



FORT WAYNE BOARD OF STORMWATER MANAGEMENT
PETITION FOR CONSENT TO ALLOW A PERMANENT STRUCTURE IN THE
RIGHT-OF-WAY OF A REGULATED DRAIN PURSUANT TO IND. CODE § 36-9-27-33

To the Fort Wayne Board of Stormwater Management (“Board”):

Pursuant to Ind. Code § 36-9-27-33, I/we hereby submit this Petition for Consent to Allow a Permanent Structure in the Right-of-Way of a Regulated Drain, and in support hereof, state as follows:

1. I/we am/are the owner(s) of a tract of land with a common address of _____ and generally described as follows: **(include legal description, document number, and copy of latest deed)**

2. The regulated drain affected by this Petition is _____ (the “Subject Drain”). Drain # _____.

3. Petitioner requests permission to have the following described structure erected or allowed to remain in the right-of-way of the above named regulated drain **(describe the proposed structure, e.g., house, driveway, deck, etc., and provide copies of plans showing the exact dimensions and proposed location of the structure)**

By submitting this Petition, Petitioner agrees to the following covenants, conditions, and restrictions:

1. **INDEMNITY.** Petitioner shall indemnify and hold harmless the Board, the City of Fort Wayne (“City”), the Fort Wayne City Utilities Stormwater Engineering Department (“Department”), and each of their respective directors, officers, agents, representatives, employees, successors and assigns from and against any liabilities, actions, demands, claims, losses, or damages, including reasonable attorney’s fees, arising out of any injury or death to any person or damage to any property resulting from or in connection with the Petitioner’s, or any of the Petitioner’s agent’s, contractor’s, vendor’s, or supplier’s, use or occupancy of the right-of-way of the Subject Drain, the work performed in the right-of-way pursuant to this Petition, or the condition of any permanent structures installed in the right-of-way pursuant to this Petition.

2. **CONTROL OF PREMISES.** The Board shall retain control over the right-of-way of the Subject Drain and the Board, or its designated agents, representatives, or employees may enter into the same in accordance with Ind. Code § 36-9-27-33. The Board assumes no responsibility for any temporary or permanent structures placed in the right-of-way of the Subject Drain. Petitioner expressly relieves and discharges the Board and the Department from any and all liability for any loss, injury, or damage to person or property that may be sustained by reason of the placement of the structure in the right-of-way and waives the right to recover damages (whether in contract or in tort) for loss of or damage to the structure.



**City Utilities
Design Standards
Manual**

Exhibit SW10-1 Petition for a Permanent Structure in the Right-of-Way of a City Regulated Drain

Version: April 2022

3. **REMOVAL OF STRUCTURE.** The Board, or its agents, representatives, employees, contractors, or others working at the Board's direction, may require removal of the structure as needed to gain access to the Subject Drain. Further, the Board may require removal of the structure if the structure does not conform in all material respects to the plans included as part of this Petition. Removal of the structure for either of the foregoing reasons will be at Petitioner's expense. Should Petitioner fail to remove the structure in a timely manner after written notice from the Board, the Board may cause the structure to be removed at Petitioner's expense.
4. **PERMITS.** The approval granted hereby is solely limited to approval of the placement of a permanent structure in the right-of-way of the Subject Drain. It in no way constitutes any other approval that may be required by any governmental entity under applicable law. Petitioner represents and warrants that it has obtained all of the legal permits and/or governmental approvals for its operation in and on, or use of, the right-of-way of the Subject Drain. Issuance of all required permits and governmental approvals is a condition of this approval. The indemnity provisions of Section 1 shall apply to any fines or other penalties that may be levied as a result of Petitioner's failure to procure all necessary permits and/or approvals.
5. **TERMINATION.** Failure to comply with the terms outlined herein may result in revocation of the approval granted hereby. The Board shall not be liable for any damages incurred by Petitioner as a result of a revocation of the approval to place a permanent structure in the right-of-way of the Subject Drain.
6. **INCORPORATION INTO APPROVAL RESOLUTION.** Petitioner acknowledges and agrees that the covenants, conditions, and restrictions set forth herein will be incorporated into any final Board resolution approving the Petitioner's request.

Petitioner(s)

Signature

Printed Name

Mailing Address

City/State/Zip

Telephone (include area code)

Email

Project address (if different from mailing address)

Name of Engineer/Contractor

Signature

Printed Name

Mailing Address

City/State/Zip

Telephone (include area code)

Email

Project address (if different from mailing address)