

# Municipal Drainage Presentation

2025

Joie de vivre



**West Nipissing Ouest**

# Drainage:

So, what's a Municipal Drain???

- It is a Drainage System either open ditch or enclosed pipe system typically used for the purpose of draining Agricultural Land;
- Petitioned for by landowners needing drainage under the Drainage Act, 1990.
- The affected landowners including the Petitioners, Roads Authority, MTO, Railways and Crown Land pay all costs of construction and maintenance of the system they benefit from.

# Drainage - Topics

- Introduction
- Common Law Aspect of Drainage
- Process under the Drainage Act
  - Petition (Section 4)
  - Appointment of the Engineer
  - Site Meeting
  - Meeting to Consider
  - Court of Revision
  - Repair and Improvement (Section 78)
  - Maintenance and Repair (Section 74)
- Future Considerations
- Final Thoughts

# Introduction

- Water issues causes disputes between:
  - Neighbours
  - Landowners vs. Road Authority
- The Drainage Act was created to provide drainage to those landowners requiring drainage.
- The Drainage Act empowers the municipality to facilitate & maintain the resulting drainage scheme at the cost of lands and roads benefiting from the drainage system.
- Drainage projects are communal projects
- Involvement of the Landowners is necessary

# Common Law Aspect of Water

- Common Law – foundation of today's Statute Law
- Common Law as it relates to natural watercourse states the following:

*“A natural watercourse is a natural channel where water flows between defined banks. The flow of water does not need to be constant, but the channel must be a permanent landmark.”*

- Natural watercourses in West Nipissing would include:
  - Riberty Creek, Cache Creek
  - All lakes and rivers (Sturgeon, Veuve, etc.)

# Common Law Aspect of Water

- Landowners adjacent to Natural Watercourses are considered riparian owner
- These landowners have the rights under “The Riparian Doctrine”
- One of the rights is “the right to drain their property”
- Common Law also states the following regarding surface water:

*“No right of drainage of surface water exists as long as the flow is not in a defined channel”*

# Drainage Act, R.S.O., 1990

- Current legislation - 1990 with revisions completed in 2010.
- One of the most democratic Acts in Ontario – those who directly benefit from the drainage pay for it.
- Provides private landowners with the ability to obtain legal drainage for their land;
- Requires the municipality to manage the drainage systems and recover cost from all benefitting landowners including road authorities, railroads and other utilities.

# Drainage Act Process

## Petition Drains

- Section 4 – Petition is the method for landowners start the process for a new municipal drain
- Petition is presented to Municipal Council.
- The petition is valid based on the following 4 criteria:
  1. Majority of numbers of the property owners;
  2. The area representing at least 60% of the hectares in the area requiring drainage
  3. Road Authority (road requires drainage)
  4. Director of Ministry of Agriculture, Food and Rural Affairs. (drainage is required for Ag lands).



# Drainage Act Process

## On-Site Meeting

- Once the Petition has been accepted by Council a meeting is scheduled with all of the landowners impacted by the proposed project
- The meeting is held to review the drainage concerns
- Fact gathering meeting for the engineer in order to understand the landowners concerns



# Drainage Act Process

## Engineer's Report Preparation

With the information gathered at the meeting, the engineer will:

- Research existing drainage systems in the area
- Conduct a survey of the affected area to determine the “watershed” or catchment area for the water which will enter the drain.
- All properties determined to be in the watershed will be assessed in the Engineer's report.



# Drainage Act Process

## Engineer's Report Preparation

- The engineer will also make inquiries to:
  - Department of Oceans & Fisheries
  - Ministry of Natural Resources
  - Conservation Authorities, if applicable
  - Ministry of Transportation;
  - Railroads
  - Utilities (Bell, Natural Gas, etc.)

# Drainage Act Process

## Meeting to Consider Engineer's Report

- The Engineer's Report is prepared based on all the information gathered.
- The Engineer's Report is filed with the municipality.
- The Clerk circulates the Report to the benefitting properties outlined in the report.
- The Clerk schedules a "Consideration Meeting" to review the report with the assessed landowners.

# Drainage Act Process

## Meeting to Consider Engineer's Report

- Consideration of the Engineer's Report is held before Municipal Council;
- The Consideration Meeting allows affected landowners to provide input into the "technical aspects" of the drain's design;
- No discussion about landowner assessments are permitted at the Consideration Meeting

# Drainage Act Process

## Meeting to Consider Engineer's Report

- Petitioners can request their name be removed from the Petition and other landowners wishing to have their name added may do so.
- If no one removes their name from the Petition, Council will adopt a By-Law to give Provisional approval to the Report;
- If Petitioners remove their names from the Petition such that the Petition is no longer valid, the process ends and the costs incurred to that point are billed on a pro-rata basis to the Petitioners.
- Council may also refer the Report back to the Engineer
- If adopted, the Clerk proceeds to schedule the Court of Revision

# Drainage Act Process

## Court of Revision



- Court of Revision Members are appointed by Council usually at the beginning of the council term. The Court of Revision consists of either 3 OR 5 members.
- The Court is responsible for hearing appeals of landowners who do not agree with their Assessment.
- Landowner concerns must be based on facts such as their property size or the amount of area proposed to be drained.

# Drainage Act Process

## Court of Revision

- Court of Revision has options:
  1. Stay the Appeal and approve the schedule of assessment as submitted by the Engineer; or
  2. Vary the appeal and direct the engineer to make changes to the schedule of assessment and pro-rate the cost to other affected lands.
- Landowners are given 21 days from the date of the Court of Revision's decision to make an appeal to the Ontario Tribunal.
- Once the 21 days has lapsed, and the Clerk does not receive an appeal, Council can give third and final reading to the by-law.
- The Drain may then proceed to construction phase;



# Drain Improvement Process

## S. 78(1) or 78(5)

- Under Section 78 – Drains are improved or repaired
- Landowners submits Notice of Request
  - 78(1) Major Request (watershed pays in accordance with assessments in original report)
    - Major requests include changing the course of the drain, covering the drain, or creating a new outlet;
  - 78(5) Minor Request (landowner requesting pays)
    - Minor requests include adding a farm crossing, relocating the drain on a single owner's property

# Municipal Drain Maintenance

## S. 74

- Municipalities are required to maintain Municipal Drains
- Maintenance includes
  - Brushing and bottom cleanouts
  - beaver and dam removal
  - Pipe and catchbasin repairs
  - Sink holes (broken tile/pipe)
- Maintenance is billed to landowners in accordance with instructions/schedule in original report;



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### Service Request

Report an issue or submit a request using one of these options

 <a href="https://westnipissing.ca/service-request">westnipissing.ca/service-request</a> Online form	 <b>705-753-2250</b> During business hours
 <a href="mailto:support@westnipissing.ca">support@westnipissing.ca</a> By email	 <b>705-753-1170</b> After hours, for municipal emergencies only



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### Demande de service

Signalez un problème ou faites demande à l'aide d'une de ces options

 <a href="https://westnipissing.ca/fr/demande-service">westnipissing.ca/fr/demande-service</a> Formulaire en ligne	 <b>705-753-2250</b> Durant les heures de bureau
 <a href="mailto:support@westnipissing.ca">support@westnipissing.ca</a> Par courriel	 <b>705-753-1170</b> Après les heures de bureau pour urgences municipales seulement

# Agricultural Drainage Infrastructure Program (ADIP)

- Qualifying properties receive 2/3 grant for eligible construction and maintenance of Municipal Drainage projects.
- Property must be assessed “Farm” or farm in combination with “Managed Forest” to be eligible;
- Farm Assessment is determined by MPAC;
- Construction, alteration or improvement carried out without Engineer’s report are not eligible for Grant.

# Final Notes

## Other kinds of Drains:

- Mutual Agreement Drains – usually between two (2) landowners – no report required, must be registered on title to the affected lands.
  - <https://files.ontario.ca/omafra-mutual-agreement-drains-22-053-en-2022-12-20.pdf>
- Section 123 Drains – drains constructed by the Province in un-incorporated territories. The Municipality is not required to maintain these drains;

# QUESTIONS ?? & USEFUL LINKS

## QUESTIONS?

<https://www.ontario.ca/page/understanding-drainage-assessments>

<https://www.ontario.ca/page/duties-landowner-under-drainage-act>

<https://files.ontario.ca/omafra-mutual-agreement-drains-22-053-en-2022-12-20.pdf>