

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. The Water Resources Commissioner
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 II 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 provision of 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 in to 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) 222-6800.

SAMPLE ONLY

**PETITION FOR LOCATING, ESTABLISHING AND CONSTRUCTING
A DRAIN OR DRAINS OR ANY PORTION THEREOF FOR A MUNICIPALITY**

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

The undersigned petitioner is a municipality in the Drainage District as Laid Out and Designated in the order of _____, in the County of Washtenaw, State of Michigan, in which District the _____ Drain, being applied for, is to be located, established and constructed.

The petitioner is a city, village or township, and this petition has been authorized by its governing body, as evidenced by the attached resolution. The petitioner is a municipality that will be liable to assessments at large for at least a percentage of the total amount to be assessed for the cost of the proposed drain.

The locating, establishing and constructing of said drain or drains, or any part thereof, is necessary and conducive to the public health, convenience or welfare.

The undersigned petitioner therefore makes petition, and asks you to locate, establish and construct a drain or drains, or any portion thereof, 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 location of the drain or drains, or any portion thereof, are as given in your Order for Laying Out and Designating the _____ Drainage District, to be substantially as follows:

Dated this _____ day of _____, 200_____.

City/Village/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 «MUNICIPALITIES» on _____, the following action was taken:

Motion by _____ and supported by _____ to adopt the resolution concerning the «DRAIN» 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 «MUNICIPALITIES»
COUNTY OF WASHTENAW, STATE OF MICHIGAN
RESOLUTION REGARDING THE «DRAIN»

Minutes of a Regular Meeting of the City/Village Council/Township/Board for the City/Village/Township of «MUNICIPALITIES», Washtenaw County, Michigan, held in said City/Village/Township on the _____ day of _____, 20__.

MEMBERS PRESENT:

MEMBERS ABSENT:

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

WHEREAS, the City/Village/Township of «MUNICIPALITIES» hereby petitions the Washtenaw County Water Resources Commissioner to locate, establish and construct a County designated Drain in the Township of «MUNICIPALITIES» 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 City/Village/Township of «MUNICIPALITIES» hereby petitions the Washtenaw County Water Resources Commissioner to locate, establish and construct a drain or drains, or any portion thereof, 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 City/Village/Township of «MUNICIPALITIES» 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 City/Village/Township of «MUNICIPALITIES» hereby petitions to the Washtenaw County Water Resources Commissioner to you to locate, establish and construct a drain or drains, or any portion thereof, 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: _____

SAMPLE ONLY