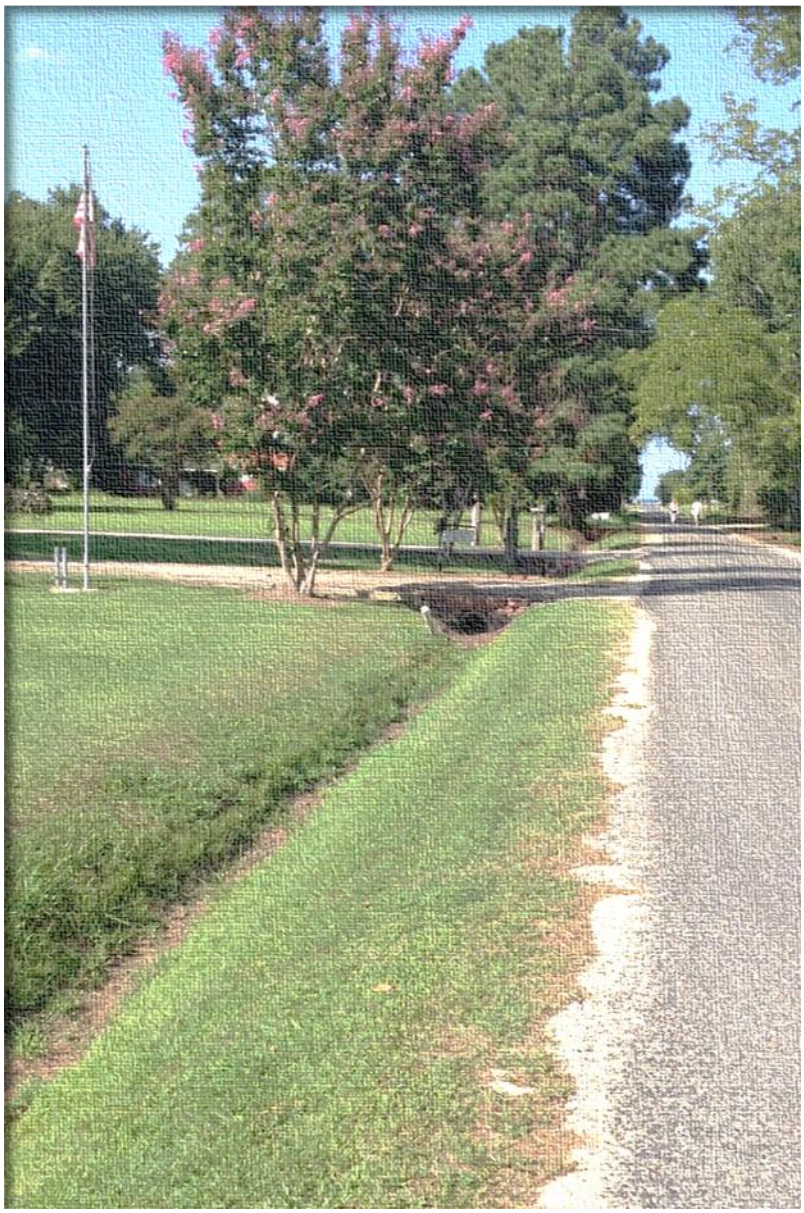

DRAINAGE & ROADSIDE DITCHING AUTHORITY

Researching examples of ditching authorities as well as assessing the Virginia enabling authority to allow for the creation of a Regional Drainage and Roadside Ditching Authority in the Middle Peninsula.

2015

MIDDLE PENINSULA
PLANNING DISTRICT COMMISSION

Virginia Coastal Zone
MANAGEMENT PROGRAM

This project, Task # 94.01 was funded by the Virginia Coastal Zone Management Program at the Department of Environmental Quality through Grant #NA14NOS4190141 of the U.S. Department of Commerce, National Oceanic and Atmospheric Administration, under the Coastal Zone Management Act of 1972, as amended.

The views expressed herein are those of the authors and do not necessarily reflect the views of the U.S. Department of Commerce, NOAA, or any of its subagencies.

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Abbreviations

BMP – Best Management Practice
BOS – Board of Supervisors
CZM – Coastal Zone Management
DAA – Draper Aden Associates
DART – Drainage Act and Conservation Authorities Act
EA – Environmental Agency
EPA – Environmental Protection Agency
FDGiA – Flood Defense Grant in Aid
FEMA – Federal Emergency Management Agency
FMA – Flood Mitigation Assistance
GIS – Geographic Information Systems
IDB – Internal Drainage Boards
MDA – Maryland Department of Agriculture
MTF – Michigan Transportation Fund
MPPDC – Middle Peninsula Planning District Commission
NFIP – National Flood Insurance Program
NFWF – National Fish and Wildlife Foundation
NOAA – National Ocean and Atmospheric Administration
OMAFRA – Ontario Ministry of Agriculture, Food and Rural Affairs
PDA – Public Drainage Association
PL – Public Law
PWA – Public Watershed Association
SCS – Soil Conservation Service
TIF – Tax Increment Financing
TMDL – Total Maximum Daily Loads
VAC – Virginia Administrative Code
VCPC – Virginia Coastal Policy Clinic
VDOT – Virginia Department of Transportation
VSMP – Virginia Stormwater Management Program
WIP – Watershed Implementation Plan

EXECUTIVE SUMMARY

Since 2012, the Middle Peninsula Planning District Commission's (MPPDC) participating localities have been eager to resolve inadequate stormwater drainage and the maintenance of roadside ditches throughout the region.

Initial efforts consisted of researching various legal and land owner issues associated with ditches along Virginia Department of Transportation (VDOT) roads that prove to be problematic (NA12NOS4190168 and NA13NOS4190135 Task 94.02). Then in 2014, Draper Aden Associates (DAA) partnered with MPPDC staff, Mathews County, and Mathews County citizens to develop an engineering study that focused on roadside ditches in four specific regions of the County. Based on site visits and discussions, DAA and Mathew County citizens developed recommendations to improve the ditches. While this effort provides Mathews County with some direction to resolve some of the ditching issues this does not provide a solution to managing the network of ditches throughout the region.

In considering the management of the network of ditches within the Middle Peninsula, MPPDC staff has explored how a Regional Drainage and Roadside Ditching Authority could be created. During this project MPPDC staff gathered examples of domestic and international roadside ditching programs, policies, and regulations that could provide guidance to the MPPDC during develop of a regional authority. With examples from as close as Maryland to case studies as far away as the Northern Periphery (i.e. Iceland, Sweden, Norway, Finland, Scotland, etc.) they all offer different approaches to roadside ditching. Additionally, MPPDC staff researched existing enabling legislation in Virginia under which a Regional Drainage and Roadside Ditching Authority could be created. With a focus on prioritizing ditch improvements, MPPDC staff found two section of code that provides for the development of a regional authority, including the Virginia Water and Waste Authorities Act (§15.2-5102-§15.2-5127) and Service Districts (§15.2-2400-§15.2-2403). Each section of code authorizes different powers and a framework which will need to be considered by the MPPDC. Another aspect researched in this project was the funding mechanisms available to develop and sustain a Regional Drainage and Roadside Drainage Authority.

Therefore, based on the case studies in this report as well as an understanding of the VAC framework under which a Regional Drainage and Roadside Ditching Authority could be developed, Middle Peninsula localities have options to address roadside drainage. Ranging from no action to new legislation, the MPPDC will need to determine the direction/option that fits their needs.

INTRODUCTION

Middle Peninsula Planning District Commission (MPPDC) localities have worked diligently over the decade to remain consistent and compliant with increased nutrient reduction goals proposed by the Chesapeake Bay Total Maximum Daily Loads (TMDL), Virginia's Watershed Implementation Plan (WIP), and the revised Virginia Stormwater Management Program (VSMP) regulations to improve water quality. However amidst the numerous water quality regulations, programs, and policies aimed to protect the Chesapeake Bay there still remains a local issue of inadequate stormwater drainage through roadside ditches and outfalls that impact water quality as well as influences the public's health, safety and welfare. As each locality in the Middle Peninsula experiences standing water in roadside ditches and outfalls due to decades of debris and sediment build-up, illicit filling of the ditches on private property and/or failing ditches, there is a need to mend the system in order to reduce flood risk, economic impacts (i.e. the delay of commodity transport); damage to private and public infrastructure; risk to human life (i.e. impedes fire and rescue vehicles, hampers the ability of school buses to reach children); risk to health; and environmental concerns for citizens and local decision makers.

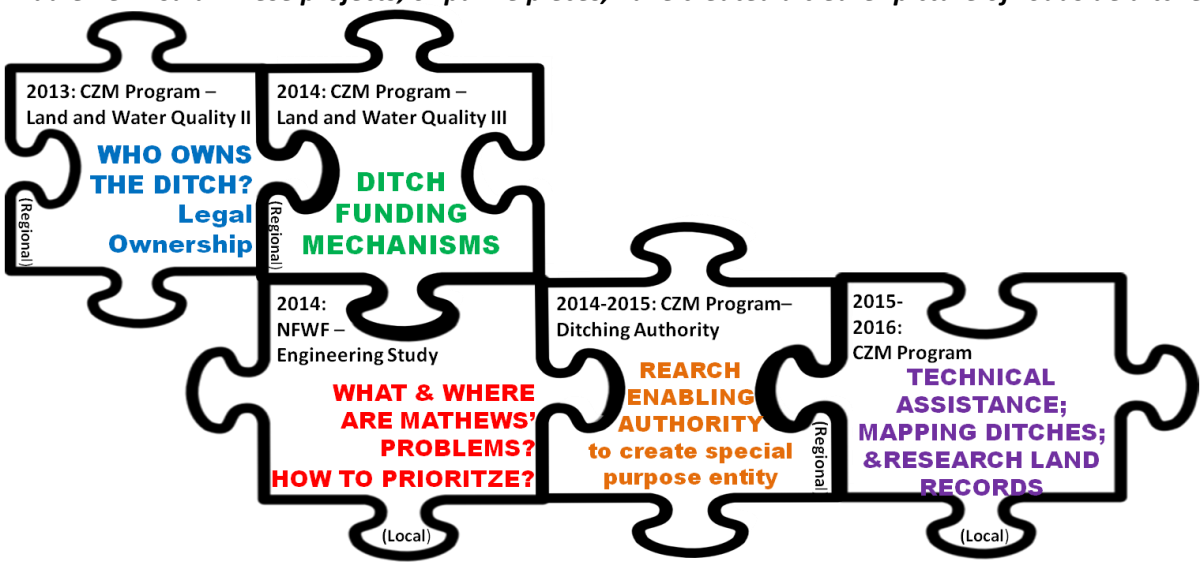
Therefore in an effort to build on past projects and to address the drainage issues within the region, MPPDC staff has been funded through the Virginia Coastal Zone Management (CZM) Program to focus on exploring the enabling mechanism in which a Regional Drainage and Roadside Ditching Authority may be developed. This Authority would be responsible for prioritizing ditch improvement needs, partnering with Virginia Department of Transportation (VDOT) to leverage available funding, and ultimately working toward improving the functionality of the region's stormwater conveyance system. To understand the mechanisms in which a

Regional Drainage and Roadside Ditching Authority could be created, MPPDC staff addressed specific policy questions to help aid in the Authority's development.

BACKGROUND

As mentioned previously, MPPDC staff have worked on multiple projects to date that address various aspects of the roadside ditching puzzle (Figure 1). Beginning in 2012, roadside ditches within Mathews County were identified as a local concern and thus became the driving factor in seeking funding for these projects. First, funded through the Virginia CZM Program (Grant #NA12NOS4190168 and NA13NOS419015 Task 94.02) in 2013, MPPDC staff focused on understanding the legal and ownership ramifications of ditches along VDOT roadways that prove to be problematic. In contract with John Morris of Beale, Davidson, Etherington and Morris, P.C., a legal analysis was conducted to determine ditch/outfall ownership, management, and oversight and the relationship to the secondary road system overseen by VDOT. During this project seven ditch sites were identified, visited and photographed, and MPPDC staff compiled VDOT records and local government documentation (i.e. property deeds and plats) to supplement the legal analysis. The project found that the duty to keep ditches clear and maintained is determined by ditch-specific circumstances. For instance, "If the ditch was created by a single landowner or used to channel excessive water from a single landowner, that landowner would be responsible for damages resulting from the ditch. If a party has a drainage

FIGURE 1: These are the past, present, and future projects addressing roadside ditches within the Middle Peninsula. These projects, or puzzle pieces, have created a clearer picture of roadside ditches.



easement for the ditch, that party would be responsible for maintaining the ditch. Jenkins v. County of Shenandoah, 246 Va. 467, 436 S.E.2d 607 (1993). Landowners have the ability to fend off water, but there are limits to that ability. As long as the water is going into a natural watercourse and does not improperly damage adjoining or downstream land, there is typically no liability or obligation to do anything further. The difficult issue with most of these ditches is whether there is a duty to keep the water flowing. This is complicated by the fact that, in many of the outfall ditches, the water is not flowing very well at substantial distances from roadside ditches due to the lack of elevation change and a corresponding lack of flow in the natural watercourses. No party is responsible for such lack of flow if it has not taken some action that impedes that flow in the natural watercourse. However, if that flow has been impeded in an unreasonable manner, the party impeding the flow of water would be liable for any resulting damage. Mullins v. Greer, 226 Va. 587, 311 S.E.2d 110 (1984); Howlett v. City of South Norfolk, 193 Va. 564, 69 S.E.2d 346 (1952). If the problem is that a ditch has become clogged, it must be determined why the ditch is clogged. If the clogging is caused by natural growth in it, it is possible that no party is responsible. However, if a party created or relocated a channel on or along its property in such a manner that caused it to become clogged or handle less water, the party may have responsibility to maintain the ditch.[1]"

In conjunction with the legal analysis, MPPDC staff contracted with the Virginia Coastal Policy Clinic (VCPC) to identify existing Federal and State programs that could financially assist local governments and private citizens to address ditching and/or drainage maintenance issues. As a result of this project a list of funding options was generated along with an explanation of how localities could access this funding.[2]

Most recently, in 2014, MPPDC staff partnered with Draper Aden Associates (DAA) to conduct a comprehensive engineering study of roadside ditches in Mathews County. This project, funded through the National Fish and Wildlife Foundation (NFWF), began with the Mathews County Board of Supervisors (BOS) identifying four target areas in the locality that

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[1] Morris, John. (2013). *Roadside and Outfall Drainage Ditches*. Received from: http://www.mppdc.com/articles/reports/Final%20Report%20%20Exhibits_131118_RED.pdf

[2] Stiff, Mary-Carson and Shanna Jones. (2014). *Septic System Repair and Ditch Maintenance: Sustaining Permanent Funding*. Received from: http://www.mppdc.com/articles/reports/Final_Report_LWQIII_RED.pdf

demonstrated inadequate drainage. With the assistance of the BOS and County Administrator, DAA then developed a Stormwater Ditch Steering Committee that consisted of private citizens, VDOT, and MPPDC representatives. Each priority area was visited and existing conditions were noted. Based on findings in the field, DAA provided site recommendations to improve the given ditch as well as associated costs of the improvements[3]. This information will be utilized in the second phase of this project funded through NFWF. During 2015-2016, DAA will aim to implement recommendations and improve select ditches.

Product #1 - EXAMPLES OF DITCHING AUTHORITIES

MPPDC staff researched both domestic and international communities that have breached the topic of roadside ditches and drainage through the development of specific ditch/drainage programs or policies. While there were not many entities that specifically identify themselves as a "ditching authority", the programs and policies referenced below prove a spectrum of models and case studies for the MPPDC as it works to develop its own Regional Drainage and Roadside Ditching Authority.

DOMESTIC EXAMPLES

Public Drainage / Watershed Association (Maryland) Public Drainage Associations (PDAs) were established in 1957 under Article 25 section52-95 of the Annotated Code of Maryland and last amended in 1994. PDA's are political entities with the authority "to locate and establish ditches, drains, or canals, and to cause to be constructed, straightened, widened or deepened any ditch, drain, or watercourse for the purpose of establishing and maintaining watershed drainage systems" (Appendix 1). Additionally as Maryland broadened their drainage law in 1958, Public Watershed Associate (PWA) were developed and authorized to construct, operate maintain and carry out works of improvement for watershed protection, flood prevention, recreation, soil conservation, drainage and/or the conservation, development, storage, utilization and disposal of water for all beneficial purposes in watershed or sub

[3]Draper Aden Associates. (2015). *Mathews County Rural Ditch Enhancement Study.* Received from: http://www.mppdc.com/articles/reports/Mathews_County_Ditch_Study_DAA_1505.pdf

watershed areas (Article 25, section 169) (Appendix 2). Based on amendments made in 1994, the PDA and PWA laws closely resemble each other.

Currently there are 101 active PDAs and four active PWAs in Caroline, Queen Anne's Somerset, Wicomico and Worcester Counties on the Eastern Shore of Maryland (Figure 2). These PWA and PDAs work to maintain approximately 821 miles of ditches.

FIGURE 2: Map of Delmarva Peninsula. Yellow areas show the general extent of land served by PDA and PWA in Maryland.

Prior to PWAs and PDAs, funding for ditch construction and maintenance was initially provided by taxing the beneficiaries. After 1951, however, some financial support was provided by local county governments, especially when county road and PDA drainage needs interface. Then in 1954 major resource was created under Public Law 566 through the federal Watershed Protection and Flood Prevention Act. This statute authorized the Soil Conservation Service (SCS, now the Natural Resource Conservation Service) to assist Soil Conservation Districts in planning and carrying out a wide variety of watershed projects. Through the SCS, the federal government provided approximately 75% cost-share funding for PDA construction; coupled with an additional 12.5% from Maryland and county funds, while extramural (i.e. outside the walls or boundaries of a town, college, or institution) support could cover as much as 87.5% of project costs. PL 566, now called the Small Watershed Program, is administered by the federal government and still assists local governments in dealing with natural resource and related economic problems on specific watersheds smaller than 250,000

acres in size. But because the U.S. Army Corps of Engineers is no longer issuing permits for new ditch construction, establishment of new PDAs through the Small Watershed Program is unlikely. From 1978 through 1995, Maryland law only authorized Maryland Department of Agriculture (MDA) to provide cost-share funding for maintenance of PDA/PWA drainage. However in 1995 state budget restrictions ended this cost-sharing program and PDA/PWAs became dependent on tax assessments and county funds for routine ditch maintenance. In recent efforts this department now offers cost sharing grants for the installation of eligible best management practices for drainage ditches. The funding is being made available to PDAs, in part through the Environmental Protections Agency Section 319 Grant.[4]

[4] Environmental Protection Agency Section 319 of the Clean Water Act: These funds are provided only to designated state and tribal agencies to implement their approved non point source management programs. States submit their proposed funding plans to EPA. If a state's funding plan is consistent with grant eligibility requirements and procedures, EPA then awards the funds to the state.

CLOSE-UP

PUBLIC DRAINAGE ASSOCIATION IN KENT COUNTY, MARYLAND

As the Code of Maryland establishes an outline for localities to develop Public Drainage Associations (PDA), localities will adopt county ordinances to establish and implement PDAs. Here's an ordinance example from Kent County, Maryland:

§46-1 Creation; composition.
The Kent County Public Drainage Association is hereby created. It shall have five (5) members appointed by the County Commissioners to serve for one (1), two (2), three (3), four (4) and five (5) years on the original appointment and, for each subsequent appointment, for a five-year term or until their successors are appointed and have taken their positions. The Board of County Commissioners of Kent County, Maryland, shall designate one (1) of its members to be ex officio member of the Association. From time to time, the members of the Association shall select their Chairman. Vacancies among the appointive members shall be filled by the County Commissioners for the unexpired terms. Any person may be reappointed to the Association for successive terms. All members of the Association shall be residents, property owners and registered voters of Kent County.

§46-2 Compensation.
Members of the Association shall not be paid any compensation for their services but may be reimbursed for reasonable expenses incurred in their duties. The Board of County Commissioners of Kent County shall pay the proper and necessary expenses of the Association.

§46-3 Quorum.
A quorum of the Association shall be any three (3) members thereof.

§46-4 Powers and duties.
It shall be the duty of the Association to recommend to the Board of County Commissioners of Kent County the location or locations to establish ditches, drains or canals and to cause to be constructed straightened, widened or deepened any ditch, drain or watercourse for the purpose of draining wet, swampy or overflowed lands or lands subject to overflow and to assist the Board of County Commissioners of Kent County in performing its duties as set forth under Article 25, §52 et seq., of the Annotated Code of Maryland (1957 Edition) pertaining to draining lands.

In addition to local PDAs or PWAs, in 1999, the Maryland Governor's Chesapeake Bay Cabinet created a Public Drainage Task Force to focus on enhancing the Eastern Shore environment and the agricultural community with changes in public land drainage. This Task Force recognized the legitimacy of "protecting the well-being of people who depend on effective public drainage – farmers, residential property owners, highway users, and others," while at the same time "attempting to protect and enhance the environment that is affected by public ditches." Ultimately this Task Force engaged local governments, PDAs and PWAs in discussions about improving drainage and created a list of recommendations aimed at meeting Chesapeake Bay nutrient goals.

Ottawa County Road Commission (Michigan) In 1911, the Michigan Legislature established the Ottawa County Road Commission to be responsible for ensuring the

safety and efficiency of all county roads and bridges. More specifically the Road Commission was responsible for deciding where and when to undertake road improvements within the county. Services include, but are not limited:

Road Maintenance and Construction
- Crack sealing
- Ditching and Drainage Improvements
- Brush and tree removal
- Patching potholes
- Guardrail repair
- Gravel Road grading
- Seal coat surfacing
- Shoulder grading & repair
- Asphalt paving
- Shoulder grading & repair
- Asphalt paving
- Snow removal & ice control

Bridge Maintenance & Replacement

Signing and Traffic Control

Engineering
- Design
- Inspection
- Surveying

Planning

Contract Services

Equipment Maintenance & Repair

The Ottawa County Road Commission is governed by a five member Board of Road Commissioners that serves a six year term. This board governors the Road Commission and therefore oversees actions taken by Road Commission, including policy-making, budget, accounts receivable/payables, employment, bargaining units, workers compensation and safety, employee benefits, and public relations.

While funding for Road Commission projects initially came from 17 townships that provided tax dollars equal to ½ mil on each dollar of property valuation, additional funding assistance was created in 1931 with the passing of the McNitt Act. This Act provided a mechanism to transfer township roads into the county road system and also authorized the State to provide the Road Commission with $56 per mile of county road per year for road improvements which helped to offset the financial burden of roads being added to the county system. Another funding mechanism became available in 1951 with the amendment of Public Act 51 that established a system to generate road funds via gas taxes as well as a process to a distribute funds from a single funding source, currently the Michigan Transportation Fund (MTF). Today, the Road Commission continues to use the MTF as the primary source of revenue to maintain over 1679 miles of county roads.

York County Stormwater Advisory Committee (Virginia) In July 2002, the York County Stormwater Advisory Committee was created to focus on implementing a public education program, assisting in identifying drainage problems, and helping prioritize stormwater projects throughout the County. This Advisory Committee consisted of seven members, one from each district and two at large. In part this committee provided educational material for homeowners[5] that reviewed the roles of landowners, VDOT and York County in maintaining and improving drainage. This material also explained ditch ownership and offered resources to find out how who owns the ditch and therefore understand the party ultimately responsible for maintaining the ditch. While this Committee unitized county and state resources to target repair and maintenance tasks within the County, in September 2012, the York County Board of Supervisors disbanded the Stormwater Advisory Committee after it was decided that the committee completed its mission.

INTERNATIONAL EXAMPLES

ROADEX Network (European Union, Northern Periphery)

ROADEX Network is a partnership between Northern Periphery countries (Figures 3 & 4) with a focus on a "trans-national" network low impact roads. ROADEX has a board objective of sharing best practices, research and development, and implementing and testing new solutions. More specifically, this

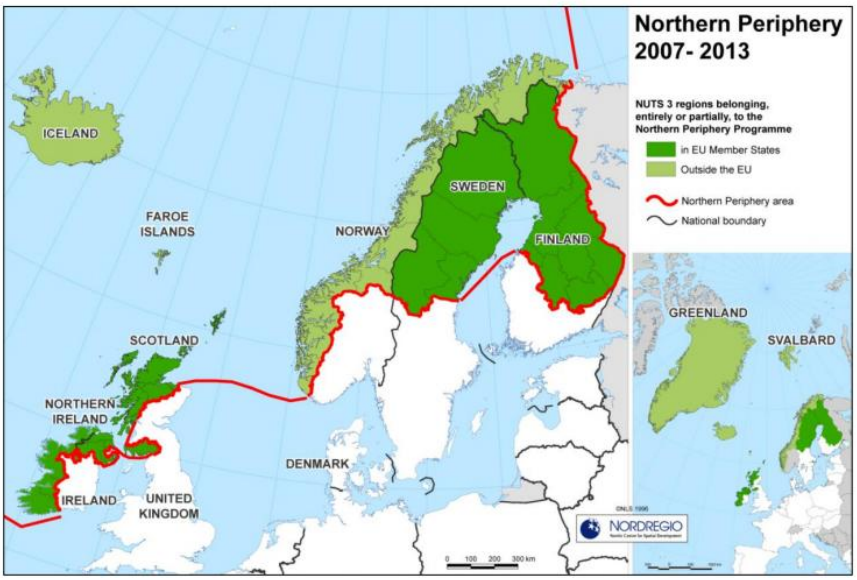


FIGURE 3: Map of Northern Periphery involved in the Roadex.

[5] The York County Stormwater Advisory Committee. *A Homeowner's Guide to a Healthy Stormwater Drainage System*. Received from: https://www.yorkcounty.gov/Portals/0/publicinfo/brochures/Stormwater.pdf

network provides sustainable and affordable solutions to address:

- Mature road network in peripheral areas
- Low traffic volumes
- Lifeline roads to remote communities
- Limited budgets
- Increasing user expectations
- Changing climate

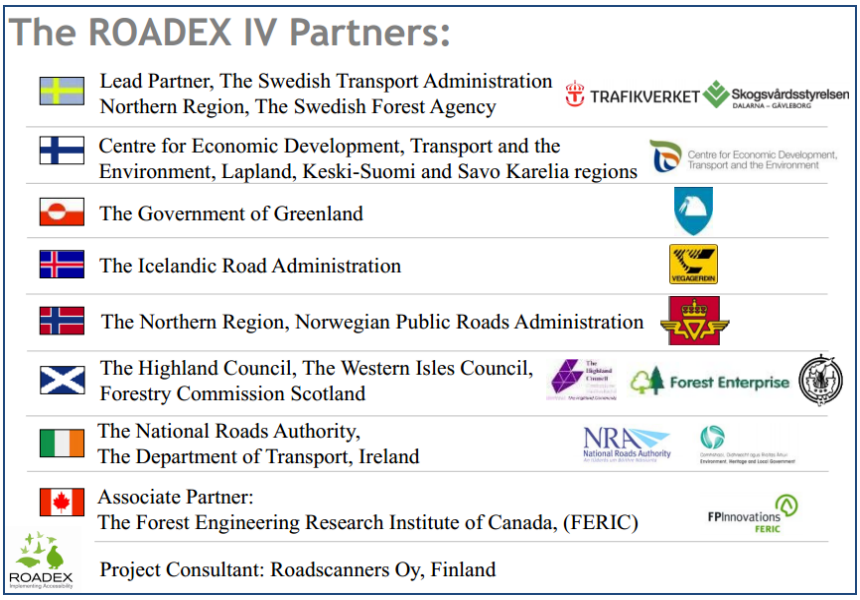


Figure 4: Countries involved in Roadex.

Throughout the Northern Periphery low volume roads are critical to the transport of natural resource commodities (i.e. forestry, fishery, agricultural, and mining products) from remote locations. Therefore with a need for these roads to stable, functional and passable, the ROADEX Network researched and reported on general issues, forest roads, health and socio-economic impacts, permanent deformation, road condition management, as well as drainage issues.

From 1998 to 2001, during the first ROADEX project, drainage problems were identified as being one of the worst problems shared by all ROADEX partners. Therefore to begin to address this topic, ROADEX Project II, from 2002 to 2005, developed a road monitoring improvement strategy consisting of three phases: (1.) mapping the road sections suffering from inadequate drainage; (2.) making a basic diagnosis of the drainage problem sites; and (3.) defining the solutions for the problem sites. This information was then used to develop drainage site classification table, including guidelines for how to recognize the problems and proposals for suitable improvement techniques (Figure 5). Next, during ROADEX project III, from 2006 to 2007, there was focus on disseminating and transferring found information across the Northern Periphery. The project produced the www.roadex.org website; a manual for engineers in six (6) partner languages; sixteen (16) seminars to technical staff and decision-maker at the local

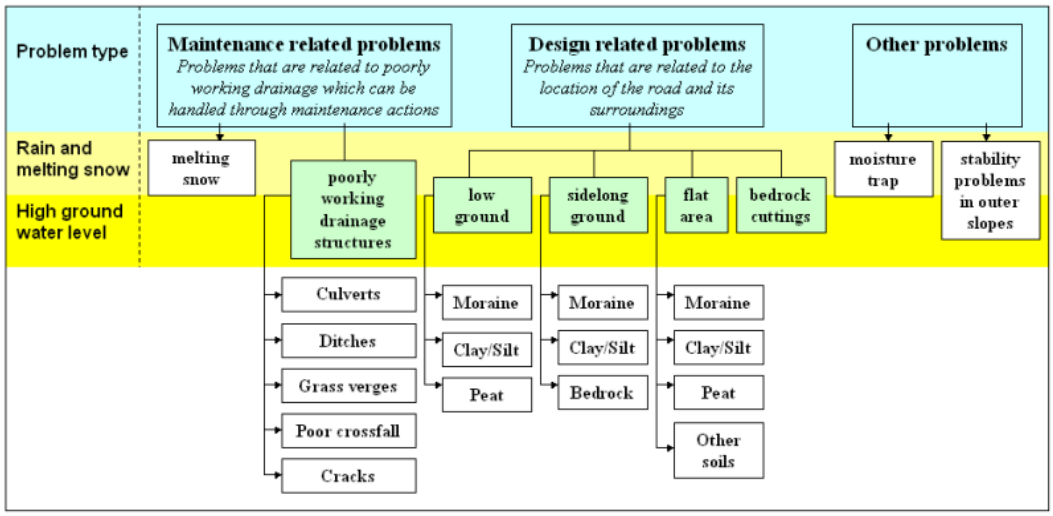


FIGURE 5: Categories of ditching problems.

offices; videos and brochures to promote the project and outputs; and an e-learning training package. To continue building off efforts, ROADEX project IV, from 2008 to 2012 aimed to implement road technologies developed ROADEX in partner road networks to improve operational and financial efficiency. As a result 23 demonstration projects were completed.

Funding for road condition management throughout the Northern Periphery countries have decreased over the years, particularly snow removal and repaving projects become more important to road user and therefore the higher priority. The funding for these ROADEX projects came from the European Union "Northern Periphery Program 2007-2013", which aimed to help these remote communities to develop their economic, social, and environmental potential.

The Drainage Act of 1894 (Ontario, Canada) The Drainage Act, administered by the Ontario Ministry of Agriculture, Food and Rural Affairs (OMAFRA), directs the creation, maintenance, and repair of municipal agricultural drains in Ontario, including open ditches and tile drains, that are used to remove water from land to increase agricultural production and productivity. While open ditches remove surface water from fields, tile drains remove water from soil through underground "plumbing."

For instance, the City of Ottawa has the largest rural area of any major municipality in Canada. This rural area includes over 700 municipal agriculture drains totaling more than 745 miles in length which is the largest number of open municipal drains in Ontario. Since these drains are considered municipal infrastructure, there is a need for them to be open and

functional in order to remove water from the City's rural lands and roads. Therefore under the Drainage Act, the City of Ottawa has a responsibility for all aspects of drainage works, including the repair and maintenance of existing municipal drains and construction of new drains.

The Act gives legal status to municipal drains, and municipalities are responsible for their construction improvement, maintenance, repair, and operation. Landowners can petition their local municipality to carry out agricultural drainage works (e.g., the construction of a new drain) on their property. While the cost is assessed for all landowners in the drainage area, OMAFRA provides grants for a portion of the cost through the Agricultural Drainage Infrastructure Program. Under certain circumstances (e.g., for the maintenance and repair of existing drains), funding may be available for drainage projects in some wetlands.

In 2008, the City maintained approximately 123,000 feet of municipal drains. Costs associated with this maintenance are recovered through a combination of provincial grants and assessments to benefiting landowners. In 2009 alone, the City of Ottawa has received requests for maintenance on 22 municipal drains, and has submitted a grant allotment request to the province.

In 2013, the Ministry of Natural Resources and the OMAFRA completed new protocol for drain maintenance and repair activities with the release of new Drainage Act and Conservation Authorities Act Protocol (DART). The protocol document provides a simplified process under the Conservation Authorities Act regulations for municipal drain maintenance and repair work performed under the Drainage Act. Appendix 3 provides the protocol document when maintenance and repairing municipal drains.

Association of Drainage Authorities (United Kingdom) Originally created in 1937, the Association of Drainage Authorities consists of 230 members (i.e. Internal Drainage Boards, Regional Flood and Coastal Committee, the Environmental Agency, Northern Ireland Rivers Agency, consultants, local authorities, water companies, and suppliers) that focus on water management throughout the United Kingdom.

Currently there are 114 Internal Drainage Boards (IDB) that participate in the Association of Drainage Authorities and they *believe in the principles of sound water level management*

through the close management of water levels – in watercourses and the surrounding landscape – for the purpose of reducing the risk from flooding and for sustaining all land uses and the environment.[6] IDBs are locally established in areas below sea level and at constant risk from flooding. They are administered by Drainage Boards that will establish and have authority over a drainage district. While these districts may vary in size from a few hundred acres to over 100,000 acres, IDBs within the United Kingdom cover a total of 3 million acres in England and approximately 70,425 acres in Wales. Thus, unlike other statutory authorities, which blanket-cover the country, drainage boards only administer districts that directly benefit from their operations which include the improvement and maintenance of rivers, drainage channels, and pumping stations.

Each year an annual budget lays out planned work and investment needs for future projects. To fund the IDB's operations, Section 36 of the Land Drainage Act 1991 states that expenses shall be meet by: (1) Drainage rates collected from agricultural land and building within the Internal Drainage District, (2) Special Levies issued on District Authorities within the Internal Drainage District, and/or (3) Contributions from the Environmental Agency (EA) (Figure 6).

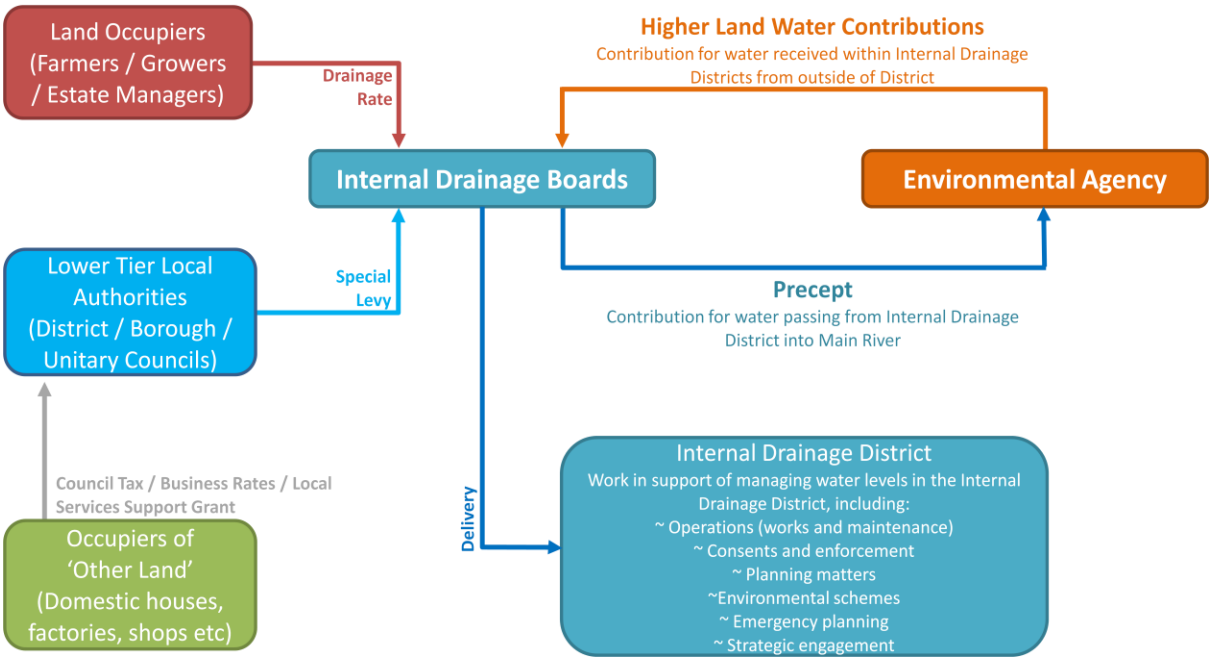


FIGURE 6: Funding mechanisms for Internal Drainage Boards.

[6] Venables, J., Carson, C., and Moodie, I. *A Vision for Internal Drainage Boards in England and Wales*. Association of Drainage Authorities. Retrieved from: http://www.ada.org.uk/downloads/publications/IDB-Vision-web.pdf

Drainage Rates and Special Levees are applied to “all land and properties within a Drainage District deemed to derive benefit from activities of an IDB.” On an annual basis drainage rates and special levies are applied and paid. To have the appropriate rate or levee applied to properties within the district, properties are divided into two categories - Agricultural Land and Buildings (i.e. farmhouses, bars, stables, silos etc.) and Other Lands (i.e. domestic houses, factories, shops etc.). The division of the expenses to the IDB raised via drainage rates versus special levy is determined by the total annual value of all agricultural land and buildings in the Internal Drainage District versus the total annual value of all other non-agricultural land and buildings within the Internal Drainage District. Therefore those property owners that have “Other Lands” would pay Council Tax, Business Rates, or Local Services Support Rates to the District and would also be charged a Special Levy by the Board in proportion to the annual value of this “Other Land”. As for Agricultural land and Buildings, the Board would require payment of Drainage Rates. If land moves out of agricultural production and built on the appropriate rates and levies are adjusted proportionately. Additionally Internal Drainage Districts are also enabled to set different drainage rates and special levies in each sub-district, however these differential rates are only used to reflect differential levels of service from an IDB.

In conjunction with drainage rates and levees, IDBs are able to secure grant funds to assist with the funding of capital and environmental works projects via Flood Defense Grant in Aid (FDGiA) from Defra, the lottery funding agencies and the European Union where appropriate. Another option includes a higher land water contribution. With an application to the EA, an IDB may request a contribution for the quantity of water that the district receives from lands at a higher level outside of the Board's district. The funding is to contribute to additional water management pressures as additional pumping/maintenance is required to manage water from lands at a higher elevation. Applications are made on an annual basis, and contributions are made at the discretion of the EA.

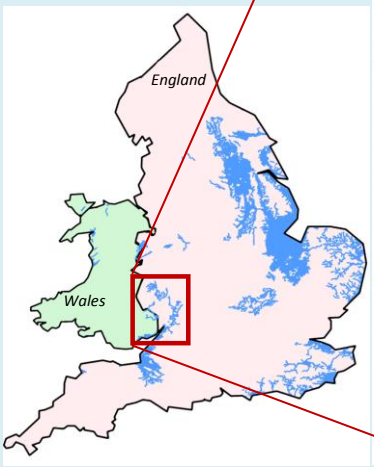
CLOSE-UP

LOWER SEVERN INTERNAL DRAINAGE BOARD

Lower Severn IDB extends into Eight Local Authorities including Herefordshire, Forest of Dean District, Tewkesbury Borough, Malvern Hills District, Gloucester City, Stroud District, Bristol City and South Gloucestershire Councils. This Board covers an area over 60,000 acres of land adjacent to the Severn, Frome, Leadon and Little Avon Rivers. The Board consists of 14 elected members that are land owners within the Board's jurisdiction. Elections for these members take place every three years. The Board is also supplemented with 15 members nominated by the Local Authorities that represent the business and householders within the Board's area. To fund the operations of the board, rates are charged to the occupiers of land and special levies to the 8 district councils within the board's area. During 2015
The Drainage Rate to meet the estimated expenditures were as followed:

AGRICULTURAL LAND 8.71%
An occupiers rate of 7.00p ($10.81) in the £ ($1.54).
Totaling the sum of £91362.10 ($141,058.51)

SPECIAL LEVIES 91.29%
Totaling the sum of £957691.78 ($1,478,628.22)



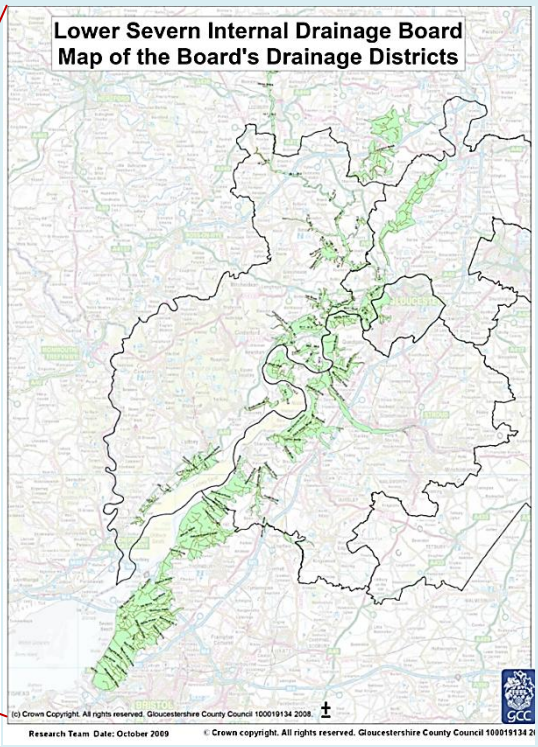


FIGURE 7: On the left is a diagram of the United Kingdom (UK), including England (pink) and Wales (green). The blue on this diagram is representative of all the IDBs in the UK. The map to the right is a more detailed visual of The Lower Severn Internal Drainage Board.

Product #2 - RESEARCH & ACCESS ENABLING AUTHORITY

While the domestic and international examples of drainage programs and regulations may focus on the maintenance and financing of roadside ditches, they consist of aspects that a Regional Drainage and Roadside Ditches Authority in the Middle Peninsula could consider. Therefore to understand Virginia's regulatory parameters and to begin to think about the structure of a Regional Authority, MPPDC staff answered specific questions to assist Middle Peninsula Localities in moving forward on this idea.

Is there existing Virginia enabling authority to create a Regional Drainage and Roadside Ditching Authority? If not, what new legislation is needed?

Based on MPPDC staff research there are two sections of VAC that could allow for the development of a Regional Drainage and Roadside Ditching Authority, including (A.) Virginia Water and Waste Authorities Act (§15.2-5100 – 15.2-5159) and (B.) Service District (§15.2-2400 – 15.2-2403). Table 1 provides an overview of each section of VAC.

Looking at the legislation, the Virginia Water and Waste Authorities Act may be used if the MPPDC is looking to create a public entity whereas the Service District code allows for the delegation of the power to another entity which may be considered private (i.e. a Community development authority). The Service District (Section §15.2-2403-9) allows all powers delegated to the governing body to be delegated to another entity which means that the entity can do whatever the governing body can do. The Virginia Water and Waste Water Authorities refers to provisions for the Hampton Roads district, but does not reference delegation of power to entities other than public. In essence, both sections of VAC would allow for the creation of a Regional Drainage and Roadside Ditching Authority in the Middle Peninsula but it will ultimately depend on decision makers and the type of entity they prefer.

In addition to these sections of the VAC, localities also have the option of developing new legislation that is specific to the creation of a Regional Drainage and Roadside Ditching Authority (i.e. maintenance and improvement projects). This could layout the powers of the authorities as

well as the structure of the authority (i.e. who can serve on the authority, number of people on the authority, etc.). Again, this depends on what kind of entity decision makers prefer.

Table 1: Virginia Administrative Code that may help with the development of a Regional Drainage and Roadside Ditching Authority.

District	Virginia Water and Waste Authorities Act (§15.2-5102-§15.2-5127).	Service District (§15.2-2400-§15.2-2403)
General Purpose	To create a water authority, a sewer authority, a sewerage disposal authority, a stormwater control authority to collect and disposal authority, or any combination of	To provide additional, more complete or more timely services of government than are desired in the locality or localities as a whole.
Eligible Jurisdiction	Counties and towns (§15.2-5102)	Counties and towns (§ 15.2-2400)
Legal Classification	Public body politic and corporate and a political subdivision of the Commonwealth. (§15.2-5102)	
Service Area	Any locality by ordinance, or any two or more localities, may be created by concurrent ordinances or resolution or by agreement. (§15.2-5102)	Any locality by ordinance, or any two or more localities, may be created by concurrent ordinances, can create a service district. (§15.2-2400)
Establishment	The ordinance, resolution or agreement creating the authority shall not be adopted or approved until a public hearing has been held on the question of its adoption or approval, and after approval at the referendum.	Any locality seeking to create a service district shall have a public hearing prior to the creation of the service district. Notice of such hearing shall be published once a week for three consecutive weeks in a newspaper of general circulation within the locality, and the hearing shall be held no sooner than ten days after the date the second notice appears in the newspaper. (§ 15.2-2400)
Referendum Provisions	If substantial opposition is heard, the governing body may at its discretion petition the circuit court to order a referendum on the question of adopting or approving the ordnance, agreement or resolution. If ten percent of the qualified voters in a locality file a petition with the governing body at the hearing calling for a referendum, such governing body shall petition the circuit court to order a referendum in that locality. (§ 15.2-5105)	

District	Virginia Water and Waste Authorities Act (§15.2-5102-§15.2-5127).	Service District (§15.2-2400-§15.2-2403)
Governing Body-Selection	Governing body	Governing body or bodies (§ 15.2-2400)
Governing Body-Composition	For an Authority created by a single locality: an authority board of five members, or at the option of the board of supervisors of a county , a number of board members equal to the number of members of the board of supervisors For an Authority created by two or more localities: the number of authority board shall be not less than one member from each participating locality and not less than a total of vie members.	Governing body or bodies (§ 15.2-2400)
General Powers	*Exist for a term of 50 years *Adopt, amend, or repeal bylaws, rules and regulations *Adopt an official seal *Maintain an office *Sue and be sued *Acquire, purchase lease, construct, reconstruct, improve, extend, operate and maintain any system or an y combination of systems within, outside or partly within and partly outside one or more of the localities *Issue revenue bonds *Combine any systems as a single system for the purpose of operation and financing *Determine and issue notes, bonds, or other obligations. *Fix charge and collect rates, fees and charges *Enter into contracts *Enter upon, use occupy and dig up any street , road, highway or private or public lands in connection *Install, own and lease pipes or conduit *Create, acquire, purchase, own, maintain, use, license, and sell intellectual property rights	*To construct, maintain, and operate facilities and equipment necessary or desirable to provide additional, more complete, or more timely governmental services within a service district, included but not limited to water supply, dams, sewerage, garbage removal and disposal, heat, light, fire-fighting equipment and power and gas systems and sidewalks; economic development services; promotion of business and retail development services; beautification and landscaping; beach and shoreline management and restoration; dredging to maintain existing uses; control of infestations of insects and pests; public parking; extra security, street cleaning, snow removal and refuse collection services; sponsorship and promotion of recreational and cultural activities; maintain streets and roads; and other services, events, or activities that will enhance the public use and enjoyment *Maintain transportation and transportation services. *To acquire facilities and equipment for services *To contract with any entity to provide services *To require owners or tenants to connect to service *To levy or collect an annual tax *To allocate funds

District	Virginia Water and Waste Authorities Act (§15.2-5102-§15.2-5127).	Service District (§15.2-2400-§15.2-2403)
Taxing Authority	No taxing authority	May levy tax on property in district.
Condemnation Authority	Rights of eminent domain apply (§15.2-5114)	
Changes in Jurisdictional Membership/ Service Area	By ordinance, resolution or agreement	By ordinance, or any two or more localities may create a service district by concurrent ordinances
Prescribed Duration	A term of fifty years as a corporation	None specified
Dissolution Provisions	By resolution expresses its consent to withdrawal	No provisions for dissolution.

What funding approaches could be used?

Based on the table above, if the Virginia Water and Waste Water Authority Act is utilized the authority may *fix, charge and collect rates, fees and charges for the use of, or for the services furnished by, or for the benefit derived from, any facilities or systems owned, operated or financed by the authority.* This section of VAC also allows for the use of grants to fund the authority. If the Service District section of VAC is used then the Board will have the authority to levy and collect an annual tax upon any property (i.e. residential, commercial, industrial, or other uses) within the geographic boundaries of the district. Additionally a *locality creating a service district may contribute from its general fund any amount of funds it deems appropriate to pay for the governmental services.*

While these sections of VAC are specific about funding mechanisms, if new legislation was sought then additional funding options could be included.

In 2014, MPPDC staff contracted with the Virginia Coastal Policy Clinic through Grant #NA13NOS4190135 Task #94.02[7] to research funding options to consider in the long-term financial sustainability of a Regional Drainage and Roadside Ditching Authority. Their report found by implementing a Utility Model for the Authority could generate sustainable revenue for

[7] Stiff, M.C. and Shana Jones. (2014). *Septic System Repair and Ditch Maintenance: Sustaining Permanente Funding*. Received from: www.mppdc.com/articles/reports/Final_Report_LWQIII_RED.pdf

development maintenance and repair funds for private property owners. Other funding mechanisms mentioned in the report include Federal & State Funding options:

- USDA Rural Utilities Service Program - Water and Waste Disposal Direct Loans and Grants
- Clean Water Act- Section 319 – Total Maximum Daily Load (TMDL) Implementation Funding FEMA – Hazard Mitigation Program
- FEMA - Pre-Disaster Mitigation Program
- FEMA – Flood Mitigation Assistance Program

In addition to the funding options outlined by the previous report there are some others to consider:

1. TIF (Tax Increment Financing) - According to §58.1-3245.2, *the governing body of any county, city or town may adopt tax increment financing by passing an ordinance designating a development project area and providing that real estate taxes in the development project area shall be assessed, collected and allocated in the following manner for so long as any obligations or development project cost commitments secured by the Tax Increment Financing Fund, hereinafter authorized, are outstanding and unpaid.* Instead of raising taxes or diverting current spending, TIF allows municipalities to pay for public improvements using earmarked gains in future property tax. These earmarked funds may only be used in the area in which the improvements occur. When addressing roadside ditches within the Middle Peninsula, a TIF area could be established and the revenue collected through this tool may be put towards the future maintenance and repair of roadside ditches.

2. Ditching Revolving Loan Fund – Currently the MPPDC staff administers several revolving loan programs, including the Regional On-Site Wastewater Treatment and Disposal Funding Program. This Program provides financial assistance to Middle Peninsula area homeowners for the repair and/or replacement of malfunctioning on-site wastewater systems, such as septic tanks and drain fields. The terms of the financial assistance are based on the applicant's household income and type of system. Loan interest rates range from 0% to prime plus 2%. Limited grant funding for part of the repair costs may be available for the installation and design of septic systems for homeowners who meet income guidelines. Therefore with an established revolving loan program framework, this structure may be used

to create and implement a Ditching Revolving Loan Fund could provide Middle Peninsula citizens with financial assistance to maintain ditches on private property.

3. **Leveraging funding –** Available funds from Middle Peninsula localities as well as VDOT funding committed to ditch repairs, improvement, or maintenance should be considered as part of a comprehensive drainage system enhancement and therefore should be considered for use as match to leverage other grant funding.

How can/will the Authority be staffed?

According to the Service District section of code the powers include *To employ and fix the compensation of any technical, clerical, or other force and help which from time to time, in their judgment may be necessary or desirable to provide the governmental services authorized by subdivisions 1, 2 and 11 or for the construction, operation, or maintenance of any such facilities and equipment as may be necessary or desirable in connection therewith.* As for the Virginia Water and Waste Water Authority Act, the Authority may *Contract with any person, political subdivision, federal agency, or any public authority or unit, on such terms as the authority deems proper, for the purpose of acting as a billing and collecting agent for rates, fees, rents or charges imposed by any such authority.* Additionally if the new legislation is sought then there can be language within that reflects staffing.

What type of power will the Regional Drainage and Roadside Ditching Authority have?

The section of code utilized to develop a Regional Drainage and Roadside Ditch Authority will determine the powers of the Authority. Please refer to Table 1 above for the powers under the Virginia Water and Waste Authorities Act as well as the Service District. The major difference is the taxing power that the Service District has to collect revenues. Finally if new legislation is sought then the powers could be created and written as desired.

Can a ditching district be created to share public and private cost of ditch maintenance?

Yes. Based on the Virginia Water and Waste Water Authorities Act code it allows for the collection rates, fees and charges can be fixed, charged and collected from those that benefit

from the authority's services (i.e. ditch maintenance and improvements). Then with regards to the Service District code, the governing body can levy and collect an annual tax upon property owners within the service district. In both sections of code, public and private costs could be shared for ditch maintenance.

Who can serve on this Authority?

The section of code utilized to develop a Regional Drainage and Roadside Ditching Authority will determine who can serve on the Authority. According to the Virginia Water and Waste Authority Act in order to create an authority, an ordinance, agreement or resolution needs to include the name of each participating locality and the names, addresses and terms of the office for the first members of the board of the authority. If a Regional Drainage and Roadside Ditching Authority created by a single locality, the board shall consist of five members, or at the option of the Board of Supervisors of a county, the number of board members equal to the number of members of the board of supervisors. If a Regional Drainage and Roadside Ditching Authority created by two or more localities the number of the board shall not be less than one member from each participating localities and no less than a total of five members.

As for the Service District section of code, upon adoption of an ordinance to create a service district, the governing body or bodies shall be authorized to exercise the powers in §15.2-2403.

Finally if new legislation is sought then this could be written into the legislation and therefore determined at a later date.

How can the Authority leverage available VDOT funding to fix a drainage issue?

A public private cost sharing partnership may be established to address drainage issues throughout the Middle Peninsula. For instance, in the past Mathews County had a Transportation Safety Committee that identified drainage issues throughout the county. To fund this program, Mathews County committed $50,000 to ditch maintenance projects and VDOT matched this with $50,000. Therefore when a ditch on private property needed maintenance VDOT would ask the homeowner for permission (i.e. a temporary easement) to access the property to fix the drainage issue. Costs were shared between the county and VDOT.

What does it cost of VDOT to provide equipment and staff to administer the ditch maintenance program and is there an opportunity to consolidate cost or cost share?

Based on rough estimates from VDOT to provide maintenance for 0.5 miles of roadside ditch it takes 3 days at a cost of $15,000. This does not include the time to obtain permits.

VDOTS funding committed to ditch repairs, improvement, or maintenance should be considered as part of a comprehensive drainage system enhancement and those (VDOT) funds should be considered for use as match to leverage other grant funding to address connected drainage issues beyond the VDOTs jurisdiction. Therefore is this an opportunity to share costs of maintaining adequate drainage.

Next Steps & Fruitful Discussions

As the Commonwealth is in the midst of refining the implementation of the new Stormwater Management regulations, there is a push to utilize Best Management Practices (BMP) that mimic the natural filtration of stormwater through infiltration or retention. The MPPDC staff conducted regulatory research and had discussions with the Virginia Department of Environmental Quality (DEQ) regarding the utilization of roadside ditch as BMPs in order to receive stormwater credit. As functioning ditches collect and move stormwater throughout the region, ditches may help filter

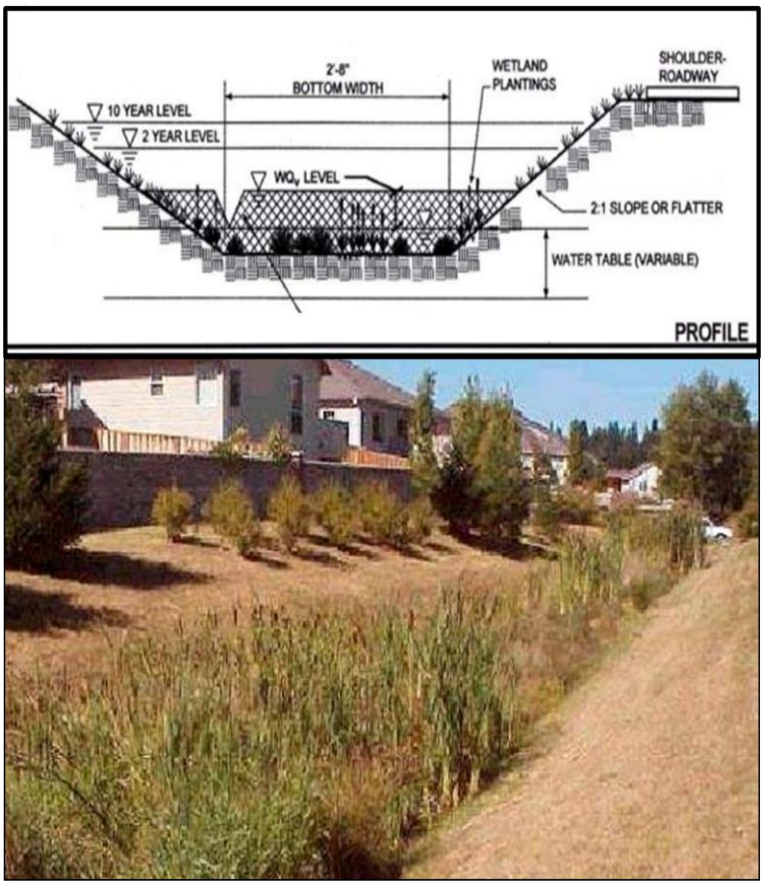


FIGURE 8: Design specification profile of a wet swale and photograph (DCR, 2011)

the water as it's conveyed to adjacent waterways. Ultimately this mimics the purpose and functionality of a BMP.

Currently Virginia Tech jointly administered a BMP Clearinghouse with DEQ and the Virginia Water Resource Research Center to provide a list of non-proprietary and proprietary/manufactured BMPs eligible for new construction and redevelopment projects. These BMPs have been researched and design specs have been developed in order to standardize and create a pollution reducing efficiency. There is already one accepted BMP, called a wet swale (Figure 8), that has similar features as a drainage ditch, yet it has specific design criteria. Therefore if a drainage ditches could be retrofitted to become an approved BMP than Middle Peninsula localities could be eligible to receive nutrient credits to help meet Chesapeake Bay nutrient goals.

To continue efforts in improving drainage and roadside ditches in the Middle Peninsula, MPPDC staff and DAA have will utilize funding through NOAA (National Oceanic and Atmospheric Administration) to focus on providing technical assistance to Mathews County through mapping of ditches and research land records. First, the project will aim to generate maps of the priority areas within Mathews County that have already been analyzed the DAA engineering study. Maps will be created using Mathews County tax parcel maps overlapped with LIDAR (Light Detection and Ranging) mapping data providing information on ditch and channel locations in those areas. Technical assistance to complete this activity will be provided by DAA. Second, these maps will be sent to the Virginia Coastal Policy Clinic (VCPC). VCPC and William and Mary law students will conduct research, compile deeds and easement documentation identifying ditch ownership responsibility, easement rights and any other documented interest in the roadside and outfall ditch in the target area. Finally, to wrap up this project, land records and maps will be integrated into a database that will maintain and connect deed and easement information relative to each private and public property for each ditch and associated parcel. Improvements and maintenance operations may also be tracked through this database. The information will be available to Mathews County and VDOT in a database form and GIS format to better track needs and current information among the various stakeholder. The information will be presented to property owners and other stakeholders to educate them in the dynamics surrounding the ditch

maintenance process and how their cooperation will be imperative to successful maintenance of ditches on private property.

Conclusion

This report provides examples of drainage programs and policies being implemented to address drainage and roadside ditches domestically and interanationally. While individually these examples may not reflect the specific needs and desires of Middle Peninsula localities, together they offer pieces that could be integrated into a regional effort. These examples also demonstrate that there are a variety of approaches to address the same issue, which is based on available policy tools, geographic needs, as well as governmental will.

Therefore such examples as well as an understanding of the VAC framework under which a Regional Drainage and Roadside Ditching Authority could be developed, the Middle Peninsula localities have options to address this issue. Options range from localities taking no action to creating institutional solutions that would shift the ditching problem away from local government. Figure 9 below provides an overview of the options and impacts if implemented.

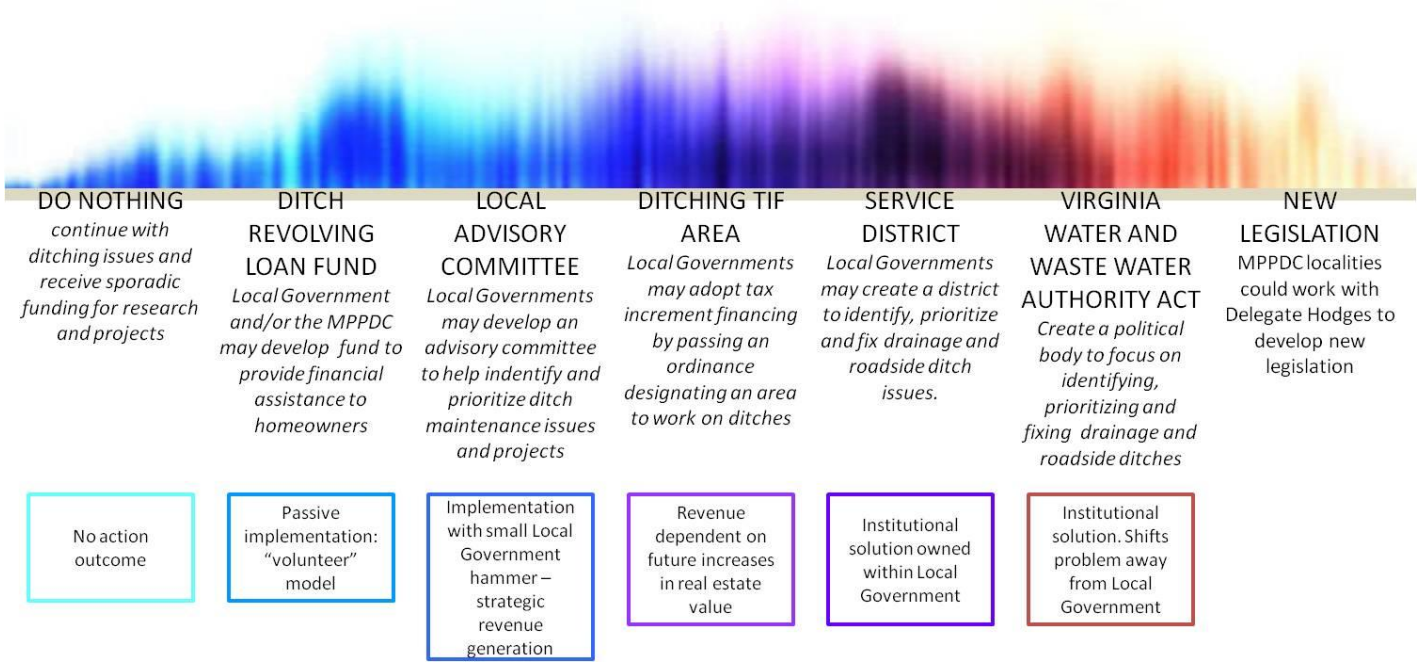


FIGURE 9: A spectrum of options for local governments to consider addressing drainage and roadside ditching within the Middle Peninsula. The options under the blue will take little to no effort by the localities, while the options under the red will take the most effort.

Appendix A – Maryland Code: Public Drainage Association

Public Drainage Associations

§ 26-101. Definitions

In general

(a) In this title the following words have the meanings indicated.

Board of managers

(b) "Board of managers" means the board of managers of a drainage association.

Board of viewers

(c) "Board of viewers" means the board of drainage viewers established under this title.

Designated officer

(d) "Designated officer" means:

(1) the clerk of the county commissioners for a code county or commission county if there is a clerk for the county; or

(2) an employee or official of the county who is designated by the county commissioner or county council to perform the responsibilities of the designated officer under this title.

Drainage association

(e) "Drainage association" means a public drainage association established under this title.

Landowner

(f) "Landowner" means a person who owns, or has contracted to purchase, land that is to be affected by a drainage project being considered by a drainage association or proposed drainage association.

§ 26-102. Scope of title

This title does not apply to Baltimore City.

§ 26-103. Construction of title

This title does not:

(1) restrict a charter county or code county from exercising a power granted under § 10-321 of this article; or

(2) authorize:

(i) the removal of a milldam;

(ii) the interference with legal water rights of a mill; or

(iii) the diversion of water in a manner that deprives an owner of land over which water flows of the benefits and water rights to which the owner of the land is legally entitled.

§ 26-104. Power to establish

In general

(a) The county commissioners or county council of a county may establish a drainage association.

Purpose

(b) A drainage association may:

(1) locate and establish a ditch, drain, or canal; and

(2) establish and maintain a watershed drainage system by constructing, straightening, widening, or deepening any ditch, drain, or watercourse.

§ 26-105. Statement of public benefit

A drainage project established and maintained by a drainage association benefits the public and promotes public health, safety, and welfare.

§ 26-106. Notice to units of State government

The county commissioners or county council shall notify the Secretary of Agriculture and the State Soil Conservation Committee in the Department of Agriculture of the establishment of a drainage association so that coordination and assistance may be provided in accordance with § 8-602 of the Agriculture Article.

§ 26-107. Notice to affected nonresident

If any owner of property affected by any proceedings under this title resides out of State, a written notice of the proceedings of the county commissioner or county council served on the tenant or agent of the owner at least 30 days before the proceedings shall be as good and sufficient as if the owner resided in the State.

Subtitle 2. Petition to Establish Drainage Association (Refs & Annos)

§ 26-201. Filing

A petition to establish a drainage association shall be filed with the designated officer of the county in which all or a part of the land to be affected by the proposed drainage association is located.

§ 26-202. Petition

Contents

(a) The petition shall:

(1) clearly describe the area's location, boundaries, and need of drainage for optimal crop production;

(2) describe how draining or ditching the area or changing the natural watercourse benefits the public or promotes the public health, safety, or welfare; and

(3) request the establishment of a drainage association for the purposes listed in item (2) of this subsection.

Required signatures

(b) A petition is valid only if signed by at least one-third of the landowners or the owners of at least one-third of the land in a watershed.

§ 26-203. Report required

In general

(a) (1) The petition shall be accompanied by a report from the local soil conservation districts serving the area of the proposed drainage association.

(2) The report shall state:

(i) the size and location of the area of the proposed drainage association;

(ii) the nature of the problem to be addressed;

(iii) the type of treatment believed to be needed and the benefits anticipated;

(iv) whether the proposed drainage association is feasible and is generally supported by the landowners in the area;

(v) whether the proposed drainage association will benefit the public and promote the public health, safety, and welfare;

(vi) the name of the proposed drainage association, in the form of the "_____ Public Drainage Association"; and

(vii) the number of managers, equaling not less than three, to serve as the board of managers.

Maps of area affected

(b) The local soil conservation districts shall file with the report maps that show:

(1) a general delineation of the area of the proposed drainage association; and

(2) the area's location in each county in which it lies.

§ 26-204. Examination of petition and report; hearing; notice

Examination of petition and report

(a)(1) The county commissioners or county council shall examine the petition and report at the first meeting after receiving the petition and report.

(2) If the county commissioners or county council find the petition and report are not in proper form or not in compliance with the law, the petition and report shall be returned to the petitioners to be corrected and resubmitted.

(3) If the petition and report are in proper form and in compliance with the law, the county commissioners or county council shall set a date for a public hearing on the petition and report.

Notice

(b) (1) At least 10 days before the hearing, the county commissioners or county council shall:

(i) publish notice of the time and place of the hearing in a newspaper of general circulation in each county in the area in which the proposed drainage association would be located; and

(ii) send notice of the hearing and any later hearing to the:

1. Department of Agriculture; and
2. State Soil Conservation Committee in the Department of Agriculture.

(2) The notice of the hearing shall state that a copy of the report is available for inspection in the office of the designated officer.

Report available for inspection

(c) A copy of the report shall be available for inspection in the office of the designated officer.

§ 26-205. Multiple counties--Jurisdiction and venue

If the land described in the petition is located in two or more counties, the county commissioners or county council of an affected county may exercise the jurisdiction conferred in this title, but the venue shall lie in the county in which the petition is filed.

§ 26-206. Hearing and action on petition and report

Participants

(a) At the hearing on the petition and report, the petitioners, any affected local soil conservation district, and any other person may appear in person or by counsel and object to any part of the report.

Authority of county

(b) The county commissioners or county council may:

(1) disapprove the petition and report and return them to the petitioners for amendment in view of the objections presented; or

(2) approve the petition and report as submitted or amended.

§ 26-301. Establishment of drainage association

Approval of petition and report

(a) On approval of the petition and report filed under Subtitle 2 of this title, the county commissioners or county council shall:

(1) establish a drainage association that is composed of the landowners; and

(2) name the organization the "_____ Public Drainage Association".

Status

(b) A drainage association created under this title is a political subdivision of the State and a body politic and corporate.

Powers

(c) A drainage association may:

(1) acquire, hold, and convey property;

(2) sue and be sued;

(3) adopt a seal; and

(4) exercise corporate powers.

§ 26-302. Board of managers--Initial election

Meeting of landowners

(a) Within 30 days after the approval of the petition and report, the county commissioners or county council shall call a meeting of the landowners to elect a board of managers.

Notice

(b) (1) At least 10 days before the meeting, the county commissioners or county council shall post a notice of the meeting at four public places in the area or vicinity of the area of the drainage association.

(2) The notice shall state the time, place, and purpose of the meeting.

Right to vote

(c) (1) Each landowner is entitled to vote in the election of the board of managers until the board of viewers report is approved by the county commissioners or county council.

(2) When the report of the board of viewers is approved, each landowner is entitled to vote according to the special assessment on the landowner shown in the report as follows:

(i) for any special assessment not exceeding $15, one vote;

(ii) for any special assessment more than $15 and not exceeding $35, two votes;

(iii) for any special assessment more than $35 and not exceeding $60, three votes;

(iv) for any special assessment more than $60 and not exceeding $100, four votes;
(v) for any special assessment more than $100, one additional vote for each $50 in excess of $100, plus one additional vote for any remaining part less than $50.

(3) Any landowner may vote by written proxy signed by the landowner.

Quorum

(d) A quorum consists of the number of landowners who are entitled to cast a majority of all the votes as provided in subsection (c) of this section.

Appointment in absence of quorum

(e) On proof that notice has been given as required in subsection (b) of this section, if a quorum is not obtained, the county commissioners or county council shall appoint the managers.

Staggering of initial terms

(f) The board of managers elected under subsection (a) of this section shall determine by a random drawing the managers who:

(1) serve until the date of the first regular annual meeting;
(2) serve until the date of the first regular annual meeting and for 1 year thereafter; or
(3) serve until the date of the first regular annual meeting and for 2 years thereafter.

§ 26-303. Board of managers--Tenure; vacancies

Tenure

(a) (1) The term of each manager is 3 years.
(2) Each manager shall serve until a successor is elected or appointed.

Election to fill vacancies

(b) (1) Each year, the landowners shall meet to elect a successor to:
(i) any manager whose term expired on or before the date of the meeting; and
(ii) any manager who died or resigned since the last annual meeting.
(2) A manager who is elected to fill a vacancy caused by death or resignation shall hold the office for the rest of the term.

Appointment to fill vacancies

(c) (1) The county commissioners or county council shall appoint an individual to fill a vacancy on the board of managers if:
(i) the board of managers does not call an annual meeting of landowners; or
(ii) the board of managers holds an annual meeting of landowners but a quorum is not present.
(2) The county commissioners or county council may appoint a manager to fill a vacancy on the board of managers until the next annual meeting of landowners.

§ 26-304. Officers

The board of managers shall elect a chair and a secretary from among its members.

§ 26-305. Immunity from liability

An officer or director of a drainage association shall have the immunity from liability described in § 5-508 of the Courts Article.

§ 26-306. Distribution and retention of petition and report

The county commissioners or county council shall:

(1) retain the original petition and report approved under § 26-206(b) of this title; and
(2) deliver a copy of the approved petition and report to the board of managers and the State Soil Conservation Committee in the Department of Agriculture.

§ 26-307. Drainage file

Designated officer to maintain

(a) The designated officer shall maintain a drainage file.

Contents

(b) The drainage file shall contain the petitions, motions, orders, reports, and other exhibits necessary for a complete record of the establishment of each drainage association in the county.

§ 26-308. Annual meetings of landowners

In general

(a) In January of each year, the board of managers shall call a meeting of the landowners.

Notice

(b) (1) At least 10 days before the meeting, the board of managers shall post a notice of the meeting at four public places in the vicinity of the drainage project.

(2) The notice shall state the time, place, and purpose of the meeting.

Annual report and other business

(c) At the meeting, the landowners shall:

(1) receive the annual report of the board of managers; and

(2) transact any other business that may properly come before the landowners.

§ 26-309. Special meetings

In general

(a) The board of managers may call a special meeting of landowners at any time.

Notice

(b) (1) At least 10 days before the meeting, the board of managers shall:

(i) post a notice of the meeting at four public places in the vicinity of the drainage project; and

(ii) mail a notice to:

1. each landowner;
2. the county commissioners or county council; and
3. the State Soil Conservation Committee in the Department of Agriculture.

(2) The notice shall state the time, place, and purpose of the meeting.

§ 26-401. Development

Duty of board of managers

(a) The board of managers shall develop a plan for agricultural drainage and soil conservation to promote optimal crop production by establishing and maintaining drainage systems that promote public health, safety, and welfare.

Planning and engineering services

(b) In developing the plan, the board of managers:

(1) shall engage the services of private engineers; or

(2) may use the services of planners and engineers of local, State, and federal units of government.

Right of entry

(c) A member or an agent of the board of managers or a member or an agent of the board of viewers:

(1) may enter any land to make surveys and examinations for developing a plan; and

(2) is liable for actual damage done to any land entered during a survey or examination.

§ 26-402. Contents

The plan developed under § 26-401 of this subtitle shall include:

(1) the location of each proposed drainage project on a map, drawing, or aerial photograph;

(2) a general delineation of the boundaries of the area affected by the drainage association with the general location in the county affected;

(3) engineering plans in sufficient detail to describe the proposed project;

(4) a general delineation of the boundaries of each tract of land in the area affected by the drainage association, including an estimate of the acreage of each tract; and

(5) the total estimated construction cost of each proposed drainage project.

§ 26-403. Adoption of plan

Meeting of landowners

(a) On completion of the plan, or on the acceptance of a previously completed plan, the board of managers shall call a meeting of the landowners to vote on the adoption of the plan for submission to the county commissioners or county council.

Notice

(b) (1) At least 10 days before the meeting, the board of managers shall:

(i) post a notice of the meeting in four public places in the area or vicinity of the area of the drainage association; and
(ii) mail a notice to each landowner.
(2) The notice shall state the time, place, and purpose of the meeting.

Right to vote

(c) At the meeting required under subsection (a) of this section:
(1) each landowner is entitled to one vote; and
(2) any landowner may vote by proxy if the proxy is dated, signed by the individual entitled to vote, and witnessed by at least one individual.

Determination by board of managers

(d) (1) The board of managers shall determine whether to submit the plan to the county commissioners or county council for review and approval.
(2) In making the determination, the board of managers shall consider:
(i) the vote of each landowner;
(ii) the probable apportionment of benefits to each landowner based on acreage;
(iii) the location of the drainage project; and
(iv) the extent of the benefits to the voter's land by the drainage project.

§ 26-404. Filing with county

Filing

(a) (1) If the board of managers decides to submit the plan to the county commissioners or county council, the board of managers shall submit three copies of the plan.
(2) The county commissioners or county council shall forward a copy of the plan to the State Soil Conservation Committee in the Department of Agriculture.

Statement

(b) The board of managers shall include with the submission of the plan a statement that the board of managers has determined that the drainage project:
(1) is feasible;
(2) will benefit the public and promote public health, safety, and welfare; and
(3) will produce sufficient benefits to warrant the expenditure.

§ 26-501. Appointment

In general

(a) (1) On approval of a plan submitted in accordance with § 26-404 of this title, the county commissioners or county council shall appoint a board of viewers composed of at least three impartial individuals who reside in the vicinity of the area of the drainage association.
(2) A member of the board of viewers may not be a landowner.

Multiple counties

(b) If a drainage project described in a plan is located in more than one county, at least one member of the board of viewers shall be from each county in which the drainage project is located.

Notice of acceptance

(c) An individual who is appointed as a member of a board of viewers may not act in that capacity until the individual provides written notice of acceptance of the appointment to the county commissioners or county council.

Vacancies

(d) (1) If any member of the board of viewers dies, moves from a county in which the area of the drainage association is located, or otherwise is unable to act, the county commissioners or county council shall appoint a replacement as soon as feasible.
(2) The appointment of a replacement does not affect the validity of any work of the board of viewers.

Compensation of viewers and engineer

(e) Each member of a board of viewers and the engineer is entitled to receive compensation for each day spent on duties as agreed by the county commissioners or county council and the members and engineer appointed under § 26-503 of this subtitle.

§ 26-502. Notice of action by board of viewers

At least 10 days before proceeding with its duties, the board of viewers shall:
(1) post a notice of its intention to proceed at four public places in the area described in the petition;

(2) publish a notice in a newspaper of general circulation published in each county in which the lands to be viewed are located; and
(3) send a copy of the notice to the county commissioners or county council, the Secretary of Agriculture, and the State Soil Conservation Committee in the Department of Agriculture.

§ 26-503. Duties

Examination to determine benefits; make surveys

(a) On receipt of a copy of the plan from the county commissioners or county council, a board of viewers shall:

(1) (i) engage the services of a private engineer; or
(ii) use the services of an engineer of a local, State, or federal unit of government;
(2) enter and view, with the individuals described in item (1) of this subsection, the land described in the petition;
(3) make careful and thorough examination of the land described in the petition and of other land if necessary to locate properly the project that is the subject of the petition;
(4) include in the area of the proposed drainage association all land that would be benefited and exclude any land described in the petition that it determines would not be benefited by the proposed improvement;
(5) conduct surveys to determine the boundaries and elevations of the area and to develop a plan for the project; and
(6) lay out on the ground a plainly and substantially marked line of each ditch or drain or other improvement that it considers necessary.

Consideration of damages

(b) A board of viewers shall consider as damages, without regard to any benefit that would result from the proposed drainage project:

(1) the value of land taken for construction of the proposed drainage project;
(2) inconvenience imposed by the construction of the proposed drainage project; and
(3) other lawfully compensable damages.

§ 26-504. Costs

Assessments

(a) A board of viewers:

(1) shall determine the amount sufficient to pay:
(i) the cost of constructing or improving a proposed drainage project;
(ii) any damages awarded;
(iii) any compensation for an existing drainage project that the board of viewers adopts in accordance with § 26-505 of this subtitle;
(iv) the expenses of the board of viewers; and
(v) the costs of establishing the drainage association;
(2) shall subtract from the amount determined under item (1) of this subsection any amounts received from the county commissioners or county council or any other source; and
(3) shall assess each landowner, including the State or a political subdivision of the State, that will derive a benefit from the proposed drainage project a proportion of the amount described in item (2) of this subsection, based on the benefits that would accrue to the tract of land from the drainage project.

Contribution by county

(b) Notwithstanding any other law, the county commissioners or county council may:

(1) contribute toward the costs of a drainage project authorized under this title from general funds of the county; or
(2) allocate toward the costs of any drainage project any other money that is available for the drainage project.

§ 26-505. Existing drainage projects

Adoption

(a) A board of viewers may adopt an existing drainage project as a whole drainage project or as a part of a drainage project, under this title.

Compensation for project

(b) If an existing drainage project is adopted by the board of viewers, it shall pay fair compensation to each landowner for the value of work already done on the drainage project.

§ 26-506. Subsequent board of viewers

Appointment on request of board of managers

(a) At the request of the board of managers, the county commissioners or county council shall appoint a board of viewers to determine if the original determination as to which lands have benefited from the improvements has changed.

Qualifications; powers; duties

(b) The board of viewers appointed under this section shall have the same qualifications, rights, powers, privileges, and duties as the original board of viewers.

Report

(c) (1) The board of viewers shall report its findings to the county commissioners or county council.

(2) The county commissioners or county council shall consider the report in the same manner as the original report, and the report shall be subject to a public hearing and the right to judicial review as provided under § 26-513 of this subtitle.

Assessments

(d) Any revision in the original determination as to which lands benefit from the drainage project shall become the basis for all future assessments for paying for the drainage project, including related expenses such as damages and the maintenance of the drainage project.

Classification of land

(e) Notwithstanding the requirements of this section, the board of managers, at any time after the creation of a drainage association, may determine which land in the association is classified as woodland, cropland, commercial, industrial, or residential.

§ 26-507. Report to State and county

Report required

(a) At the earliest feasible date, the board of viewers shall submit three copies of a written report to the county commissioners or county council and to the State Soil Conservation Committee in the Department of Agriculture.

Contents

(b) The report shall state:

(1) whether the proposed drainage project:

(i) is feasible;

(ii) will benefit the public or promote the public health, safety, or welfare; and

(iii) will benefit the land to be affected by the drainage project sufficiently to warrant the probable expenditure;

(2) the name of each person entitled to damages and the amount of the damages;

(3) the name of each person entitled to compensation for a drainage project adopted under § 26-505 of this subtitle and the amount of the compensation;

(4) the amount determined under § 26-504(a)(1) of this subtitle; and

(5) the amount for which each landowner shall be assessed as a share of the total cost of the drainage project and its proportion of the whole.

Maps and profiles

(c) The board of viewers shall file with the report three copies of maps and profiles that show:

(1) the location of the proposed drainage project on a map, drawing, or aerial photograph to a suitable scale;

(2) a general delineation of the boundary of the area affected, with the general location in the county indicated;

(3) a general delineation of the boundaries of each landowner's tract, with an estimate of the acreage that each tract contains; and

(4) the dimensions and profiles of the proposed drainage project.

§ 26-508. Examination of report; hearing; notice; report available for inspection

Examination

(a) (1) The county commissioners or county council shall examine a report submitted by a board of viewers under § 26-507 of this subtitle at the first meeting after receiving the report.

(2) If the county commissioners or county council find that a report under § 26-507 of this subtitle is not in proper form or not in compliance with the law, the report shall be returned to the board of viewers to be corrected and resubmitted.

(3) If the county commissioners or county council find that a report under § 26-507 of this subtitle is in proper form and in compliance with the law, the county commissioners or county council shall set a date for a public hearing on the report.

Notice

(b) (1) At least 30 days before a hearing under this section, the county commissioners or county council shall:

(i) publish notice of the time and place of the hearing in a newspaper of general circulation in each county in which the land affected is located; and

(ii) mail a notice to each person named in the report.

(2) Notice of the hearing shall state that a copy of the report is available for inspection in an office of the designated officer.

Report available for inspection

(c) A copy of the report of the board of viewers shall be:

(1) available for inspection in an office of the designated officer; and

(2) sent to the Secretary of Agriculture and the State Soil Conservation Committee in the Department of Agriculture.

§ 26-509. Hearing procedure on report

Participants

(a) At a hearing under § 26-508 of this subtitle:

(1) the board of viewers and engineers shall be present; and

(2) any person may appear in person or by counsel and object to any part of the report.

Consideration by county

(b) The county commissioners or county council shall consider carefully each objection presented under subsection (a) of this section.

Change in report

(c) If possible at the hearing, the board of viewers may make changes to the report necessary to treat each concerned person equitably.

Action on report

(d) The county commissioners or county council may:

(1) disapprove the report;

(2) return the report to the board of viewers for amendment or reconsideration in view of an objection presented; or

(3) approve the report as submitted or as amended.

Powers of board of managers on approval of report

(e) On approval of the report by the county commissioners or county council, the board of managers may install, operate, and maintain the drainage project described in the report.

§ 26-510. Payment of expenses if report disapproved

Payment by county

(a) If a report is disapproved, the county commissioners or county council shall pay the expenses properly incurred in making the survey and report and in publishing notices.

Imposition of special assessment on petitioners

(b) To reimburse the county for the expenses described in subsection (a) of this section, the county commissioners or county council may impose a special assessment in equal amounts on the property of the landowners who signed the petition filed under Subtitle 2 of this title.

§ 26-511. Amendment of petition or related proceedings

In general

(a) The county commissioners or county council or circuit court for the county in which proceedings are pending may, on application of any party and at any time before a final decision is made, grant leave to the party to amend the petition or any part of the proceedings that may be defective or informal to bring the merits of the case before the county commissioners or county council for a decision or before a jury of the circuit court for trial.

Costs

(b) The county commissioners or county council or circuit court for the county may award costs.

§ 26-512. Application for order of review

In general

(a) A person who may be adversely affected by the making of any ditch or drain or who may be assessed for any part of the costs of a ditch or drain may apply for an order of review to the county commissioners or county council at any time before the approval of the report.

Appointment of viewers to review report

(b) The county commissioners or county council may grant an order of review and appoint another board of viewers to redo the work done by the original board of viewers.

§ 26-513. Judicial review

In general

(a) A person who is aggrieved by a determination of the county commissioners or county council or by any proceedings under this title relating to drains may appeal to the circuit court of the county in which the determination was made or proceedings were conducted.

Option for trial by jury

(b) Either party may elect a trial by jury and the judgment in the trial shall be final between the parties.

§ 26-601. Rights-of-way and easements generally

Power to acquire

(a) The board of managers may acquire any right-of-way and easement necessary to construct and maintain the drainage projects or dispose of excavated material according to an approved operation and maintenance plan.

Easement record

(b) (1) The board of managers of each drainage association shall submit to the clerk of the circuit court in the appropriate county a book, to be known as the "easement record", that contains each easement for maintenance or right-of-way, according to the original design specifications or for not less than 20 feet, that the drainage association has in the county.

(2) A drainage association shall keep the easement record current.

(3) The clerk of a circuit court shall make an easement record available for inspection by the public.

§ 26-602. Condemnation proceedings

If a landowner refuses to accept the damages awarded to the landowner by the board of viewers and approved by the county commissioners or county council and refuses the necessary access to the landowner's land, the board of managers may begin condemnation proceedings under Title 12 of the Real Property Article to acquire a right-of-way.

§ 26-701. Powers and duties of managers

In general

(a) The board of managers shall implement the drainage project.

Specific authority

(b) The board of managers may:

(1) hire employees;

(2) buy, hire, or rent machines, and buy explosives;

(3) award contracts;

(4) enter into an agreement with any county, State, or federal unit of government; and

(5) do other acts as necessary, including borrowing money, in the name of the board of managers, if the borrowing is approved by the county commissioners or county council.

Payments of drainage association

(c) The county tax collector shall make payment on behalf of the drainage association as directed by the board of managers.

Accounting and reporting

(d) The board of managers shall:

(1) keep a regular account of its income and expenses; and

(2) report its income and expenses to the annual meetings of the drainage association and meetings of the landowners.

§ 26-702. Maintenance and operation of drainage projects

In general

(a) The board of managers shall control and supervise each drainage project under this title.

Duty to keep in good repair

(b) The board of managers shall keep each drainage project in good repair in accordance with an approved operation and maintenance plan.

§ 26-801. Imposition of special assessments on benefited lands

In general

(a) A special assessment imposed under this title shall be imposed on the lands benefited by a drainage project.

Division of assessment if property is divided

(b) If a tract of land subject to a special assessment under this title is divided, the board of managers shall determine the ratio in which any later special assessment is to be imposed on each subdivided tract of land based on the proportion of the benefit to each tract.

§ 26-802. Implementation of plan

Amount

(a) The board of managers shall determine the amount of money to be raised to implement an approved drainage project.

Preparation of assessment list

(b) The board of managers shall prepare an assessment list that shows the amount due from each landowner subject to the special assessment.

Proportional imposition of special assessments

(c) The special assessments imposed on each tract of land shall be proportional to the total assessments.

Signature and transmission of assessment list

(d) The assessment list required under subsection (b) of this section shall be:

(1) signed by the board of managers; and

(2) sent to the designated officer.

Certification

(e) (1) The designated officer shall certify the conformance of the assessment list with this section.

(2) After receiving the certification of the assessment list, the county commissioners or county council shall certify the assessment list to the county tax collector.

Inclusion in tax bills

(f) (1) The county tax collector shall include the special assessments imposed under this section in the next bills for county taxes.

(2) The special assessments are:

(i) due and collectible at the same time and in the same manner as county taxes; and

(ii) subject to the same interest and penalties for late payment and nonpayment as county taxes.

Supplemental special assessment

(g) If the special assessments collected under this section are insufficient to complete the drainage project, a supplemental special assessment shall be imposed in the same manner.

§ 26-803. Issuance of bonds or notes

In general

(a) As an alternative to raising funds as provided in § 26-802 of this subtitle, the board of managers may issue and sell bonds or notes as provided in this section for an amount not exceeding the total cost of the drainage project.

Notice of proposal

(b) (1) The board of managers shall give notice of a proposal to issue bonds or notes by:

(i) publication at least once a week for at least 3 weeks in a newspaper of general circulation in the county in which any of the area of the drainage association is located;

(ii) posting a notice at the door of the courthouse in the county in which any of the area of the drainage association is located; and

(iii) posting a notice at five conspicuous places in the area or vicinity of the area of the drainage association.

(2) The notice shall provide:

(i) the proposal to issue bonds or notes to pay for the cost of the drainage project;

(ii) the amount of bonds or notes to be issued;

(iii) the interest rate for the bonds or notes or the method of determining the interest; and

(iv) the date when the bonds or notes are payable.

Payment by landowner in advance

(c) (1) Within 15 days after the publication or posting of the notice in subsection (b) of this section, a landowner may pay to the county tax collector the full amount for which the landowner is liable, as provided in the report of the board of viewers.

(2) If a landowner pays the full amount as provided in paragraph (1) of this subsection, the landowner is relieved from further liability for the particular drainage project.

(3) Before issuing any bonds or notes under this section, the board of managers shall deduct from the estimated amount of bonds or notes to be issued the amount paid in advance by a landowner and shall issue bonds or notes only in the decreased amount.

(4) Any amount paid in advance to the county tax collector shall be held in a separate fund to be added to the proceeds of the bonds or notes issued and to be spent to implement the plan of drainage projects.

Certification of amount; assessment list

(d) The board of managers shall:

(1) certify to the county commissioners or county council the amount of bonds or notes to be issued; and

(2) submit an assessment list of all properties for which payments have not been made, showing for each landowner the full amount due, less interest, with the total amount for all landowners equaling the certified amount.

Issuance and sale of bonds or notes

(e) (1) After the assessment list has been submitted as provided in subsection (d) of this section, the board of managers shall issue bonds or notes in the certified amount.

(2) All bonds or notes issued under this section:

(i) shall be sold under the serial maturity plan;

(ii) shall have a maturity date of 12 years or less from the date of issue;

(iii) may not be sold for a price less than par; and

(iv) may be sold at a public or private sale.

(3) Subject to paragraph (2) of this subsection, the board of managers may provide for the form, date, interest rate, and other details incident to the offering, sale, execution, and delivery of the bonds.

(4) Bonds issued under this section are exempt from §§ 19-205 and 19-206 of this article.

Disposition of proceeds

(f) (1) The board of managers shall pay the proceeds from the sale of bonds under this section to the county tax collector.

(2) The county tax collector shall:

(i) retain the proceeds in a special fund;

(ii) disburse the proceeds only as authorized by the board of managers to carry out the plan of drainage projects; and

(iii) use any surplus to redeem bonds.

Annual assessment for payment of principal and interest

(g) (1) The board of managers shall certify to the county commissioners or county council and to the county tax collector the total amount due each year for the redemption of the bonds or notes issued under this section, including all payments of principal and interest.

(2) Each year, the county tax collector shall compute the amount due from each landowner, based on the amounts shown in the drainage assessment list, so that the total amounts individually due in any year equal the aggregate sum required in that year to pay the principal of and interest on the bonds or notes.

(3) The county tax collector shall include in the regular tax bill for each taxable year the amounts computed under paragraph (2) of this subsection.

(4) The special assessments are:

(i) due and collectible at the same time and in the same manner as county taxes; and

(ii) subject to the same interest and penalties for late payment or nonpayment as county taxes.

Payment for existing improvements

(h) If the drainage work plan approved by the county commissioners or county council provides for adopting any existing drainage project, the board of managers may:

(1) pay the amount necessary to acquire the existing drainage project from the proceeds of any bonds or notes issued under this section; or

(2) reimburse a landowner from the proceeds of any bonds or notes issued under this section for any amount spent by the landowner in the construction of the existing drainage project.

Report and disbursement of collections

(i) (1) The county tax collector shall report to the board of managers at regular intervals on the amount collected as special assessments during each interval, including a list showing the amount received from each landowner.

(2) The board of managers shall order the amount collected as special assessments to be paid by the county tax collector for the principal of and interest on the bonds or notes issued.

Bondholder's right of action on default

(j) (1) If an installment of principal of or interest on the bonds or notes issued under this subtitle is not paid at the time and in the manner it is due and payable and the default continues for a period of 6 months, the holder of the bond or note in default shall have a right of action against the board of managers.

(2) The circuit court of the county may issue a writ of mandamus against the board of managers that directs the imposition of a special assessment against landowners in default in an amount necessary to meet unpaid installments of principal and interest and the costs of the action.

(3) The board of managers shall certify the amounts of the special assessment to the county tax collector who shall proceed immediately to collect the special assessment from the landowners in default according to the procedure provided in this subtitle.

(4) When the county tax collector collects the amounts certified under paragraph (3) of this subsection, the county tax collector, on order of the board of managers, shall pay the installments of principal and interest in default and the costs of the action.

(5) The official bonds of the county tax collector and any other officers shall be liable for the faithful performance of the duties assigned to the officers under this subtitle.

(6) The holder of any bond or note in default may bring suit against any officer on the official bond of the officer for failing to perform a duty required under this section.

Applicability of title

(k) This title shall apply to drainage projects completed under this section as if completed with funds by assessments without issuing bonds or notes.

§ 26-804. Annual special assessment for maintenance and operation

In general

(a) (1) The board of managers may impose a special assessment on the public and private benefited land for maintenance of a drainage project constructed under this title.

(2) If the board of managers requests, the county commissioners or county council may appoint a board of viewers to evaluate changes in land use made after the original determination for a drainage project.

(3) The board of managers may use the evaluation report as a basis to impose a special assessment for maintenance of a drainage project.

Procedure for imposition and disbursement

(b) The special assessments under this section shall be imposed and disbursed in the same manner as provided for other special assessments under this subtitle, except that the board of managers may, at any time, determine which land is classified as woodland, cropland, commercial, industrial, or residential.

§ 26-805. Duties of county tax collector

Disbursement

(a) The special assessments imposed under this subtitle shall remain in the county treasury until disbursed by the county tax collector on orders signed by the board of managers.

Retention of proceeds

(b) (1) Except as provided in paragraph (2) of this subsection, the county tax collector shall be entitled to retain 3% of the drainage special assessments collected under this subtitle as compensation.

(2) In Caroline County, the county tax collector shall deposit all fees collected into the general fund of Caroline County.

Records

(c) For each drainage association in the county, the county tax collector shall keep a separate record that shows all income and expenses.

§ 26-806. Collection of special assessments if land in multiple counties

Separate assessment list

(a) If the lands of the drainage association that are subject to assessment are located in two or more counties, the board of managers shall prepare a separate assessment list for each county.

Transmittal to designated officer

(b) The board of managers shall send the assessment list for each county to the designated officer for the county in which the drainage association was organized.

Procedure

(c) (1) Except as provided in paragraph (2) of this subsection, the procedure to impose a special assessment under this section shall be as provided under § 26-802 of this subtitle.

(2) (i) The county commissioners or county council of the county in which the drainage association was organized shall certify the assessment lists for the other counties to the appropriate county commissioners or county council.

(ii) The county commissioners or county council shall then certify the tax assessment lists to the respective county tax collectors for action as provided under § 26-802 of this subtitle.

Proceeds

(d) All money collected in the several counties as provided under this section shall be paid over to the county tax collector of the county in which the drainage association was organized and credited to the drainage association.

§ 26-807. Order of payments to be made by board of managers

First funds

(a) From the money that first becomes available under this title to the board of managers, the board of managers shall pay:

(1) the compensation and expenses of the board of viewers and the engineers;

(2) any damages awarded;

(3) any compensation awarded for existing drainage projects; and

(4) the expenses incident to the organization of the drainage association.

Advancement

(b) (1) On request by the board of managers, the county commissioners or county council may advance funds to pay the costs in subsection (a) of this section.

(2) An advance under paragraph (1) of this subsection shall be repaid from the money first received to pay special assessments imposed on the landowners for the drainage project.

§ 26-901. Dissolution procedure generally

Petition

(a) (1) A majority of the landowners or the owners of a majority of the land in the area of a drainage association may submit a petition to dissolve the drainage association to the county commissioners or county council of the county in which the drainage association was organized.

(2) A complete list of the creditors of the drainage association certified under oath by the board of managers shall accompany the petition.

Hearing; notice

(b) On receipt of a petition under subsection (a) of this section, the county commissioners or county council shall:

(1) set a date for a public hearing on the petition; and

(2) give notice of the time, place, and purpose of the hearing at least 30 days before the hearing by:

(i) notice mailed to each creditor of the drainage association and each landowner; and

(ii) publication in a newspaper of general circulation in each county affected by the drainage association.

Action on petition

(c) (1) The county commissioners or county council may deny or approve a petition for dissolution after a public hearing under this section.

(2) On approval of a petition for dissolution, the county commissioners or county council shall give notice of the dissolution in the same manner as required under subsection (b) of this section.

Distribution of remaining funds

(d) After payment of all debts, any balance in the county treasury to the credit of the dissolved drainage association shall be distributed to the landowners in proportion to the original assessments.

§ 26-902. Dissolution of inactive association

Criteria for inactivity

(a) For the purpose of this section, a drainage association is considered inactive if for at least 5 years the drainage association has not complied substantially with a majority of the ordinary operating procedures required under this title, including:

(1) the maintenance of ongoing and current information in the drainage file at the office of the designated officer;
(2) election of a board of managers and officers of the board;
(3) an annual meeting of landowners;
(4) the submission of an annual report by the board of managers to the designated officer;
(5) the development, approval, filing, execution, or maintenance of a work plan applicable to property owned by the drainage association; and
(6) the submission and regular updating of the drainage association's easement record in the office of the clerk of the circuit court in the applicable county.

Petition for dissolution

(b) Notwithstanding § 26-901 of this subtitle, on a written petition for dissolution by any member of the most recently elected or appointed board of managers of an inactive drainage association, the county commissioners or county council of the county in which the drainage association was organized promptly shall:

(1) provide public notice that the county commissioners or county council has received and is considering a petition for dissolution of a drainage association;
(2) hold a public hearing to accept public comment before taking any action on the petition;
(3) consider all available information to determine the current operating status and foreseeable operating potential of the drainage association; and
(4) approve or deny the petition for dissolution.

Actions after approval

(c) If the county commissioners or county council approve a petition for dissolution under this section, the county commissioners or county council shall:

(1) satisfy all outstanding debts of the drainage association if any balance remains in the county treasury to the credit of the dissolved drainage association;
(2) retain any remaining balance; and
(3) provide for the transfer of any interest in real property held by the inactive drainage association to any county in which the property is located.

§ 26-1001. Right to open cross ditches or drains

In general

(a) A person who is assessed for a ditch or drain that does not pass through or on the person's land may open a ditch or install drain tile through the intervening land to connect to the main ditch and keep the ditch or drain tile open at the person's expense and control.

Exception

(b) A person may not open a ditch or install drain tile through the land of another person without the consent of the owner of the land, unless the damages to the land accruing to the owner of the land are assessed by three owners of land appointed by the county commissioners or county council to assess the damages.

Payment of costs and damages

(c) A person seeking to open a ditch or install drain tile under this section shall:

(1) pay the costs of laying out and opening the ditch or drain; and
(2) pay all damages awarded to any person who is injured by the ditch or drain before making the ditch or drain.

§ 26-1002. Requirements when drainage project crosses public highway

County to bear cost

(a) If a drainage project established under this title crosses a public highway at the intersection of the highway with a natural watercourse or depression through which water flows during periods of high water, the county in which the bridge is located or the governmental unit required by law to maintain the highway that is intersected shall:

(1) pay the cost of an existing bridge, repairing or enlarging an existing bridge and culvert, or constructing a new bridge or culvert; and

(2) maintain the bridge or culvert described in item (1) of this subsection.

Drainage association to bear cost

(b) If a drainage project established under this title crosses a public highway at a point where the highway does not intersect a natural watercourse or depression:

(1) the drainage association shall pay the cost of constructing a new bridge or culvert; and

(2) after construction, the county or other governmental unit required by law to maintain the highway that is intersected shall maintain the bridge and any culvert constructed.

§ 26-1003. Requirements when drainage project crosses railroad right-of-way

Railroad to bear cost

(a) If a drainage project established under this title crosses a railroad right-of-way at the intersection of the right-of-way with a natural watercourse or depression through which water flows at periods of high water, the railroad company shall:

(1) construct, build, and maintain any necessary new bridge or culvert; or

(2) enlarge, strengthen, reconstruct, or replace any existing bridge or culvert.

Element of damage

(b) The expense to the railroad under subsection (a) of this section shall be:

(1) considered an element of damage to the railroad company by the board of viewers; and

(2) shown as a damage in the report of the board of viewers.

§ 26-1101. Preventing entry on drainage land

Prohibited

(a) A person may not prevent a member, an employee, or an agent of the board of managers or a member or an agent of the board of viewers from entering land as authorized under § 26-401(c) of this title.

Penalty

(b) A person who violates this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $500.

§ 26-1102. Obstruction of drainage project

Prohibited

(a) (1) Except as provided in paragraph (2) of this subsection, a person may not obstruct a drainage project constructed under this title in a manner that impedes the free flow of water.

(2) A person may place a properly constructed swinging water gate across a ditch on a fence line to prevent livestock from trespassing through the ditch.

Penalty

(b) A person who violates this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $500 for each offense.

Distribution of fines

(c) Each fine collected under this section shall be paid to the county tax collector and credited to the drainage association that suffered the damage.

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Appendix B – Maryland Code: Public Watershed Association

Title 25. Public Watershed Associations
Effective: October 1, 2013
MD Code, Local Government, § 25-101
Formerly cited as Art. 25, § 169

§ 25-101. Definitions

In general

(a) In this title the following words have the meanings indicated.

Board of directors

(b) "Board of directors" means the board of directors of a watershed association.

Board of viewers

(c) "Board of viewers" means a board of watershed viewers established under this title.

Designated officer

(d) "Designated officer" means:

(1) the clerk of the county commissioners for a code county or commission county if there is a clerk for the county; or (2) an employee or official of the county who is designated by the legislative body to perform the responsibilities of the designated officer under this title.

Landowner

(e) "Landowner" means a person who owns, or has contracted to purchase, land that would be affected by a watershed project being considered by a watershed association or proposed watershed association.

Watershed association

(f) "Watershed association" means a public watershed association established under this title.

§ 25-102. Construction of title

This title does not authorize:

(1) the interference with legal water rights; or (2) the diversion of water in a manner that deprives an owner of land over which water flows of the benefits and water rights to which the owner of the land is legally entitled.

§ 25-103. Power to establish

In general

(a) On a petition filed under § 25-201 of this title, the county commissioners, county council, or Mayor and City Council of Baltimore City may establish a watershed association.

Purpose

(b) A watershed association may:

(1) construct, operate, and maintain a watershed project for:

(i) watershed protection;
(ii) flood prevention;
(iii) recreation;
(iv) soil conservation;
(v) drainage;
(vi) the conservation, development, storage, use, and disposal of water for any beneficial purpose in watershed and sub watershed areas; or
(vii) the protection of areas subject to sediment or erosion damage; and

(2) cooperate with local, State, and federal units of government.

§ 25-104. Statement of public benefit

Watershed protection, flood prevention, recreation, soil conservation, drainage, and the conservation, development, storage, use, and disposal of water for any beneficial purpose benefit the public and promote public health, safety, and welfare.

§ 25-201. Filing

A petition to establish a watershed association shall be filed with the designated officer of the county in which all or a majority of the land in the watershed or subwatershed area to be affected by the proposed watershed association is located

§ 25-202. Petition

Contents

(a) The petition shall:

(1) clearly describe the area's location, boundaries, and problems to be addressed by the establishment of a watershed association;

(2) describe the public benefit or the public health, safety, or welfare that would be promoted by establishing a watershed project for watershed protection, flood prevention, recreation, soil conservation, drainage, or the conservation, development, storage, use, and disposal of water for any beneficial purpose; and

(3) request the establishment of a watershed association for the purposes listed in item (2) of this subsection.

Required signatures

(b) A petition is valid only if signed by at least one-third of the landowners or the owners of at least one-third of the land in a watershed or sub watershed area.

§ 25-203. Report required

In general

(a) (1) The petition shall be accompanied by a report from the local soil conservation districts serving the area to be affected by the proposed watershed association

(2) The report shall state:

(i) the size and location of the area to be affected by the proposed watershed association;

(ii) the nature of the problem to be addressed;

(iii) the type of treatment believed to be needed and the benefits anticipated;

(iv) whether the proposed watershed association is feasible and is generally supported by the landowners in the area;

(v) whether the proposed watershed association will benefit the public and promote the public health, safety, and welfare;

(vi) the name of the proposed watershed association, in the form of the "_____ Public Watershed Association"; and

(vii) the number of directors, equaling not less than three, to serve as the board of directors.

Maps of area affected

(b) The local soil conservation districts shall file with the report maps that show:

(1) a general delineation of the area to be affected by the proposed watershed association; and

(2) the area's location in each county in which the proposed watershed association lies

§ 25-204. Examinations of petition and report; hearing; notice

Examination of petition and report

(a) (1) The county commissioners, county council, or Mayor and City Council of Baltimore City shall examine the petition and report at the first meeting after receiving the petition and report.

(2) If the county commissioners, county council, or Mayor and City Council of Baltimore City find the petition and report are not in proper form or not in compliance with the law, the petition and report shall be returned to the petitioners to be corrected and resubmitted.

(3) If the county commissioners, county council, or Mayor and City Council of Baltimore City find the petition and report are in proper form and in compliance with the law, the county commissioners, county council, or Mayor and City Council of Baltimore City shall set a date for a public hearing on the petition and report.

Notice

(b) (1) At least 10 days before the hearing, the county commissioners, county council, or Mayor and City Council of Baltimore City shall:

(i) publish notice of the time and place of the hearing in a newspaper of general circulation in each county in the area in which the watershed association would be located; and

(ii) send notice of the hearing and any later hearing to the:

1. Department of Agriculture;
2. State Soil Conservation Committee in the Department of Agriculture;
3. Department of the Environment; and
4. Water Management Administration in the Department of the Environment.

(2) The notice of the hearing shall state that a copy of the report is available for inspection in the office of the designated officer.

Report available for inspection

(c) A copy of the report shall be available for inspection in the office of the designated officer.

§ 25-205. Multiple counties--Jurisdiction and venue

If the land described in the petition is located in two or more counties, the county commissioners, county council, or Mayor and City Council of Baltimore City of an affected county may exercise the jurisdiction conferred in this title, but the venue shall lie in the county in which the petition is filed.

§ 25-206. Hearing and action on petition and report

Participants

(a) At the hearing on the petition and report, the petitioners, any affected local soil conservation district, and any other person may appear in person or by counsel and object to any part of the report.

Authority of county

(b) The county commissioners, county council, or Mayor and City Council of Baltimore City may:

(1) disapprove the petition and report and return them to the petitioners for amendment in view of the objections presented; or

(2) approve the petition and report as submitted or amended.

§ 25-301. Establishment of watershed association

Approval of petition and report

(a) On approval of the petition and report filed under Subtitle 2 of this title, the county commissioners, county council, or Mayor and City Council of Baltimore City shall:

(1) establish a watershed association that is composed of the landowners; and

(2) name the organization the "_____ Public Watershed Association".

Status

(b) A watershed association created under this title is a political subdivision of the State and a body politic and corporate.

Authorized

(c) A watershed association may:

(1) acquire, hold, and convey property;

(2) sue and be sued;

(3) adopt a seal; and

(4) exercise corporate powers.

§ 25-302. Board of directors--Initial election

Meeting of landowners

(a) Within 30 days after the approval of the petition and report, the county commissioners, county council, or Mayor and City Council of Baltimore City shall call a meeting of the landowners to:

(1) elect a board of directors; and

(2) determine the compensation for the board of directors.

Notice

(b) (1) At least 10 days before the meeting, the county commissioners, county council, or Mayor and City Council of Baltimore City shall post a notice of the meeting at four public places in the area or vicinity of the area affected by the watershed association.

(2) The notice shall state the time, place, and purpose of the meeting.

Right to vote

(c) Each landowner is entitled to one vote in the election of the board of directors.

Staggering of initial terms

(d) The board of directors elected under subsection (a) of this section shall determine by a random drawing the directors who:

(1) serve until the date of the first regular annual meeting;

(2) serve until the date of the first regular annual meeting and for 1 year thereafter; or

(3) serve until the date of the first regular annual meeting and for 2 years thereafter.

§ 25-303. Board of directors--Annual election or appointment

Election

(a) Each year, the landowners shall meet to elect a successor to:

(1) any director whose term expired on or before the date of the meeting; and

(2) any director who died or resigned since the last annual meeting.

Appointment instead of election

(b) (1) The county commissioners, county council, or Mayor and City Council of Baltimore City shall appoint an individual to fill a vacancy on the board of directors if:

(i) the board of directors does not call an annual meeting of landowners; or

(ii) the board of directors holds an annual meeting of landowners but the landowners do not elect a director as required under subsection (a) of this section.

(2) If there is a vacancy on the board of directors, the county commissioners, county council, or Mayor and City Council of Baltimore City may appoint a director to serve until the next annual meeting of landowners.

§ 25-304. Board of directors--Tenure; vacancies

Regular term

(a) (1) Except as provided in subsection (b) of this section, the term of each director elected or appointed under § 25-303 of this subtitle is 3 years.

(2) Each director shall serve until a successor is elected or appointed.

Vacancies

(b) A director who is elected or appointed to fill a vacancy caused by death or resignation shall hold the office for the rest of the term and until a successor is elected or appointed.

§ 25-305. Officers; surety bonds

Officers

(a) The board of directors shall elect a chair, a secretary, and any other necessary officer from among its members.

Surety bonds

(b) The board of directors shall obtain a surety bond for any officer or employee who is entrusted with money.

§ 25-306. Immunity from liability

An officer or a director of a watershed association shall have the immunity from liability described in § 5-508 of the Courts Article

§ 25-307. Distribution and retention of petition and report

The county commissioners, county council, or Mayor and City Council of Baltimore City shall:

(1) retain the original petition and report approved under § 25-206(b) of this title; and

(2) deliver a copy of the approved petition and report to the board of directors and the State Soil Conservation Committee in the Department of Agriculture.

§ 25-308. Watershed file

Designated officer to maintain

(a) The designated officer with whom a petition for the establishment of a watershed association is filed shall maintain a watershed file.

Contents

(b) The watershed file shall contain the petitions, motions, orders, reports, and other exhibits necessary for a complete record of the establishment of each watershed association in the county.

§ 25-309. Annual meeting of landowners

In general

(a) In January of each year, the board of directors shall call a meeting of landowners.

Notice

(b) (1) At least 10 days before the meeting, the board of directors shall post a notice of the meeting at four public places in the area or vicinity of the area affected by the watershed association.

(2) The notice shall state the time, place, and purpose of the meeting.

Annual report and other business

(c) At the meeting, the landowners shall:

(1) receive the annual report of the board of directors; and

(2) transact any other business that may properly come before the landowners.

Filing of annual report and minutes

(d) The board of directors shall file a copy of the annual report and a copy of the minutes from the meeting with the designated officer.

§ 25-310. Special meetings

In general

(a) The board of directors may call a special meeting of landowners at any time.

Notice

(b) (1) At least 10 days before the meeting, the board of directors shall:

(i) post a notice of the meeting at four public places in the area or vicinity of the area affected by the watershed association; and

(ii) mail a notice to each landowner in the watershed association.

(2) The notice shall state the time, place, and purpose of the meeting.

§ 25-401. Development

Duty of board of directors

(a) (1) The board of directors of the watershed association shall develop a work plan for the watershed or subwatershed area.

(2) The watershed work plan may include:

(i) watershed protection;

(ii) flood prevention;

(iii) recreation;

(iv) soil conservation;

(v) drainage; and

(vi) the conservation, development, storage, use, and disposal of water for any beneficial purpose.

Planning and engineering services

(b) In developing the watershed work plan, the board of directors:

(1) shall engage the services of private engineers; or

(2) may use the services of planners and engineers of local, State, and federal units of government.

Right of entry

(c) A member or an agent of the board of directors:

(1) may enter the land to make surveys and examinations for developing a watershed work plan; and

(2) is liable for actual damage done to any land entered during a survey or examination.

§ 25-402. Contents

The watershed work plan developed under § 25-401 of this subtitle shall include:

(1) the location of each proposed watershed project on a map, drawing, or aerial photograph;

(2) a general delineation of the boundaries of the area affected by the watershed association with the general location in the county affected;
(3) engineering plans in sufficient detail to describe the proposed project;
(4) a general delineation of the boundaries of each tract of land in the area affected by the watershed association, including an estimate of the acreage of each tract; and
(5) the total estimated construction cost of each proposed watershed project.

§ 25-403. Adoption of plan

Meeting of landowners

(a) On completion of the watershed work plan, or on the acceptance of a previously completed watershed work plan, the board of directors shall call a meeting of the landowners to vote on the adoption of the plan for submission to the county commissioners, county council, or Mayor and City Council of Baltimore City.

Notice

(b) (1) At least 10 days before the meeting, the board of directors shall:
(i) post a notice of the meeting in four public places in the area or vicinity of the area affected by the watershed association; and
(ii) mail a notice to each landowner.
(2) The notice shall state the time, place, and purpose of the meeting.

Right to vote

(c) At the meeting required under subsection (a) of this section:
(1) each landowner is entitled to one vote; and
(2) any landowner may vote by proxy if the proxy is dated, signed by the individual entitled to vote, and witnessed by at least one individual.

Determination by board of directors

(d) (1) The board of directors shall determine whether to submit the watershed work plan to the county commissioners, county council, or Mayor and City Council of Baltimore City for review and approval.
(2) In making the determination, the board of directors shall consider:
(i) the vote of each landowner;
(ii) the probable apportionment of benefits to each landowner based on acreage;
(iii) the location of the watershed project; and
(iv) the extent of the benefits to the voter's land by the watershed project.

§ 25-404. Filing with county

Filing

(a) (1) If the board of directors decides to submit the watershed work plan to the county commissioners, county council, or Mayor and City Council of Baltimore City, the board of directors shall submit three copies of the watershed work plan.
(2) The county commissioners, county council, or Mayor and City Council of Baltimore City shall forward a copy of the watershed work plan to the State Soil Conservation Committee in the Department of Agriculture.

Statement

(b) The board of directors shall include with the submission of the watershed work plan a statement that the board of directors has determined that the watershed project:
(1) is feasible;
(2) will benefit the public and promote public health, safety, and welfare; and
(3) will produce sufficient benefits to warrant the expenditure.

§ 25-405. Supplemental work plan

Development

(a) (1) If, after the review and approval of the watershed work plan under § 25-404 of this subtitle, the board of directors determines that it is in the interest of the watershed association to modify the purpose, scope, or location of the watershed project covered in the watershed work plan in a manner that would change the benefits or damages to landowners, the board of directors shall develop a supplemental watershed work plan.
(2) The supplemental watershed work plan shall:
(i) be developed as provided in § 25-401 of this subtitle; and

(ii) include the modified watershed project.

Implementation

(b) The board of directors and the county commissioners, county council, or Mayor and City Council of Baltimore City shall follow the procedures set forth in §§ 25-402 through 25-404 of this subtitle in implementing the supplemental watershed work plan.

Effect of approval

(c) A watershed viewers' report required under § 25-505 of this title based on a supplemental work plan developed and submitted under this subtitle that is approved by the county commissioners, county council, or Mayor and City Council of Baltimore City shall supersede any prior watershed viewers' report.

§ 25-501. Appointment

In general

(a) (1) On approval of a watershed work plan submitted in accordance with § 25-404 of this title, the county commissioners, county council, or Mayor and City Council of Baltimore City shall appoint a board of viewers composed of at least three impartial individuals.

(2) A member of the board of viewers may not be a landowner.

Multiple counties

(b) If a watershed project described in a watershed work plan is located in more than one county, at least one member of the board of viewers shall be from each county in which the watershed project is located.

Notice of acceptance

(c) An individual who is appointed as a member of a board of viewers may not act in that capacity until the individual provides written notice of acceptance of the appointment to the county commissioners, county council, or Mayor and City Council of Baltimore City.

Compensation

(d) The county commissioners, county council, or Mayor and City Council of Baltimore City shall set the compensation for the members of a board of viewers.

§ 25-502. Duties

Examination to determine benefits and damages

(a) On receipt of a copy of a watershed work plan from the county commissioners, county council, or Mayor and City Council of Baltimore City, a board of viewers:

(1) (i) shall engage the services of private engineers; or

(ii) may use the services of planners and engineers of local, State, and federal units of government;

(2) enter and view, with the individuals described in item (1) of this subsection, the land described in the watershed work plan and the proposed watershed project as laid out on the ground; and

(3) make careful and thorough examination of the area to determine the benefits and damages that would result from the proposed watershed project to the land in the area affected by the watershed association.

Consideration of damages

(b) A board of viewers shall consider as damages, without regard to any benefit that would result from the proposed watershed project:

(1) the value of land taken for construction of the proposed watershed project;

(2) inconvenience imposed by the construction of the proposed watershed project; and

(3) other lawfully compensable damages.

§ 25-503. Costs

Assessment

(a) A board of viewers:

(1) shall determine the amount sufficient to pay:

(i) the cost of a proposed watershed project;

(ii) any damages awarded;

(iii) any compensation for an existing watershed project that the board of viewers adopts in accordance with § 25-504 of this subtitle;

(iv) the expenses of the board of viewers; and

(v) the costs of establishing the watershed association;

(2) shall subtract from the amount determined under item (1) of this subsection any amounts in money or service received from the county or any other source;

(3) shall assess each tract of land in the area affected by the watershed association a proportion of the amount described in item (2) of this subsection, based on the benefits that would accrue to the tract of land from the watershed project; and

(4) may not assess a tract of land for an amount that is more than the benefits that would accrue to the tract of land from the watershed project.

Contribution by county

(b) Notwithstanding any other law, the county commissioners, county council, or Mayor and City Council of Baltimore City may:

(1) contribute in money, services, equipment, or materials toward the costs of any watershed project authorized under this title from general funds of the county; or

(2) allocate toward the costs of any watershed project any other money that is available for the watershed project.

§ 25-504. Existing watershed projects

Adoption

(a) A board of viewers may adopt an existing watershed project, as a whole watershed project or as a part of a watershed project, under this title.

Compensation for projects

(b) If an existing watershed project is adopted by the board of viewers, the board of viewers shall pay fair compensation to each landowner for the value of work already done on the watershed project.

§ 25-505. Report to county

Report required

(a) At the earliest practicable date, the board of viewers shall submit three copies of a written report to the county commissioners, county council, or Mayor and City Council of Baltimore City.

Contents

(b) The report shall state:

(1) the name of each person entitled to damages and the amount of the damages;

(2) the name of each person entitled to compensation for a watershed project adopted under § 25-504 of this subtitle and the amount of the compensation;

(3) the amount determined under § 25-503(a)(1) of this subtitle; and

(4) the amount for which each benefited tract of land shall be assessed as its share of the total cost of the watershed project and its proportion of the whole.

§ 25-506. Examination of report; hearing; notice; report open to inspection

Examination

(a) (1) The county commissioners, county council, or Mayor and City Council of Baltimore City shall examine a report submitted by a board of viewers under § 25-505 of this subtitle at the first meeting after receiving the report.

(2) If the county commissioners, county council, or Mayor and City Council of Baltimore City find that the report is not in proper form or not in compliance with the law, the report shall be returned to the board of viewers to be corrected and resubmitted.

(3) If the county commissioners, county council, or Mayor and City Council of Baltimore City find that the report is in proper form and in compliance with the law, the county commissioners, county council, or Mayor and City Council of Baltimore City shall set a date for a public hearing on the report.

Notice

(b) (1) At least 30 days before a hearing under this section, the county commissioners, county council, or Mayor and City Council of Baltimore City shall:

(i) publish notice of the time and place of the hearing in a newspaper of general circulation in each county in which the land to be affected by the watershed association is located;

(ii) mail a notice to each person named in the report; and

(iii) if a landowner or an owner of other property named in the report resides outside the State, serve written notice of the hearing on the tenant or agent of the landowner or owner of the other property.

(2) Notice of the hearing shall state that a copy of the report is available for inspection in an office of the designated officer.

Report available for inspection
(c) A copy of the board of viewers report shall be available for inspection in the office of the designated officer.

§ 25-507. Hearing procedure

Participants
(a) At a hearing under § 25-506 of this subtitle:
(1) the board of viewers and engineers shall be present; and
(2) any person may appear in person or by counsel and object to any part of the report.
Consideration by county
(b) The county commissioners, county council, or Mayor and City Council of Baltimore City shall consider carefully each objection presented, taking into account the apportionment of costs and benefits.
Change in report
(c) If a well founded objection can be resolved at the hearing by changing the report, the board of viewers shall make the changes necessary to treat each concerned person equitably.
Optional vote of affected landowners
(d) To help make a decision, the county commissioners, county council, or Mayor and City Council of Baltimore City may poll the landowners present who are named in the report of the board of viewers, considering the apportionment of benefits and damages.
Action on report
(e) The county commissioners, county council, or Mayor and City Council of Baltimore City may:
(1) disapprove the report;
(2) return the report to the board of viewers for amendment or reconsideration in view of an objection presented; or
(3) approve the report as submitted or as amended.
Powers of board of directors on approval of report
(f) On approval of the report by the county commissioners, county council, or Mayor and City Council of Baltimore City, the board of directors may install, operate, and maintain the watershed project described in the watershed work plan.

§ 25-508. Payment of expenses if report disapproved

Payment by county
(a) If a report is disapproved, the county commissioners, county council, or Mayor and City Council of Baltimore City shall pay the expenses properly incurred in making the survey and report and in publishing notices.
Imposition of special assessment on petitioners
(b) To reimburse the county for the expenses described in subsection (a) of this section, the county commissioners, county council, or Mayor and City Council of Baltimore City may impose a special assessment in equal amounts on the property of the landowners who signed the petition filed under Subtitle 2 of this title.

§ 25-509. Protection of interests of minor

If the property or interest of a minor who does not have a guardian is affected by a watershed project under this subtitle, the orphans' court of the county shall appoint a guardian to protect the interests of the minor.
§ 25-510. Amendment of petition or related proceedings
In general
(a) The county commissioners, county council, or Mayor and City Council of Baltimore City or circuit court for the county in which the proceedings are pending may, on application of any party and at any time before a final decision is made, grant leave to a party to amend the petition or any part of the proceedings that may be defective or informal so as to bring the merits of the case before the county commissioners, county council, or Mayor and City Council of Baltimore City for a decision or a jury of the circuit court for trial.
Costs
(b) The county commissioners, county council, or Mayor and City Council of Baltimore City or the circuit court may award costs.

§ 25-511. Application for order of review

In general

(a) A person who may be adversely affected by any watershed project connected with the proposed watershed association may apply for an order of review to the county commissioners, county council, or Mayor and City Council of Baltimore City at any time before the approval of the report.

Appointment of viewers to review report

(b) The county commissioners, county council, or Mayor and City Council of Baltimore City may grant an order of review and appoint another board of viewers to redo the work done by the original board of viewers

§ 25-512. Judicial Review

In general

(a) A person who is aggrieved by a determination of the county commissioners, county council, or Mayor and City Council of Baltimore City, or by any proceedings under this title relating to a watershed project, may appeal to the circuit court of the county in which the determination was made or proceedings were conducted.

Option for trial by jury

(b) Either party may elect a trial by jury.

§ 25-601. Rights-of-way and easements generally

Power to acquire

(a) A watershed association may acquire any right-of-way, easement, or other property right necessary to construct and maintain the watershed project for:

(1) watershed protection;
(2) flood prevention;
(3) recreation;
(4) soil conservation;
(5) drainage; and
(6) the conservation, development, storage, use, and disposal of water for any beneficial purpose.

Easement record

(b) (1) A watershed association shall submit to the clerk of the circuit court in the appropriate county a book, to be known as the "easement record", that contains each easement for maintenance or right-of-way, according to the original design specifications or for not less than 20 feet, that the watershed association has in the county.

(2) A watershed association shall keep the easement record current.

(3) The clerk of a circuit court shall make an easement record available for inspection by the public.

§ 25-602. Rights-of-way and easements for channel improvements and disposition of excavated material generally

For a watershed project that consists of stream channel improvement or drainage, the board of directors shall acquire any right-of-way or easement necessary to construct and maintain the channel improvements to dispose of excavated material according to standards of good engineering practice.

§ 25-603. Rights-of-way and easements for drainage improvements and disposition of excavated material in Charles County

For a watershed project that consists of stream channel improvement or drainage, the board of directors of a watershed association in Charles County shall acquire any right-of-way or easement necessary to construct and maintain the drainage improvements and to dispose of excavated material according to standards of good drainage practice, regardless of the date that the watershed association was formed.

§ 25-604. Condemnation proceedings

In general

(a) If a landowner refuses to accept the damages awarded to the landowner by the board of viewers and approved by the county commissioners, county council, or Mayor and City Council of Baltimore City and refuses the necessary access to the landowner's land, the board of directors may begin condemnation proceedings under Title 12 of the Real Property Article to acquire a right-of-way, easement, or other property right.

Unauthorized purpose

(b) This title does not authorize the use of condemnation proceedings to acquire the right to use water separate and apart from the land to which the water is incident.

§ 25-701. Powers and duties of directors

In general

(a) The board of directors shall implement the watershed project.

Specific authority

(b) The board of directors may:

(1) hire employees;
(2) buy, hire, or rent machines, and buy explosives and other materials;
(3) award contracts;
(4) enter into an agreement with county, State, or federal units of government;
(5) acquire and hold water rights;
(6) plan and carry out watershed projects for storage, use, and distribution of water;
(7) charge for the use of water in the watershed, using the proceeds from the sale of the water to pay for water rights or to construct, maintain, repair, improve, and operate the watershed project; and
(8) do other acts as necessary, including borrowing money, in the name of the board of directors, if the borrowing is approved by the county commissioners, county council, or Mayor and City Council of Baltimore City.

Accounting and reporting

(c) The board of directors shall:

(1) keep a regular account of its income and expenses; and
(2) report its income and expenses at the annual meetings of the watershed association and other meetings of the landowners.

§ 25-702. Maintenance and operation of watershed projects

In general

(a) The board of directors shall control and supervise each watershed project under this title for:

(1) watershed protection;
(2) flood prevention;
(3) recreation;
(4) soil conservation;
(5) drainage; or
(6) the conservation, development, storage, use, and disposal of water for any beneficial purpose.

Duty to keep in good repair

(b) The board of directors shall keep each watershed project in good repair.

§ 25-801. Imposition of Special Assessments on Benefited Lands

In general

(a) A special assessment imposed under this title shall be imposed on the land benefited by a watershed project.

Division of assessment if property divided

(b) If a tract of land subject to a special assessment under this title is divided, the board of directors shall determine the ratio in which any later special assessment is to be imposed on each subdivided tract of land based on the proportion of the benefit to each tract.

§ 25-802. Payments by units of government

Notwithstanding any other provision of law, a unit of State or local government that is a landowner shall pay a fee or special assessment imposed under this title if the fee or special assessment is imposed on all land that is similarly benefited or damaged by the proposed watershed project in an area affected by a watershed association.

§ 25-803. Implementation of Plan

Amount

(a) The board of directors shall determine the amount to be raised to implement an approved watershed project.

Preparation of assessment list

(b) The board of directors shall prepare an assessment list that shows the amount due from each landowner subject to the special assessment.

Proportional imposition of special assessments

(c) The special assessments imposed on each tract of land shall be proportional to the total assessments.

Signature and transmission of assessment list

(d) The assessment list required under subsection (b) of this section shall be:

(1) signed by the board of directors; and

(2) sent to the designated officer.

Certification

(e) (1) The designated officer shall certify the conformance of the assessment list with this section.

(2) After receiving the certification of the assessment list, the county commissioners, county council, or Mayor and City Council of Baltimore City shall certify the assessment list to the county tax collector.

Inclusion in tax bills

(f) (1) The county tax collector shall include the special assessments imposed under this section in the next bills for county taxes.

(2) The special assessments are:

(i) due and collectible at the same time and in the same manner as county taxes; and

(ii) subject to the same interest and penalties for late payment and nonpayment as county taxes.

Later Special Assessment

(g) If the special assessments collected under this section are insufficient to complete the watershed project, a supplemental special assessment shall be imposed in the same manner.

§ 25-804. Issuance of bonds or notes

In general

(a) As an alternative to raising funds as provided in § 25-803 of this subtitle, the board of directors may issue and sell bonds or notes as provided in this section for an amount not exceeding the total cost of the watershed project.

Notice of proposal

(b) (1) The board of directors shall give notice of a proposal to issue bonds or notes by:

(i) publication at least once each week for at least 3 weeks in a newspaper of general circulation in the county in which any part of the area affected by the watershed association is located;

(ii) posting a notice for at least 15 days at the door of the courthouse in the county in which any part of the area affected by the watershed association is located; and

(iii) posting a notice for at least 15 days at four public places in the area or vicinity of the area affected by the watershed association.

(2) The notice shall provide:

(i) the proposal to issue bonds or notes to pay for the cost of the watershed project;

(ii) the amount of bonds or notes to be issued;

(iii) the interest rate for the bonds or notes or the method of determining the interest; and

(iv) the date when the bonds or notes are payable.

Payment by landowner in advance

(c) (1) Within 15 days after the publication or posting of the notice in subsection (b) of this section, a landowner may pay to the county tax collector the full amount for which the landowner is liable, as provided in the report of the board of viewers.

(2) If a landowner pays the full amount as provided in paragraph (1) of this subsection, the landowner is relieved from further liability for the particular watershed project.

(3) Before issuing any bonds or notes under this section, the board of directors shall deduct from the estimated amount of bonds or notes to be issued the amount paid in advance by a landowner and shall issue bonds or notes only in the decreased amount.

(4) Any amount paid in advance to the county tax collector shall be held in a separate fund to be added to the proceeds of the bonds or notes issued and to be spent to implement the plan of watershed projects.

Certification of amount; assessment list

(d) The board of directors shall:

(1) certify to the county commissioners, county council, or Mayor and City Council of Baltimore City the amount of bonds or notes to be issued; and

(2) submit an assessment list of all properties for which payments have not been made, showing for each landowner the full amount due, less interest, with the total amount for all landowners equaling the certified amount.

Issuance and sale of bonds or notes

(e) (1) After the assessment list has been submitted as provided in subsection (d) of this section, the board of directors shall issue bonds or notes in the certified amount.

(2) All bonds or notes issued under this section:

(i) shall be sold under the serial maturity plan;

(ii) shall have a maturity date of 12 years or less from the date of issue;

(iii) may not be sold for a price less than par; and

(iv) may be sold at a public or private sale.

(3) Subject to paragraph (2) of this subsection, the board of directors may provide for the form, date, interest rate, and other details incident to the offering, sale, execution, and delivery of the bonds.

(4) Bonds issued under this section are exempt from §§ 19-205 and 19-206 of this article.

Disposition of proceeds

(f) (1) The board of directors shall pay the proceeds from the sale of bonds under this section to the county tax collector.

(2) The county tax collector shall:

(i) retain the proceeds in a special fund;

(ii) disburse the proceeds as authorized by the board of directors to carry out the plan of watershed projects; and

(iii) use any surplus to redeem bonds.

Annual special assessments for payment of principal and interest

(g) (1) The board of directors shall certify to the county commissioners, county council, or Mayor and City Council of Baltimore City and to the county tax collector the total amount due each year for the redemption of the bonds or notes issued under this section, including all payments of principal and interest.

(2) Each year, the county tax collector shall compute the amount due from each landowner, based on the amounts shown in the watershed assessment list, so that the total amounts individually due in any year equal the aggregate sum required in that year to pay the principal of and interest on the bonds or notes.

(3) The county tax collector shall include in the regular tax bill for each taxable year the amounts computed under paragraph (2) of this subsection.

(4) The special assessments are:

(i) due and collectible at the same time and in the same manner as county taxes; and

(ii) subject to the same interest and penalties for late payment or nonpayment as county taxes.

Payment for existing improvements

(h) If the watershed work plan approved by the county commissioners, county council, or Mayor and City Council of Baltimore City provides for adopting any existing watershed project, the board of directors may:

(1) pay the amount necessary to acquire the existing watershed project from the proceeds of any bonds or notes issued under this section; or

(2) reimburse a landowner from the proceeds of any bonds or notes issued under this section for any amount spent by the landowner in the construction of the existing watershed project.

Report and disbursement of collections

(i) (1) The county tax collector shall report to the board of directors at regular intervals on the amount collected as special assessments during each interval, including a list showing the amount received from each landowner.

(2) The board of directors shall order the amount collected as special assessments to be paid by the county tax collector for the principal of and interest on the bonds or notes issued.

Bondholder's right of action on default

(j) (1) If an installment of principal of or interest on the bonds or notes issued under this subtitle is not paid at the time and in the manner it is due and payable and the default continues for a period of 6 months, the holder of the bond or note in default shall have a right of action against the board of directors.

(2) The circuit court of the county may issue a writ of mandamus against the board of directors that directs the imposition of a special assessment against landowners in default in an amount necessary to meet unpaid installments of principal and interest and the costs of the action.

(3) The board of directors shall certify the amount of the special assessment to the county tax collector who shall proceed immediately to collect the special assessment from the landowners in default according to the procedure provided in this subtitle.

(4) When the county tax collector collects the amounts certified under paragraph (3) of this subsection, the county tax collector, on order of the board of directors, shall pay the installments of principal and interest in default and the costs of the action.

(5) The official bonds of the county tax collector and any other officers shall be liable for the faithful performance of the duties assigned to the officers under this subtitle.

(6) The holder of any bond or note in default may bring suit against any officer on the official bond of the officer for failing to perform a duty required under this section.

Applicability of title

(k) This title shall apply to watershed projects completed under this section as if completed with funds by assessments without issuing bonds or notes.

§ 25-805. Annual and special assessment for maintenance and operation

Annual special assessment

(a) (1) The board of directors shall impose an annual special assessment on the benefited land to provide a fund to maintain, repair, and operate a watershed project constructed under this title.

(2) The amount of the annual special assessment shall be equal to the estimated cost to operate and maintain the watershed project as determined by an annual inspection to be made at a time set by the board of directors, less any amount that may be received from any other source.

Supplemental assessment

(b) If the funds received under subsection (a) of this section are inadequate to provide for the necessary maintenance, repair, or operation, a supplemental assessment may be imposed on the benefited land.

Procedure for imposition and disbursement

(c) The assessments under this section shall be imposed and disbursed in the same manner as provided for the special assessments under § 25-803 of this subtitle.

§ 25-806. Duties of county tax collector

Disbursement

(a) The special assessments imposed under this subtitle shall remain in the county treasury until disbursed by the county tax collector on orders signed by the board of directors.

Records

(b) For each watershed association in the county, the county tax collector shall keep a separate record that shows all income and expenses.

§ 25-807. Collection of special assessments if land in multiple counties

Separate assessment list

(a) If the land affected by the watershed association that is subject to assessment is located in two or more counties, the board of directors shall prepare a separate assessment list for each county.

Transmittal to designated officer

(b) The board of directors shall send the assessment lists for each county to the designated officer for the county in which the watershed association was organized.

Procedure

(c) (1) Except as provided in paragraph (2) of this subsection, the procedure for imposing special assessments under this section shall be as provided for in § 25-803 of this subtitle.

(2) The county commissioners, county council, or Mayor and City Council of Baltimore City in which the watershed association was organized shall certify the assessment lists for the other counties to the appropriate governing body.

(3) The county commissioners, county council, or Mayor and City Council of Baltimore City shall then certify the assessment lists to the respective county tax collectors for action as provided for in § 25-803 of this subtitle.

Proceeds

(d) All money collected in the several counties as provided under this section shall be paid over to the county tax collector of the county in which the watershed association was organized and credited to the watershed association.

§ 25-808. Order of payments to be made by board of directors

First funds

(a) From the money that first becomes available under this title to the board of directors, the board of directors shall pay:

(1) the compensation and expenses of the board of viewers and the engineers;

(2) any damages awarded;
(3) any compensation awarded for existing watershed projects; and
(4) the expenses incident to the organization of the watershed association.

Advancement

(b) (1) On request by the board of directors, the county commissioners, county council, or Mayor and City Council of Baltimore City may advance funds to pay the costs in subsection (a) of this section.
(2) An advance under paragraph (1) of this subsection shall be repaid from the money first received from special assessments imposed on the landowners for the watershed project.

§ 25-809. Appropriations by governmental entities

Scope of section

(a) This section applies to the following governmental entities:
(1) a county;
(2) a drainage district;
(3) a municipality;
(4) a public drainage association; or
(5) a soil conservation district.

Authority

(b) A governmental entity that may reasonably be expected to receive a benefit from the construction, improvement, operation, or maintenance of any watershed project under this subtitle may spend money to construct, improve, operate, or maintain the watershed project, even if the watershed project is not located in the area served by the governmental entity or in the State.

Exception

(c) (1) If the payment under subsection (b) of this section is not made directly by the governmental entity for a watershed project, the payment shall be made only through a soil conservation district or a watershed association organized under the laws of the State.
(2) It is not necessary that any part of the area served by the governmental entity be located in the soil conservation district or watershed association through which the payment is made.
(3) A governmental entity may provide in its budget money for watershed projects.
(4) A municipality or county may impose taxes for watershed projects in the manner provided by law.

§ 25-901. Dissolution procedure generally

Petition

(a) (1) A majority of the landowners or the owners of a majority of the land affected by a watershed association may submit a petition to dissolve the watershed association to the county commissioners, county council, or Mayor and City Council of Baltimore City in which the watershed association was organized.
(2) A complete list of the creditors of the watershed association certified under oath by the board of directors shall accompany the petition.

Hearing; notice

(b) On receipt of a petition under subsection (a) of this section, the county commissioners, county council, or Mayor and City Council of Baltimore City shall:
(1) set a date for a public hearing on the petition; and
(2) give notice of the time, place, and purpose of the hearing at least 30 days before the hearing by:
(i) notice mailed to each creditor of the watershed association and each landowner; and
(ii) publication in a newspaper of general circulation in each county affected by the watershed association.

Action on petition

(c) (1) The county commissioners, county council, or Mayor and City Council of Baltimore City may deny or approve a petition for dissolution after a public hearing under this section.
(2) On approval of a petition for dissolution, the county commissioners, county council, or Mayor and City Council of Baltimore City shall give notice of the dissolution in the same manner as required under subsection (b) of this section.

Distribution of remaining funds
(d) After payment of all debts, any balance in the county treasury to the credit of the dissolved watershed association shall be distributed to the landowners in proportion to the original assessments.

§ 25-902. Inactive association in Washington County

Petition for dissolution
(a) Notwithstanding § 25-901 of this subtitle, on a written petition for dissolution by any member of the most recently elected or appointed board of directors of a watershed association in Washington County considered inactive as provided in subsection (b) of this section, the County Commissioners of Washington County promptly shall:

(1) consider all available information to determine the current operating status and foreseeable operating potential of the watershed association; and
(2) approve or deny the petition for dissolution.

Criteria
(b) For the purpose of this section, a watershed association in Washington County is considered inactive if for at least 5 years the watershed association has not complied substantially with a majority of the ordinary operating procedures required under this title, including:

(1) the maintenance of ongoing and current information in the watershed file at the office of the clerk of the county;
(2) election of a board of directors and officers of the board;
(3) an annual meeting of landowners in the area affected by the watershed association;
(4) the submission of an annual report by the board of directors to the clerk of the county;
(5) the development, approval, filing, execution, or maintenance of a work plan applicable to property owned by the watershed association; and
(6) the submission and regular updating of the watershed association's easement record in the office of the clerk of the circuit court in the applicable county.

Actions after approval
(c) (1) This subsection applies only after the County Commissioners of Washington County approve a petition for dissolution under this section.
(2) If any balance remains in the county treasury to the credit of the dissolved watershed association, the county commissioners shall:
(i) satisfy all outstanding debts of the watershed association; and
(ii) retain any remaining balance.
(3) The county commissioners shall provide for the transfer of any interest in real property held by the watershed association to the county in which the property is located.

§ 25-1001. Right to open cross ditches or drains

In general
(a) A person who is assessed for a ditch or drain that does not pass through or under the person's land may open a ditch or install drain tile through the intervening land to connect to the main ditch and keep the ditch or drain tile open at the person's expense and control.

Exception
(b) A person may not open a ditch or install drain tile under this section through the land of another person without the consent of the owner of the land.

§ 25-1002. Requirements when improvement crosses public highway

County to bear cost
(a) If a watershed project established under this title crosses a public highway at the intersection of the highway with a natural watercourse or depression through which water flows during periods of high water, the county in which the bridge is located or the governmental unit required by law to maintain the highway that is intersected shall:

(1) pay the cost of an existing bridge, repairing or enlarging an existing bridge and culvert, or constructing a new bridge or culvert; and
(2) maintain the bridge or culvert described in item (1) of this subsection.

Watershed association to bear cost
(b) If a watershed project established under this title crosses a public highway at a point where the highway does not intersect a natural watercourse or depression:

(1) the watershed association shall pay the cost of constructing a new bridge or culvert; and

(2) after construction, the county or other governmental unit required by law to maintain the highway that is intersected shall maintain the bridge and any culvert constructed.

§ 25-1003. Requirements when channel crosses railroad right-of-way

Railroad to bear cost
(a) If a channel established under this title crosses a railroad right-of-way at the intersection of the right-of-way with a natural watercourse or depression through which water flows at periods of high water, the railroad company shall:

(1) construct, build, and maintain any necessary new bridge or culvert; or

(2) enlarge, strengthen, reconstruct, or replace any existing bridge or culvert.

Element of damage
(b) The expense to build a railroad under subsection (a) of this section shall be:

(1) considered an element of damage to the railroad company by the board of viewers; and

(2) shown as a damage in the report of the board of viewers.

§ 25-1101. Preventing entry on watershed land

Prohibited
(a) A person may not prevent a member of the board of directors or an employee or agent of the board of directors from entering land as authorized under § 25-401(c) of this title.

Penalty
(b) A person who violates this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $50.

§ 25-1102. Obstruction of watershed project

Prohibited
(a) (1) Except as provided in paragraph (2) of this subsection, a person may not obstruct a watershed project constructed under this title in a manner that impedes the free flow of water.

(2) A person may place a properly constructed swinging water gate across a ditch on a fence line to prevent livestock from trespassing through the ditch.

Penalty
(b) A person who violates this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $20 for each offense.

Distribution of fines
(c) Each fine collected under this section shall be paid to the county tax collector and credited to the watershed association that suffered the damage.

Appendix C – Standard Compliance Requirements

STANDARD COMPLIANCE REQUIREMENTS
Maintenance and Repair of Municipal Drains Constructed under the Drainage Act
A. Brushing Bank Slope

Description of Typical Works

The removal of trees and other vegetation from the side slopes of a municipal drain.

Activity-Specific Mitigation Requirements

- To preserve slope stability, the vegetative root structure should be preserved. Brushing the bank slope should not disturb soil or remove the roots of any trees or shrubs.
- Engineer's Report to be examined to determine the municipality's working space. Where options exist, work from North or East side is preferred.

General Mitigation Requirements

General mitigation requirements are standards that must be maintained on all drain maintenance and repair projects.

- Choose conditions and equipment appropriate to minimize site disturbance by equipment (e.g. frozen or dry soil conditions or the use of load distributing machines or mats).
- Place brush, debris and sediment in such a location as to minimize entry into the channel.
- Perform work in appropriate flow conditions to minimize debris movement and erosion.
- Limit soil movement and erosion; use appropriate control measures before work begins and inspect and maintain those measures regularly until all disturbed areas are stabilized.
- Except on cultivated lands, any areas of disturbed or bare soil around the drain should be seeded with native, non-invasive herbaceous material while the ground is moist and conditions are appropriate for germination.

The _____Conservation Authority grants permission under Section 28 of the Conservation Authorities Act for work to be conducted in the_____ drain in accordance with the notification form, provided maintenance and repair activities comply with all standards set out above. This permission does not relieve the applicant of the responsibility to obtain any other approvals which may be required from municipal, provincial or federal authorities.

File Number: _____ By-Law No.:_____

Period of Validity:_____ to _____

Location:	☐ *Location map attached*
Geographic Township:_____	Municipality: _____
Work Zone* : Impact Zone** : Length of Work Zone:	FROM Lot _____Conc. _____TO Lot_____Conc. _____ FROM Lot _____Conc. _____TO Lot _____Conc. _____ _____metres

*Work Zone = part of the drain where the work is actually occurring
** Impact Zone = linear length of watercourse extending 1 km downstream of the bottom end of the Work Zone

Signature of Conservation Authority Official:	Name	Signature
Date:		

STANDARD COMPLIANCE REQUIREMENTS
Maintenance and Repair of Municipal Drains Constructed under the Drainage Act
B. Brushing Top of Bank

Description of Typical Works

The removal of trees and other vegetation from the top of a bank. This may be required for easement maintenance and site accessibility. In certain situations brushing the top of bank may require the removal of roots or the disturbance of soil.

Activity-Specific Mitigation Requirements

- Remove vegetation selectively; mature trees should be preserved where possible.
- Whenever possible, avoid removing roots.

General Mitigation Requirements

General mitigation requirements are standards that must be maintained on all drain maintenance and repair projects.

- Choose conditions and equipment appropriate to minimize site disturbance by equipment (e.g. frozen or dry soil conditions or the use of load distributing machines or mats).
- Place brush, debris and sediment in such a location as to minimize entry into the channel.
- Perform work in appropriate flow conditions to minimize debris movement and erosion.
- Limit soil movement and erosion; use appropriate control measures before work begins and inspect and maintain those measures regularly until all disturbed areas are stabilized.
- Except on cultivated lands, any areas of disturbed or bare soil around the drain should be seeded with native, non-invasive herbaceous material while the ground is moist and conditions are appropriate for germination.

The _____Conservation Authority grants permission under Section 28 of the Conservation Authorities Act for work to be conducted in the_____ drain in accordance with the notification form, provided maintenance and repair activities comply with all standards set out above. This permission does not relieve the applicant of the responsibility to obtain any other approvals which may be required from municipal, provincial or federal authorities.

File Number: _____ By-Law No.:_____

Period of Validity:_____ to _____

Location:	☐ *Location map attached*
Geographic Township:_____	Municipality: _____
Work Zone* : Impact Zone** : Length of Work Zone:	FROM Lot _____Conc. _____TO Lot_____Conc. _____ FROM Lot _____Conc. _____TO Lot _____Conc. _____ _____metres

*Work Zone = part of the drain where the work is actually occurring
** Impact Zone = linear length of watercourse extending 1 km downstream of the bottom end of the Work Zone

Signature of Conservation Authority Official:	Name	Signature

Date:	

STANDARD COMPLIANCE REQUIREMENTS
Maintenance and Repair of Municipal Drains Constructed under the Drainage Act
C. Debris Removal and Beaver Dam Removal

Description of Typical Works

Removal of log jams, garbage, beaver dams or other obstructions.

Activity-Specific Mitigation Requirements

- Brush or debris should be placed in a location where it cannot re-enter or block the channel.
- Debris removal including the disposal of the sediment should be conducted in a manner consistent with the Engineer's Report and authorizing by-law.
- Minimize flooding upstream and downstream by drawing the water down slowly.
- Avoid performing work when flow conditions are elevated due to recent rainfall to minimize sediment and debris movement and erosion.

General Mitigation Requirements

General mitigation requirements are standards that must be maintained on all drain maintenance and repair projects.

- Choose conditions and equipment appropriate to minimize site disturbance by equipment (e.g. frozen or dry soil conditions or the use of load distributing machines or mats).
- Place brush, debris and sediment in such a location as to minimize entry into the channel.
- Perform work in appropriate flow conditions to minimize debris movement and erosion.
- Limit soil movement and erosion; use appropriate control measures before work begins and inspect and maintain those measures regularly until all disturbed areas are stabilized.
- Except on cultivated lands, any areas of disturbed or bare soil around the drain should be seeded with native, non-invasive herbaceous material while the ground is moist and conditions are appropriate for germination.

The _____Conservation Authority grants permission under Section 28 of the Conservation Authorities Act for work to be conducted in the_____ drain in accordance with the notification form, provided maintenance and repair activities comply with all standards set out above. This permission does not relieve the applicant of the responsibility to obtain any other approvals which may be required from municipal, provincial or federal authorities.

File Number: _____ By-Law No.:_____

Period of Validity:_____ to _____

Location:	☐ *Location map attached*
Geographic Township:_____	Municipality: _____
Work Zone* : Impact Zone** : Length of Work Zone:	FROM Lot _____Conc. _____TO Lot_____Conc. _____ FROM Lot _____Conc. _____TO Lot _____Conc. _____ _____metres

*Work Zone = part of the drain where the work is actually occurring
** Impact Zone = linear length of watercourse extending 1 km downstream of the bottom end of the Work Zone

Signature of Conservation Authority Official:	Name	Signature
Date:		

STANDARD COMPLIANCE REQUIREMENTS
Maintenance and Repair of Municipal Drains Constructed under the Drainage Act
D. Spot Cleanout

Description of Typical Works

Cleanout of isolated sediment build-up that is significant enough to cause erosion or flow blockage/flooding concerns in the channel. This may include a sediment trap (dug below design grade) cleanout. If cleanout will be continuous along the drain, refer to bottom cleanout.

Activity-Specific Mitigation Requirements

- There should be no appreciable change in grade with the removal of sediment.
- Spot cleanouts including the disposal of the sediment should be conducted in a manner consistent with the Engineer's Report and authorizing by-law.
- Minimize flooding upstream and downstream.

General Mitigation Requirements

General mitigation requirements are standards that must be maintained on all drain maintenance and repair projects.

- Choose conditions and equipment appropriate to minimize site disturbance by equipment (e.g. frozen or dry soil conditions or the use of load distributing machines or mats).
- Place brush, debris and sediment in such a location as to minimize entry into the channel.
- Perform work in appropriate flow conditions to minimize debris movement and erosion.
- Limit soil movement and erosion; use appropriate control measures before work begins and inspect and maintain those measures regularly until all disturbed areas are stabilized.
- Except on cultivated lands, any areas of disturbed or bare soil around the drain should be seeded with native, non-invasive herbaceous material while the ground is moist and conditions are appropriate for germination.

The _____Conservation Authority grants permission under Section 28 of the Conservation Authorities Act for work to be conducted in the_____ drain in accordance with the notification form, provided maintenance and repair activities comply with all standards set out above. This permission does not relieve the applicant of the responsibility to obtain any other approvals which may be required from municipal, provincial or federal authorities.

File Number: _____ By-Law No.:_____

Period of Validity:_____ to _____

Location:	☐ *Location map attached*
Geographic Township:_____	Municipality: _____
Work Zone* : Impact Zone** : Length of Work Zone:	FROM Lot _____Conc. _____TO Lot_____Conc. _____ FROM Lot _____Conc. _____TO Lot _____Conc. _____ _____metres

*Work Zone = part of the drain where the work is actually occurring
** Impact Zone = linear length of watercourse extending 1 km downstream of the bottom end of the Work Zone

Signature of Conservation Authority Official:	Name	Signature
Date:		

STANDARD COMPLIANCE REQUIREMENTS Maintenance and Repair of Municipal Drains Constructed under the Drainage Act E. Culvert Replacement	
Description of Typical Works	
Replacement of a culvert in accordance with the Engineer's Report. Replacement culverts must be the diameter and length and installed at the location specified in the Engineer's Report.	
Activity-Specific Mitigation Requirements	
• Minimize disruption to the channel and bank slopes. • Placement of any material removed cannot impact flow. • Culverts are to be embedded and appropriate erosion protection installed. • Minimize flooding upstream and downstream.	
General Mitigation Requirements	
General mitigation requirements are standards that must be maintained on all drain maintenance and repair projects. • Choose conditions and equipment appropriate to minimize site disturbance by equipment (e.g. frozen or dry soil conditions or the use of load distributing machines or mats). • Place brush, debris and sediment in such a location as to minimize entry into the channel. • Perform work in appropriate flow conditions to minimize debris movement and erosion. • Limit soil movement and erosion; use appropriate control measures before work begins and inspect and maintain those measures regularly until all disturbed areas are stabilized. • Except on cultivated lands, any areas of disturbed or bare soil around the drain should be seeded with native, non-invasive herbaceous material while the ground is moist and conditions are appropriate for germination.	
The _____Conservation Authority grants permission under Section 28 of the Conservation Authorities Act for work to be conducted in the_____ drain in accordance with the notification form, provided maintenance and repair activities comply with all standards set out above. This permission does not relieve the applicant of the responsibility to obtain any other approvals which may be required from municipal, provincial or federal authorities.	
File Number: _____ By-Law No.:_____	
Period of Validity:_____ to _____	
Location:	☐ *Location map attached*
Geographic Township:_____	Municipality: _____
Work Zone* : Impact Zone** : Length of Work Zone:	FROM Lot _____Conc. _____TO Lot_____Conc. _____ FROM Lot _____Conc. _____TO Lot _____Conc. _____ _____metres
*Work Zone = part of the drain where the work is actually occurring ** Impact Zone = linear length of watercourse extending 1 km downstream of the bottom end of the Work Zone	

Signature of Conservation Authority Official:	Name	Signature
Date:		

STANDARD COMPLIANCE REQUIREMENTS Maintenance and Repair of Municipal Drains Constructed under the Drainage Act F. Bank Repair or Stabilization and Pipe Outlet Repair	
Description of Typical Works	
Includes restoration of bank slopes to the original design in the Engineer's Report and localized activities to prevent bank failure, such as the placement of rip rap, seeding the bank, and the use of geotextile materials.	
Activity-Specific Mitigation Requirements	
• Control the placement of stabilization works to minimize erosion and sediment travel impacts downstream. • Minimize disruption to the channel. • Perform work in no/low flow conditions to minimize sediment movement and erosion.	
General Mitigation Requirements	
General mitigation requirements are standards that must be maintained on all drain maintenance and repair projects. • Choose conditions and equipment appropriate to minimize site disturbance by equipment (e.g. frozen or dry soil conditions or the use of load distributing machines or mats). • Place brush, debris and sediment in such a location as to minimize entry into the channel. • Perform work in appropriate flow conditions to minimize debris movement and erosion. • Limit soil movement and erosion; use appropriate control measures before work begins and inspect and maintain those measures regularly until all disturbed areas are stabilized. • Except on cultivated lands, any areas of disturbed or bare soil around the drain should be seeded with native, non-invasive herbaceous material while the ground is moist and conditions are appropriate for germination.	
The _____Conservation Authority grants permission under Section 28 of the Conservation Authorities Act for work to be conducted in the_____ drain in accordance with the notification form, provided maintenance and repair activities comply with all standards set out above. This permission does not relieve the applicant of the responsibility to obtain any other approvals which may be required from municipal, provincial or federal authorities.	
File Number: _____ By-Law No.:_____	
Period of Validity:_____ to _____	
Location:	☐ *Location map attached*
Geographic Township:_____	Municipality: _____

Work Zone* : Impact Zone** : Length of Work Zone:	FROM Lot _____Conc. _____TO Lot_____Conc. _____ FROM Lot _____Conc. _____TO Lot _____Conc. _____ _____metres
*Work Zone = part of the drain where the work is actually occurring ** Impact Zone = linear length of watercourse extending 1 km downstream of the bottom end of the Work Zone	

Signature of Conservation Authority Official:	Name	Signature
Date:		

STANDARD COMPLIANCE REQUIREMENTS
Maintenance and Repair of Municipal Drains Constructed under the Drainage Act
G. Dyke Maintenance and Repair

Description of Typical Works

Replacement, repair of breaches, or bank restoration of dykes as set out in the original Engineer's Report.

Activity-Specific Mitigation Requirements

- Minimize flooding upstream and downstream.

General Mitigation Requirements

General mitigation requirements are standards that must be maintained on all drain maintenance and repair projects.

- Choose conditions and equipment appropriate to minimize site disturbance by equipment (e.g. frozen or dry soil conditions or the use of load distributing machines or mats).
- Place brush, debris and sediment in such a location as to minimize entry into the channel.
- Perform work in appropriate flow conditions to minimize debris movement and erosion.
- Limit soil movement and erosion; use appropriate control measures before work begins and inspect and maintain those measures regularly until all disturbed areas are stabilized.
- Except on cultivated lands, any areas of disturbed or bare soil around the drain should be seeded with native, non-invasive herbaceous material while the ground is moist and conditions are appropriate for germination.

The _____Conservation Authority grants permission under Section 28 of the Conservation Authorities Act for work to be conducted in the_____ drain in accordance with the notification form, provided maintenance and repair activities comply with all standards set out above. This permission does not relieve the applicant of the responsibility to obtain any other approvals which may be required from municipal, provincial or federal authorities.

File Number: _____ By-Law No.:_____	
Period of Validity:_____ to _____	
Location:	☐ *Location map attached*
Geographic Township:_____	Municipality: _____
Work Zone* : Impact Zone** : Length of Work Zone:	FROM Lot _____Conc. _____TO Lot_____Conc. _____ FROM Lot _____Conc. _____TO Lot _____Conc. _____ _____metres
*Work Zone = part of the drain where the work is actually occurring ** Impact Zone = linear length of watercourse extending 1 km downstream of the bottom end of the Work Zone	

Signature of Conservation Authority Official:	Name	Signature
Date:		

STANDARD COMPLIANCE REQUIREMENTS
Maintenance and Repair of Municipal Drains Constructed under the Drainage Act
H. Water Control Structure Maintenance and Repair

Description of Typical Works

Structural maintenance, repair or replacement of a water control structure in accordance with the specifications under the Engineer's Report.

Activity-Specific Mitigation Requirements

- Minimize flooding upstream and downstream.

General Mitigation Requirements

General mitigation requirements are standards that must be maintained on all drain maintenance and repair projects.

- Choose conditions and equipment appropriate to minimize site disturbance by equipment (e.g. frozen or dry soil conditions or the use of load distributing machines or mats).
- Place brush, debris and sediment in such a location as to minimize entry into the channel.
- Perform work in appropriate flow conditions to minimize debris movement and erosion.
- Limit soil movement and erosion; use appropriate control measures before work begins and inspect and maintain those measures regularly until all disturbed areas are stabilized.
- Except on cultivated lands, any areas of disturbed or bare soil around the drain should be seeded with native, non-invasive herbaceous material while the ground is moist and conditions are appropriate for germination.

The _____Conservation Authority grants permission under Section 28 of the Conservation Authorities Act for work to be conducted in the_____ drain in accordance with the notification form, provided maintenance and repair activities comply with all standards set out above. This permission does not relieve the applicant of the responsibility to obtain any other approvals which may be required from municipal, provincial or federal authorities.

File Number: _____ By-Law No.:_____	
Period of Validity:_____ to _____	
Location:	☐ *Location map attached*
Geographic Township:_____	Municipality: _____
Work Zone* : Impact Zone** :	FROM Lot _____Conc. _____TO Lot_____Conc. _____ FROM Lot _____Conc. _____TO Lot _____Conc. _____

Length of Work Zone:	_____metres	
*Work Zone = part of the drain where the work is actually occurring ** Impact Zone = linear length of watercourse extending 1 km downstream of the bottom end of the Work Zone		
Signature of Conservation Authority Official:	Name	Signature
Date:		

STANDARD COMPLIANCE REQUIREMENTS Maintenance and Repair of Municipal Drains Constructed under the Drainage Act I. Pump Station Maintenance and Repair	
Description of Typical Works	
Structural repairs or replacing a pump station in accordance with the specifications under the Engineer's Report.	
Activity-Specific Mitigation Requirements	
• Minimize flooding upstream and downstream.	
General Mitigation Requirements	
General mitigation requirements are standards that must be maintained on all drain maintenance and repair projects. • Choose conditions and equipment appropriate to minimize site disturbance by equipment (e.g. frozen or dry soil conditions or the use of load distributing machines or mats). • Place brush, debris and sediment in such a location as to minimize entry into the channel. • Perform work in appropriate flow conditions to minimize debris movement and erosion. • Limit soil movement and erosion; use appropriate control measures before work begins and inspect and maintain those measures regularly until all disturbed areas are stabilized. • Except on cultivated lands, any areas of disturbed or bare soil around the drain should be seeded with native, non-invasive herbaceous material while the ground is moist and conditions are appropriate for germination.	
The _____Conservation Authority grants permission under Section 28 of the Conservation Authorities Act for work to be conducted in the_____ drain in accordance with the notification form, provided maintenance and repair activities comply with all standards set out above. This permission does not relieve the applicant of the responsibility to obtain any other approvals which may be required from municipal, provincial or federal authorities.	
File Number: _____ By-Law No.:_____	
Period of Validity:_____ to _____	
Location:	☐ *Location map attached*
Geographic Township:_____	Municipality: _____
Work Zone* : Impact Zone** : Length of Work Zone:	FROM Lot _____Conc. _____TO Lot_____Conc. _____ FROM Lot _____Conc. _____TO Lot _____Conc. _____ _____metres
*Work Zone = part of the drain where the work is actually occurring ** Impact Zone = linear length of watercourse extending 1 km downstream of the bottom end of the Work Zone	
Signature of Conservation Authority Official:	Name / Signature
Date:	

STANDARD COMPLIANCE REQUIREMENTS Maintenance and Repair of Municipal Drains Constructed under the Drainage Act J. Bottom Only Cleanout	
Description of Typical Works	
Removal of accumulated sediment in a drain, including spreading of the spoil, removal of vegetation in bottom of channel and access to the site.	
Activity-Specific Mitigation Requirements	
• There should be no appreciable change in grade with the removal of sediment. • Bottom only cleanouts including the disposal of the sediment should be conducted in a manner consistent with the Engineer's Report and authorizing by-law • Minimize flooding upstream and downstream. • Minimize channel width to reduce sediment deposition. • Perform work in no/low flow conditions to minimize sediment movement and erosion. Avoid work after recent precipitation or snowmelt	
General Mitigation Requirements	
General mitigation requirements are standards that must be maintained on all drain maintenance and repair projects. • Choose conditions and equipment appropriate to minimize site disturbance by equipment (e.g. frozen or dry soil conditions or the use of load distributing machines or mats). • Place brush, debris and sediment in such a location as to minimize entry into the channel. • Perform work in appropriate flow conditions to minimize debris movement and erosion. • Limit soil movement and erosion; use appropriate control measures before work begins and inspect and maintain those measures regularly until all disturbed areas are stabilized. • Except on cultivated lands, any areas of disturbed or bare soil around the drain should be seeded with native, non-invasive herbaceous material while the ground is moist and conditions are appropriate for germination.	
The _____Conservation Authority grants permission under Section 28 of the Conservation Authorities Act for work to be conducted in the_____ drain in accordance with the notification form, provided maintenance and repair activities comply with all standards set out above. This permission does not relieve the applicant of the responsibility to obtain any other approvals which may be required from municipal, provincial or federal authorities.	
File Number: _____ By-Law No.:_____	
Period of Validity:_____ to _____	
Location:	☐ *Location map attached*
Geographic Township:_____	Municipality: _____

Work Zone* : Impact Zone** : Length of Work Zone:	FROM Lot _____Conc. _____TO Lot_____Conc. _____ FROM Lot _____Conc. _____TO Lot _____Conc. _____ _____metres
*Work Zone = part of the drain where the work is actually occurring ** Impact Zone = linear length of watercourse extending 1 km downstream of the bottom end of the Work Zone	

Signature of Conservation Authority Official:	Name	Signature
Date:		

STANDARD COMPLIANCE REQUIREMENTS
Maintenance and Repair of Municipal Drains Constructed under the Drainage Act outside of Regulated Wetland Limits
K. Bottom Cleanout Plus One Bank Slope

Description of Typical Works

Removal of accumulated sediment in a drain, including spreading of the spoil; the removal of vegetation in the bottom of the channel and removal of slope vegetation, including root removal; and access to the site.

Activity-Specific Mitigation Requirements

- There should be no appreciable change in grade with the removal of sediment.
- This work, including the disposal of the sediment, should be conducted in a manner consistent with the Engineer's Report and authorizing by-law
- Minimize flooding upstream and downstream.
- Perform work in no/low flow conditions to minimize sediment movement and erosion. Avoid work after recent precipitation or snowmelt.

General Mitigation Requirements

General mitigation requirements are standards that must be maintained on all drain maintenance and repair projects.

- Choose conditions and equipment appropriate to minimize site disturbance by equipment (e.g. frozen or dry soil conditions or the use of load distributing machines or mats).
- Place brush, debris and sediment in such a location as to minimize entry into the channel.
- Perform work in appropriate flow conditions to minimize debris movement and erosion.
- Limit soil movement and erosion; use appropriate control measures before work begins and inspect and maintain those measures regularly until all disturbed areas are stabilized.
- Except on cultivated lands, any areas of disturbed or bare soil around the drain should be seeded with native, non-invasive herbaceous material while the ground is moist and conditions are appropriate for germination.

The _____Conservation Authority grants permission under Section 28 of the Conservation Authorities Act for work to be conducted in the_____ drain in accordance with the notification form, provided maintenance and repair activities comply with all standards set out above. This permission does not relieve the applicant of the responsibility to obtain any other approvals which may be required from municipal, provincial or federal authorities.

File Number: _____ By-Law No.:_____

Period of Validity:_____ to _____

Location:	☐ *Location map attached*
Geographic Township:_____	Municipality: _____
Work Zone* : Impact Zone** : Length of Work Zone:	FROM Lot _____Conc. _____TO Lot_____Conc. _____ FROM Lot _____Conc. _____TO Lot _____Conc. _____ _____metres
*Work Zone = part of the drain where the work is actually occurring ** Impact Zone = linear length of watercourse extending 1 km downstream of the bottom end of the Work Zone	

Signature of Conservation Authority Official:	Name	Signature
Date:		

STANDARD COMPLIANCE REQUIREMENTS
Maintenance and Repair of Municipal Drains Constructed under the Drainage Act outside of Regulated Wetland Limits
L. Full Cleanout

Description of Typical Works

Removal of accumulated sediment in a drain including spreading of the spoil; the removal of vegetation in the bottom of the channel and removal of slope vegetation, including root removal; the removal of trees and other vegetation from the top of a bank; and access to the site.

Activity-Specific Mitigation Requirements

- There should be no appreciable change in grade with the removal of sediment.
- This work, including the disposal of the sediment, should be conducted in a manner consistent with the Engineer's Report and authorizing by-law
- Minimize flooding upstream and downstream.
- Perform work in no/low flow conditions to minimize sediment movement and erosion. Avoid work after recent precipitation or snowmelt.

General Mitigation Requirements

General mitigation requirements are standards that must be maintained on all drain maintenance and repair projects.

- Choose conditions and equipment appropriate to minimize site disturbance by equipment (e.g. frozen or dry soil conditions or the use of load distributing machines or mats).
- Place brush, debris and sediment in such a location as to minimize entry into the channel.
- Perform work in appropriate flow conditions to minimize debris movement and erosion.
- Limit soil movement and erosion; use appropriate control measures before work begins and inspect and maintain those measures regularly until all disturbed areas are stabilized.
- Except on cultivated lands, any areas of disturbed or bare soil around the drain should be seeded with native, non-invasive herbaceous material while the ground is moist and conditions are appropriate for germination.

The _____Conservation Authority grants permission under Section 28 of the Conservation Authorities Act for work to be conducted in

the_____ drain in accordance with the notification form, provided maintenance and repair activities comply with all standards set out above. This permission does not relieve the applicant of the responsibility to obtain any other approvals which may be required from municipal, provincial or federal authorities.	
File Number: _____ By-Law No.:_____	
Period of Validity:_____ to _____	
Location:	☐ *Location map attached*
Geographic Township:_____	Municipality: _____
Work Zone* : Impact Zone** : Length of Work Zone:	FROM Lot _____Conc. _____TO Lot_____Conc. _____ FROM Lot _____Conc. _____TO Lot _____Conc. _____ _____metres
*Work Zone = part of the drain where the work is actually occurring ** Impact Zone = linear length of watercourse extending 1 km downstream of the bottom end of the Work Zone	
Signature of Conservation Authority Official:	Name / Signature
Date:	

STANDARD COMPLIANCE REQUIREMENTS Maintenance and Repair of Municipal Drains Constructed under the Drainage Act outside of Regulated Wetland Limits M. Bottom Only Cleanout
Description of Typical Works
Removal of accumulated sediment in a drain, including spreading of the spoil, removal of vegetation in bottom of channel and access to the site.
General Permitting Information
Certain activities have the potential to cause interference with wetlands. Therefore, it is recommended that a permit be required for these activities. However, a conservation authority can choose to request that the standard compliance requirements outlined below be followed rather than issuing a permit. Additional consultation may be necessary for works within a wetland. Where permits are required, a conservation authority may attach conditions to the permit, but due to the municipality's duty to maintain drainage works under the Drainage Act, a conservation authority and a municipality shall work cooperatively to maintain the drain with written permission, with or without conditions. If a dispute occurs over a permit (e.g., over permit conditions) to maintain or repair a drainage works, parties are encouraged to refer the issue to the Drainage Issues Resolution Team before taking their dispute to a legal appeal body. This mediation team, consisting of drainage sector and conservation authority representatives, will provide an independent assessment of the best means of addressing the requirements of both statutes. If no acceptable resolution can be found, standard statutory procedures remain available.
Mitigation Measures to be undertaken should Standard Compliance Requirements be Chosen
• There should be no appreciable change in grade with the removal of sediment. • This work, including the disposal of the sediment, should be conducted in a manner consistent with the Engineer's Report and authorizing by-law. • Minimize flooding upstream and downstream. • Minimize channel width to reduce sediment deposition. • Perform work in no/low flow conditions to minimize sediment movement and erosion. Avoid work after recent precipitation or snowmelt. • The conservation authority, drainage superintendent and property owner should agree on access to the site where not specified in the Engineer's Report.
General Mitigation Requirements
General Mitigation requirements are standards that must be maintained on all drain maintenance and repair project.
• Choose conditions and equipment appropriate to minimize site disturbance by equipment • Place brush, debris and sediment in such a location as to minimize entry into the channel. • Perform work in appropriate flow conditions to minimize debris movement and erosion. • Limit soil movement and erosion; use appropriate control measures before work begins and inspect and maintain those measures regularly until all disturbed areas are stabilized. • Except on cultivated lands, any areas of disturbed or bare soil around the drain should be seeded with native, non-invasive herbaceous material while the ground is moist and conditions are appropriate for germination.

The _____Conservation Authority grants permission under Section 28 of the Conservation Authorities Act for work to be conducted in the_____ drain in accordance with the notification form, provided maintenance and repair activities comply with all standards set out above. This permission does not relieve the applicant of the responsibility to obtain any other approvals which may be required from municipal, provincial or federal authorities.	
File Number: _____ By-Law No.:_____	
Period of Validity:_____ to _____	
Location:	☐ *Location map attached*
Geographic Township:_____	Municipality: _____
Work Zone* : Impact Zone** : Length of Work Zone:	FROM Lot _____Conc. _____TO Lot_____Conc. _____ FROM Lot _____Conc. _____TO Lot _____Conc. _____ _____metres
*Work Zone = part of the drain where the work is actually occurring ** Impact Zone = linear length of watercourse extending 1 km downstream of the bottom end of the Work Zone	
Signature of Conservation Authority Official:	Name / Signature
Date:	

STANDARD COMPLIANCE REQUIREMENTS Maintenance and Repair of Municipal Drains Constructed under the Drainage Act outside of Regulated Wetland Limits (For use where permits not required) N. Bottom Cleanout Plus One Bank Slope

Description of Typical Works
Removal of accumulated sediment in a drain, including spreading of the spoil; the removal of vegetation in the bottom of the channel and removal of slope vegetation, including root removal; and access to the site.
General Permitting Information
Certain activities have the potential to cause interference with wetlands. Therefore, it is recommended that a permit be required for these activities. However, a conservation authority can choose to request that the standard compliance requirements outlined below be followed rather than issuing a permit. Additional consultation may be necessary for works within a wetland. Where permits are required, a conservation authority may attach conditions to the permit, but due to the municipality's duty to maintain drainage works under the Drainage Act, a conservation authority and a municipality shall work cooperatively to maintain the drain with written permission, with or without conditions. If a dispute occurs over a permit (e.g., over permit conditions) to maintain or repair a drainage works, parties are encouraged to refer the issue to the Drainage Issues Resolution Team before taking their dispute to a legal appeal body. This mediation team, consisting of drainage sector and conservation authority representatives, will provide an independent assessment of the best means of addressing the requirements of both statutes. If no acceptable resolution can be found, standard statutory procedures remain available.
Mitigation Measures to be undertaken should Standard Compliance Requirements be Chosen
• There should be no appreciable change in grade with the removal of sediment. • This work, including the disposal of the sediment, should be conducted in a manner consistent with the Engineer's Report and authorizing by-law. • Minimize flooding upstream and downstream. • Minimize channel width to reduce sediment deposition. • Perform work in no/low flow conditions to minimize sediment movement and erosion. Avoid work after recent precipitation or snowmelt. • The conservation authority, drainage superintendent and property owner should agree on access to the site where not specified in the Engineer's Report.
General Mitigation Requirements
General Mitigation requirements are standards that must be maintained on all drain maintenance and repair project.
• Choose conditions and equipment appropriate to minimize site disturbance by equipment • Place brush, debris and sediment in such a location as to minimize entry into the channel. • Perform work in appropriate flow conditions to minimize debris movement and erosion. • Limit soil movement and erosion; use appropriate control measures before work begins and inspect and maintain those measures regularly until all disturbed areas are stabilized. • Except on cultivated lands, any areas of disturbed or bare soil around the drain should be seeded with native, non-invasive herbaceous material while the ground is moist and conditions are appropriate for germination.
The _____Conservation Authority grants permission under Section 28 of the Conservation Authorities Act for work to be conducted in the_____ drain in accordance with the notification form, provided maintenance and repair activities comply with all standards set out above. This permission does not relieve the applicant of the responsibility to obtain any other approvals which may be required from municipal, provincial or federal authorities.
File Number: _____ By-Law No.:_____
Period of Validity:_____ to _____

Location:	☐ *Location map attached*
Geographic Township:_____	Municipality: _____
Work Zone* : Impact Zone** : Length of Work Zone:	FROM Lot _____Conc. _____TO Lot_____Conc. _____ FROM Lot _____Conc. _____TO Lot _____Conc. _____ _____metres

*Work Zone = part of the drain where the work is actually occurring
** Impact Zone = linear length of watercourse extending 1 km downstream of the bottom end of the Work Zone

Signature of Conservation Authority Official:	Name	Signature
Date:		

STANDARD COMPLIANCE REQUIREMENTS
Maintenance and Repair of Municipal Drains Constructed under the Drainage Act outside of Regulated Wetland Limits
(For use where permits not required)

O. Full Cleanout

Description of Typical Works
A full cleanout includes bottom cleanout of a drain, including spreading of the spoil; the removal of vegetation in the bottom of the channel and removal of slope vegetation, including root removal; the removal of trees and other vegetation from the top of a bank; and access to the site.
General Permitting Information
Certain activities have the potential to cause interference with wetlands. Therefore, it is recommended that a permit be required for these activities. However, a conservation authority can choose to request that the standard compliance requirements outlined below be followed rather than issuing a permit. Additional consultation may be necessary for works within a wetland. Where permits are required, a conservation authority may attach conditions to the permit, but due to the municipality's duty to maintain drainage works under the Drainage Act, a conservation authority and a municipality shall work cooperatively to maintain the drain with written permission, with or without conditions. If a dispute occurs over a permit (e.g., over permit conditions) to maintain or repair a drainage works, parties are encouraged to refer the issue to the Drainage Issues Resolution Team before taking their dispute to a legal appeal body. This mediation team, consisting of drainage sector and conservation authority representatives, will provide an independent assessment of the best means of addressing the requirements of both statutes. If no acceptable resolution can be found, standard statutory procedures remain available.
Activity-Specific Mitigation Requirements
• There should be no appreciable change in grade with the removal of sediment. • This work, including the disposal of the sediment, should be conducted in a manner consistent with the Engineer's Report and authorizing by-law.

- Minimize flooding upstream and downstream.
- Minimize channel width to reduce sediment deposition.
- Perform work in no/low flow conditions to minimize sediment movement and erosion. Avoid work after recent precipitation or snowmelt.
- The conservation authority, drainage superintendent and property owner should agree on access to the site where not specified in the Engineer's Report.

General Mitigation Requirements

General Mitigation requirements are standards that must be maintained on all drain maintenance and repair project.

- Choose conditions and equipment appropriate to minimize site disturbance by equipment
- Place brush, debris and sediment in such a location as to minimize entry into the channel.
- Perform work in appropriate flow conditions to minimize debris movement and erosion.
- Limit soil movement and erosion; use appropriate control measures before work begins and inspect and maintain those measures regularly until all disturbed areas are stabilized.
- Except on cultivated lands, any areas of disturbed or bare soil around the drain should be seeded with native, non-invasive herbaceous material while the ground is moist and conditions are appropriate for germination.

The _____Conservation Authority grants permission under Section 28 of the Conservation Authorities Act for work to be conducted in the_____ drain in accordance with the notification form, provided maintenance and repair activities comply with all standards set out above. This permission does not relieve the applicant of the responsibility to obtain any other approvals which may be required from municipal, provincial or federal authorities.

File Number: _____ By-Law No.:_____

Period of Validity:_____ to _____

Location:	☐ *Location map attached*
Geographic Township:_____	Municipality: _____
Work Zone* : Impact Zone** : Length of Work Zone:	FROM Lot _____Conc. _____TO Lot_____Conc. _____ FROM Lot _____Conc. _____TO Lot _____Conc. _____ _____metres

*Work Zone = part of the drain where the work is actually occurring
** Impact Zone = linear length of watercourse extending 1 km downstream of the bottom end of the Work Zone

Signature of Conservation Authority Official:	Name	Signature
Date:		

STANDARD COMPLIANCE REQUIREMENTS
Maintenance and Repair of Municipal Drains Constructed under the Drainage Act outside of Regulated Wetland Limits

P. Pipe, Junction Box or Catch Basin Maintenance and Repair

Description of Typical Works

Drainage Infrastructure	Definition	Repair Activity
Pipe	A buried conduit used to convey water beneath the land surface	• Replacing a section of collapsed or broken pipe • Removing roots or other blockages
Junction Box	A structure buried in the ground that allows the connection of various pipes entering at different elevations.	• Periodic removal of sediment from the junction box bottom; • Repair or replacement of the junction box structure.
Catchbasin	An inlet structure that allows surface water to drain into a pipe municipal drain	• Periodic removal of sediment from the catchbasin bottom; • Repair or replacement of the catchbasin structure

There are no regulatory impacts typically associated with Pipe, Junction Box or Catch Basin repairs and no Standard Compliance Requirement statement is required. Drainage superintendents should still follow best practices set out below as a matter of good practice while doing these repairs.

Best Practices

Below are standards that should be maintained as a matter of good practice during these repairs.

- Choose conditions and equipment appropriate to minimize site disturbance by equipment.
- Place brush and debris in such a location as to limit entry into the pipe.
- Perform work in appropriate conditions to minimize debris movement and erosion.
- Limit soil movement and erosion; use control measures if necessary before work begins.

Typically Conservation Authorities Act S. 28 Regulation permissions are not required for pipe, junction box or catch basin repairs.