

PROCEDURES FOR LOCATING, ESTABLISHING AND CONSTRUCTING A COUNTY DRAIN

The legal process the Water Resources Commissioner's Office must follow upon receipt of a petition to establish a County Drain Drainage District is dictated by the Michigan Drain Code (Act 40 of 1956). The steps are as follows:

1. Application for laying out and designating a drainage district must be filed with the Water Resources Commissioner. It shall be signed by not less than ten freeholders, five of whom will be liable to assessment for construction of the proposed drain, or by the County Board of Health, County Board of Road Commissioners, or a city, village or township when duly authorized by its governing body. A property owner may only sign a petition one time even if he/she owns more than one parcel of land in the district. Both a husband and wife may sign a petition as property owners as long as both are listed on the deed.
2. The Water Resources Commissioner orders a survey to be made. Taxes and special assessments of the landowners are checked, and if 33-1/3% or more of the lands in the proposed district are tax delinquent, no further action is taken.
3. The Water Resources Commissioner prepares an order designating a drainage district and files it in his/her office. This order is to specify the boundaries of the drainage district. The Water Resources Commissioner then gives notice of such order in a newspaper of general circulation.
4. After a drainage district is established, a petition to locate, establish and construct a drain is filed with the Water Resources Commissioner. This petition must be signed by a number of freeholders equal to one-half of the number of freeholders whose lands would be traversed by or abut on said drain. This petition shall be accompanied by a description of the land owned by each signer and a certificate of the County Treasurer as to payment of taxes or assessments. Any signer, whose land certificates show taxes or assessments are unpaid for three years, shall not be counted. A petition may also be submitted by one or more city(s), village(s), or township(s), when authorized by its governing' body(s), if it will be liable for assessments at large for at least a portion of the cost of the drain.
5. A Board of Determination, consisting of three persons owning land within the County, but not within the drainage district, is then appointed by the Water Resources Commissioner, and a time is set for a meeting when the Board will determine the necessity or non- necessity of the drain. Notice of this meeting will be published in a newspaper of general circulation, and sent to the County Road Commission, County Clerk, the Clerk of each city, village or township in the district, and the state Highway Department, if involved, and by first class mail to each person in the drainage district. The Notice shall contain a description of land in the district and the proposed drain length.
6. If the Board finds the drain to be necessary to the public health, convenience or welfare, it then files an Order of Necessity with the Water Resources Commissioner. Any public corporations liable for assessment must be so notified by the Water Resources Commissioner within ten days, and has twenty days in which to appeal the order of the Board of Determination to the Probate Court. If no appeals are made, the Water Resources Commissioner then files his/her First Order of Determination. If the Board determines that the drain is not necessary, the petition is dismissed and a new one will not be considered within one year. Anyone feeling aggrieved by the decision may appeal by instituting proceedings in the Washtenaw County Circuit Court. Appeal must be made within ten days after the determination of necessity or no necessity.

7. Release of right-of-ways must be secured from each property owner whose land the drain will cross. If any property owner refuses to grant the right-of-way, the Water Resources Commissioner shall proceed under the provisions of the Michigan's Uniform Condemnation Act.
8. After obtaining right-of-ways, the Water Resources Commissioner files his/her Final Order of Determination. S/he then gives notice for receiving bids for construction of the drain and also for holding a public meeting at which the apportionments and assessments may be reviewed. Notice will be published in a newspaper of general circulation and sent to the County Road Commission, County Clerk, the Clerk of each city, village or township in the district, and the state Highway Department, if involved, and by first class mail to each person in the drainage district.
9. Sealed bids are received and the contract for construction of the drain is let.
10. A computation of costs is prepared and allocated to landowners and affected governmental units according to benefits received.
11. At the day of review, property owners may call or come into the Drain Office to review their apportionment and assessment. At the day of review, interested persons will be advised of the procedure for appeal of special assessments.

The above information is a general guide for persons interested in the petition process for drainage improvement projects. If you have questions or need any further information, please call the Water Resources Commissioner's Office at (734) 222.6860.

SAMPLE ONLY

**APPLICATION FOR LAYING OUT AND
DESIGNATING A COUNTY DRAINAGE DISTRICT**

To the County Water Resources Commissioner of the County of Washtenaw:

Pursuant to Section 51, Act 40, P.A. of 1956, as amended, your petitioner represents the City/Village/Township of _____ in the County of Washtenaw, State of Michigan, where the drainage district for the proposed _____ Drain being applied for is to be layed out and establish a drainage district and where all the lands to be drained by the proposed drain are to be located and costs to be assessed.

This application is duly authorized by the governing body of the Township of _____ and is necessary for the public health.

Your petitioner therefore makes application and asks for you to lay out and establish a drainage district in the Township of _____ under the provisions of Act No. 40 of the Public Acts of 1956, as amended. The location of the drain to be substantially as follows, as may be finally determined by you, to-wit:

Whereas, the _____ Township Board, as governing body of the Township of _____, Washtenaw County, State of Michigan, did on _____, authorize the filing of an Application for Laying Out and Designating a Drainage District for the _____ Drain Drainage District which is located within the Township of _____ and further authorized its Supervisor and Clerk to execute the aforesaid petition. A copy of the authorizing resolution being attached hereto.

Dated this _____ day _____, 20_____.

Township of _____

By: _____, Supervisor

By: _____, Clerk

SAMPLE ONLY

Janis A. Bobrin
Washtenaw County Water Resources Commissioner
P.O. Box 8645
Ann Arbor, MI 48107-8645

Re: _____ Drain

Dear Ms. Bobrin:

At a Regular Meeting held by the City/Village Council/Township/Board for the City/Township of _____ on _____, the following action was taken:

Motion by _____ and supported by _____ to adopt the resolution concerning the _____ Drain.

ROLL CALL VOTE:

AYES:
NAYES:
ABSENT:
ABSTAIN:

Motion Carried.

Enclosed is a copy of the adopted resolution.

Should you have any questions, please feel free to contact me at _____.

Sincerely,

Clerk/Treasurer

Enclosure

SAMPLE ONLY

CITY/VILLAGE/TOWNSHIP OF _____
COUNTY OF WASHTENAW, STATE OF MICHIGAN
RESOLUTION REGARDING THE _____ DRAIN

Minutes of a Regular Meeting of the Council/Board for the Municipality of _____,
Washtenaw County, Michigan, held in said Municipality on the _____ day of _____, 20__.

MEMBERS PRESENT: _____

MEMBERS ABSENT: _____

The following preamble and resolution were offered by _____ and supported by _____.

WHEREAS, the Municipality of _____ hereby petitions the Washtenaw County Water Resources Commissioner to lay out and establish a drainage district in the Municipality of _____ under the provisions of Act No. 40 of the Public Acts of 1956, as amended. The location of the drain to be substantially as noted herein, and, as may be finally determined by you; and

WHEREAS, the Municipality of _____ hereby petitions the Washtenaw County Water Resources Commissioner to lay out and establish a drainage district, which will properly drain the lands in the district, under the provision of Act No. 40 of the Public Acts of 1956, as amended, the _____ Drain; and

WHEREAS, the Municipality of _____ acknowledges that it will be liable for an assessment at large for a percentage of the total amount to be levied for the proposed work; and

WHEREAS, it has been determined necessary to proceed as soon as possible to accomplish the aforesaid improvements.

NOW THEREFORE BE IT RESOLVED, that the Municipality of _____ hereby petitions to the Washtenaw County Water Resources Commissioner to lay out and establish a drainage district, which will properly drain the lands in the district, under the provision of Act No. 40 of the Public Acts of 1956, as amended, the _____ Drain.

BE IT FURTHER RESOLVED, that a certified copy of this resolution be attached to the petition.

BE IT FURTHER RESOLVED, that the _____ and _____ be authorized to execute the petition on behalf of the City/Village Council/Township Board.

ROLL CALL VOTE:

AYES:
NAYES:
ABSENT:
ABSTAIN:

RESOLUTION DECLARED ADOPTED.

Clerk/Treasurer

Dated: _____