

**Addressing Water Quality Issues**  
**On a Watershed Basis:**  
**A Comprehensive Approach for**  
**Utilizing Chapter 20 of the Michigan Drain Code**

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*Executive Summary*

There are five major watersheds in Oakland County. A watershed is the land that catches rain or snow and drains or seeps into a common marsh, stream, river, lake or groundwater. The five major watersheds in Oakland County are the Clinton, Flint, Huron, Rouge and Shiawassee. Included in these watersheds are 61 individual cities, villages and townships. Actions taken by one community within the watershed have a significant impact on other communities in the watershed. Consequently, a multi-community approach needs to be identified and utilized to comprehensively address public health and water quality issues.

Some of the issues faced by these communities individually include stormwater management, flooding, drainage, and river and stream management.

Traditionally, short-term solutions to these often urgent problems required the construction of relief sewers or temporary retention structures. Unfortunately, solving the problem in one area often meant the creation of new problems downstream.

The solution can be found in Chapter 20 of the Drain Code. The Drain Code is the state law which provides the blueprint for most of the business conducted by the Drain Commissioner's Office

Establishing a Chapter 20 drainage district along watershed boundaries requires a comprehensive petition filed by at least two public corporations, i.e. state, county, city, village or township, setting forth the project, or series of projects, within the intra-county portions of the watershed.

The petition must specifically set forth the purpose of the proposed drain project, recognizing issues of public health and necessity, and include those projects to be undertaken, such as watershed management activities, consolidation and listing of

existing drainage districts, acquisition of existing drain and sewage facilities, construction of new facilities, and, where applicable, jurisdiction over rivers and streams that are not part of any existing drain.

Funding for the projects is assessed wholly against public corporations benefiting from the projects, including the county and state for roads, and, where possible, through special assessments, fees or other charges.

Chapter 20 of the Drain Code provides a method by which the state, a particular county, and several public corporations in that county, may initiate by petition, drain projects which are necessary for the public health

A drainage district established under Chapter 20 of the Drain Code is a corporate body with power to contract, to sue and to be sued, and to hold, manage and dispose of real and personal property, in addition to any other powers conferred upon it by law.

Drain commissioners cannot unilaterally undertake improvements to existing drains without first being presented with a petition by either landowners or the municipality in which they lie. The ability to comprehensively address the problems with Chapter 4 drains can be accomplished by consolidation into a new Chapter 20 drainage district.

To address water quality and the impact of stormwater runoff into streams, Chapter 20 of the Drain Code also provides a method for assuming jurisdiction over waterways not a part of an existing drain.

It is likely that there are portions of the watersheds located in Oakland County that are not part of any established drain which are nonetheless affected by pollution from different sources, such as Sanitary Sewer Overflows (SSO) and failing septic systems. A

tentative determination may be required to assess whether these tributaries are affected by flooding and/or pollution, and if so, whether they also should be included in a petition under Chapter 20 of the Drain Code.

In addition to dealing with water quality and water flow issues, the Oakland County Drain Commissioner, as the county agent, operates and maintains several sewage disposal systems. These systems are operated in accordance with contracts with public corporations. The capital charges, as well as operation and maintenance expenses, are funded by connection fees and charges to the public corporations which then pass on these costs to consumers.

Chapter 20 of the Drain Code may be utilized to abate pollution resulting from existing, inadequate and aging sewer systems. That's because the word “drain,” as used in the Drain Code, includes “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.

A comprehensive Chapter 20 drainage district, established along watershed boundaries, also is a useful vehicle to deal with environmental regulations established by the Federal Clean Water Act.

The Oakland County Drain Commissioner’s Office (OCDC) has been an advocate and facilitator of the sub-watershed approach and the Michigan Watershed Based Stormwater General Permit program. The OCDC staff have initiated and presented multiple workshops, with the assistance of the Rouge Program Office, to Oakland County communities located within the Rouge Watershed.

Nonetheless, the Federal Court continues to press the counties for the creation of a watershed-wide entity that could administer, operate and maintain a Watershed Based Stormwater Permit Program. Utilizing Chapter 20 of the Drain Code, Oakland County could demonstrate that a watershed entity not only is possible, but also represents a practical and efficient way to administer the Watershed Based Stormwater Permit.

Projects undertaken pursuant to Chapter 20 are designed to be self-supporting. Costs relating to the construction, administration, operations and maintenance of a drain project are to be borne by the public corporations within the drainage district.

Other funding alternatives are available as well. With respect to *ad valorem* taxation, it has been held that public corporations, other than common law or unchartered townships, may impose taxes without limitation as to rate or amount to pay assessments.

Another option available is a special assessment. Special assessments may be levied against benefiting properties which are subject to assessment.

Finally, a third method for financing the construction, operation and maintenance of a Chapter 20 drain, is through user or connection charges.

Chapter 20 of the Drain Code is a viable vehicle for comprehensively addressing these issues on a watershed basis. It is possible to create a Chapter 20 drain within each of the five Oakland County watersheds to deal with the issues outlined above. Funding for this program can be achieved by charging the users fees, in addition to, or in lieu of, *ad valorem* taxation or special assessments or any combination of the three methods.