



BURNSIDE

Prescribed Forms

Jeremy Taylor, P.Eng.
Tim Brook, P.Eng. OMAFA

Prescribed Forms

- OMAFA provides a wide variety of forms
- Located in Central Form Repository or Agricultural Drainage page
 - <https://forms.mgcs.gov.on.ca/>
 - <https://www.ontario.ca/page/agricultural-drainage>
- Most are for convenience, but some are required under O.Reg. 381/12

Prescribed Forms – O.Reg 381/12

Form Number	Form Name	Date of Form
1	Petition for Drainage Works by Owners	2012/08
2	Petition for Drainage Works by Road Authority	2012/08
3	Petition for Drainage Works by Director	2012/08
4	Notice of On-site Meeting for Construction or Improvement Project	2012/08
5	By-law for Municipalities Not Within a Regional Municipality, the County of Oxford or The District Municipality of Muskoka	2012/08
6	By-law for Municipalities Within a Regional Municipality, the County of Oxford or The District Municipality of Muskoka	2012/08
7	Borrowing By-law for Use by a Regional Municipality, the County of Oxford or The District Municipality of Muskoka	2012/08
8	Notice of Compensation Paid for Insufficient Outlet and/or Loss of Access	2012/08
9	Notice of Request for Drain Minor Improvement	2021/06

Ontario  Ministry of Agriculture, Food and Rural Affairs

**Petition for Drainage Works by Owners
Form 1**
Drainage Act, R.S.O. 1990, c. D.17, clause 4(1)(a) or (b)

This form is to be used to petition municipal council for a new drainage works under the Drainage Act. It is not to be used to request the improvement or modification of an existing drainage works under the Drainage Act.

To: The Council of the Corporation of the of

The area of land described below requires drainage (provide a description of the properties or the portions of properties that require drainage improvements)

In accordance with section 9(2) of the Drainage Act, the description of the area requiring drainage will be confirmed or modified by an engineer at the on-site meeting.

As owners of land within the above described area requiring drainage, we hereby petition council under subsection 4(1) of the Drainage Act for a drainage works. In accordance with sections 10(4), 43 and 59(1) of the Drainage Act, if names are withdrawn from the petition to the point that it is no longer a valid petition, we acknowledge responsibility for costs.

Purpose of the Petition (To be completed by one of the petitioners. Please type/print)

Contact Person (Last Name)	(First Name)	Telephone Number

Address
Road/Street Number Road/Street Name

Location of Project
Lot Concession Municipality Former Municipality (if applicable)

What work do you require? (Check all appropriate boxes)

☐ Construction of new open channel
☐ Construction of new tile drain
☐ Deepening or widening of existing watercourse (not currently a municipal drain)
☐ Enclosure of existing watercourse (not currently a municipal drain)
☐ Other (provide description)

Name of watercourse (if known)

Estimated length of project

General description of soils in the area

What is the purpose of the proposed work? (Check appropriate box)
☐ Tile drainage only ☐ Surface water drainage only ☐ Both

Petition filed this day of , 20

Name of Clerk (Last, first name) Signature

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Ontario  Ministry of Agriculture, Food and Rural Affairs

**Petition for Drainage Works by Road
Authority – Form 2**
Drainage Act, R.S.O. 1990, c. D.17, subs. 4(1)(c)

To: The Council of the Corporation of the of

Re: Road name and road location (provide description of road or section of road that requires drainage)

I, , as an individual having jurisdiction over
(Last, first name)

the above road system for the of

declare that the road described above requires drainage and hereby petition under subsection 4(1)(c) of the Drainage Act that this area be drained by means of a drainage works.

Organization

Position Title	Signature	Date (yyyy/mm/dd)
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Petitioners become financially responsible as soon as they sign a petition:

- Once the petition is accepted by council, an engineer is appointed to respond to the petition. Drainage Act, R.S.O. 1990, c. D. 17 subs. 8(1).
- After the meeting to consider the preliminary report, if the petition does not comply with section 4, the project is terminated and the road authority is responsible for the costs. Drainage Act, R.S.O. 1990, c. D. 17 subs. 10(4).
- After the meeting to consider the final report, if the petition does not comply with section 4, the project is terminated and the road authority is responsible for the costs. Drainage Act, R.S.O. 1990, c. D. 17 s. 43.
- If the project proceeds to completion, a share of the cost of the project will be assessed to the involved properties in relation to the assessment schedule in the engineer's report, as amended on appeal. Drainage Act, R.S.O. 1990, c. D. 17 s. 61.

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Ministry of Agriculture,
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Notice of On-site Meeting for Construction or Improvement Project – Form 4

Drainage Act, R.S.O. 1990, c. D.17, subs. 9(1)

To: Affected Property Owners, Road Authorities and Utility Owners

for the _____

(Drain name, if applicable)

Take notice that the Council of the _____ of _____
has appointed the engineering firm of _____
as represented by _____
(Name of engineer) (Last, first name)
to prepare a report under section(s) _____ of the *Drainage Act*.

In accordance with section 9(1) of the *Drainage Act*, you as an owner of land affected, are requested to attend an on-site meeting with the appointed engineer to examine the area and site of the proposed drainage works.

The meeting will take place:

Date (yyyy/mm/dd)	Time	Location
_____	_____	_____

Name of Clerk (Last, first name)	Signature	Date (yyyy/mm/dd)
_____	_____	_____

Failure to Attend Meeting

If you do not attend the meeting, it will proceed in your absence. If you are affected or assessed by this proposed project, you will continue to receive notification as required by the *Drainage Act*.

[Print Form](#)

[Clear Form](#)



Ministry of Agriculture,
Food and Rural Affairs

Notice of Request for Drain Minor Improvement

*Drainage Act, R.S.O. 1990,
c. D.17, subs. 78 (5)*

To: The Council of the Corporation of the _____ of _____

Re: _____

(Name of Drain)

In accordance with section 78 (5) of the *Drainage Act*, take notice that I, as owner of land affected, request that the above mentioned drain be improved.

☐ The work being requested is a Minor Improvement Project

I believe that the project being requested meets all the following criteria for a minor improvement project:

- The property owner initiates the improvement on an individual property or two or more adjacent properties that are owned by the same person or the owners are related parties;
- The property owner is paying for costs of the activity, which includes, without limitation engineering construction, contingency costs, incremental future maintenance and eligible municipal administrative costs unless that person and the municipality in which the activity is taking place agree otherwise;
- Carrying out the activity does not require construction access from neighbouring properties or the person initiating the activity has obtained the consent for the construction access from all applicable owners of the neighbouring properties prior to beginning the activity and has provided such proof of consent to the municipality as part of the application to carry out the activity;
- The activity will not result in any changes as to how future repair and maintenance costs are allocated to other property owners in the watershed;
- The activity does not change drainage capacity or erosion potential;
- The activity does not result in the existing drainage works being enclosed; and
- The activity does not take place within any wetlands.

The project can be completed with access from:

- ☐ The requestor property
- ☐ My neighbour's property and written permission has been granted and attached to this Notice of Request for Minor Drain Improvements form.
- ☐ The municipal road right-of-way

- a. As owner of land requesting the minor improvement described below, I hereby request pursuant to subsection 78 (5) of the *Drainage Act* that the minor improvement project described immediately below be approved. I acknowledge responsibility for all costs of the minor improvement project, even if the minor improvement project does not proceed.

Provide a more specific description of the proposed drain improvement you are requesting

Drainage Forms

- Forms 1, 2, & 9 are binding on the signatures from properties / road authorities for a new drain or minor improvement.
- Critical to ensure proper authority to undertake project as well as signatory responsible for costs of failed project.
- These forms must be used and there could be legal challenges to validity of petition if not used.

Case #	Municipality	Summary
2008onafraat12	Township of Ramara	• Correct petition form was used • Supplemental information provided with the require form should not be considered by council. • Council denied the petition, but Tribunal overturned and directed Drainage Petition to proceed.
2018onafraat11	County of Norfolk	• Under the Drainage Act, the engineer has the authority and the duty to determine whether a petition has been properly prepared. • Section 9 of the Drainage Act dictates that it is the duty of the engineer appointed by the municipality to determine “whether the petition complies with section 4”. • A challenge to the validity of a petition as determined by the engineer does not lie to the Tribunal but rather lies before the Drainage Referee under subsection 106(1)(b)
2019onafraat12	Municipality of Central Huron	• The Act does not prescribe a requisition form under section 78. • No regulation made under the Act prescribes a requisition form under section 78. • The cost responsibilities related to a section 4 petition drain flow from section 43 of the Act. However, there are no similar cost responsibilities in the Act under section 78 regardless of whether the Form “Notice of Request for Drain Improvement” was used. • Note: that there are now 2 forms for improvements and only the minor improvement form is binding for costs on the signing property owner.

Court Decisions - AFRAAT

- Summary
 - Appointed engineer has primary responsibility to determine whether a petition form has been properly prepared and is valid as per Drainage Act.
 - Tribunal can determine under Section 5 whether a council should proceed with a petition.
 - The challenge to the validity of a petition lies before the Court of the Drainage Referee under subsection 106(1)(b)
 - Although the Tribunal indicated Supplemental information (e.g., engineering study, etc.) should not be considered in determining if a petition is valid, subsequent Referee decisions indicate otherwise.

Case #	Municipality	Summary
1983ondr2	Township of Amherst Island	• Prior to O.Reg.381/12: FORMS, there was nothing set out in the Act that requires a petition in the Form prescribed to advise the petitioner of their obligation under Section 43 (i.e., liability of original petitioners). • The form used (not the prescribed form) did not have the words, “The Drainage Act” but the omission of these words should not render the entire process as null.
1986ondr1	Town of Elizabethtown	• Much of the evidence and argument focused on the issue of improper forms, notices not sent out, re-scheduling of on-site meetings, etc. • The Petition filed with the Township was a Petition within the meaning of Section 4 of the Act. • There was no evidence that any interested party believed it was anything other than just that, and the submissions by the Appellants to the contrary are groundless.
2023ondr6	Town of Bradford West Gwillimbury and Holland Marsh Drainage System Joint Municipal Services Board	• The applicants petitioned for a Drainage Act solution in September 2019. in the form of a letter dated September 18, 2019, identifying that they owned at least 60% of the land in the area. • On September 27, 2019, the applicants submitted a formal Form 1 Petition for Drainage Works by Owners. • The Drainage Referee regarded the letter of September 18th, with its attachments, as accompanying and forming part of the September 27th Form 1 petition.

2024ondr2	City of Niagara Falls	• Case relates to the use of a nonregulated form for drain maintenance and repair. • Legislation Act, 2006, S.O. 2006 c. 21, schedule F, states that there is discretion related to deviations from a required form. • It can be taken that the form although it represents a deviation from a format that could properly be used, (a) there were no forms existing in the legislation at the time; and (b) the use of the form was unlikely to mislead any party who is party to this matter. • On the Central Forms Repository, there is a form created in November of 2022 which reads as “Notice of Request for Drainage Maintenance and/or Repair”.
2025ondr2	Municipality of Middlesex Centre	• Drainage Referee reflect upon the forms provided for a request for improvement under section 78 of the Act, a notice of non-repair under section 79 of the Act and a petition under section 4 of the Act. • The forms for Section 74, 78 although stored in Central Forms entitled “Notice of Request for Drain Major Improvement Drainage Act” and “Notice of Request for Drain Maintenance and/or Repair”; its use is not mandatory. • There is no particular form that needs to be used when giving a notice of non-repair to a municipality pursuant to section 79 of the Drainage Act, so long as it is otherwise sufficient for the purposes of section 79 of the Act. • In our modern world, much documentation is transmitted electronically by e-mail, text messaging or fax, and the legislative amendment removing the words “in writing” had the effect of clarifying that electronic transmission of documentation was sufficient to effect service; mailed, couriered, and hand-delivered service was acceptable but not a requirement. • Just because there is no required form nor a requirement to provide notice in writing – the Drainage Referee does not believe that service is rendered verbally.

Court of the Drainage Referee

- **Summary**

- Prior to O.Reg.381/12: FORMS, there was nothing set out in the Drainage Act that requires a petition in the Form prescribed to advise the petitioner of their obligations related to the costs for a failed project (i.e., invalid/no longer valid petition).
- Despite the AFRAAT decision regarding supplemental information forming part of the petition, the Drainage Referee included an associated letter / material as part of the petition.
 - See 2023ondr6 – Town of Bradford West Gwillimbury and Holland Marsh Drainage System Joint Municipal Services Board
 - See 2024ondr(1,3,4,5) 2025ondr(1,5,8) – Kittel v Town of Wilmot (Township)
- The word service in the Drainage Act can be a variety of methods, but it does not mean verbal even where there is no form required form under the Drainage Act.