

# FAQs

## FREQUENTLY ASKED QUESTIONS Process for Establishing a Drain

### ***What is the first step in establishing a drain?***

Property owners must file an application with the Drain Commissioner to create a drainage district. The application must include the location and route of the proposed drain.

### ***What is a drainage district?***

A drainage district is the land area that benefits from the drain. The drainage district makes up the watershed that contributes water to the drain. Each property and municipality within the drainage district pays for maintenance and improvement of the drain.

### ***How many property owners must sign the application?***

At least 10 owners of property in the township of the proposed drain must sign. 5 of the signers must own property that will be liable for an assessment to construct the drain. If there are less than 20 owners of property that will be liable for an assessment, only 1 signer must own property that will be liable for an assessment.

### ***What is the application deposit cost?***

Along with the submission of an application, a cash deposit may be required to cover preliminary costs for the proposed drain. The average deposit is around \$20,000.

### ***Will my deposit be returned upon completion of the drain?***

If the drain is completed, the depositor will be reimbursed for the initial deposit upon the first tax collection for the drain. If the drain is not completed, the depositor will be returned whatever amount of the deposit is left after costs are paid.

### ***What happens after an application is submitted?***

The Drain Commissioner will determine whether the proposed drain is practical. If it is practical, he will proceed to designate a drainage district. If it is not practical, he will not proceed.

### ***How will I know if a drainage district has been established?***

When the Drain Commissioner files an order to designate a drainage district, he will provide notice in a newspaper of general circulation. The notice will include a description of the route of the proposed drain and the drainage district.

### ***What happens after a drainage district is established?***

After a drainage district is established, property owners may file a petition with the Drain Commissioner to establish a new drain. The petition must request the location, establishment, and construction of the drain.



***How many property owners must sign the petition?***

The petition must be signed by at least half of the owners of property that will be crossed by the proposed drain.

***What happens after a petition is submitted?***

The Drain Commissioner will appoint a Board of Determination and call a meeting of the Board.

***What is a Board of Determination?***

A Board of Determination is a 3-member panel of disinterested property owners. The role of the Board of Determination is to receive evidence and hear testimony of interested persons and determine whether the petitioned activities are necessary and conducive to the public health, convenience, or welfare. The Board does not determine the scope or cost of the project or the assessments for property owners.

***How will I know about the Board of Determination meeting?***

The Drain Commissioner will publish notice of the meeting in a newspaper of general circulation and mail a notice to each property owner within the drainage district.

***Does the decision of the Board of Determination have to be unanimous?***

No, only a majority vote of the Board of Determination is required. Only the members of the Board of Determination vote.

***Can I participate in the Board of Determination meeting?***

Yes, property owners may attend the meeting and provide testimony to the board members to assist in their determination of necessity.

***What remedy do I have if I disagree with the determination of necessity?***

Any person who disagrees with the Board of Determination's finding that the proposed drain project is necessary or not necessary may file an action in circuit court within 10 days.

***What happens if the proposed drain will cross my land?***

If needed, the Drain Commissioner will request easements and rights of way from the owners of property that will be crossed by the drain.

***Do I have to provide an easement or right of way?***

No, however, the Drain Commissioner may institute a condemnation proceeding to obtain the needed easement or right of way.

