

# Drainage Act FAQ for Urban Municipalities

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## **Purpose of Document:**

The STEP Water team has been assessing the Drainage Act for its suitability to serve as a vehicle capable of facilitating the implementation of optimized, cost-efficient stormwater infrastructure retrofits (LID). The need to retrofit existing urban areas has been well documented in previous publications and is not discussed here. This Drainage Act FAQ for urban municipalities is intended to serve as a simple and accessible reference guide for any professionals interested in understanding the benefits of the Drainage Act – a unique and powerful piece of problem-solving legislation – which has been used in Ontario to solve drainage issues since 1835. While the information provided in this document is no substitute for a strong knowledge of the Drainage Act legislation, it does provide answers to some of the most common, practical questions which arise when dealing with urban stormwater retrofits. The STEP Water team welcomes reader feedback and looks forward to answering any additional questions which you may have.

### **1. Q: What is a municipal drain?**

A: “Municipal drain” is a colloquial term used to describe a drainage system constructed using the Drainage Act process. These systems are professionally designed to suit the requirements of the individuals, corporations and other groups petitioning for drainage. Municipal drains allow for the collection of water and its transfer across the boundaries between properties, whether privately or publically owned, in order to be safely discharged through a legal outlet.

### **2. Q: Who can petition for drainage under the Drainage Act?**

A: Every landowner in Ontario, whether urban or rural, has the right to use the Drainage Act process to solve drainage issues. Public and private landowners, or anyone with signing authority for a property requiring drainage, can submit a petition under the Drainage Act. This includes executors, administrators, trustees, CEO’s, etc. (Section 4). Road authorities can also submit a petition. The Act defines a road authority as “a body having jurisdiction and control of a common and public highway or road, or any part thereof, including a street, bridge, or any structure incidental thereto and any part thereof” (Section 1).

### **3. Q: Who is the petition for or to?**

A: Petitions are a starting point which allows public or private landowners to find relief from drainage-related issues, no matter how large or small. A petition is submitted to the clerk or administrator of any municipality within the Province of Ontario. The clerk or administrator is then required to present that petition to their municipal council. If council decides to proceed after considering the petition, they appoint a drainage engineer to review the petition and to hold an on-site meeting to determine the petition’s validity. A petition is valid when:

- The majority in number of landowners in the area sign it.
- The owner or owners of at least 60 per cent of the land area requiring drainage sign it.
- A road authority signs it. Petitions from road authorities are automatically considered valid.

Nearly all Drainage Act petitions result in the appointment of an engineer to make a report. If council votes not to appoint a drainage engineer, the petitioners can appeal that decision to the Provincial Drainage Tribunal, which would almost certainly order the council to appoint an engineer to determine the validity of the petition. Municipalities with drainage superintendents usually draw upon their expertise in order to determination a petition’s validity.

**4. Q: Do road authorities have special status as petitioners?**

A: As mentioned above, any petition initiated by a road authority is automatically considered valid under the legislation (Section 4(c)). This exception aside, from a legal standpoint road authorities are just another signatory with no additional privileges or responsibilities regarding the processes outlined under the Act.

**5. Q: What responsibility does a municipality have when presented with a petition under the Drainage Act Legislation?**

A: Municipalities have a legal obligation to act when presented with a petition as described under the Drainage Act. Upon receiving a petition, municipalities have two choices: they can appoint a drainage engineer or decline to appoint one. Either decision requires municipalities to give the reasons for their decision in writing to the petitioners. If a municipal council declines to appoint an engineer, the petitioners can appeal to the Ontario Drainage Tribunal, which has the authority to order the municipality to appoint an engineer and to follow the process as outlined in the Drainage Act legislation.

**6. Q: What is a mutual agreement drain?**

A: A drain is considered to be a mutual agreement drain when two or more property owners reach an agreement for improved drainage on their land. A written agreement should be completed that outlines the lands affected by the mutual agreement drain, the specifications for the drainage works and a payment agreement regarding their construction and maintenance. Mutual agreement drains may also be registered on title. In this case, the agreement is binding on the property and therefore on future landowners. Unregistered drains are not binding on future owners.

The mutual agreement process is identified under the Drainage Act but is not related to petitioning of a municipal drain under the Act.

**7. Q: Why not use mutual agreement drains for resolving drainage issues?**

A: Mutual agreement drains were once popular under the Ditches and Watercourses Act. A mutual agreement drain offered a cheap resolution to small drainage issues involving few landowners and possibly a municipal roadway. However, the Ontario Land Registry now requires that site plans be altered to include mutual agreement drains if the drain is to be registered on the property title. This requires securing an Ontario Land Surveyor, which dramatically increases costs and made petitioning for a petition drain the more affordable option.

Aside from cost, there are also several functional challenges associated with mutual agreement drains. Mutual agreements can be relatively straightforward when dealing with one or two neighbouring properties and where the legal outlet is located on private lands. However, reaching drainage agreements between three or more properties is challenging. Mutual agreement drains aren't required to have processes for ensuring maintenance occurs when needed. There is no requirement for provisions allowing entrance on to private lands for maintenance purposes. Moreover, aggregating independently via mutual agreement may contravene municipal by-laws, as it facilitates water movement across property boundaries.

**8. Q: Why would landowners want to sign a petition over aggregating themselves independently of the Drainage Act?**

A: The two most common approaches to solving drainage issues are for landowners to agree to implement a joint-drainage feature, known as a "mutual agreement drain" or to petition for drainage

works, leading to a “petition drain”. The key to a mutual agreement drain is that the landowners understand that all parties must mutually agree to a common resolution and accept a percentage of the costs for construction, maintenance and future improvements. Disadvantages of these drains are that there is no process to impose maintenance, landowners are responsible for coordinating maintenance themselves, it’s difficult to reach an agreement with more than two landowners, mutual agreement drains registered on title and could devalue properties, and possible contravention of municipal by-laws.

Moreover, most landowners are not stormwater experts, do not know what the process for securing a mutual agreement drain entails, and do not have the time required for planning, coordinating and implementing legally-recognized drainage solutions. Submitting a petition for drainage under the Drainage Act initiates a streamlined process for facilitating the, design, construction, management, and payment of drainage works. Part of the Act’s purpose is to make getting drainage relatively easy for landowners with little knowledge of and time for stormwater engineering or legal agreements.

The Drainage Act is also a financially appealing tool for aggregation, as it helps property owners realize economies of scale with respect to project costs. Other additional cost-saving opportunities include an HST exemption.

**9. Q: Can landowners aggregate under the Condominium Act for cost effective stormwater management?**

Communal private property stormwater management is possible under the Condominium Act. It allows condo owners to aggregate resources by sharing in the costs for construction and for the maintenance of the drainage works. Aggregation under the Condominium Act appears to be limited to only one property at a time. The Condominium Act does not appear to be structured to readily accommodate the pooling of stormwater resources across multiple property boundaries, nor does it appear to be well-suited to the implementation of trans-boundary drainage features. The Condominium Act only allows for cooperation amongst multiple owners of the same property (e.g. a condo board), and not multiple-property aggregation. By using the Drainage Act as an implementation framework, multiple properties may be aggregated to allow for a drainage system design that is also optimized for performance and provides additional cost savings. The Drainage Act also helps overcome property set back requirements imposed on condo corporations. Lastly, the Condominium Act does not provide for HST exemptions, or exemptions under the Environmental Assessments Act.

**10. Q: What is the role of the drainage superintendent in the petitioning process?**

Landowners with drainage issues will often meet with a drainage superintendent to discuss options for resolving the problem prior to signing a petition. Municipal staff will usually direct landowners to the relevant drainage superintendent when landowners do not already know how to contact them. When meeting with potential petitioners, the drainage superintendent should make them aware of the liability clause on the petition form committing the original signatories to sharing in engineering and administrative costs, regardless of whether or not a drainage system is ultimately constructed.

The drainage superintendent’s most important role is to meet with landowners and to be honest about what the process entails, especially regarding the obligations binding the initial petitioners and the time it may take to solve the drainage issue. Landowners should always be encouraged to set up a private meeting with the drainage superintendent to discuss their needs.

**11. Q: How do drainage works constructed using the Drainage Act benefit municipalities generally?**

A: The Drainage Act provides a reliable, tested process for resolving nearly any drainage issue. The engineer's drainage report – which is the document enacted by council as a by-law – is created through a communal, democratic process. It provides a cost effective asset management plan where the project costs – including future costs for keeping the drain protected and maintained in perpetuity – are fully accounted for and shared in a transparent and equitable fashion by everyone who benefits from the drain and by everyone who contributes runoff to it. In addition, the municipality has the legal authority to inspect the drainage features without needing property easements, etc.

The Drainage Act can also save municipalities money by helping them share the costs of stormwater management with the private sector.

**12. Q: How do drainage works constructed using the Drainage Act save municipalities money?**

- Projects carried out using the Drainage Act are HST exempt.
- Municipalities employing drainage superintendents to oversee the inspection, operation and maintenance of drainage works constructed under the Act are eligible to have 50 per cent of their salaries paid by the Ministry of Agriculture, Food and Rural Affairs (OMAFRA), prorated according to their time allocated to such work (Section 87(3)). Other costs for enabling the drainage superintendent to perform their function – e.g. vehicles and other necessary equipment – are also eligible for the 50 per cent subsidy.
- A reduction of possible liability law suits for flood damages stemming from illegal stormwater collection and discharge.
- Public-private sharing of costs for completing drainage projects, resulting in direct savings.
- Public-private sharing of costs for maintaining drainage projects in perpetuity. This gives direct and ongoing savings to municipalities when compared to the typical command and control approach to stormwater management.
- A reduction in red tape. Drainage works constructed under the Drainage Act are exempt from the Environmental Assessment Act (EA Act [RSO 1990], O/Reg. 334, Section 5.2.C.).
- Utility companies are required to pay the increased cost of construction arising from the presence of the utilities themselves (Section 26).

**13. Q: What other benefits does the Drainage Act process provide to municipalities?**

- Municipalities are guaranteed the right of access for the purpose of inspection and maintenance of drainage works (Section 95(3)).
- For convenience, municipalities can carry up to \$5,000 worth of maintenance costs or carry maintenance costs for up to five years – whichever comes first – for each drainage project without needing to assess the costs to landowners (Section 75(3)).
- Community property owners – including municipalities – can legally manage the trans-property movement of drainage water in a holistic, integrated, legal and aggregated manner (Section 1).
- Municipalities can use inspection and maintenance knowledge to inform the adaptive management of drainage works and have the right to modify the works in order to improve their performance (Section 78(1)).

- Upon being given notice by landowners, municipalities have 45 days to act to correct a problem with a drainage works without being liable for the problem (Section 79(1)). If there is a problem with the works and it is not reported, there is no liability to the municipality whatsoever (Section 79(2)).
- Municipalities are legally absolved from any problems caused by snow and ice (Section 79(3)).
- Anyone who obstructs or impedes the function of the drainage works in any way is required to repair or remove the obstruction. If a property owner fails to do so, the municipality can remedy the situation at the property owner's expense ((Section 80(1) & 80(2)).
- With the report of an engineer, municipalities can move drainage works out of a road right-of-way to other lands, so long as it is determined that it does not adversely affect persons or property in the vicinity of the works (Section 77(2)).

**14. Q: Who is responsible for the cost of the appointed drainage engineer?**

A: If the petition becomes invalid after the meeting to consider the preliminary report or after the meeting to consider the final report and the project is terminated, all signatories to the initial petition are responsible for the cost of the appointment of the drainage engineer and the services they provided to the project.

If the project proceeds to completion, a share of the incurred drainage engineer costs from the on-site meeting, determination of petition validity, engineering survey, development of the drainage report, etc., are assessed to each landowner in the watershed of the drainage works.

**15. Q: What would a municipality need in terms of resources to operationalize the Drainage Act?**

To date, drainage superintendents primarily work in rural areas. While the Drainage Act does not distinguish between superintendents working in urban or rural areas, an urban drainage superintendent would operate differently. An urban drainage superintendent's initial role would be to engage with and introduce low impact development (LID) projects to the property owners in urban areas where improved stormwater management is a priority. From this point it would be up to the urban drainage superintendent to set up a workable operating budget to support the necessary staff and equipment to meet the necessary requirements. In other words, a drainage superintendent working in an urban area would require a slightly different skill set from one working in a rural area and would require knowledge of or training in LID.

Building municipal agency knowledge through reviewing drainage reports, site visits to urban municipal drains and attending OMAFRA training courses pertaining to the Drainage Act would help to build confidence in the Drainage Act process and its applicability to urban areas. Municipal clerks and administrators would need training and support to be able to perform the administrative duties assigned to them under the Drainage Act, and municipal council would also need to understand their roles under the Act.

**16. Q: Is there a cost-effective way for municipalities to screen the viability of projects under the Drainage Act?**

A: Under the Drainage Act, municipalities have the right to request a preliminary report, which contains a conceptual design with enough detail to facilitate a cost estimate. This can be used as the basis to decide if a project is worth pursuing (Section 10(1)). A grant is available from OMAFRA to share the cost of preparing a preliminary report if the project terminated after the meeting to consider the preliminary report

(Section 85(c)). In order to be eligible for this grant, no additional costs can be incurred on the project after the petition is declared invalid.

**17. Q: How are costs assessed to landowners under the Drainage Act?**

A: If the project proceeds to completion, a share of the incurred project costs for administration, engineering construction and future maintenance are assessed to the property owner. Assessment schedules are developed by the drainage engineer and are included in the final drainage report. Assessments are made on the basis of benefit of the drainage works and according to the volume, rate and timing of their runoff contribution (Section 21-24). Assessments can also be made via the block assessment approach (Section 25), where property owners are assessed proportionately based on the assessed value of each property.

**18. Q: How are project and maintenance costs billed out to and collected from the landowners by the municipality?**

A: For projects terminated before completion, (i.e. the petition becomes invalid after the meeting to consider the preliminary or final report), costs are billed to the original signatories of the petition in equal shares and are collected in the same manner as property tax (Sections 10(4) and 43).

For projects that see completion, municipalities collect capital costs for administration, construction, and engineering from all landowners involved based on the assessment schedule (included within the drainage report) in the manner determined at the start of a project (Section 61). Many municipalities provide for a payment plan (e.g. over the course of five years) to help landowners pay their share. The Ministry of Municipal Affairs dictates interest rates on multi-year payment plans. Landowners may also pay the amount in full at any time.

For maintenance costs, the municipality can decide not to bill landowners for five years or until the total costs held reaches \$5,000, whichever comes first. A levying by-law must be passed after maintenance to levy maintenance assessments made to the landowners. Some municipalities prefer to bill out the cost related to maintenance by sending invoices immediately after the work is completed. The municipality pays the mailing and interest costs related to these methods. Alternatively, the cost of maintenance may be identified on property tax bills the following year, which eliminates costs related to mailing and interest. There are additional possibilities depending on the size of the municipality and the capacity of the finance department.

**19. Q: Will the municipality be required to assist financially with the cost of constructing a Drainage Act project?**

Not necessarily. The costs related to the drain – e.g. administration, construction and maintenance – are shared between property owners in the watershed based on the assessment schedule determined by the appointed engineer. The decision regarding assessments to both private and public property owners is the engineer's responsibility and is included in the Drainage Report. If municipally owned property is in the catchment for the drainage works, it is likely that the owning municipality would be assessed a share of the project costs.

**20. Q: What rights are afforded to the municipality if they are assessed a share of the project costs by the engineer in the Drainage Report?**

In this situation the municipality is considered to be another landowner and has the same rights to participate in the appeals process identified in the Drainage Act. In many cases funding can be applied for

and received by the municipality to offset the total cost of a project. For example, OMAFRA has grants available to cover the costs of preliminary reports when the project does not proceed past that stage.

**21. Q: Are there opportunities for municipalities to keep assessments simple in cases where there are many small properties (e.g. subdivisions)?**

A: The Drainage Act provides flexibility to municipalities dealing with built-up (i.e. non-rural, semi-rural) areas where the use of other assessment approaches may prove burdensome. It defines a block assessment approach, which assesses project costs to land owners proportionately based on the assessed value of their respective property instead of assessing based on benefit and the rate, volume and timing of flow.

**22. Q: Can landowner requests for aesthetic enhancements be accommodated when they do not provide a direct improvement to the functionality or performance of the drainage works?**

A: Drainage Act legislation deals with this explicitly. The inclusion of extras within a drainage project – ornamental trees, landscaping, etc. – can easily be accommodated, but all increased costs are assessed directly to the requesting landowner as a special benefit (Section 24)

**23. Q: Do drainage features constructed using the Drainage Act process need to be registered on title?**

A: There is no need to register drainage features established under the Drainage Act on title as the final product – the drainage report - is passed under bylaw. The bylaw establishes a fiduciary easement without requiring that features be registered on title. This is beneficial because it does not add an encumbrance to the properties in question. The bylaw establishes the particulars of the design (length, benchmarks and elevations, specifications, right-of-way for future maintenance and cost sharing of the maintenance in the future), while simultaneously saving on the costs associated with registering features on title.

**24. Q: What legal obligations do municipalities have under the Drainage Act?**

A: The municipality has several obligations once a petition is made under the Drainage Act and filed to the municipality, largely related to the roles and responsibilities of the clerk, council and drainage superintendent.

Municipal clerk: Administers the Drainage Act processes. The role predominantly involves sending notice and reports to affected parties as required by the Act (notification for onsite meeting, for council meetings, etc.)

Municipal council:

- Considers petitions and decides whether to proceed  
Appoints drainage engineer
- Instructs the engineer to prepare a preliminary report and/or final report (case dependent)
- Attends Council meetings to consider final reports, and if necessary preliminary reports
- Directs engineer to assess via block assessment (if desired)
- Adopts drainage report via Provisional By-Law
- Passes Provisional by-law
- Appoints drainage superintendent
- Involved in matters related to appeal processes

Drainage superintendent:

- Inspect drains and ensures maintenance of the drainage system occurs when required
- Updates the assessment schedule if and when required
- Responds to questions and requests from the landowners identified in the Drainage Report
- Keeps track of the finances related to the construction and to future maintenance activities that occur on the drain

**25. Q: How would a drainage superintendent coordinate construction and maintenance on private property?**

A: Coordination and execution of construction and maintenance varies depending on how the municipality does business. In any case, by virtue of the Drainage Act, municipalities have the power to enter lands to perform work (Section 95(3)).

- Regarding construction, in most cases municipalities have developed a tender process which, depending on the size of the municipality, results in either (a) the appointed engineer providing the tender documents, or (b) the municipality developing the tender documents. In the first case (a), the drainage superintendent should review the tender documents before advertising them for bids. In the latter case (b), the drainage superintendent may or may not be required to review the documents before being advertised for bids. Once actual construction begins, the drainage superintendent may be required to oversee the construction at a specified rate – i.e. through periodic, frequent or continuous inspections. In large municipal centers, project engineers commonly oversee construction of the drainage works and report back to the drainage superintendent on progress and on any issues that may arise during construction. If necessary, change orders, proposed filed-fitting or other implementation aspects may be reviewed by the drainage superintendent.
- Regarding maintenance, most drainage superintendents provide direct oversight by establishing a regular inspection and maintenance program. Operationally, this entails contacting the landowners by mail to make them aware of when maintenance is required, then arranging the work to be done either by internal staff or through the hiring of third-party contractors. The drainage superintendent also responds to requests for maintenance from individual landowners and arranges for the work to be done by either municipal staff or by third-party contractors.

**26. Q: Who does the drainage superintendent work for?**

A: Municipal councils appoint drainage superintendents to manage municipal drains (section 93) and pay their salaries, making them employees of the municipality. However, they must meet OMAFRA's criteria in order to keep their designation as drainage superintendents and must work as drainage superintendents in order for the municipality to receive the 50 per cent grant towards their salaries and expenses. OMAFRA is the caretaker agency for the Drainage Act.

**27. Q: Who does the drainage superintendent report and answer to?**

A: Drainage superintendents answer to both the municipal council and OMAFRA. Larger municipalities tend to link the position to an appropriate department, e.g. engineering. In such cases the drainage superintendent must still periodically report to council on the condition of the drains, progress of new drainage systems, and the budget amounts required for construction and maintenance (Section 93(3)(a)).

Larger municipalities with substantial drainage infrastructure may have a drainage board to which the drainage superintendent reports. For example, Chatham–Kent has a drainage board.

**28. Q: Who covers the wages and expenses of the drainage superintendent?**

A: The municipality which appoints an approved drainage superintendent is responsible for paying for their employment. However, grants to share costs are available through OMAFRA.

Municipalities may receive a grant equal to 50 per cent for the wages and expenses afforded to the drainage superintendent position from OMAFRA (Section 85(b)). This is based on the hours worked by the drainage superintendent as they execute their duties as defined under the Drainage Act. The municipality pays for the remainder.

Drainage superintendents are eligible for the grant if they have successfully completed the drainage superintendent’s course offered by OMAFRA and have formal Land Surveyor training.

OMAFRA is the caretaker agency for the Drainage Act.

**29. Q: What is the difference between a drainage superintendent and urban drainage superintendent?**

A: There is no legal difference between the two, though traditionally drainage superintendents work in rural areas. A few functional differences can be used to distinguish them. First, drainage superintendents working in urban areas can be expected to spend an appreciable portion of their time on green infrastructure for stormwater management in the urban land fabric instead of on rural agricultural land areas. The second is that the urban drainage superintendent will not, at present, be expected to apply for grants related to drainage infrastructure implementation for agricultural purposes (Section 85(a)), which are provided by OMAFRA. Drainage superintendents working in urban areas will still be eligible to have 50 per cent of their salary covered by grants offered for the cost of employing the urban drainage superintendent (Section 85 (b)).

**30. Q: Who supports the drainage superintendent?**

The drainage superintendent may have a drainage clerk, depending on the size of the municipality, the number of drains, and the work load. These clerks complete the necessary notifications and provide support for scheduled Court of Revision and Tribunal meetings. They also assist in setting everyday meetings with landowners along with assisting in financial aspects, such as billing, grant calculations, and collecting on bills issued to landowners.

The Act also defines a drainage commissioner role. A drainage commissioner is a landowner who benefits from drainage under the act and is the first line of communication between landowners and the municipality. Drainage commissioners can inspect the drains, report any problems to the municipality, and resolve small issues as they arise.

**31. Q: What legislation should drainage superintendents be familiar with?**

Drainage superintendents should be familiar with relevant provincial and federal legislation. The Lakes and Rivers Improvement Act, the Water Resources Act, the Conservation Authorities Act, the Municipal Act, and the Planning Act are all relevant. The Federal Fisheries Act becomes important when fish take up residence in a municipal drain. Becoming familiar with these pieces of legislation gives the drainage superintendent a more educated and informed background when dealing with other agencies.

**32. Q: Are easements a viable option to ensure municipal power to enter land and to complete maintenance?**

Establishing individual easements on a property-by-property basis is not cost effective, since a survey provided by an Ontario Land Surveyor and registration of the easement on title would be required on a property-by-property basis. Since easements are registered on title they tend to devalue property worth. By using the Drainage Act, municipalities have power to enter land for the inspection and maintenance of the drainage works on private property without the need for survey work or registering the drain on title.

With easements it can be difficult to negotiate who is responsible for maintaining the drainage works, when maintenance should be completed as well as who or how much each landowner should pay, let alone a method for collecting the dollars. The Drainage Act provides a transparent maintenance plan and cost recovery for maintenance, which is included in drain reports prepared under the Act.

**33. Q: How are easements for constructing and maintaining drainage works handled under the Planning Act versus the Drainage Act?**

The Planning Act includes content on rectifying drainage issues. It identifies swales and other conveyance methods as options to transport water to designated spots, such as backyard catch basins. Easements approved through the Planning Act can secure the right to enter onto private property to inspect and to maintain such structures. Establishing easements requires a survey provided by an Ontario Land Surveyor and registration of the easement on title of the property the pipe crosses to get to the catch basin. This usually devalues that particular property compared to other properties, since it restricts the use of the area. Also, the Planning Act does not require that definition of maintenance criteria be developed and or that these features be protected.

Reaching a drainage resolution under the Drainage Act provides municipalities with the ability to enter land for construction, inspection and maintenance of the drains. The engineer's Drain Report and its maintenance program ensure that constructed features are protected in perpetuity.

**34. Q: What happens if a property changes owners after maintenance is carried out, but prior to being charged to the benefitting property?**

A: The costs of maintenance are assessed to the property, not the property owner. A property would have benefited from the drain in the past and will continue to benefit from the maintenance of the drainage works in the future, regardless of a change in ownership. The invoice is directed to the owners of the property at the time of billing out the final costs, according to the criteria outlined above. A prospective property buyer's lawyer should enquire with the municipality as to the status of liens or other costs which may be assessed against the property on behalf of their client.

**35. Q: How would the Drainage Act work with the Storm-Sewer Bylaw?**

The Drainage Act is meant to work with other legislation, so long as its application does not recreate or exacerbate issues which that legislation is intended to remedy. For example, stormwater leaving a municipal drain and entering the storm-sewer must comply with the requirements outlined in any Provincial legislation or storm-sewer by-law.

**36. Q: What do property owners do if they don't want to be part of a municipal drain anymore?**

A: A drain can be abandoned, in whole or in part, by landowner request (Section 84). The abandonment request for a drain must be submitted to the municipal clerk. In order for the request to be considered it must be representative of and supported by the signatures of 75 per cent of the landowners assessed for

benefit in the assessment schedule for the drainage works. The request should include the printed names and signatures of each property owner with the legal addresses of the subject property or properties.

**37. Q: How does the Drainage Act deal with redevelopment?**

A: The Drainage Act allows landowners and professionals to plan and prepare for the need to redevelop an area. Drain improvements can be completed with or without an engineer's report under (Sections 77 and 78, respectively). The Act also provides the ability to modify the drainage design should a rural area be developed.

**38. Q: How can municipalities assess costs to lands that have been subdivided after drainage works have been installed?**

A: The act is flexible in how this can be handled. Municipalities can seek a reapportionment of the assessment schedule from a qualified engineer, or landowners can agree in writing to a fair reapportionment (Sections 65(1) and 65(2), respectively). Many municipalities make written agreement a precondition for severance, while others approve written agreements through a committee of adjustment.

**39. Q: Where has the Drainage Act been used within urban boundaries?**

A: The City of London has kept drainage superintendents from neighbouring municipalities on staff to manage previously established municipal drains in urban areas. Chatham-Kent used the Drainage Act to serve a large urban development consisting of several thousand homes in order to prepare a unique system to deal with existing and new municipal drains. In addition, Norfolk County has used the Drainage Act in many urban areas for Towns to deal with storm water systems, constructed wetlands and related features. Case study examples can be shared by CVC staff.