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**Purpose:**

The City of Niagara Falls is responsible for managing stormwater to preserve and protect life, support healthy natural resources, mitigate property damage, and complement sustainable growth within the City. It is recognized that some areas within the Urban Area, including private property, do not have positive drainage of stormwater to City right-of-ways.

Through the steps outlined in this drainage assistance program administered by Municipal Works - Infrastructure Services, the City will prioritize drainage improvements for qualifying drainage systems predominately in urban areas to assist in reducing flood hazards from urban stormwater runoff, to help protect and improve water quality in local streams and other receiving surface waters, and to maintain stormwater infrastructure for public purposes.


Many factors will be considered when determining whether drainage improvements are necessary or achievable. The City acknowledges that individual property owners are responsible for their own property and takes no responsibility for storm water on private property but does understand that a public-private partnership can be valuable.

**Definitions**

Urban Area – Refers to the delineated boundary separating urban area from rural area. The boundary is defined through the Niagara Region Official Plan and is subject to change from time to time. Properties outside of the urban area are generally not eligible to receive urban service infrastructure such as piped water, wastewater and stormwater.

Severe Erosion – significantly unstable land that is actively losing soil and/or other earthen material due to persistent and/or high velocity stormwater runoff flows. Sites may vary, but

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the most common locations include stream banks, stormwater channels, and/or stormwater drainage outfalls. Common types of severe erosion include active material loss on steep, vertical stream banks, undercut stream banks, significant sloughing of stream banks, or significant loss of soil material around and affecting a permanent drainage structure, all due to erosive stormwater flows.

Structural Flooding – flooding that impacts a crawlspace, finished floor, garage, basement and/or mechanical/HVAC unit and is caused by surface stormwater flows and not groundwater. Sheds and outbuildings not on a permanent, enclosed foundation or that can be easily moved and where moving the structure is the least cost alternative to prevent flood damage to the structure do not qualify as structural flooding.

Street Flooding – flooding that occurs when the existing drainage system does not meet the standards of relevant Engineering Design Guidelines and Intensity/Duration Frequencies. In general, the majority of all street and local drainage systems should be designed to safely convey the 2-year design storm, at a minimum, with an objective to analyze and meet the 10-year storm event level of service where achievable and practical.


The City – as referred to in this policy and defined as the City of Niagara Falls, Ontario.

### Drainage Assistance Eligibility Criteria

Requests for drainage assistance and investigation into stormwater drainage issues shall first be reviewed by City Infrastructure staff to ensure that basic eligibility criteria are met. These include, but are not limited to, the following:

1. The concern must be located within the City boundaries and the property or properties involved must not be in arrears or have any outstanding balances owing.

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2. The property or properties involved must receive and/or convey runoff that includes stormwater from a publicly owned and maintained street, right-of-way and/or City owned property or facility.
3. There have been no alterations made, negatively impacting drainage, to approved grading and/or stormwater drainage plans at the property or properties involved.
4. There have been no structures, pools, etc. constructed on the property that have blocked or negatively affected drainage. City issued permits for buildings, pools, fences, etc. shall not be construed as consent for construction that has negatively impacted drainage.
5. The property or properties must be in compliance with City By-law 2010-61, which prohibits the connection of weeping tile (foundation drains) to the City's sanitary sewer collection system. (Refer to City's WRAP Program).
6. This program is not for new construction or redevelopment. Nothing herein shall be construed, or applied in such manner as to aid or assist in the subdivision or development of property in the City. The policy set out herein shall be applicable only to those properties for which no new subdivisions or development applications are anticipated.
7. Where unauthorized site alteration to nearby properties has occurred, affecting neighboring properties will not be eligible until the site alteration infraction has been rectified.

### Drainage Assistance Guidelines

Drainage assistance projects will also be subject to the following guidelines:


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1. All projects will be authorized and funded based on a project priority ranking system and available City funding. The City makes no guarantee of approval nor minimum funding amount.
2. Property owners shall grant the City appropriate easement(s) across (his)(her)(their) property(ies) for the purpose of performing all necessary investigation and construction activities. These may include but not be limited to Temporary Construction Easements (TCE), Permission-to-Enter (PTE) agreements and City of Niagara Falls Permanent Drainage Easements (PDE). Signed easements and right-of-entry agreements must be obtained before any construction of drainage system improvements will commence on private property.
3. Design and construction of drainage solutions will meet City design standards.
4. Any pre-existing pipe or other drainage system installed on City property, on Municipal Right-of-Ways, or on City Easements without proper city approval may need to be removed and will not be maintained by city staff (for example, unpermitted piping of roadside swales).
5. Drainage improvements completed prior to approval of this policy will not be eligible for funding.
6. Property owners are fully responsible for all future maintenance of the installed drainage improvements unless otherwise agreed to by the City through easement agreements

### Drainage Assistance Evaluation and Prioritization

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On an ongoing basis, drainage issues will be evaluated and prioritized based upon severity of the issue and available funding. The City will utilize an objective, priority based ranking matrix to evaluate the most urgent stormwater needs and determine optimal use of allocated City budget to address the identified drainage problems and needs (see Appendix A). Projects will be regularly evaluated based upon pre-determined, objective, and weighted criteria, including but not limited to: public health and safety, flood hazard reduction benefits, regulatory mandates and compliance, water quality benefits, watershed management benefits, cost-benefit, and community support and implementation complexity, among others.

Highest priority will be given to issues that most greatly impact public health and safety (such as flooding of a public right-of-way or street, structural flooding such as finished floor of a permanent structure, or severe erosion of a stream threatening a structure).


The City reserves the right to re-evaluate and review drainage assistance criteria at any time. The City also reserves the right to make special exemptions for various reasons, upon the discretion of the Director of Municipal Works.

**Application of the Drainage Assistance Policy**

Participation in this program is based on a first come first serve basis. Availability of funds for each fiscal year and proposed projects will be considered in accordance with the City’s fiscal year budget. Any funds provided under this policy shall be subject to such budget limitations and other restrictions, as set by the City.

The City will maintain a rolling list of applications that will be considered for funding, and reserves the right to require applicants to update their application materials and criteria from time to time.


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The following points generally outline the applicable activities of this policy:


- City staff will evaluate all drainage requests to determine whether the site and location receives public or private runoff.
- City staff will determine eligibility and prioritization based on the policy and scoring matrix attached herein.
- Participation in Drainage assistance by the City, its agents and contractors shall be limited to the extent to which City funds are available for such purpose.
- The purpose of this Residential Drainage Assistance Policy is to maintain proper flow and conveyance of public stormwater runoff within the conveyance system for the purpose of protecting water quality, reducing the threat of structural flooding and for the protection of public safety. It is not the intent or the practice of the City's drainage maintenance program to monetarily or aesthetically enhance public or private property.
- The Director of Municipal Works / City Engineer is given administrative authority for assigning staff responsibility for the receipt, review and evaluation of projects under the City's Residential Drainage Assistance Policy.
- No work shall be performed until budgetary allocations have been approved by City Council. Recommendations for projects shall be made by City staff and a summary of applications shall be reported to Council on an annual basis.
- For open conveyance systems (such as grass swales, ditches, streams, and wetland areas), priority for repairs shall be given to active channel erosion that poses a dangerous threat to structures and/or public safety.

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- Mowing, litter removal and other routine maintenance, where allowed, is the responsibility of the property owner. This includes maintenance of Permanent Drainage Easements.
- Upgrade/relocation of existing stormwater infrastructure for the purpose of new or redevelopment shall be at developers/owners expense. Owner of property must obtain City approval before construction.
- Projects must be in compliance with all local, provincial and federal regulations. Cases where Individual Permits are required, or significant mitigation efforts to ensure compliance with regulations are required may be considered ineligible for approval.
- The City will not participate in projects or repairs if the issue is caused by unlawful action or willful misconduct by a property owner or petitioner.
- If there exists a common interest in a project, repair or improvement with another government agency (such as the NPCA, Niagara Region, or adjacent Municipalities the City may enter into an agreement with the other government agency for a sharing of expenses.
- The scope of this Policy and application of funding assistance strictly does not apply to Municipal Drains.
- Properties receiving drainage assistance will cease to be eligible for future assistance under this policy once work is completed. Multiple applications at the same property will not be permitted.

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## City of Niagara Falls Permanent Drainage Easements

A City of Niagara Falls Permanent Drainage Easement is a recorded, legal document which describes easement boundaries and any conditions and restrictions related to the permission granted by the property owner to the City of Niagara Falls. Under the easement, the property owner is the grantor and the City is the grantee. Generally, stormwater projects will be constructed within an easement dedicated for such purpose or within the public right-of-way.

Easements will be donated by property owners prior to disturbance of the property within the dedicated easement limits and all easements (with the exception of those deemed “temporary” as necessary for access and construction) will be permanent. The City will not purchase easements for the purpose of constructing drainage assistance projects.


When an owner refuses to donate an easement necessary for the system improvement, the project will be placed on hold indefinitely until the easement is donated or the site conditions change thereby eliminating the need for the project.

Temporary Construction Easements and Permission to Enter agreements shall expire upon City completion of construction pertaining to an application, including release of construction securities and holdbacks. Generally this is one year from completion of construction activities.

Existing private drainage infrastructure shall remain the responsibility of the owner until such time as improvements, repairs or replacements made are accepted by the City and Permanent Drainage Easement is executed and recorded. Until an easement has been executed and recorded at the Land Registry office, maintenance of any portion of a storm drainage system on private property remains the legal responsibility of the property owner. The City shall be responsible only for the portions of the stormwater drainage system

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which are in City-maintained street rights-of-way and permanent storm drainage easements conveyed to and accepted by the City. Repairs and improvements to the drainage system shall be in accordance with established standards, policies, and schedules.

Upon successful completion of an application and upon the establishment of a City of Niagara Falls Permanent Drainage Easement over these repairs, certain restrictions will apply to the City drainage easement so that the area can function as it is designed. It should also be noted, the city's acquisition of drainage easements and/or the construction or repair by the city of drainage facilities does not constitute a warranty against stormwater hazards, including, but not limited to, flooding, erosion, or standing water.


Encroachments within a City of Niagara Falls Permanent Drainage Easement may include:

- Fences (not made of stone, block or concrete) that do not impede the flow of stormwater runoff as intended or prohibit access to public stormwater infrastructure;
- Trees whose root system is not a threat to the drainage system;
- Shrubs and flowers;
- Standard paved asphalt or concrete driveways and parking lots for underground storm drainage facilities

Items not allowed within a City of Niagara Falls Permanent Drainage Easement may include, but not be limited to:

- Trees planted over storm water pipes

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- Tennis courts, swimming pools, dams or anything that may block the flow of water;
- Permanent structures not intended to be moved (such as brick, block or concrete); and
- Sheds or other buildings


In general, within a conveyed City of Niagara Falls Permanent Drainage Easement, the City will only perform the necessary maintenance activities and repairs to ensure the proper functionality of the drainage system located within. This includes:

- Removing fallen trees and large debris from watercourses when those obstructions create a qualifying drainage problem;
- Clearing storm drain pipes, catch basins and culverts;
- Repairing or replacing broken storm drainage infrastructure or systems;
- Controlling severe watercourse bank erosion when necessary to protect water quality and adjacent properties; and

Activities that the City will not perform within these City of Niagara Falls Permanent Public Drainage Easements:

- Cleaning up sticks, leaves, earth or debris on private property after heavy rain or flooding;

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- Repairing or replacing private property damaged by stormwater runoff or flooding, including but not limited to indoor damages, air conditioners, heating units, fences, gardens, lawns, shrubs, mail boxes, and dog houses;
- Clearing out incidental debris from creeks and drainage ditches such as trash, leaves, grass clippings or small tree branches;
- Clear cutting vegetation from creek banks as part of routine maintenance;
- Mowing a ditch or storm drainage easement on private property; or
- Re-grading or re-seeding a storm drainage easement after project warranty period.
- Other actions that do not prohibit or impact the functionality of the public drainage system.

Conditions set forth in Public Drainage Easements shall be binding on the heirs, successors, assigns and grantees of the properties impacted. The owner and his or her successors, tenants, assigns and heirs agree to hold the City, its officers and employees harmless from any damage or claim whatsoever arising from the work. All claims for liability shall be made against the contractors doing the work.

### Conflicts

All resolutions, orders, actions, and other policies in conflict herewith, are repealed to the extent of such conflict. This resolution shall not apply to drainage projects already approved or completed under the old policy.

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## Timing

This policy shall become effective immediately upon its adoption.

## Amendments and Alterations

This policy may be altered, amended, or repealed in the complete and utter discretion of the City Council; provided, no such action shall, in any way, abrogate, repeal or waive the conditions attached to any improvement already made hereunder.


## Appendix A: Priority Based Ranking Matrix

The following table illustrates the relative ranking of priorities used evaluate annual project eligibility.

On an annual basis, further detailed evaluation of individual project cost vs. benefit will be performed in order to rank individual projects.

Description	Inside of Urban Area Boundary	Outside of Urban Area Boundary
<b>1. Single property is slow to drain after a rain event</b>	Very Low	Ineligible
<b>2. Isolated ponding within single property (&lt;50% of yard area)</b>	Very Low	Ineligible
<b>3. Multiple abutting properties (2 to 4) experiencing minor ponding</b>	Low	Ineligible
<b>4. Multiple abutting properties (2 to 4) experiencing major ponding</b>	Medium	Ineligible

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<b>5. Multiple abutting properties (5+) experiencing minor ponding</b>	Medium	Ineligible
<b>6. Multiple abutting properties (5+) experiencing major ponding</b>	High	Low
<b>7. Structural Flooding within single property</b>	Medium	Medium
<b>8. Structural Flooding on multiple, adjoining properties (2+)</b>	High	High
<b>9. Severe Erosion within single property</b>	Low	Ineligible
<b>10. Severe Erosion on multiple properties (2+) related to the same watercourse</b>	High	Ineligible

Minor ponding is generally described as slow-draining land, with no obvious gravity outlet, that typically is wet in spring and after a rain event, but will become dry and usable after approximately 5 days of dry weather.

Major ponding is generally described as slow, or non-draining land, with no obvious gravity outlet, that consistently is wet in spring and after a rain event, and is generally unusable until summer weather, if at all.

Major ponding is also described as an occurrence showing evidence of standing water causing structural flooding damage up to a 72 hour consecutive period following a rainfall event.


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## Appendix B: Application and Approval Process


1. Applicants shall complete and send the City's Drainage Assistance Request form (see City Website) to [drainage@niagarafalls.ca](mailto:drainage@niagarafalls.ca) including a full description of the concern and photographs. Incomplete form submissions will be returned with instructions to provide more information.
2. City staff will perform a desktop review the application. This review may include (but is not limited to) investigation of aerial photography, design drawings, lot grading plans, building and pool permit plans, and the information submitted by the applicant. City Staff will perform a cursory determination of eligibility based on the criteria outlined in the Drainage Assistance Policy. Ineligible applications will receive notification as such and the reasons for ineligibility will be explained.
3. If eligible, on-site meeting will be scheduled with the applicants, attended by City Staff and in some cases relevant consultants and/or contractors. An application review file number and date of application will be assigned to the application upon completion of the on-site meeting.
4. Multiple on-site meetings may be necessary for the purpose of engaging neighbouring property owners, and to perform additional investigations (e.g. topographic survey, rainfall event review, dye tracing, contractor pricing, etc.). Failing to provide access to the City or its Agents for this purpose will limit eligibility.
5. City staff will perform an estimate of the improvements necessary to correct the drainage concern. The estimate will strictly follow cost-eligibility guidelines outlined in Appendix C of the Drainage Assistance Policy.

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6. City staff will assign a prioritization rating to each application, generally based on the Priority Based Ranking Matrix described in Appendix A. Cost vs. benefit analysis will additionally be performed.
7. Applications that have undergone a complete review and investigation by December 31<sup>st</sup>, and have been consequently scored will be eligible for improvements in the following calendar year, subject to budgetary approval.
8. Applications shall be accepted at any time; however, receipt of application does not guarantee completion of review and investigation in the same calendar year.
9. Applicants will be advised of the outcome of the review and investigation upon completion.
10. Where budgetary approval allows for completion of an application, the successful applicant will be contacted to make arrangements for a number of agreements, including, but not limited to:
  - a. Temporary Construction Easement (TCE)
  - b. Permission to Enter (PTE)
  - c. Permanent Drainage Easement (PDE)
11. Upon successful execution of agreements, construction shall commence.
12. Work shall be warranted for a period of twelve (12) months following completion, excluding any restoration or landscaping works, which are the responsibility of the applicant.


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13. Upon completion of construction, the City and Applicant shall sign off on an Applicant/Owner Acknowledgement Waiver in agreement that the proposed work has been completed satisfactory.

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## Appendix C: Cost Eligibility Guidelines


### 1. Eligible costs include:

- a. Construction of overland drainage infrastructure (e.g. swales, ditches, soak-away pits) on both private and public property.
- b. Construction of piped drainage infrastructure (e.g. catchbasins, weeping tile, storm sewer) on both private and public property.
- c. Excavation and grading of earth in order to permit construction of overland or piped drainage.
- d. Reinstatement of existing grassed areas with topsoil and sod (or seed where applicable).
- e. Reinstatement of driveways and walkways to match pre-existing materials, limited to either plain asphalt or concrete. Applicants wishing to upgrade to decorative reinstatements (e.g. stamped concrete) will be eligible for an equivalent contribution for plain surfaces only.

### 2. Ineligible Costs Include:

- a. Replacement of landscaping (shrubs, bushes, ornamental grasses, trees) affected by the drainage improvement works.
- b. Removal and reinstatement of fences, sheds, pools, decks, porches, retaining walls, or other structures to accommodate the works.

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- c. Decorative driveway and walkway reinstatement. Only plain concrete and asphalt are eligible costs
- d. Replacement of irrigation systems or irrigation system components damaged as part of the works.
- e. Pumps or other mechanical or electrically-powered means of dispersing or conveying drainage
- f. Any other incidental costs unrelated to the installation of infrastructure including watering and fertilizing of reinstatement.

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