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GUIDELINES FOR ENCROACHMENTS IN CITY EASEMENTS

An easement is defined as the right of an individual, company, or governmental entity to the limited use of the land owned by another for a specific purpose. That purpose may be for drainage, access, transportation, sanitary sewers, storm sewers, water main, private utilities, trails, ponding, wetlands or any other public use. Different purposes may be combined in one easement.

Easements may be dedicated to various regulatory and governmental agencies such as the City, County, State or Watershed District (and private utility companies). When an easement is dedicated and recorded, certain control of the use of the property in that easement is granted to the regulatory or governmental agency. This control, will in turn, affect the use of the easement by the property owner and will vary with the type of easement and what agency has control of the easement.

Easements within the City of Blaine are utilized for many things, some of which include:

- Construction and or maintenance of public utilities such as sanitary sewer, water main, storm sewer, etc.
- Construction and or maintenance of roads and trails.
- Construction and or maintenance of storm water features such as treatment ponds, drainage ways, holding ponds, flood plains, wetlands, etc.
- Construction and or maintenance of private utilities such as cable television, telephone, gas and electricity.

Most properties in the city have easements that provide access to the City and utility companies for infrastructure improvements and maintenance. Typically, these easements are dedicated as drainage and utility easements on the front, back and sides of the lot. Property owners can check the Certificate of Survey, Abstract, or Deed for their property for easement and property line information.

The City has developed general guidelines to help property owners understand what uses may be allowable within easements located on their property. Property owners are required to follow all City zoning laws, ordinances and policies and obtain all necessary permits. These guidelines do not apply to private easements.

General Easement Guidelines

- Surface landscaping is typically allowed in non-wetland easements. The planting of trees and shrubs is discouraged in easements that cover public utilities and drainage ways, as these are the most likely to be disrupted by future work. Landscape plans can be reviewed with the Engineering Department to verify their compatibility with the easement.
- Requests to construct structures in easements are reviewed by City staff on a case-by-case basis. Factors such as the type and use of easement and type and use of proposed structure will be

reviewed by City staff when making a determination. The following structures may be allowed in easements provided that they are easily moved or removed from foundations to provide access to the easement:

- o Sheds up to 200 square feet (treated wood floors only, concrete pads or permanent foundations not allowed).
 - o Above ground, non-permanent pools that require a building permit. A swimming pool is defined as: Any structure, basin, chamber or tank containing an artificial body of water for swimming, diving, or recreational bathing, more than two hundred (200) square feet in area or over twenty-four (24) inches in depth, above or below ground. Inflatable pools that meet the above standards are included. In-ground pools are not allowed. Concrete pool decks and aprons are not allowed.
 - o Retaining walls which are necessary for landscaping and/or driveway construction (provided drainage patterns are not affected). Walls over 48" in height, including any buried portions, require a building permit.
 - o Fences that do not interfere in any way with existing under ground or over ground utilities (building permit required).
 - o Irrigation systems that do not interfere in any way with existing under ground or over ground utilities (building permit required for connection to water system).
 - o Decks up to 200 square feet, and not permanently attached to the house (must be free standing; building permit required). The deck cannot be attached to permanent footings.
- No construction or landscaping that will change or alter drainage patterns in a drainage way, swale, ditch or other method of storm water conveyance is allowed without approval from the Engineering Department.
 - If private utilities such as cable tv, gas, electric, or telephone are located within a public easement, the property owner must obtain a written waiver from the affected utility company permitting the structure to be located in the easement prior to the City issuing a permit.

Wetland Easements

- Wetland easements are regulated by watershed districts, the Army Corps of Engineers and the Minnesota Department of Natural Resources. No structures, construction, landscaping or any kind of work is allowed in these easements without the regulatory agency's approval.

Removals

If, for any reason, the City or other authorized agency needs to perform work in an easement, the property owner shall remove, at their expense, any structure or landscaping located within the easement within seven days of being notified. Any expenses or damages arising from the construction or subsequent removal and replacement of the structure or landscaping within the easement is the sole responsibility of the property owner. Issuance of a building permit for construction inside an easement does not absolve the property owner of the above responsibilities and shall not be construed as an approval to violate any codes or ordinances of this or any other jurisdiction. A City waiver must be signed by the property owner prior to the issuance of a building permit for the construction of a structure in an easement. The City or any other authorized agency shall not be liable for repair or replacement of any structure or landscaping in the event it is moved, damaged or destroyed by virtue of the lawful use of the easement.