

THE DRAIN CODE OF 1956 (EXCERPT)
Act 40 of 1956

CHAPTER 1.
DRAINS.

280.1 Drain code of 1956; short title.

Sec. 1. This act shall be known and may be cited as "the drain code of 1956".

History: 1956, Act 40, Imd. Eff. Mar. 28, 1956.

Transfer of powers: See MCL 299.11.

Popular name: Act 40

280.2 Drains; location, establishment, construction, maintenance, and improvements; petition.

Sec. 2. Drains including branches may be located, established, constructed and maintained, and existing drains, creeks, rivers and watercourses and their branches, or tributaries whether located, established and constructed by a county drain commissioner or drainage board or by a city, village or township, may be cleaned out, straightened, widened, deepened, extended, consolidated, relocated, tiled, connected and relocated along a highway, or there may be provided for the same structures or mechanical devices that will properly purify or improve the flow of the drain or pumping equipment necessary to assist or relieve the flow of the drain, or 1 or more branches may be added thereto, by petition under the provisions of this act, whenever the same shall be conducive to the public health, convenience and welfare.

History: 1956, Act 40, Imd. Eff. Mar. 28, 1956;—Am. 1956, Ex. Sess., Act 5, Imd. Eff. June 23, 1956;—Am. 1965, Act 194, Imd. Eff. July 15, 1965;—Am. 1969, Act 90, Imd. Eff. July 24, 1969;—Am. 1971, Act 60, Imd. Eff. July 20, 1971.

Popular name: Act 40

280.3 Drain; definition.

Sec. 3. The word "drain", whenever used in this act, shall include the main stream or trunk and all tributaries or branches of any creek or river, any watercourse or ditch, either open or closed, any covered drain, any sanitary or any combined sanitary and storm sewer or storm sewer or conduit composed of tile, brick, concrete, or other material, any structures or mechanical devices, that will properly purify the flow of such drains, any pumping equipment necessary to assist or relieve the flow of such drains and any levee, dike, barrier, or a combination of any or all of same constructed, or proposed to be constructed, for the purpose of drainage or for the purification of the flow of such drains, but shall not include any dam and flowage rights used in connection therewith which is used for the generation of power by a public utility subject to regulation by the public service commission.

History: 1956, Act 40, Imd. Eff. Mar. 28, 1956;—Am. 1958, Act 87, Imd. Eff. Apr. 11, 1958;—Am. 1969, Act 90, Imd. Eff. July 24, 1969.

Popular name: Act 40

280.4 "Commissioner," "drain commissioner," or "county drain commissioner" defined.

Sec. 4. As used in this act, "commissioner", "drain commissioner", or "county drain commissioner" means the elected county drain commissioner or the person or persons designated to perform the duties of the elected county drain commissioner as provided in sections 21 and 21a.

History: 1956, Act 40, Imd. Eff. Mar. 28, 1956;—Am. 1989, Act 134, Imd. Eff. June 29, 1989.

Popular name: Act 40

280.5 Drainage district; body corporate; powers.

Sec. 5. A drainage district is a body corporate with power to contract; to sue and to be sued; to acquire interests in real or personal property by gift, purchase, lease, grant, trade, or any other lawful method, including condemnation pursuant to the uniform condemnation procedures act, 1980 PA 87, MCL 213.51 to 213.75; and to hold, manage, and dispose of real and personal property, in addition to any other powers conferred upon it by law.

History: Add. 1960, Act 96, Imd. Eff. Apr. 26, 1960;—Am. 2014, Act 550, Imd. Eff. Jan. 15, 2015.

Compiler's note: Act 316 of 1923, referred to in this section, was repealed by Act 247 of 1949, Act 40 of 1953, and Act 40 of 1956.

Popular name: Act 40

280.6 Drains; public easements and rights of way; use; release, notice, protest.

Sec. 6. All established drains regularly located and established in pursuance of law existing at the time of location and establishment and visibly in existence, which were established as drains, and all drains visibly in existence in written drain easements or rights of way on file in the office of the commissioner, shall be deemed public drains located in public easements or rights of way which are valid and binding against any owners of any property interest who became or hereafter become such owners after the location and establishment of the drain or the existence of the drain became visible or the written drain easement or right of way was executed, and the commissioner or drainage board may use, enter upon and preserve such easement or right of way for maintenance of the visible drain and any other lawful activity with respect to the same not requiring a larger or different easement or right of way and may exercise any rights granted in the written easement or right of way on file in the office of the commissioner. Easements or rights of way, or portions of easements or rights of way, no longer necessary for drainage purposes may be conveyed or released to the fee owners by the commissioner or drainage board on behalf of the drainage district. The drain commissioner or drainage board shall give at least 30 days' notice of the intention to release the excess easements by publishing a notice in a newspaper of general circulation in the county or a newspaper of general circulation where the drainage district boundaries are located. This notice shall give a general description of the excess easements to be released and the date any taxpayers may appear to protest said release. After said date if no protests are received, the drain commissioner or drainage board may release said excess easements or portions thereof not necessary for drainage purposes.

History: Add. 1968, Act 208, Imd. Eff. June 24, 1968.

Popular name: Act 40

280.8 Conducting business at public meeting; notice; availability of writings to public.

Sec. 8. (1) The business which a board or commission created pursuant to this act, or a body of special commissioners appointed pursuant to this act, may perform shall be conducted at a public meeting of the board, commission, or body of special commissioners held in compliance with Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the time, date, and place of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976.

(2) A writing prepared, owned, used, in the possession of, or retained by a board, commission, or advisory committee created pursuant to this act, or a commissioner appointed pursuant to this act, in the performance of an official function shall be made available to the public in compliance with Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

History: Add. 1978, Act 235, Imd. Eff. June 15, 1978.

Popular name: Act 40

280.10 Drains; location; meetings; jurisdiction of commissioner; exception; payment of bonds or drain orders; deficiency.

Sec. 10. Drains may be laid or extended into or along or from any lake or other body of water surrounded wholly or in part by a swamp, marsh or other low lands for the general purpose of drainage contemplated by this act, but not so as to impair the navigation of any navigable river.

Any meeting called pursuant to the provisions of this act, unless otherwise provided, may be adjourned from time to time by public announcement thereof and no advertisement of the time of said adjournment shall be required.

The commissioner shall have jurisdiction over all established county drains within his county, heretofore established and now in the process of being established except that in the case of a drain located or to be located entirely within a single city or village, such jurisdiction shall be consented to by resolution of the governing body of such city or village.

If any drainage project lies entirely within the limits of a municipality less than a county, such municipality, by its governing body, shall have the power to pledge the full faith and credit of the municipality for the payment of bonds or drain orders issued in connection with such project, and if a deficiency exists in the drain fund or sinking fund for said drain 1 year after the last installment of the deficiency assessment provided for in section 280 of this act, shall have become delinquent, such municipality shall forthwith advance to the county drain fund the amount of such deficiency and thereafter all receipts of such drain fund from the sale of delinquent tax lands, which had been assessed for said drain, shall be paid to the municipality within 90 days after receipt by the county treasurer.

History: 1956, Act 40, Imd. Eff. Mar. 28, 1956;—Am. 1963, Act 228, Eff. Sept. 6, 1963.

Popular name: Act 40

280.11 Easement; right of way; release of damages; recording.

Sec. 11. Any easement, right of way or release of damages obtained in connection with any proposed drain or drains shall, following the expiration of 30 days after the day of review, be recorded in the office of the register of deeds: Provided, That in any drain proceeding in which an injunction or a writ of certiorari has been issued but not determined within 30 days after the day of review, the recording shall be within 30 days after a determination sustaining the drain.

All easements, rights of way or releases of damages hereafter obtained in connection with any existing drain shall be recorded in the office of the register of deeds when said drain is being cleaned, relocated, deepened, widened, straightened, extended, tiled or consolidated pursuant to law.

The recording required by this section shall be made by the drain commissioner or the drainage board, as the case may be, and the cost of such recording paid by the drainage district.

History: 1956, Act 40, Imd. Eff. Mar. 28, 1956.

Popular name: Act 40

280.12 Specification of time; directory or mandatory.

Sec. 12. Except as provided in section 8, when a time is specified in this act in which the drain commissioner or a drainage board shall take a specified administrative action or a procedural step, the specification of time shall be considered directory and not mandatory and failure to take the action or step within the time specified shall not affect the legality and validity of a drain proceeding. Where the specification of time relates to the giving of notice, the filing of objections, the taking of an appeal, the commencement of an action in a court, the taking of an action or step in the assessment, levy, or collection of drain assessments, taxes or other charges, or to a requirement of due process, the specification of time shall be considered mandatory if so provided in this act.

History: Add. 1969, Act 90, Imd. Eff. July 24, 1969;—Am. 1978, Act 235, Imd. Eff. June 15, 1978.

Popular name: Act 40