



Français

Drainage Act

ONTARIO REGULATION 500/21

GENERAL

Consolidation Period: From June 30, 2021 to the e-Laws currency date.

No amendments.

This is the English version of a bilingual regulation.

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PART I

PRESCRIBED PERSONS

Drainage works constructed on petition, prescribed persons

1. The following persons are prescribed for the purposes of clause 5 (1) (b) of the Act:

1. Each person who files a petition with the clerk of a local municipality that may be affected by the drainage works.
2. The clerk of each local municipality that may be affected by the drainage works.
3. The Council of the Band of each reserve that may be affected by the drainage works.
4. The conservation authority that has jurisdiction over any lands in an area that may be affected by the drainage works or, if no conservation authority exists for such lands, the Minister of Northern Development, Mines, Natural Resources and Forestry.

5. Ontario Parks, if any of its lands may be affected by the drainage works.

Notice that environmental appraisal is required, prescribed persons

2. The following persons are prescribed for the purposes of subsection 6 (1) of the Act:

1. The local municipality that may be affected by the drainage works.
2. The conservation authority that has jurisdiction over any lands in an area that may be affected by the drainage works or, if no conservation authority exists for such lands, the Minister of Northern Development, Mines, Natural Resources and Forestry.

Consideration of report, prescribed persons

3. The following persons are prescribed for the purposes of subsection 10 (2) of the Act:

1. Every owner of land within the area that is determined by the engineer or described in the petition, as the case may be, as requiring drainage.
2. Any public utility or road authority that may be affected by the drainage works.
3. The clerk of each local municipality that may be affected by the drainage works.
4. The Council of the Band of each reserve that may be affected by the drainage works.
5. The conservation authority that has jurisdiction over any lands in an area that may be affected by the drainage works or, if no conservation authority exists for such lands, the Minister of Northern Development, Mines, Natural Resources and Forestry.
6. Ontario Parks, if any of its lands may be affected by the drainage works.
7. The Minister.

Notice of drainage works, prescribed persons

4. The following persons are prescribed for the purposes of subsection 41 (1) of the Act:

1. Any person shown by the last revised assessment roll to be the owner of lands or roads that are in the initiating municipality and,
 - i. that have been assessed for the drainage works, or
 - ii. for which compensation or other allowances have been provided in the engineer's report.
2. The clerk of every local municipality, other than the initiating municipality, in which land or roads are situated if,
 - i. those lands or roads have been assessed for the drainage works, or
 - ii. compensation or other allowances have been provided in the engineer's report.
3. The Council of the Band of each reserve that may be affected by the drainage works.
4. The conservation authority that has jurisdiction over any lands that may be affected by the drainage works or, if no conservation authority exists for such lands, the Minister of Northern Development, Mines, Natural Resources and Forestry.
5. Ontario Parks, if any of its lands may be affected by the drainage works.
6. Any railway company, public utility or road authority affected, other than by way of assessment, by the engineer's report.
7. The Director.

Notice under subsection 78 (2), prescribed persons

5. The following persons are prescribed for the purposes of paragraph 2 of subsection 78 (2) of the Act:

1. The Council of the Band of each reserve that may be affected by the major improvement.
2. The conservation authority that has jurisdiction over any lands in an area that may be affected by the major improvement or, if no conservation authority exists for such lands, the Minister of Northern Development, Mines, Natural Resources and Forestry.

Interpretation**6. In this Part,**

“Council of the Band” and “Reserve” have the same meanings as in the Indian Act (Canada). (“conseil de la bande”, “réserve”)

PART II**APPROVAL PROCESS FOR MINOR IMPROVEMENTS TO DRAINAGE WORKS****Prescribed activities**

7. (1) An activity that meets the following requirements is prescribed as a minor improvement to a drainage works for the purposes of subsection 78 (5) of the Act:

1. The activity takes place on,
 - i. an individual property, or
 - ii. two or more adjacent properties if those properties,
 - A. are owned by the same person,
 - B. are owned by members of the same family,
 - C. are owned by corporations where a majority of the directors of each of the corporations are members of the same family, or
 - D. are owned by partnership where the majority of the partners for each partnership are members of the same family.
2. The costs and fees associated with the activity, including the fees and expenditures of the engineer and the construction, contingency, incremental future maintenance and eligible municipal administrative costs, are the responsibility, whether the activity proceeds or not, of,
 - i. the person initiating the activity,
 - ii. the Municipality in which the activity is taking place, or
 - iii. both the person initiating the activity and the Municipality in which the activity is taking place.
3. The activity,
 - i. does not require construction access from neighbouring properties, or
 - ii. does require construction access from neighbouring properties and the person initiating the activity has,
 - A. obtained the consent for the construction access from all applicable owners of the neighbouring properties prior to beginning the activity, and
 - B. provided such proof of consent to the municipality as part of the application to carry out the activity.
4. The activity will not result in any changes to the way in which future repair and maintenance costs are allocated to other property owners in the watershed.
5. The activity does not change existing drainage capacity or erosion capacity.
6. The activity does not result in the existing drainage works being enclosed.
7. The activity does not take place within any wetlands.

(2) In this section,

“member of the same family” means a spouse, child, parent or sibling; (“membre d’une même famille”)

“wetland” has the same meaning as in the Provincial Policy Statement, 2020 issued under section 3 of the *Planning Act*. (“terres humides”)

Process to approve minor improvement to a drainage works

8. (1) In order to obtain approval to carry out minor improvements to a drainage works the owner of a property on which the activity is to take place shall apply to the council of the municipality where the property is located using a form prescribed by the regulations.

(2) As soon as reasonably possible after receiving the application, the council shall make a determination as to whether the activity meets the requirements set out in subsection 7 (1) and,

- (a) if the council is of the opinion that the activity does meet the requirements,
 - (i) provide notice of the decision to the applicant;
 - (ii) provide notice of the decision to the Conservation Authority that has jurisdiction over the property on which the activity is to take place or, if no conservation authority exists for such property, the Minister of Northern Development, Mines, Natural Resources and Forestry, and
 - (iii) provide the engineer appointed by the municipality with a copy of the application and of the engineer’s appointing documentation; or
- (b) if the council is of the opinion that the activity does not meet the requirements, provide notice of the decision to the applicant.

(3) Upon receipt from the council of a copy of the application and of the engineer’s appointing documentation, the engineer appointed by the municipality shall conduct a site visit to confirm that the activity meets the requirements set out in subsection 7 (1) and, within 180 days after receiving a copy of the application and of the engineer’s appointing documentation,

- (a) if the engineer is of the opinion that the activity does meet the requirements,
 - (i) provide notice of the decision to the applicant and the council of the municipality, and
 - (ii) provide the clerk of the municipality with a report that includes,
 - (A) the design and any plans, profiles and specifications for the minor improvement project,
 - (B) an estimate of the contract price, and
 - (C) a statement confirming that the engineer’s design meets the requirements set out in subsection 7 (1); or
- (b) if the engineer is of the opinion that the activity does not meet the requirements, provide notice of the decision to the applicant and the municipality.

(4) Within 10 days after receiving the engineer’s report under subclause (3) (a) (ii), the clerk of the municipality shall provide the applicant and anyone who received notice under subclause (2) (a) (ii) with a notice of the meeting referred to in subsection (5), which shall include the following information:

1. The date, time and location of the meeting.
2. The date on which the engineer provided the report under subclause (3) (a) (ii).
3. The name of the drain.

(5) Within 30 days after receiving the engineer’s report under subclause (3) (a) (ii), the council of the municipality shall hold a meeting at which the engineer, the applicant and anyone who received notice under subclause (2) (a) (ii) can provide submissions about the proposed minor improvement project and after receiving the submissions,

- (a) if the council is of the opinion that the design of the activity in the engineer’s report meets the requirements set out in subsection 7 (1), the council may,

- (i) provide notice of this decision to the applicant, or
 - (ii) request that the engineer make changes to the engineer's report and resubmit the report to the council as soon as reasonably possible; or
- (b) if the council is of the opinion that the design of the activity in the engineer's report does not meet the requirements set out in subsection 7 (1), the council shall provide notice of the decision to the applicant.
- (6) If the council requests that an engineer make changes to the engineer's report and resubmit the report, subsections (4) and (5) apply, with necessary modifications, to the resubmitted report.
- (7) If the council is of the opinion that the design of the activity in the engineer's report meets the requirements set out in subsection 7 (1) and that no further changes to the report are required,
- (a) the council shall prepare a provisional by-law authorizing the activity; and
 - (b) the clerk of the municipality shall send a copy of the provisional by-law and notice of the right to appeal the provisional by-law to the applicant, anyone who received notice under subclause (2) (a) (ii) and the Director.
- (8) Within 10 days after receiving notice under clause (7) (b), a person referred to in that clause may appeal the provisional by-law to the referee.
- (9) The council for the municipality shall pass the provisional by-law thereby authorizing the activity as soon as reasonably possible after,
- (a) the time to commence an appeal expires, if no appeal is commenced within that time; or
 - (b) the date on which the appeal is decided.
- (10) If the engineer or municipality determines that the contract price of carrying out the activity exceeds 133 per cent of the engineer's estimate of the contract price set out in the engineer's report,
- (a) the minor improvement project will proceed if the applicant consents to the new contract price; or
 - (b) the minor improvement project will not proceed and the municipality will repeal the by-law authorizing the project if the applicant does not consent to the new contract price.
- (11) For greater certainty, notice of a decision under subclauses (2) (a) (i), (3) (a) (i) and (5) (a) (i) do not constitute an approval.

PART III PROCESS FOR AMENDMENTS TO AN ENGINEER'S REPORT

Process to amend an engineer's report

9. The following steps shall be taken in order to amend an engineer's report referred to in subsection 84.1 (1) of the Act:

1. An engineer shall prepare a supporting document that provides that,
 - i. the design changes to the drainage works are necessary due to unforeseen circumstances encountered during the construction of the drainage works,
 - ii. the existing approvals for the drainage works allow for the design change to be made without requiring amendment to the approval,
 - iii. the design changes will not increase the cost of the total project by more than 133 per cent, and
 - iv. the design changes will not impact the existing drainage capacity.
2. The engineer will prepare a revised design of the drainage works that sets out the changes that are being made to the design.

3. As soon as reasonably possible and before the passing of the by-law that contains the final price, the engineer shall submit the supporting document and the revised design to the council of the municipality in which the drainage works is located.

Process to approve amendments to engineers report

10. Upon receipt of a revised design and supporting document, the council of the municipality shall,

- (a) approve the revised design as an addendum to the by-law;
- (b) assess any additional fees or expenditures of the engineer in accordance with the assessment schedule; and
- (c) provide notice of the addendum to the by-law to all persons who own property that may be affected by the drainage works.

11. OMITTED (PROVIDES FOR COMING INTO FORCE OF PROVISIONS OF THIS REGULATION).

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