

1973

c 204 The Township of Sarnia Act 1973

Ontario

© Queen's Printer for Ontario, 1973

Follow this and additional works at: http://digitalcommons.osgoode.yorku.ca/ontario_statutes

Bibliographic Citation

The Township of Sarnia Act 1973, SO 1973, c 204

Repository Citation

Ontario (1973) "c 204 The Township of Sarnia Act 1973," *Ontario: Annual Statutes*: Vol. 1973, Article 206.

Available at: http://digitalcommons.osgoode.yorku.ca/ontario_statutes/vol1973/iss1/206

This Statutes is brought to you for free and open access by the Statutes at Osgoode Digital Commons. It has been accepted for inclusion in Ontario: Annual Statutes by an authorized administrator of Osgoode Digital Commons.

CHAPTER 204

An Act respecting the Township of Sarnia

*Assented to May 18th, 1973
Session Prorogued March 5, 1974*

WHEREAS The Corporation of the Township of Sarnia, ^{Preamble}
herein called the Corporation, hereby applies for special
legislation in respect of the matters hereinafter set forth;
and whereas it is expedient to grant the application;

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) The Corporation may, without petition but on the report of its Engineer set forth as Schedule A hereto, by ^{By-law authorizing drainage works} by-law approved by the Ontario Municipal Board, adopt the said report and undertake and complete the work provided for therein, hereinafter called the drainage works, in two stages as set forth in the said report, and all the provisions of *The Drainage Act* shall apply *mutatis mutandis* except ^{R.S.O. 1970, c. 136} as otherwise provided in this Act or in the said report.

(2) The assessments upon lands shall be deemed to have been made under *The Drainage Act*. ^{Assessments deemed made under R.S.O. 1970, c. 136}

(3) The drainage works shall be deemed to have been undertaken in accordance with the provisions of section 3 of *The Drainage Act*. ^{Application of R.S.O. 1970, c. 136, s. 3}

(4) The said report when adopted by the said by-law shall be deemed to have been adopted in accordance with *The Drainage Act*. ^{Report deemed adopted under R.S.O. 1970, c. 136}

(5) The schedules to the said report form a part of the said report even though they are not included in Schedule A hereto. ^{Schedules form part of report}

(6) By by-law approved by the Ontario Municipal Board, the Corporation may amend the by-law passed under subsection 1 and may adopt a report of its Engineer amending a report adopted under this Act. ^{Amendments to by-law}

Passage of
by-law not
prevented by
appeals

2. A by-law may be passed under this Act before the time for any appeal under *The Drainage Act* has expired and if there is any appeal, before any appeal has been decided.

Non-appli-
cation of
R.S.O. 1970,
c. 136, s. 24,
(2, 3, 5, 6)

3.—(1) Subsections 2, 3, 5 and 6 of section 24 of *The Drainage Act* do not apply to a by-law passed pursuant to this Act.

Publication of
notice of
passage of
by-law

(2) When the by-law adopting the said report has been passed pursuant to section 1, there shall be published at least once a week for two consecutive weeks in a newspaper which in the opinion of the clerk has such circulation within the area affected by the by-law as to provide reasonable notice to those affected thereby a notice of the passing of the by-law and of the sitting of the court of revision and such notice shall state that amounts are assessed against lands and that the by-law and report and its assessment schedules may be examined in the clerk's office.

Mailing of
by-law, etc.,
not required

(3) Notwithstanding the provisions of section 29 of *The Drainage Act*, a copy of the by-law and a notice of the sitting of the court of revision need not be mailed to any owner of land.

Sittings of
court of
revision

(4) Notwithstanding the provisions of section 31 of *The Drainage Act*, the first sitting of the court of revision of the local municipality in which the lands and roads assessed are situate shall be held on a day not earlier than twenty days and not later than thirty days from the date of the last publication of the notice provided for in subsection 2.

Clerk to
alter
assessments

4. Notwithstanding the provisions of section 34 of *The Drainage Act*, any change in assessment made by the court of revision or by the judge shall be given effect to by the clerk of the local municipality altering the assessments and other parts of the schedule to comply therewith and sending notice thereof to the owners affected and the assessment schedules to the said report shall be altered to carry out any changes so made by the court of revision or by the judge.

Notice of
application to
O.M.B.

5. Notice of any application to the Ontario Municipal Board for any approval required under this Act may be given by publication thereof in a newspaper which in the opinion of the clerk has such circulation within the area affected by the by-law as to provide reasonable notice to those affected thereby in such form and manner as the Ontario Municipal Board may direct and need not be served on or sent to any person other than the persons set forth in subsection 1 of section 24 of *The Drainage Act*.

6. The by-law adopting the report and authorizing the work may be in Form 4 of *The Drainage Act*, but revised to give effect to the special provisions and powers of this Act.

Form of
by-law
R.S.O. 1970,
c. 136

7. Without limiting the generality of the provisions of *The Drainage Act* and of the said report relating to the items to be included in the costs of a drainage works, the following may be included in the cost of the drainage works:

What may
be included
in cost of
drainage
works

1. Engineering expenses.
2. Cost of publishing and service of notices.
3. Interest on temporary loans and on debentures.
4. Compensation for lands acquired or taken for the purposes of the drainage works or injuriously affected by it and the expenses incurred by the Corporation in connection with acquiring lands and determining compensation.
5. The estimated cost of the issue and sale of debentures and any discount allowed to the purchasers of them.

8. In addition to raising costs of the drainage works by the assessment method authorized in *The Drainage Act*, the Corporation may raise such part of the costs of the drainage works as the report specifies by a mill rate on the rateable property in the area described in Appendix 1 to the said report and any amount so levied on the rateable property shall be deemed charges and assessments and rates for a drainage works under *The Drainage Act*.

Mill rate
may be
imposed
for part of
costs of
drainage
works

9. The provisions of sections 13, 14, 15 and 17 of *The Drainage Act* relating to the preparation and form of the assessment schedule and the right to appeal about assessment provided for in *The Drainage Act* shall not apply to the amount to be raised by a mill rate on rateable property.

Non-appli-
cation of
R.S.O. 1970,
c. 136, ss. 13,
14, 15, 17

10. Sections 35, 36, 38 and 72 of *The Drainage Act* shall not apply to any by-law passed pursuant to this Act and to the drainage works undertaken pursuant to any such by-law and there shall be no right to appeal from the said report or with respect to the said drainage works.

Idem.
ss. 35, 36, 38, 72

11. Upon the practical completion of each of the two stages of the drainage works provided for in the said report, a drainage works shall be considered to have been completed.

When works
completed

12. The drainage works constructed under the terms hereof shall be maintained and improved in accordance with the provisions in the said report and of *The Drainage Act*.

Maintenance

Conflict

13. The provisions of this Act shall apply notwithstanding the provisions of any general or special Act and, in the event of any conflict between this Act and any general or special Act, this Act shall prevail.

Power to
acquire land

14. For the purposes of the drainage works authorized by this Act the Corporation may acquire or expropriate any land and may make any contracts relating to the said drainage works and matters incidental thereto.

Deemed
drainage
works under
R.S.O. 1970,
c. 136

15. The drainage works shall be deemed to be a drainage works constructed under a by-law passed under *The Drainage Act*.

Commence-
ment

16. This Act comes into force on the day it receives Royal Assent.

Short title

17. This Act may be cited as *The Township of Sarnia Act, 1973*.

SCHEDULE A

THE REEVE AND COUNCIL,
Township of Sarnia.

February 23, 1973.

Gentlemen:

In accordance with your authorization by a resolution dated November 13, 1972 we have completed an investigation relating to the drainage implications concerned with the construction of the proposed Telfer Diversion Channel and Pulse Creek Drain Diversion Channel. These joint projects are intended to be carried out in conjunction with the construction of the controlled access Highway 402 by the Ministry of Transportation and Communications. The proposed Telfer Diversion Channel is to be constructed in part during the Highway construction and completed at a later date. The proposed Pulse Creek Drain Diversion Channel is to be completed during the Highway construction.

The nature of the proposed Highway construction is such that large volumes of fill will be necessary. It is usual that the necessary fill material is obtained in borrow pits which, in level lands such as this area, would result in large areas being occupied by 10 to 12 foot deep holes with a highly undesirable impact on the environment. The Report for Sewerage and Drainage for the City of Sarnia and the Township of Sarnia dated February, 1969 by James F. McLaren Limited recommended that the rural flow from the Perch Drain, sometimes known locally as the Wawanosh Drain, be diverted northerly at the east side of 12/13 Sideroad to rejoin the Drain near its junction with the present Pulse Creek Drain in the Front Concession. This was recommended to provide a suitable outlet for the lands upstream from the proposed diversion and to avoid mixing the relatively clear rural flow with the often highly contaminated urban flow. The Perch Drain downstream from the proposed diversion will be draining an area in Sarnia Township described in Appendix I hereto which is developing in an urban manner. The anticipated runoff from the urban developing area will require some form of treatment before being discharged into Lake Huron.

It is obvious that these two projects (the construction of the Highway and the construction of the Telfer Diversion Channel) should be combined so that the acceptable fill material from the Diversion Channel will be available for use in the Highway construction. The material thus obtained would satisfy a substantial portion of the Highway needs without the necessity of defacing the landscape and also would construct for the Township the major portion of the Diversion Channel. These two projects being undertaken together now is desirable even though the Telfer Diversion Channel may not be required for some ten years.

Carrying one step further this consideration of reducing the number of borrow pits required, a diversion of the Pulse Creek Drain from its junction with the new Highway westerly into the proposed Telfer Diversion Channel would provide additional fill material and at the same time result in benefits to the Township in addition to the reduction of unsightly borrow pits. It has been estimated by the Ministry that nearly 90% of its fill requirements can be obtained from these two Diversion Channels. A conservative estimate of the long term savings for the Township by this construction now of part of the Telfer Diversion Channel is 1.5 million dollars.

The aforementioned considerations probably justify the scheme. However, certain secondary advantages would accrue to the Township by the undertaking of the Diversions. There are several drains which have been constructed or are being maintained under the provisions of *The Drainage Act* which would receive immediate benefit, with the lands upstream being provided with a more satisfactory outlet and the lands downstream benefiting by the cutting off of the continually increasing flow from the upstream lands. The latter point is particularly significant for the Telfer Diversion Channel since development in the London Road area would, in the foreseeable future result in many of the downstream structures on drains becoming inadequate as the flow rates increase due to changes in the land use. The Pulse Creek Drain Diversion Channel will result in similar benefits both upstream and downstream from the Highway. The Ministry of Transportation and Communications would be relieved of installing several structures through the new Highway which would be required to accommodate existing drains severed by the new Highway. Also the Ministry would benefit indirectly since it would normally be involved, in the form of grants, in the future reconstruction of many downstream structures on these drains which are either obsolete or would soon require replacement due to lack of capacity.

The primary purpose of this report is to deal with the implications of the proposals on the drains physically affected and those others which are tributary to the present Perch Drain and Pulse Creek Drain. While the major portion of the costs to be incurred by the Township for the Telfer Diversion Channel is to be borne by the rateable property in the urban developing area which is in fact creating the need for the diversion, there are certain costs to be incurred which are directly related to improvements to intercepted drains which should properly be assessed to those lands affected. Also, the Pulse Creek Drain Diversion Channel, which is unrelated to the urban development, will result in substantial benefits to the tributary lands and costs incurred with respect to this Channel should be the responsibility of the lands in the drainage area involved. Maintenance of these drains in their new forms can no longer be strictly related to previous drainage by-laws and therefore this report must also deal with maintenance.

It is proposed at this time to obtain all the land required for the two diversion channels, to construct the Pulse Creek Drain Diversion Channel utilizing the fill material for Highway purposes and to excavate the section of the Telfer Diversion Channel north of Highway 7 to the extent that suitable fill material is available for the Highway purposes. In view of the varying levels of acceptable fill material throughout it will be necessary to construct a relatively small auxiliary channel in the bottom of the Telfer Diversion Channel excavation through materials unacceptable for the Highway purposes in order to properly drain the larger excavation. This work will also involve the installation of bridge structures at the Airport Road, Highway 402, the Jackson Road, and Michigan Avenue together with an inlet works where the Pulse Creek Drain Diversion Channel meets the Telfer Diversion Channel. It is anticipated that the Township and the Ministry will enter into a Contract making all of the work described above in this paragraph and the costs of the land acquisition north of the London Road the responsibility of the Ministry of Transportation and Communications. Drawings which will be furnished if the work is to proceed will outline the work to be done at the present time as well as the form of the final channels. All other costs involved in the implementation of the present work and the final channels, excepting the bridge structure at the London Road, shall be the responsibility of the Township of Sarnia. The decision as to the time of completing the second stage of the Telfer Diversion Channel project shall be made by the Township when the extent of urban development dictates.

It is proposed that the Storey Drain which is located to the west of the proposed Telfer Diversion Channel be diverted into that Diversion Channel by means of an open channel abutting the south limit of Highway 402 and proceeding easterly from the Storey Drain into the said Diversion Channel. Since the excavated material from this work will be available to the Ministry for highway purposes, it is proposed to undertake this minor Diversion Channel on the same basis as the major Diversion Channels. There will, however, be costs incurred at the entrances of the aforementioned open channel and the Pollard, Hind, Rooney, Pulse Creek and Luckins Drains into the new Diversion Channels. In view of the resulting benefits to these drains both upstream and down, it is proposed that these costs be borne by the individual drainage areas affected. In this connection since the Broughton Drain will be benefited by the Pollard Drain improvements and the construction of the Telfer Diversion Channel, the Broughton Drain area should be so assessed. Included in the assessment against the Pulse Creek Drain area are all costs, in connection with the construction of the Pulse Creek Diversion Channel not otherwise provided for since this channel is not related to the separation of the rural and urban flows. All costs relating to the Telfer Diversion Channel project to be borne by the Township and not otherwise provided for shall be assessed against the rateable property in the urban developing area described in Appendix I hereto. This work shall be done and the drains and Channels operated and maintained pursuant to *The Drainage Act* except to the extent otherwise provided for in the special legislation enabling the Township to undertake this work. Cost estimates of the work relating to these drains, plans, profiles, specifications for the work, and assessment schedules for the individual drainage areas are supplements to this report.

The makeup of the tributary areas of the present Perch Drain and Pulse Creek Drain will change upon the completion of each stage of this scheme. Therefore the maintenance responsibilities for the existing drains and new channels must be established. Maintenance schedules will be prepared setting out these responsibilities with Schedule "A" relating to the maintenance of the Telfer Diversion Channel prior to the completion of both stages, Schedule "B" relating to the maintenance of the Pulse Creek Drain Diversion Channel, and Schedule "C" relating to the maintenance of the Telfer Diversion Channel after completion of both stages. Schedule "C" at that time shall also apply to maintenance downstream on the Perch Drain from the north end of the Telfer Diversion Channel to Lake Huron, but in this case, the lands tributary to those parts of the present Perch Drain and Pulse Creek Drain not being diverted shall contribute 1/3 of any costs incurred in the said maintenance with the Pulse Creek Drain lands downstream from the Pulse Creek Drain Diversion Channel contributing 10% of this amount. The existing Perch Drain shall be maintained prior to the completion of the Telfer Diversion Channel system as provided in By-law #19 of 1969 except that those lands assessed to the Storey, Pollard, Broughton, and Hind Drains south of the Telfer Diversion Channel and the Luckins Drain east of the Telfer Diversion Channel shall not be assessed. Except as otherwise provided in this report and any supplements to it the existing Pulse Creek Drain shall be maintained as provided in By-law #34 of 1972 except that those lands tributary to the Rooney Drain south of the Pulse Creek Drain Diversion Channel shall not be assessed. All the drains intercepted by the Diversion Channel except the Pulse Creek Drain shall be maintained as provided in the assessment schedules which are supplements to this report. With respect to any drain intercepted by the Diversion Channels, maintenance work on such drain downstream from a Diversion Channel shall not be charged to lands tributary to that drain upstream from the Diversion Channel and maintenance work on such drain upstream from the Diversion Channel shall not be charged to lands tributary to that drain downstream from the Diversion Channel. In each case the assessment for the Ministry of Transportation and Communications shall be reduced by one-half.

Upon the completion of stage 2 of the Telfer Diversion Channel project the remaining lands tributary to the Perch Drain and not discharging into the Telfer Diversion Channel shall be responsible for maintaining the Perch Drain downstream from the south end of the Telfer Diversion Channel to the north end of the Telfer Diversion Channel as provided in the aforementioned By-law #19 of 1968. These proportions shall also apply to the heretofore stipulated share of maintenance work on the Perch Drain downstream from the north end of the Telfer Diversion Channel. Upstream from the south end of the Telfer Diversion Channel, the Perch Drain shall be maintained as provided in the last relevant by-law for the section to be maintained with only lands abutting the maintenance work and upstream being assessed.

All of the provisions for maintenance set out under this report shall remain in force until such time as they are altered under the provision of the then current *Drainage Act* of Ontario.

The work provided for by this report is conditional upon and is only to be undertaken if the Minister of Transportation and Communications and the Township enter into a Contract setting out the work and costs for which the Minister will be responsible.

Yours respectfully,

For:

Monteith-Ingram Engineering Limited,
Consulting Engineers,
Petrolia, Ontario.

APPENDIX I

DESCRIPTION OF AREA DESIGNATED FOR
URBAN DEVELOPMENT

COMMENCING at the point of intersection of the water's edge of Lake Huron with the westerly limit of the Township of Sarnia;

THENCE northeasterly along the water's edge of Lake Huron to where the same is intersected by the line between Lots 49 and 50, Front Concession;

THENCE southerly along the said line between Lots 49 and 50 [partly running approximately parallel with the easterly limit of Mater Drive and easterly therefrom at a perpendicular distance of approximately two hundred and fifty-six feet (256')] to where the same is intersected by the westerly limit of the Canadian National Railway's Right-of-way (Stratford Branch);

THENCE southerly along the said westerly limit of the Canadian National Railway Right-of-way to where the same is intersected by a line drawn parallel with and perpendicularly distant two hundred feet (200') northerly from the southerly limit of Concession 7, being also the northerly limit of Exmouth Street;

THENCE easterly along the last-mentioned line drawn parallel with the said southerly limit of Concession 7 to where the same is intersected by a line drawn parallel with and perpendicularly distant two hundred and ten feet (210') westerly from the original westerly limit of Modeland Road as shown on Deposited Plan Number 883, Plans and Profiles;

THENCE northerly along the last mentioned line drawn parallel with the said original westerly limit of Modeland Road to where the same is intersected by a line and the westerly production thereof drawn parallel with and perpendicularly distant six hundred and sixty feet (660') northerly from the centre line of construction of the King's Highway Number 7 in front of Lots 13 and 14, Concessions 6 and 7 as shown on Deposited Plan Number 427, Plans and Profiles;

THENCE easterly along the last mentioned line drawn parallel with the said centre line of construction to where the same is intersected by the westerly limit of Lot 12, Concession 7, being also the easterly limit of Blackwell Sideroad;

THENCE southerly along the said westerly limit of Lot 12 to where the same is intersected by the northerly limit of the King's Highway Number 7 as widened by Deposited Plan Number 431, Plans and Profiles;

THENCE south-easterly and easterly along the said northerly limit of the King's Highway Number 7 to where the same is intersected by the easterly limit of Lot 12, Concession 7;

THENCE southerly along the easterly limit of said Lot 12 to the south-east corner of said Lot;

THENCE southerly in a straight line to the north-east corner of Lot 12, Concession 6;

THENCE southerly along the easterly limit of Lot 12, Concession 6 to where the same is intersected by a line and the easterly production thereof drawn parallel with and perpendicularly distant six hundred and sixty feet (660') southerly from the said centre line of construction of the King's

Highway Number 7 in front of Lots 13 and 14, Concessions 6 and 7 as shown on Deposited Plan Number 427, Plans and Profiles;

THENCE westerly along the last mentioned line drawn parallel with the said centre line of construction to where the same is intersected by the line between the east and west halves of Lot 14, Concession 6;

THENCE southerly along the lines between the east and west halves of Lot 14, Concessions 6 and 5 to where the same is intersected by the line between the north and south halves of Lot 14, Concession 5;

THENCE westerly along the said line between the north and south halves of Lot 14, Concession 5 to where the same is intersected by the line between Lots 14 and 15, Concession 5;

THENCE southerly along the line between Lots 14 and 15, Concession 5 to the south-east corner of said Lot 15;

THENCE southerly in a straight line to the north-east corner of Lot 15, Concession 4;

THENCE southerly along the line between Lots 14 and 15, Concession 4 to where the same is intersected by a line drawn parallel with and perpendicularly distant three hundred feet (300') southerly from the northerly limit of Concession 4, being also the southerly limit of Confederation Street;

THENCE westerly along the last mentioned line drawn parallel with the said northerly limit of Concession 4 to where the same is intersected by a line drawn parallel with and perpendicularly distant three hundred feet (300') easterly from the most easterly limit of Modeland Road as shown on Deposited Plan Number 890, Plans and Profiles;

THENCE southerly along the last mentioned line drawn parallel with the said most easterly limit of Modeland Road to where the same is intersected by a line drawn parallel with and perpendicularly distant three hundred and ten feet (310') southerly from the northerly limit of Lot 15, Concession 2;

THENCE westerly along the last mentioned line drawn parallel with the said northerly limit of Lot 15 and the westerly production thereof to where the same is intersected by a line drawn parallel with and perpendicularly distant three hundred feet (300') southerly from the most southerly limit of Churchill Road as shown on Deposited Plan Number 889, Plans and Profiles;

THENCE continuing westerly along the last mentioned line drawn parallel with the said most southerly limit of Churchill Road to where the same is intersected by the westerly limit of the Township of Sarnia;

THENCE northerly, easterly and northerly along the westerly limit of the said Township of Sarnia to the point of commencement.