

RESOLUTION NO. 3800

A RESOLUTION ESTABLISHING POLICY FOR CONSIDERING REQUESTS RELATED TO CONSTRUCTION OF PRIVATE IMPROVEMENTS IN EASEMENTS CONTAINING PUBLIC DRAINAGE FACILITIES.

WHEREAS, the City of Overland Park has public drainage easements as well as public utility easements that contain public drainage facilities throughout the City (collectively the “Easements”); and

WHEREAS, owners of property upon which the City has Easements have approached the City about the construction of private improvements in the Easements; and

WHEREAS, the Governing Body recognizes the need to establish certain operating policies and procedures for the Public Works Department regarding these matters.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF OVERLAND PARK, KANSAS:

SECTION 1. The Governing Body hereby adopts the Construction of Private Improvements in Easements Containing Public Drainage Facilities, dated February 1, 2010, a copy of which is attached to this Resolution and incorporated herein by reference as the appropriate guideline for handling requests for construction of private improvements in Easements.

ADOPTED by the City Council of the City of Overland Park, Kansas, this 1st day of February, 2010.

Carl Gerlach, Mayor

ATTEST:

Marian Cook, City Clerk

APPROVED AS TO FORM:

Tammy M. Owens,
Senior Assistant City Attorney

Construction of Private Improvements in Easements Containing Public Drainage Facilities

Public Works Department

Engineering Division

February 1, 2010

This policy establishes criteria for allowing private improvements within public utility easements that contain public drainage facilities, and all public drainage easements. This policy does not include an exhaustive list of possible improvements, but covers typical private improvements about which the City receives inquiries. For a determination of whether a private improvement may be constructed in a public utility or drainage easement, contact the Engineer of the Day at (913) 895.6223 or EOD@opkansas.org.

Related Ordinances Sections:

Section 18.140.270 Establishes drainage easement dedication requirements.

Section 15.10.550 Authorizes City Engineer to establish restrictions in drainage easements.

Section 7.54.250 Restricts construction in engineered drainage swales.

Related Policies:

PDS Department Policy – Fence Construction in Engineered Drainage Swales and Drainageways

The following table provides information for typical private improvements.

Construction of Private Improvements in Easements Containing Public Drainage Facilities
February 1, 2010

Improvement Type	Encroachment in Easement
Raised Decks	Not Allowed
Fencing	May be allowed* See PDS Department Policy for Construction of Fences in Engineered Drainage Swales and Drainageways for additional restrictions.
Pools (in ground or raised)	Not Allowed
Pool Deck (at grade)	May be allowed* – minimize pavement over top of pipe.
Shade Structures/Gazebos (including structures not requiring a permit)	Not allowed
Buildings & Sheds (including sheds not requiring a permit)	Not allowed
Pavement – parking lots, sidewalks, basketball and tennis courts, at grade patios, etc.	May be allowed*
Trees, shrubs and other vegetation	May be allowed*
Utility Boxes	May be allowed* in combined utility/drainage easements only. Not allowed in drainage easements.
Retaining Walls greater than 36 inches in height	Not allowed
Retaining Walls 36 inches or less in height	May be Allowed* with restrictions – see detailed information about retaining walls on the next page.
Masonry walls	Not allowed
Monument signs	Not allowed
Play equipment	May be Allowed* Typical residential play equipment that can easily be moved can be installed in a drainage easement. Typical Commercial play equipment that would require extensive work to remove and replace is not allowed in an easement.

****Notes about improvements that may be allowed in public utility easements containing public drainage facilities and public drainage easements:***

In accordance with Section 15.10.550 of the Overland Park Municipal Code, the property owner is responsible for removal, relocation, or reconstruction of “allowed” improvements if the City determines that the encroachment impairs the strength or interferes with the use or maintenance of storm drainage facilities, or the encroachment is determined to not comply with other ordinances or regulations. The fact that the City approved or issued permits for such encroachments does not relieve the property owner of this requirement or any liability or responsibility associated with the encroachment.

Retaining Walls 36 inches or Less in Height:

Crossings: Retaining walls crossing public utility easements containing public drainage facilities or any public drainage easement must be installed perpendicular to the pipe system. Parallel or skewed crossings are not allowed.

Allowable Materials: Retaining walls must be constructed with easily disassembled materials such as dry stacked stone, non-mortared concrete block, or similar materials. Poured concrete, masonry or mortared walls are not permitted.

Overflow Drainage: Retaining walls cannot block or divert drainage as shown on the approved subdivision grading plan. Retaining walls of any height cannot be constructed in designated engineered drainage swales.

Maintenance Access: If a retaining wall is taller than 12 inches, alternate means of maintenance access must be provided. All portions of the underground storm sewer system shall be readily accessible through the easement. If this is not possible, the City may approve a recorded maintenance access easement a minimum of 15 feet in width along a traversable slope (5:1 or flatter slopes) and free of any obstructions that would prevent vehicular and large equipment access to the pipe system.

Stepped Walls: The height of the wall shall be measured from the top of the uppermost wall to the bottom exposed face of the lowest wall. Constructing a series of stepped walls with each "step" smaller than 36 inches in height, but with a combined height greater than 36 inches is not allowed.

Minimum Cover: A minimum vertical separation of 18 inches shall be provided between the bottom of the retaining wall and the top of the pipe.

Adopted by Resolution No. 3800
February 1, 2010