

## **CHAPTER 61-26 CITY JOINT USE OF DRAINS**

**61-26-01. Application for joint drain.** The governing body of any city or the board of commissioners of any water resource district desiring to use an existing drain under the jurisdiction of the county board of drainage commissioners, with or without modification, as a watercourse or channel to provide a water supply for the city or water resource district, may make application therefor to the board of drain commissioners of the county in which such drain is located. In such application there shall be set forth a comprehensive plan of joint use and of any proposed extensions, changes, connecting canals, mains, or other contrivances for conducting the flow of water in, to, or from said drain and an offer of payment by the city or water resource district in a definite sum as a proportionate share of the cost of the existing drain, and a sum certain or a percentage offer for future maintenance costs.

**61-26-02. Hearing on joint drain.** Upon receipt of an application, the board of drain commissioners shall call and give notice of a public hearing, in the manner provided for hearing on a petition to establish a drain, and at such hearing shall receive all evidence and opinions offered for or against the application or of suggested modifications. After such hearing the board of drain commissioners and the governing body of the city or board of commissioners of the water resource district, whichever the case may be, may enter into an agreement for the joint use of such drain setting forth in such agreement the extent, conditions, and nature of permitted use and action, the amount of payment to be made as proportionate share of original cost, and the amount or percentage of costs of future maintenance to be paid by the city or water resource district.

**61-26-03. Payments for city joint drain.** All moneys paid pursuant to such agreement shall be paid into the county treasury and be credited to the drain fund of such drain. In the discretion of the board of drain commissioners, the amount received in payment of proportionate share of original cost of such drain which will not be required for future maintenance of the drain may be paid out to the owners of record, at the time of such payment, of land which was assessed for such drain. Applications for such payments shall be made in the form prescribed by the board of drain commissioners and payments shall be made by the execution and delivery of drain board warrants drawn on the drain fund. The payment to the owner or owners of each tract of land shall be a percentage of the total payment to be made to all the owners equal to the percentage of the cost of the drain which was assessed against such tract of land.