

1/7/08

COPY

ORDINANCE NO. 17-3-6.2

**AN ORDINANCE ESTABLISHING PROCEDURES AND FEES
FOR PERMITS FOR ACCESS TO REGULATED DRAINS
WITHIN MORGAN COUNTY**

WHEREAS, pursuant to Indiana Code 36-9-27, the Morgan County Drainage Board, has the authority to establish, construct, reconstruct and maintain regulated drains and drainage structures within Morgan County; and,

WHEREAS, Indiana Code 36-9-27-17 authorizes the Drainage Board to approve connections to the regulated drains within Morgan County if there is sufficient capacity, and permits the Morgan County Drainage Board to deny access to the regulated drain if the drain is inadequate to accept the connection without construction, reconstruction, or maintenance; and,

WHEREAS, on many occasions it is in the best interest of all of the land owners benefited by a regulated drain, that connection to a drain be permitted only upon certain improvements to the drain which improvements should justifiably be made by the person seeking connection to the drain; and,

WHEREAS, the regulated drainage system within Morgan County has limited capacity and in order to maximize the benefits of the drainage system to all of the citizens, it is in the best interest of the citizens of Morgan County that an Ordinance be passed establishing procedures, regulations and fees, to be charged to persons seeking to connect to regulated drains within Morgan County; and,

WHEREAS, the Morgan County Drainage Board has in the past followed certain procedures for permitting access to regulated drains, and nothing herein should be construed as a renunciation or a repeal of those procedures.

NOW THEREFORE BE IT ORDAINED by the Board of Commissioners of Morgan County and the Morgan County Drainage Board, as follows:

Section 1. Application, Definitions.

A. Application. This Ordinance shall apply to any person or entity performing work within the drainage shed or easement of a regulated drain and such work shall conform to the requirements set forth herein. Any approval or permit received by the applicant from other agencies, departments or municipalities shall not constitute approval for the outlet, crossing or non-enforcement by the OMCS or the Morgan County Drainage Board.

B. Definitions. Unless otherwise set forth herein, the definitions set forth in I.C. 36-9-27-2 shall apply to this Ordinance.

(1) "Indirect Outlet" shall be considered as any drainage facility outletting into a private or mutual drain, municipal storm drainage facility or natural

or manmade watercourse which is within the drainage shed of a regulated drain and utilizes the regulated drain as its ultimate discharge point.

(2) "Direct Outlet" shall be considered as any drainage facility outletting directly into a regulated drain without utilizing a private or mutual drain or municipal storm drainage facility or natural or manmade watercourse.

Section 2. Permits for Outlets.

Any person, partnership, corporation, or any other entity seeking to discharge any municipal, private, or mutual drains into a regulated drain under the jurisdiction of the Morgan County Drainage Board shall make application to the Office of the Morgan County Surveyor ("OMCS").

A. All applications shall be on forms provided by the OMCS and shall meet the specifications set out herein. Such application shall contain any plans, specifications and any other information as deemed necessary by the OMCS. Applications shall be signed by the owner of record or his agent. If signed by the agent, it shall be noted as to the agents capacity, i.e., Contractor, Realtor, Engineer, Tenant, Attorney, Surveyor, etc.

B. Multiple outlets for the same drain may be included on the same outlet request permit form if outlets occur on same tax parcel. Multiple outlets for the same drain on separate tax parcels shall require separate outlet request permit forms. Multiple outlets occurring on the same tax parcel but for separate drains shall require a separate outlet request permit form for each drain involved. Each outlet shall be charged separately.

C. Permits shall expire one (1) year from the date of approval if work has not commenced. All permits shall expire two (2) years from the date of approval. If permit expires prior to start or completion of work, the permit must be renewed by submitting an additional fee which shall be double the previous permit fee.

D. Temporary outlets shall follow the same requirements as set out above except such permits shall expire within six (6) months from date of approval. If permit expires prior to completion of work, permit must be renewed by submitting additional fee which shall be double the previous permit fee.

E. The OMCS shall charge application fees to any person, partnership, corporation, or any other entity filing an application to discharge private or mutual drains into a regulated drain under the jurisdiction of the County Drainage Board. The fees shall be as set forth in the fee schedule for the OMCS as established by the County Drainage Board.

Fees shall be charged for both permanent outlets and temporary outlets. No fee shall be required for those discharges to be made indirectly to a regulated drain for individual residential lots and agricultural drains. However, any such indirect discharge within the drainage shed of a regulated drain shall be required to file an application.

Section 3. Permits for Crossings.

Any person, partnership, corporation, or any other entity seeking to cross either under, over, or through a regulated drain under the jurisdiction the Morgan County Drainage Board with any structure or improvement shall make application to the OMCS.

A. All applications shall be on forms provided by the OMCS and shall meet the specifications set out herein. Such application shall contain any plans, specifications and any other information as deemed necessary by the OMCS. Applications shall be signed by the owner of record or his agent. If signed by the agent, it shall be noted as to the agents capacity, i.e., Contractor, Realtor, Engineer, Tenant, Attorney, Surveyor, etc.

B. Multiple crossings for the same drain may be included on the same crossing request permit form if crossings occur on same tax parcel. Multiple crossings for the same drain on separate tax parcels shall require separate crossing request permit forms. Multiple crossing occurring on same tax parcel but for separate drains shall require a separate crossing request permit form for each drain involved. Each crossing shall be charged separately.

C. Permits shall expire one (1) year from the date of approval if work has not commenced. All permits shall expire two (2) years from the date of approval. If permit expires prior to start and/or completion of work permit must be renewed by submitting an additional fee which shall be double the previous permit fee.

D. Temporary crossing shall follow the same requirements as set out above except such permits shall expire within six (6) months from date of approval. If permit expires prior to completion of work permit must be renewed by submitting additional fee which shall be double the previous permit fee.

E. The OMCS shall charge application fees to any person, partnership, corporation, or association who applies for authority to cross under, over, or through a regulated drain, with any structure of improvement. The fees shall be charged for both permanent crossings and temporary crossings. The fees shall be as set forth in the fee schedule for the OMCS as established by the County Drainage Board.

Section 4. Non-Enforcement Agreements.

Any person, partnership, corporation, or any other entity seeking to encroach with-in a regulated drainage easement with any structure, landscaping or other improvement must make application to the OMCS for review and gain approval by the Morgan County Drainage Board for the proposed encroachment.

A. All applications shall be on forms provided by the OMCS and shall meet the specifications set out herein. Such application shall contain any plans, specifications, recorded deed, any easement agreements, and any other information as deemed necessary by the OMCS. Applications shall be signed by the owner of record.

B. Multiple non-enforcement requests for the same drain may be included on the same request form if encroachments occur on the same tax parcel. Multiple non-enforcement requests for the same drain for separate tax parcels shall require separate request forms. Multiple non-enforcement requests occurring on the same tax parcel but for separate drains shall require a separate request form for each drain involved. Each request shall be charged separately per request form.

C. Utility non-enforcements for projects affecting multiple drains shall require separate request forms for each drain affected. Utility non-enforcements for projects affecting a single drain but multiple tax parcels shall require a single request form.

D. The OMCS shall charge application fees to any person, partnership, corporation, or association filing an application for a Non-Enforcement Agreement pursuant to this Ordinance and Indiana Code 36-9-27-33. The fees shall be as set forth in the fee schedule for the OMCS as established by the County Drainage Board.

The fees charged under this sub-section shall be in addition to any recording fees charged by the Morgan County Recorder for the recording of the Non-Enforcement Agreement. Each applicant shall be responsible for payment of the costs to record the Non-Enforcement Agreement. The Non-Enforcement Agreement shall be recorded by the OMCS at the Office of the Morgan County Recorder.

Section 5. General Requirements.

A. Fees. No part of any filing fee for outlet, non-enforcement, or crossing shall be returnable to the applicant after an application is filed and the fee paid. All monies collected pursuant to this Ordinance shall be payable to the County Treasurer. The OMCS shall maintain records of the fees collected hereunder on forms prescribed by the State Board of Accounts. The fees collected under this Ordinance shall be periodically remitted to the County Treasurer and shall be deposited as miscellaneous revenues in the County General Fund. No fee shall be required to be paid by Morgan County or any of its political sub-divisions, agencies or departments for the construction, maintenance, or remodeling of any public facility.

The fees outlined for outlets and crossings include application review, initial inspection, and one (1) re-inspection. The fee for any further re-inspections shall be set at two (2) times the initial fee for each re-inspection. After the third re-inspection, the County Surveyor shall order that the work necessary for compliance with this Ordinance shall be completed as per Indiana Code 36-9-27-46 and 36-9-27-47.

B. Penalties and Fines. It shall be a violation for any person to fail to comply with the requirements of this Ordinance. Any person who violates any provision of this Ordinance shall be subject to a fine not to exceed Two Thousand Five Hundred Dollars

(\$2,500.00) for each such violation, per day. In addition to the fines, the OMCS and/or the Morgan County Drainage Board may undertake the following actions in order to compel compliance with this Ordinance:

- (1) Issuance of a Stop-Work Order immediately suspending all construction and work on the site or project.
- (2) The procurement of performance sureties from the applicant in the form of a bond, irrevocable letter of credit or cash deposit.
- (3) Denial of further storm water permits and/or approvals for the subject site or project.
- (4) Legal action, including a request for injunctive relief to effect the implementation of the approved plan or restoration of the site.

C. Notice of Construction. Each applicant for a permit shall provide written notification to the OMCS not less than two (2) business days prior to commencement of construction at the project site. Any owner/applicant who fails to provide notice as set forth above shall be subject to an additional inspection fee in the sum of \$100.00.

Once construction on a project or site has commenced, the applicant, or his/her agent, shall be responsible written notice to the OMCS of the following:

- (1) Daily work schedule including any changes in schedule, which affect a regulated drain.
- (2) Prior notification if work is to be performed on weekends and/or holidays.
- (3) Prior notification of when any storm water structures being backfilled. No connection or crossings of regulated drains shall be backfilled without first being inspected by the OMCS. Failure to comply with this requirement shall result in the re-excavation of the connection or crossing so as to provide inspection.

D. Repeal of Prior Ordinances. All Ordinances, practices and procedures of the OMCS and the Morgan County Drainage Board and all ordinances in conflict with this Ordinance are hereby repealed.

E. Severability. If any section, sentence or provision of this Ordinance, or the application thereof, to any person or circumstances, shall be declared unconstitutional or invalid, such invalidity shall not affect any of the other sections, sentences, provisions, or application of this Ordinance which can be given effect without the invalid provision or application, and to this end, the provisions of this Ordinance are declared to be severable.

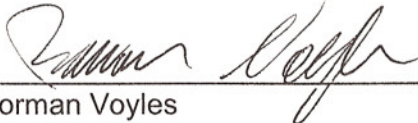
F. Effective Date. This Ordinance shall be effective upon passage, except that Section 5(B) shall be effective upon publication pursuant to Indiana law.

ALL OF WHICH IS RECOMMENDED by the Board of Commissioners of Morgan County in their capacity as the Morgan County Drainage Board and is ORDAINED by the Board of Commissioners of Morgan County pursuant to Indiana Code 36-9-27-3(a)(2) on the dates set out herein.

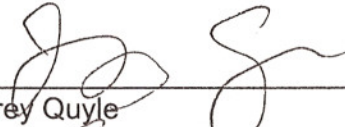
APPROVED by the Morgan County Drainage Board on the dates set out herein.

Date: January 7, 2008

MORGAN COUNTY DRAINAGE BOARD



Norman Voyles



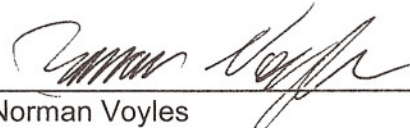
Jeffrey Quyle



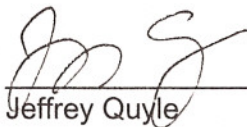
Brian Goss

ALL OF WHICH IS ORDAINED by the Board of Commissioners of Morgan County, Indiana on this 7th day of January, 2008.

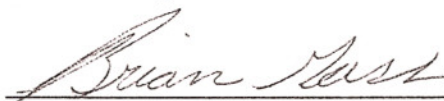
BOARD OF COMMISSIONERS OF
MORGAN COUNTY



Norman Voyles



Jeffrey Quyle



Brian Goss

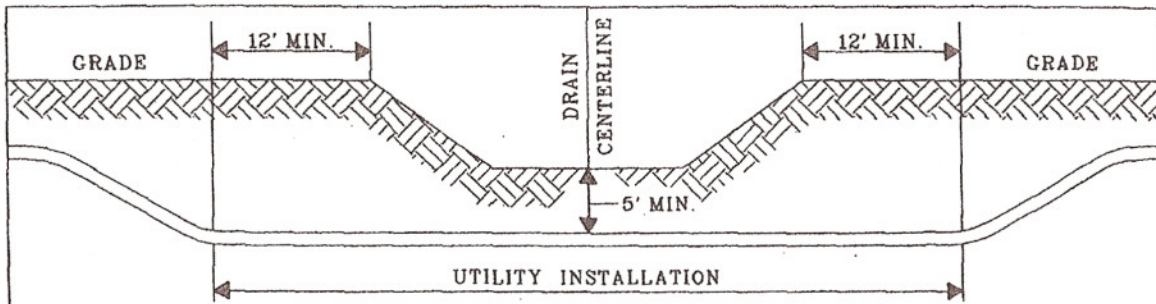
ATTEST:



Brenda Adams, Auditor

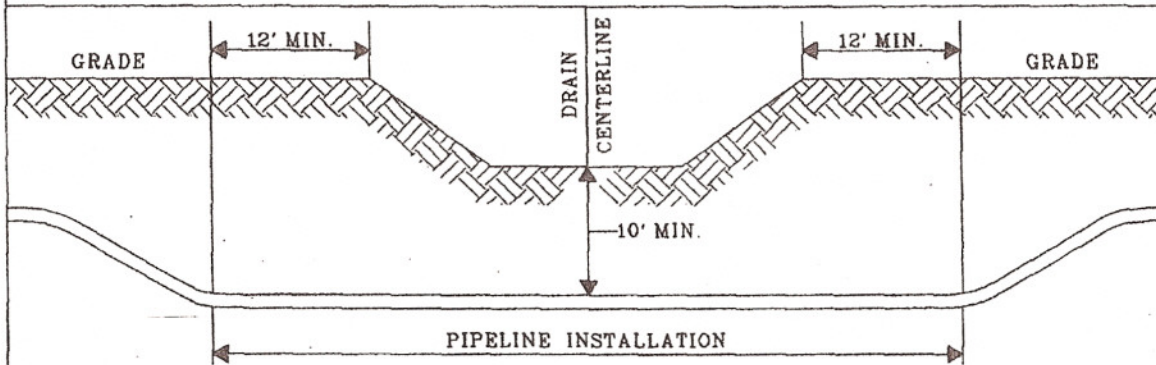
OFFICE OF THE MORGAN COUNTY SURVEYOR

PIPELINE & UTILITY INSTALLATION CROSS SECTION-OPEN



UTILITY INSTALLATION CROSS SECTION

(DRAWING NOT TO SCALE)



PIPELINE INSTALLATION CROSS SECTION

(DRAWING NOT TO SCALE)

When installing a utility in, through or across an open regulated drain, the utility contractor will adhere to the following procedure.

1. Utility to be installed a minimum of five (5') feet below existing flow line of drain. All petroleum pipelines and/or high pressure transmission lines are to be installed a minimum of ten (10') feet below existing flow line of drain.
2. If sanitary sewer is installed under drain, sewer shall be encased with concrete. Minimal distance shall be measured from top of concrete encasement.
3. Utility contractor shall adhere to open drain crossing standard during construction process
4. Notify Surveyor's Office at (765)342-1064 two working days prior to installation and backfilling.

MORGAN COUNTY SURVEYOR'S OFFICE

APPROVED: Terry Brock
TERRY BROCK, MORGAN COUNTY SURVEYOR

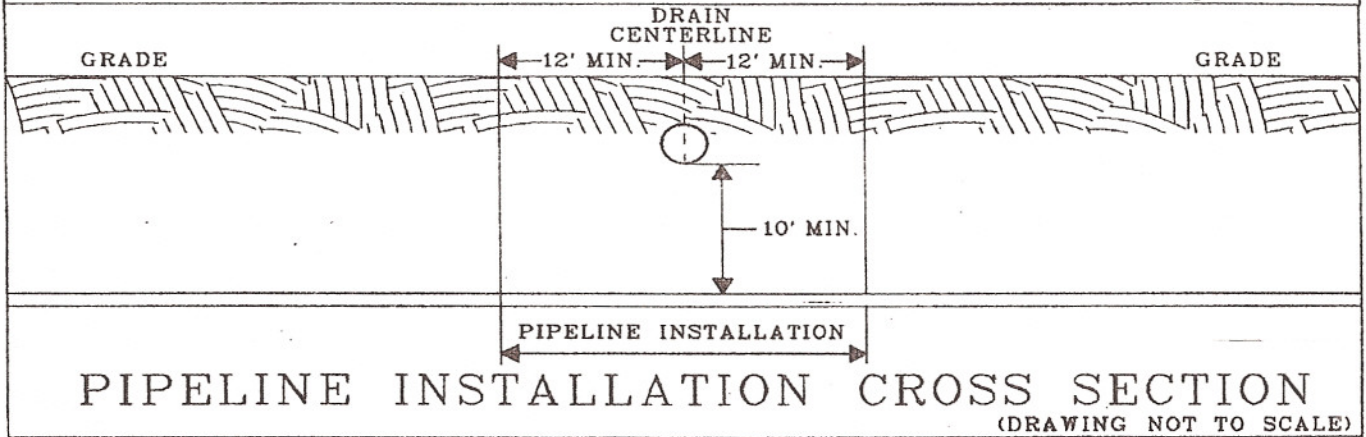
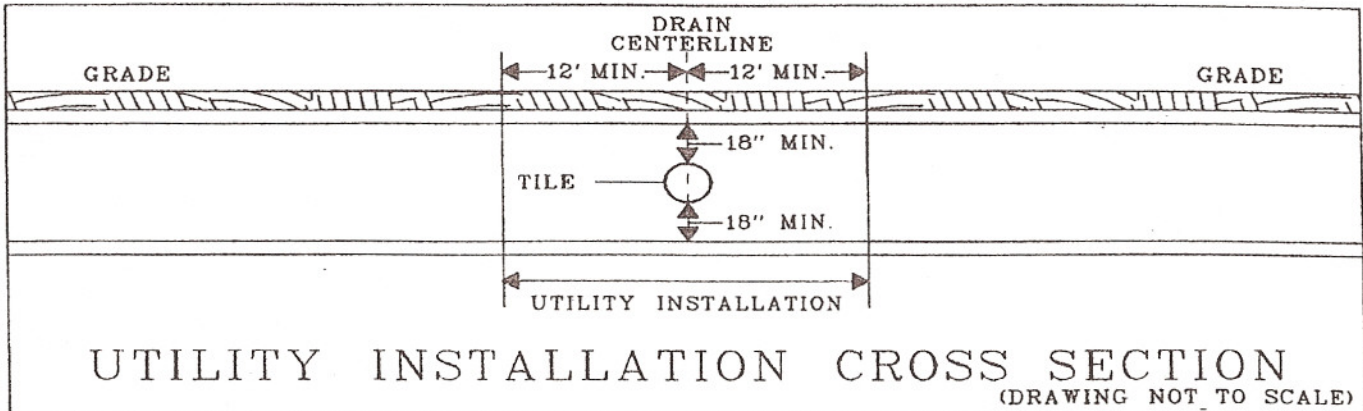
11-5-07
DATE

REVISED: _____

STANDARD PLAN

OFFICE OF THE MORGAN COUNTY SURVEYOR

PIPELINE & UTILITY INSTALLATION CROSS SECTION: TILE DRAIN



When installing a utility across a tile regulated drain, the utility contractor will adhere to the following procedure.

1. Utility to be installed a minimum of eighteen (18") inches below or above existing tile.
2. If utility is to be installed using directional boring methods. The utility installation shall be a minimum of five (5') feet below tile drain.
3. All petroleum pipelines and/or high pressure transmission lines are to be installed a minimum of ten (10') feet below existing invert of tile drains.
4. If sanitary sewer is installed under drain, sewer shall be encased with concrete. Minimal distance shall be measured from top of concrete encasement.
5. Utility contractor shall adhere to open drain crossing standard during construction process.
6. Notify Surveyor's Office at (765) 342-1064, two working days prior to installation and backfilling.

MORGAN COUNTY SURVEYOR'S OFFICE

APPROVED:

TERRY BROCK, MORGAN COUNTY SURVEYOR

11-5-07

DATE

REVISED: _____

STANDARD PLAN