

**RESOLUTION #105-5-1-18-3 OF THE FORT WAYNE BOARD OF STORMWATER MANAGEMENT
APPROVING A NEW POLICY REGARDING PUBLIC AND PRIVATE STORMWATER SYSTEM
INFRASTRUCTURE AND EXTENSION OF STORM SEWER MAINS AND AMENDING THE FORT WAYNE
STORMWATER UTILITY GENERAL RULES AND REGULATIONS ACCORDINGLY**

WHEREAS, Fort Wayne City Utilities owns, operates and maintains an infrastructure system that collects, manages and transports stormwater; and

WHEREAS, The Board of Stormwater Management of the City of Fort Wayne, Indiana (Board) has promulgated general rules and regulations that govern the ownership, operation and maintenance of the stormwater management infrastructure system; and

WHEREAS, from time to time extensions and additions are made to the stormwater management infrastructure system with such extensions and additions typically being funded by private entities; and

WHEREAS, the Board desires to document and clarify conditions under which utility system extensions and additions will be accepted as part of the publicly-owned stormwater management infrastructure system and will become part of the system that is owned, operated, maintained, repaired and replaced as needed by City Utilities for the benefit of its customers and the community at-large.

NOW, THEREFORE, BE IT RESOLVED BY THE FORT WAYNE BOARD OF PUBLIC WORKS:

SECTION 1. That the "Policy of the Fort Wayne Board of Stormwater Management Regarding Public and Private Stormwater System Infrastructure and Extension of Storm Sewer Mains" attached hereto as Exhibit "A" is ratified, confirmed, and approved in all respects.

SECTION 2. That the Introductory Statement to the Fort Wayne Stormwater Utility General Rules and Regulations is deleted and replaced with the following:

**FORT WAYNE WATER DEPARTMENT OF STORMWATER MANAGEMENT
FORT WAYNE, INDIANA
GENERAL RULES AND REGULATIONS**

In accordance with Indiana Code 8-1.5-5 and Chapter 53 of the Fort Wayne Code of Ordinances, the Board of Directors of the Department of Stormwater Management has established the following General Rules and Regulations to provide for the implementation of the provisions of said Chapter 53 of the Code, the safe and efficient capture and conveyance of stormwater runoff through the management and operation of the City's Stormwater Utility and construction and maintenance of the City's

stormwater system and the regulation, assessment, collection and crediting of rates and charges for stormwater service.

The following policies are by reference made part of these General Rules and Regulations and copies are attached hereto:

Policy of the Fort Wayne Board of Stormwater Management Regarding Public and Private Stormwater System Infrastructure and Extension of Storm Sewer Mains

These Rules and Regulations are intended to supplement Chapter 53 of The Fort Wayne Code of Ordinances and should be read consistent with the Code.

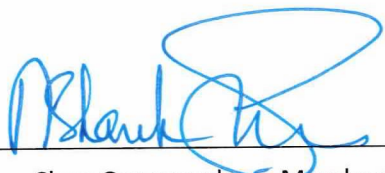
SECTION 3. That the Policy of the Fort Wayne Board of Stormwater Management Regarding Public and Private Stormwater System Infrastructure and Extension of Storm Sewer Mains approved under Section 1 of this Resolution shall be attached to the Fort Wayne Stormwater Utility General Rules and Regulations as provided in Section 2 hereof.

APPROVED THIS 1 DAY OF May, 2018.

BOARD OF STORMWATER MANAGEMENT

BY: 
Matthew Wirtz, Chair

BY: 
Mike Avila, Member

BY: 
Shan Gunawardena, Member

ATTEST: 
Michelle Fulk, Clerk

EXHIBIT A

Policy of the Fort Wayne Board of Stormwater Management Regarding Public and Private Stormwater System Infrastructure and Extension of Storm Sewer Mains

PUBLIC UTILITY INFRASTRUCTURE

Stormwater Management Systems

Stormwater management system extensions inside the Fort Wayne City limits should typically be constructed as “public” with the intention that the storm sewer pipes and other appurtenances will become part of the public storm sewer system upon completion and acceptance by the Board of Public Works. The exception is stormwater detention/retention areas, underground detention structures and some stormwater quality management infrastructure, which will not be accepted as part of the public stormwater management system. Stormwater management system extensions – excluding detention/retention areas, water quality units and underground detention facilities -- should be made part of the public utility for future operation, maintenance, repair when any one or a combination of the following conditions exists:

- The extension may provide a future opportunity for overall system improvement to the Utility, i.e. redundancy, system expansion, etc.
- The extension is proposed to be located within a public right of way or an approved, dedicated or platted easement of sufficient width to permit maintenance functions (including future replacement).
- The extension facilitates the provision of service to unserved real estate and/or upon a further extension thereto, could provide service to additional areas in the future or the extension receives stormwater runoff from properties beyond those encompassed by the immediate project.
- The extension could provide economic development opportunities.
- The property or properties proposed to be served by the extension will have multiple ownerships, or there is a distinct possibility the served property will be subdivided or multiple ownerships may exist in the future.
- The extension is being constructed or paid for (fully or partially) with City Utilities or other public funds.

All public stormwater management system extensions shall comply with:

- General Rules and Regulations of the Fort Wayne Stormwater Utility
- City Utilities’ Development Services and Engineering plan review and approval processes and all appropriate fees must be paid
- Fort Wayne City Utilities Design Standards Manual
- MS4 requirements as prescribed by the Indiana Department of Environmental Management and the U.S. Environmental Protection Agency

Public stormwater management system extension processes include:

- Plans will be prepared according to the standards and specifications of City Utilities and submitted to Development Services for review.

- The system extension plans and calculations must be prepared by a registered professional engineer employed by the developer.
- Construction of a stormwater management system extension shall not commence until all plans have been reviewed and approved by the Fort Wayne Stormwater Utility through Development Services. Once plans are approved, the system extension shall be constructed in accordance with the approved plans.
- A contract shall be executed between City Utilities and the developer who is funding the system extension project and shall include provisions under which the extension will be accepted by City Utilities for future ownership, operation, maintenance, repair and replacement.
- The developer will execute a maintenance agreement and will provide a maintenance manual for the portions of the stormwater management system that will not become part of the public system. (This would include detention/retention areas, outfall structures, emergency spillways, etc.)
- Construction shall be inspected and overseen by City Utilities Engineering representatives
- All testing and quality control processes are completed and overseen by City Utilities Engineering
- Upon completion of construction and inspection by City Utilities, the developer shall provide a completion affidavit and maintenance bond.
- Upon finding the project to be acceptable and in full compliance with the standards and specifications of City Utilities, the Board of Works will issue a Letter of Acceptance to the contributor and all rights, title, and interest in the stormwater system shall be transferred to and remain in the City of Fort Wayne.

PRIVATE UTILITY INFRASTRUCTURE

Stormwater Management Systems

City Utilities may, at its sole discretion, determine that a **PRIVATE STORMWATER MANAGEMENT SYSTEM EXTENSION** should be constructed rather than a public one when any one or a combination of the following conditions exist:

- The extension will provide service to only the real estate served by the extension and there is no physical possibility or anticipated need for the system to be extended to serve adjacent property.
- The extension does not collect or transport stormwater runoff from any adjacent properties.
- The configuration of the proposed extension within a development is such that (i) there is insufficient space provided for required easements or for the usual and customary maintenance activities associated with public stormwater management facilities, or (ii) if the system is to be located within a street, the street is not being constructed to City standards and is not intended to become part of the City's transportation system.
- The extension would not provide the opportunity for overall public system improvement.
- The impervious area to be served by the system extension will be owned by one entity and/or the stormwater fee billing for all impervious surface in the development will be billed to one entity.
- The storm sewer pipes and other appurtenances will not be located within public rights of way.

Plans for private stormwater management system extensions are prepared and submitted to Development Services as part of a site plan or development plan review and approval process.

- Development Services will review the system extension plans to determine if the proposed sizing of pipes and the sizing and configuration of any stormwater detention/retention areas is adequate for the amount of property being served.
- Development Services will review the proposed location for connection of the private stormwater management system to the public system to determine if adequate downstream capacity exists and to ensure that the proposed connection configuration complies with City Utilities standards.

ACCEPTANCE OF PRIVATE INFRASTRUCTURE INTO THE FORT WAYNE UTILITY SYSTEM

City Utilities may, at its sole discretion, accept a private stormwater management system into its public system when all of the following conditions exist:

- A public purpose will be served by the acceptance of the private system.
- The affected property owners have petitioned City Utilities to accept the existing private system as part of the public system. The percentage of owners who must agree and the mechanism by which they make a decision to petition shall be as set forth in the subdivision plat and covenants, neighborhood association by-laws or other document governing how decisions are to be made by the petitioners. Where such document does not exist, 51% of the affected property owners must agree and provide documentation demonstrating their desire to have City Utilities accept the private infrastructure for public ownership and future operation, maintenance, repair and replacement.
- The private storm sewers and appurtenances are located within a public right of way or an easement of a width acceptable to the Utility, making the system easily accessible for maintenance. If the storm sewers are not located within public right-of-way or dedicated easements acceptable to City Utilities, the following conditions must be met:
 - Right-of-way plats are developed by a Professional Surveyor with the cost of such plat preparation to be paid by the petitioners and the plats are reviewed and approved by City Engineering and accepted by Board of Works; or
 - Easement plats are developed by a Professional Surveyor with the cost of such plat preparation to be paid by the petitioners and the plats are reviewed and approved by City Utilities Engineering, accepted by Board of Works, and recorded.
- Documentation exists, and is available for review by the utility, showing that the stormwater management system was constructed in accordance with City Utilities' specifications and materials standards in effect at the time of the private sewer construction. This documentation could include:
 - Record Drawings of the stormwater management system within the affected area based on inspection done at the time of installation and certified by a Professional Engineer.
 - If the system was not inspected by City Utilities during installation, the petitioner must provide documentation from a Professional Engineer who has inspected the system certifying that, based on his/her inspection, the stormwater management system meets the utility's specifications and materials standards. Documents provided to the utility must accomplish the following:

- Confirm the location of the storm sewer lines and other appurtenances that are the subject of the petition, which shall include, at a minimum GPS mapping of all infrastructure
- Confirm the materials used in constructing the storm sewer system, confirm condition of the asset and perform testing as necessary to provide such confirmation. City Utilities Engineering should be on-site to observe these activities which may include:
 - Digging up storm sewer lines (minimum of one location per run/branch of pipe)
 - televising storm sewers
 - Inspection reports of appurtenances, structures and equipment to document compliance with City Utilities standards and local codes, if these exist
- City Utilities will not accept stormwater detention/retention areas, underground detention facilities or water quality units as part of the public stormwater management system. The petitioner will be required to execute a maintenance agreement and provide a maintenance manual for any stormwater management facilities that are not accepted by City Utilities as part of the public system.
- Petitioners have provided any existing maintenance and repair records for the private infrastructure in question.

The process for acceptance will generally include:

- Review and approval by Development Services of all submitted information
- Correction of any deficiencies noted in materials/installation by petitioner
 - All work should be inspected by City Utilities Engineering
- Recommendation to Board of Stormwater Management from City Utilities that some, all or none of infrastructure being petitioned be accepted as part of the public system.
- Acceptance of the infrastructure by the Board of Stormwater Management

FEES

Development Services will assess and collect fees for plan review and inspection services based on the amount of staff time required to investigate petitions for acceptance of private utility infrastructure.

APPEAL PROCESS

Any party aggrieved by an order or determination of Development Services or the Board of Stormwater Management may, within fifteen (15) days after notice of the order or determination is provided, appeal such order or determination to the Board of Public Works by filing a petition seeking such appeal with the Clerk of the Board of Public Works. The petition should state the basis of such appeal, including the alleged error in the order or determination. After receipt of such petition, the Board of Public Works or its designated hearing officer, after due and proper notice to all parties, shall hold a hearing on said petition and at the conclusion thereof or within thirty (30) days thereafter, enter a decision either affirming, denying, revising, amending, altering, or modifying such order or determination as the Board of Public Works, by majority vote, shall so rule. A party or

person aggrieved by the outcome of the appeal shall have the right to judicial review of such determination in accordance with and pursuant to the same provision of the Indiana Administrative Adjudication Act (4-21.5-5 *et seq.*) as are applicable to appeals and review of decisions of agencies of the State of Indiana.