.3 General Policies**

It shall be the policy of the Town of Erin that:

- a) All new development and redevelopment shall be provided with services to the standards required by the Town, including:
  - i) sewage disposal, subject to the policies of subsection 3.6.5;
  - ii) *water supply;*

### **3.6.4 Extension of Services**

The Erin and Hillsburgh Urban Centres have municipal water service systems. New development will be required to connect to the municipal water system, wherever feasible. ***It is the intention of the Town, over time and where practical to provide municipal water service from the Town's central system to all lands within the designated Urban Centres.***

However, the Town recognizes that not all parts of the Urban Centres currently have access to municipal water services. Prior to the extension of additional municipal services to any part of the designated Urban Areas, development may be permitted on individual private services on vacant lots which are in compliance with the provisions of the zoning by-law.

As local municipal services become available along property frontage, adjacent owners may be required to connect them and may be subject to service area charges.

#### 4.11.4 Water Usage and Sewage Disposal

**All industrial uses shall be connected to public water.** All industry shall be of a dry nature, neither discharging large amounts of waste nor consuming large quantities of water. Industries shall be encouraged to recycle their waste water where feasible.

### County of Wellington Official Plan

#### 11.2.4 Urban Centre Policies

The following water and sewage policies apply in urban centres:

- a. **municipal services are the preferred method of servicing in all urban centres and reasonable efforts will be made to provide for municipal services in all urban centres;**
- b. **most Urban Centres have municipal sewer and water services. Development will normally be required to connect to these services;**
- c. **individual on-site servicing is not allowed in urban centres which have municipal services except:**
  - i) to provide for the continued use of lots developed on individual on-site services;
  - ii) to allow a small scale use on an existing lot in an area where municipal services are not reasonably anticipated;
  - iii) to recognize previous development approvals where individual on-site services are still appropriate.
  - iv) municipal services may be extended to all areas identified as urban centres, **but may not be extended beyond the boundaries of the urban centre except to address an identified health issue or to provide services to public service facilities.** This does not prevent the extension of services from one urban area to another urban area such as the sewage system connections between Guelph and Rockwood, or between Drayton and Moorefield. Additionally a Council may approve the extension of services to areas where development existed outside urban boundaries prior to the restructuring of the County on January 1, 1999 if council determines that the health or environmental benefits are significant;

### 11.2.6 Rural System Servicing

The following water and sewage policies apply in the rural system: a) development in ***the rural system is anticipated to be on individual on-site systems*** where soil conditions are suitable over the long term; b) private communal services may be allowed in recreational developments or if specifically allowed in a special policy area subject to the recommendations of a Servicing Options Assessment as set out in Section 11.2.

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## **Ontario Municipal Act**

### SPHERES OF JURISDICTION

#### **Broad authority, lower-tier and upper-tier municipalities**

**11. (1)** A lower-tier municipality and an upper-tier municipality may provide any service or thing that the municipality considers necessary or desirable for the public, subject to the rules set out in subsection (4). 2006, c. 32, Sched. A, s. 8.

#### **By-laws**

**(2)** A lower-tier municipality and an upper-tier municipality may pass by-laws, subject to the rules set out in subsection (4), respecting the following matters:

1. Governance structure of the municipality and its local boards.
2. Accountability and transparency of the municipality and its operations and of its local boards and their operations.
3. Financial management of the municipality and its local boards.
4. Public assets of the municipality acquired for the purpose of exercising its authority under this or any other Act.
5. Economic, social and environmental well-being of the municipality.
6. Health, safety and well-being of persons.
7. Services and things that the municipality is authorized to provide under subsection (1).
8. Protection of persons and property, including consumer protection. 2006, c. 32, Sched. A, s. 8.

#### **By-laws re: matters within spheres of jurisdiction**

**(3)** A lower-tier municipality and an upper-tier municipality may pass by-laws, subject to the rules set out in subsection (4), respecting matters within the following spheres of jurisdiction:

1. Highways, including parking and traffic on highways.

2. Transportation systems, other than highways.
3. Waste management.
4. Public utilities.
5. Culture, parks, recreation and heritage.
6. Drainage and flood control, except storm sewers.
7. Structures, including fences and signs.
8. Parking, except on highways.
9. Animals.
10. Economic development services.
11. Business licensing. 2006, c. 32, Sched. A, s. 8.

### **Rules**

- (4) The following are the rules referred to in subsections (1), (2) and (3):
1. If a sphere or part of a sphere of jurisdiction is not assigned to an upper-tier municipality by the Table to this section, the upper-tier municipality does not have the power to pass by-laws under that sphere or part and does not have the power to pass by-laws under subsection (1) or (2) that, but for this paragraph, could also be passed under that sphere or part.
  2. If a sphere or part of a sphere of jurisdiction is assigned to an upper-tier municipality exclusively by the Table to this section, its lower-tier municipalities do not have the power to pass by-laws under that sphere or part and do not have the power to pass by-laws under subsection (1) or (2) that, but for this paragraph, could also be passed under that sphere or part.
  3. If a sphere or part of a sphere of jurisdiction is assigned to an upper-tier municipality non-exclusively by the Table to this section, both the upper-tier municipality and its lower-tier municipalities have the power to pass by-laws under that sphere or part.
  4. If a lower-tier municipality has the power under a specific provision of this Act, other than this section, or any other Act to pass a by-law, its upper-tier municipality does not have the power to pass the by-law under this section.
  5. If an upper-tier municipality has the power under a specific provision of this Act, other than this section, or any other Act to pass a by-law, a lower-tier municipality of the upper-tier municipality does not have the power to pass the by-law under this section.
  6. Paragraphs 4 and 5 apply to limit the powers of a municipality despite the inclusion of the words “without limiting sections 9, 10 and 11” or any similar form of words in the specific provision.

7. The power of a municipality with respect to the following matters is not affected by paragraph 4 or 5, as the case may be:

- i. prohibiting or regulating the placement or erection of any sign, notice or advertising device within 400 metres of any limit of an upper-tier highway,
- ii. any other matter prescribed by the Minister. 2006, c. 32, Sched. A, s. 8.

**One power not affecting another**

(5) The power to pass a by-law respecting a matter set out in a paragraph of subsection (2) or (3) is not limited or restricted by the power to pass a by-law respecting a matter set out in another paragraph of subsection (2) or (3). 2006, c. 32, Sched. A, s. 8.

**Services or things provided by others**

(6) The power of a municipality to pass a by-law respecting the matter set out in paragraph 7 of subsection (2) does not include the power to pass a by-law respecting services or things provided by a person other than the municipality or a municipal service board of the municipality. 2006, c. 32, Sched. A, s. 8.

**Services or things provided by other tier**

(7) The power of a municipality to pass a by-law under subsection (3) under each sphere of jurisdiction does not, except as otherwise provided, include the power to pass a by-law respecting services or things provided by its upper-tier or lower-tier municipality, as the case may be, of the type authorized by that sphere. 2006, c. 32, Sched. A, s. 8.

**Services or things provided by others**

(8) The power of a municipality to pass a by-law under subsection (3) under the following spheres of jurisdiction does not, except as otherwise provided, include the power to pass a by-law respecting services or things provided by any person, other than the municipality or a municipal service board of the municipality, of the type authorized by that sphere:

1. Public utilities.
2. Waste management.
3. Highways, including parking and traffic on highways.
4. Transportation systems, other than highways.
5. Culture, parks, recreation and heritage.
6. Parking, except on highways. 2006, c. 32, Sched. A, s. 8.

**Exception**

(9) Nothing in subsection (6), (7) or (8) prevents a municipality passing a by-law with respect to services or things provided by any person to the extent necessary,

- (a) to ensure the physical operation of a system of the municipality or of a municipal service board of the municipality is not impaired; or

- (b) to ensure the municipality, a municipal service board of the municipality or a system of the municipality or municipal service board meet any provincial standards or regulations that apply to them. 2006, c. 32, Sched. A, s. 8

#### **Mandatory supply –**

- 86.** (1) Despite section 19, a municipality shall supply a building with a water or sewage public utility if,
- (a) the building lies along a supply line of the municipality for the public utility
  - (b) in the case of a water public utility, there is a sufficient supply of water for the building
  - (c) in the case of a sewage public utility, there is sufficient capacity for handling sewage from the building; an
  - (d) the owner, occupant or other person in charge of the building requests the supply in writing. 2001, c. 25, s. 86 (1).

#### **Exception**

- (2) Subsection (1) does not apply if the supply of the public utility to a building or to the land on which the building is located would contravene an official plan under the *Planning Act* that applies to the building, land or public utility. 2001, c. 25, s. 86 (2).
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## **Provincial Policy Statement**

### **1.6 Infrastructure and Public Service Facilities**

- a. **1.6.1** *Infrastructure and public service facilities* shall be provided in a coordinated, efficient and cost-effective manner to accommodate projected needs.
- b. Planning for *infrastructure and public service facilities* shall be integrated with planning for growth so that these are available to meet current and projected needs.
- c. **1.6.2** The use of existing *infrastructure and public service facilities* should be **optimized, wherever feasible**, before consideration is given to developing new *infrastructure and public service facilities*.
- d. **1.6.3** *Infrastructure and public service facilities* should be strategically located to support the effective and efficient delivery of emergency management services.
- e. Where feasible, *public service facilities* should be co-located to promote cost-effectiveness and facilitate service integration.

#### **1.6.4 Sewage and Water**

##### 1.6.4.1 Planning for *sewage and water services* shall:

- a. direct and accommodate expected growth in a manner that promotes the efficient use of existing:
  - 1. *municipal sewage services* and ***municipal water services***; and
  - 2. *private communal sewage services* and *private communal water services*, where *municipal sewage services* and *municipal water services* are not available;
- b. ensure that these systems are provided in a manner that:
  - 1. can be sustained by the water resources upon which such services rely;
  - 2. is financially viable and complies with all regulatory requirements; and
  - 3. protects human health and the natural environment;
- c. promote water conservation and water use efficiency;
- d. integrate servicing and land use considerations at all stages of the planning process; and
- e. subject to the hierarchy of services provided in policies 1.6.4.2, 1.6.4.3 and 1.6.4.4, allow lot creation only if there is confirmation of sufficient *reserve sewage system capacity* and *reserve water system capacity* within *municipal sewage services* and *municipal water services* or *private communal sewage services* and *private communal water services*. The determination of sufficient *reserve sewage system capacity* shall include treatment capacity for hauled sewage from *private communal sewage services* and *individual on-site sewage services*.

1.6.4.2 *Municipal sewage services* and *municipal water services* are the **preferred form** of servicing for *settlement areas*. *Intensification* and *redevelopment* within *settlement areas* on existing *municipal sewage services* and *municipal water services* should be promoted, wherever feasible.

1.6.4.3 Municipalities **may choose** to use *private communal sewage services* and *private communal water services*, and where policy 1.6.4.4 permits, *individual on-site sewage services* and *individual on-site water services*, where:

- a. *municipal sewage services* and *municipal water services* **are not provided**; and
- b. the municipality has established policies to ensure that the services to be provided satisfy the criteria set out in policy 1.6.4.1.

1.6.4.4 *Individual on-site sewage services* and *individual on-site water services* shall be used for a new development of five or less lots or private residences where *municipal sewage services* and *municipal water services* or *private communal sewage services* and *private communal water services* are not provided and where site conditions are suitable for the long-term provision of such services. Despite this, *individual on-site sewage services* and *individual on-site water services* may be used to service more than five lots or private residences in *rural areas* provided these services are solely for those uses permitted by

policy 1.1.4.1(a) and site conditions are suitable for the long-term provision of such services.

1.6.4.5 *Partial services* shall only be permitted in the following circumstances:

- f. where they are necessary to address failed *individual on-site sewage services* and *individual on-site water services* in existing development; and
- g. within *settlement areas*, to allow for infilling and rounding out of existing development on *partial services* provided that:
  - 1. the development is within the *reserve sewage system capacity* and *reserve water system capacity*; and
  - 2. site conditions are suitable for the long-term provision of such services.

## **The Sustainable Water Act ;**

### **Purposes**

1. The purposes of this Act are,
  - (a) to ensure that public ownership of water services and waste water services is maintained;
  - (b) to promote full-cost recovery and full-cost accounting of water services and waste water services;
  - (c) to encourage an increase in scale and capacity in the provision of water services and waste water services to minimize costs to the public;
  - (d) to improve transparency in the provision of water services and waste water services to the public through the establishment of publicly-owned corporations; and
  - (e) to create an independent economic regulator with the expertise and authority to administer this Act.

### **Municipal Connection is largely “in effect” through other Regulation**

Please be advised that the proposed wording is largely “in effect”, as a result of requirements of the Ontario Building Code. Staff notes that the intent of the Clean Water Act is to ensure that a safe affordable municipal water supply is provided to all residents and forthcoming regulations are likely to ensure that private wells are not permitted in urban areas, particularly where there is close proximity to aging septic systems..

- All industrial and commercial development has been required to connect to municipal water service to conform to Section 4.11.4, of the Town of Erin Official Plan. The provision of municipal water service to Pioneer Drive in March 2010 has resulted in the development of 4 industrial properties in less than a year.
- When septic systems fail, the replacement of a septic system will often result in connection to the municipal water service as there is no possible location for a well on-site to allow the septic system to be replaced (Ontario Building Code).

### **Property Development is impacted by Existing Wells on Adjacent Properties**

- Private wells affect development of adjacent properties, in the case of a drilled well, any septic system must be located greater than 15 m (50 ft) from a private well. In the case of a dug well, a septic system must be located at least 100 ft away (5408 WCR 52).
- Several situations exist where properties within the urban areas have municipal water supplied to the dwelling, however the private well was not decommissioned and as a result an adjacent lot becomes unbuildable as no septic system can be located on the site. (5394 WCR 52, proposed Habitat for Humanity lot owned by the Town of Erin).

### **Affordability**

It is the intent of both Official Plan and responsible government to supply municipal service in a fair and efficient manner. An identified issue of the Town of Erin's water supply system is the small number of users. The Official Plan envisions all urban properties to be connected to the water service in the fullness of time, where there is already water service adjacent to a property, some kind of provision for future connection is necessary. The intent is to reduce the burden of the cost of infrastructure to those who are already on the water system.

### **Neighbouring Municipalities**

All adjoining municipalities to Erin require a mandatory water connection for urban properties, adjacent to water works (Region of Peel, Region of Halton and the Township of Guelph-Eramosa (Rockwood)). Staff is unaware of **any** Ontario municipality that does not have a mandatory connection requirement to municipal water service where urban properties are adjacent to the municipal water works.

### **Summary**

Municipal water service connection is a goal of the Town of Erin Official Plan, The County of Wellington Official Plan, the Provincial Policy Statement and the Sustainable Water Act.

Private wells are not appropriate in urban areas as they impact development potential of adjacent landowners and represent a potential threat to ground water.

The proposed by-law allows an owner time to co-ordinate their water connection with other property improvements.


The proposed regulation ensures that eventually infrastructure costs will be shared equally by all urban properties.

Without the proposed regulation a municipal water user may reconnect to their existing well or drill a new well and abandon their water connection. If a significant number of users leave the system, those still connected to Municipal Water will be forced to pay for more of the infrastructure costs in future.


Staff suggests that in regard to fairness, economy to water users and public safety that regulation for mandatory connection within the urban areas be included in the Water Rates By-law.

A potential offering of a reduction in the connection fee over the five year period of the water rates by-law could be considered as an amendment to this by-law to encourage and offset costs to existing well users who wish to connect to the municipal water service and decommission their existing wells.

Submitted by:

  
Sally Stull, MCIP, RPP  
Planner, Town of Erin

Authorized by:

  
Lisa Hass,  
Town Manager

**The Corporation of the Township of  
Guelph/Eramosa**

**By-law Number 10/2002**

**To amend By-law 21/2000 being a by-law  
to regulate the supply, distribution and  
use of water within the Township of Guelph/Eramosa**

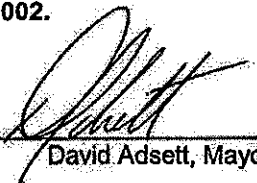
WHEREAS Council for the Corporation of the Township of Guelph/Eramosa deems it desirable to pass a by-law to amend By-law No. 21/2000 to establish further regulations for the distribution, supply and use of water in the Township of Guelph/Eramosa;

NOW THEREFORE the Council for the Corporation of the Township of Guelph/Eramosa hereby enacts as follows:

1. By-law No. 21/2000 shall be amended by adding the following provisions under the heading Part IV, GENERAL CONDITIONS AND RESTRICTIONS:
  7. (9) Where water is supplied to a premises from the waterworks system, no person shall construct, operate or otherwise maintain a well or other private water supply system without the prior written approval of the Supervisor.

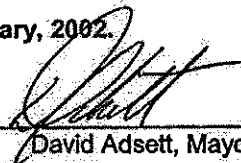
Upon the commencement of a supply of water to a premises from the waterworks system, the owner of the premises shall decommission any existing well or other private water supply system to the satisfaction of the Supervisor.

READ a first and second time this 4<sup>th</sup> day of February, 2002.

  
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David Adsett, Mayor

  
\_\_\_\_\_  
Janice Sheppard, Clerk

READ a third time and finally passed this 4<sup>th</sup> day of February, 2002.

  
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David Adsett, Mayor

  
\_\_\_\_\_  
Janice Sheppard, Clerk