

CITY OF RALEIGH – STORMWATER DRAINAGE ASSISTANCE POLICY

RESOLUTION NO. (2016) 327

A RESOLUTION TO AMEND THE CITY OF RALEIGH STORM DRAINAGE POLICY

WHEREAS, the City Council of the City of Raleigh has adopted a Storm Drainage Policy and has amended the same on several occasions beginning with Resolution No. 1970-741 and last amended by Resolution No. 2010-128, collectively called the “Old Storm Drainage Policy”; and

WHEREAS, the City has recently developed updated criteria for evaluating and prioritizing drainage assistance projects that optimize public benefits from resources allocated by City Council for stormwater improvement projects within Raleigh; and

WHEREAS, clarification and updates are necessary to define the basis and process for providing drainage assistance; and

WHEREAS, for most urban drainage system improvement projects, including pipes on private property and most city streets, where achievable, the City will strive to adequately convey a minimum 10-year design storm event (ten percent annual chance storm event) and, where practical, the 25-year design storm event (four percent annual chance storm event), as per typical urban stormwater design practices; and

WHEREAS, additional clarification and updates are necessary related to the establishment of permanent public drainage easements to protect the City’s drainage improvements for beneficial public purposes including maintenance of stormwater system improvements made by the City.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF RALEIGH:

That Old Storm Drainage Policy is hereby repealed in its entirety and in lieu thereof the following resolution is enacted, and that this resolution shall be referred to as the “City of Raleigh Drainage Assistance Policy.”

Section 1. Overview and Purpose.

The City of Raleigh’s Stormwater Management Program is responsible for managing stormwater to preserve and protect life, support healthy natural resources, and complement sustainable growth within Raleigh. Through the steps outlined herein for an enhanced drainage assistance program administered by the Stormwater Management Division of the (Engineering Services Department), the City will prioritize drainage improvements for qualifying drainage systems citywide to assist in reducing flood hazards from urban stormwater runoff, to help protect and improve water quality in local streams and other receiving surface waters, and to maintain stormwater infrastructure for public purposes.

Section 2. Drainage Assistance Definitions.

Severe Erosion – significantly unstable land that is actively losing soil and/or other earthen material due to persistent and/or high velocity stormwater runoff flows. Sites may vary, but the most common locations include stream banks, stormwater channels, and/or stormwater drainage outfalls. Common types of severe erosion include active material loss on steep, vertical stream banks, undercut stream banks, significant sloughing of stream banks, or significant loss of soil material around and affecting a permanent drainage structure, all due to erosive stormwater flows.

Structural Flooding – flooding that impacts a crawlspace, finished floor, garage, basement and/or mechanical/HVAC unit and is caused by surface stormwater flows and not groundwater. Sheds and outbuildings not on a permanent, enclosed foundation or that can be easily moved and where moving the structure is the least cost alternative to prevent flood damage to the structure do not qualify as structural flooding.

Street Flooding – flooding that occurs when the existing drainage system does not meet the standards of the City of Raleigh Unified Development Ordinance Sections 9.3.6 and 9.3.7 and the storm frequency requirements in Section 1.2.2 of the City of Raleigh Stormwater Management Design Manual. In general, the majority of all street and local drainage systems should be designed to safely convey the 10-year design storm, at a minimum, with an objective to analyze and meet the 25-year storm event level of service where achievable and practical.

The City – as referred to in this policy and defined as the City of Raleigh, North Carolina.

Section 3. Drainage Assistance Eligibility Criteria and Prioritization.

Requests for drainage assistance and investigation into stormwater drainage issues shall first be reviewed by City Stormwater staff to ensure that basic eligibility criteria are met. These include the following:

1. The project must be located within the corporate limits of Raleigh and the properties involved must be stormwater rate paying customers, with no outstanding balances; and
2. The project must receive and/or convey runoff that includes stormwater from a publicly owned and maintained street, right-of-way and/or City owned property or facility.

Drainage issues will be evaluated and prioritized based upon severity of the issue and available funding. The City will utilize an objective, priority based ranking tool developed in partnership with the Stormwater Management Advisory Commission to evaluate the most urgent stormwater needs and determine optimal use of City stormwater funds to address the identified drainage problems and needs. Projects will be regularly evaluated based upon pre-determined, objective, and weighted criteria, including but not limited to: public health and safety, flood hazard reduction benefits, regulatory mandates and compliance, water quality benefits, watershed management benefits, and community support and implementation complexity, among others.

Drainage assistance projects will also be subject to the following guidelines:

1. All projects will be authorized and funded based on a project priority ranking system and available City funding.
2. Property owners shall grant the City appropriate easement(s) across (his)(her)(their) property(ies) for the purpose of performing all necessary investigation and construction activities. These may include but not be limited to Temporary Construction Easements (TCE), Rights-of-Entry (ROE) agreements and City of Raleigh Permanent Drainage Easements (PDE). Signed easements and right-of-entry agreements must be obtained before any construction of drainage system improvements will commence on private property.
3. Design and construction of drainage solutions will meet City of Raleigh design standards.
4. Any pre-existing pipe or other drainage system installed along the public drainage system without proper city approval may need to be removed and will not be maintained by city staff (for example, unpermitted piping of roadside swales).
5. This program is not for new construction or redevelopment. Nothing herein shall be construed, or applied in such manner as to aid or assist in the subdivision or development of property in the City. The policy set out herein shall be applicable only to those properties for which no new subdivisions or development are anticipated.

Highest priority will be given to issues that most greatly impact public health and safety (such as flooding of a public right-of-way or street, structural flooding such as finished floor of a permanent structure, or severe erosion of a stream threatening a structure). The City reserves the right to re-evaluate and review drainage assistance projects at any time.

Section 4. Application of the Drainage Assistance Policy.

- City staff will evaluate all drainage requests to determine whether the site and location receives public or private runoff.
- Participation in Drainage assistance projects by the City, its agents and contractors shall be limited to the extent to which City funds are available for such purpose.
- The purpose of this Drainage Assistance Policy is to maintain proper flow and conveyance of public stormwater runoff within the conveyance system for the purpose of protecting water quality, reducing the threat of structural flooding and for the protection of public safety. It is not the intent or the practice of the City of Raleigh's drainage maintenance program to monetarily or aesthetically enhance public or private property.
- The City Manager is given administrative authority for assigning staff responsibility for the receipt, review and evaluation of projects under the City's Stormwater Drainage Assistance Policy.
- No work shall be performed until projects are approved by the City Council. Recommendations for projects shall be made by City staff with periodic review and concurrence from the City's Stormwater Management Advisory Commission.
- For open conveyance systems (such as grass swales, ditches, streams, and wetland areas), priority for repairs shall be given to active channel erosion that poses a dangerous threat to structures and/or public safety.

- Mowing, litter removal and other routine maintenance, where allowed, is the responsibility of the property owner.
- Upgrade/relocation of existing stormwater infrastructure for the purpose of new or redevelopment shall be at developers/owners expense. Owner of property must obtain City approval before construction.
- Projects must be reasonably permittable with all local, state and federal regulations (e.g. not for cases where Individual Permits or significant mitigation efforts may be required for project approval).
- The City will not participate in projects or repairs if the issue is caused by unlawful action or willful misconduct by a property owner or petitioner.
- The policy of the City of Raleigh with respect to replacing inadequate storm drainage facilities causing public nuisances shall be as follows:
 - Nuisances caused by the standing of water, described more specifically in Section 12-6002(1)(n) of the City Code shall be abated by the City pursuant to City Code 12-6003 (a)(b)(c) and the costs of such abatement shall be assessed according to the provisions of City Code Section 12-6003(d) relating to the same.
- If there exists a common interest in a project, repair or improvement with another government agency (such as NCDOT, Wake County, etc.), the City may enter into an agreement with the other government agency for a sharing of expenses.

Section 5. City of Raleigh Permanent Drainage Easements.

A City of Raleigh Permanent Drainage Easement is a recorded, legal document which describes easement boundaries and any conditions and restrictions related to the permission granted by the property owner to the City of Raleigh. Under the easement, the property owner is the grantor and the City is the grantee. Generally, stormwater projects will be constructed within an easement dedicated for such purpose or within the public right-of-way.

Easements will be donated by property owners prior to disturbance of the property within the dedicated easement limits and all easements (with the exception of those deemed “temporary” as necessary for access and construction) will be permanent. The Stormwater Division will not purchase easements for the purpose of constructing Drainage Assistance Projects.

When an owner refuses to donate an easement necessary for the system improvement, the project will be placed on hold indefinitely until the easement is donated or the site conditions change thereby eliminating the need for the project.

Temporary Construction Easements and Right-of-Entry agreements shall expire upon City acceptance of a stormwater project, generally one year from completion of construction activities.

Existing Private Drainage Easements shall remain as such until improvements, repairs or replacements made by the City of Raleigh Stormwater Division are accepted by the City and a City of Raleigh Permanent Drainage Easement is executed and recorded. Until an easement has been executed and recorded at the Wake County Register of Deeds office by the City of Raleigh, maintenance of any portion of a storm drainage system on private property remains the legal

responsibility of the property owner. The city shall be responsible only for the portions of the stormwater drainage system which are in city-maintained street rights-of-way and permanent storm drainage easements conveyed to and accepted by the city. Repairs and improvements to the drainage system shall be in accordance with established standards, policies, and schedules.

Upon successful completion of a stormwater repair project and upon the establishment of a City of Raleigh Permanent Drainage Easement over these repairs, certain restrictions will apply to the City drainage easement so that the area can function as it is designed. It should also be noted, the city's acquisition of drainage easements and/or the construction or repair by the city of drainage facilities does not constitute a warranty against stormwater hazards, including, but not limited to, flooding, erosion, or standing water.

Encroachments within a City of Raleigh Permanent Drainage Easement may include:

- Fences (not made of stone, block or concrete) that do not impede the flow of stormwater runoff as intended or prohibit access to public stormwater infrastructure;
- Trees whose root system is not a threat to the drainage system;
- Shrubs and flowers;
- Standard paved asphalt or concrete driveways and parking lots for underground storm drainage facilities

Items not allowed within a City of Raleigh Permanent Drainage Easement may include, but not be limited to:

- Trees planted over storm water pipes
- Tennis courts, swimming pools, dams or anything that may block the flow of water;
- Permanent structures not intended to be moved (such as brick, block or concrete); and
- Sheds or other buildings

Reference Municipal Code Section 6-4009 and City Unified Development Ordinance Section 7.2.8 for more details on drainage easements.

In general, **within a conveyed, City of Raleigh Permanent Drainage Easement**, the City will only perform the necessary maintenance activities and repairs to ensure the proper functionality of the drainage system located within. This includes:

- Removing fallen trees and large debris from creeks when those obstructions create a qualifying drainage problem;
- Clearing storm drain pipes, catch basins and culverts;
- Repairing or replacing broken storm drainage infrastructure or systems;
- Controlling severe creek bank erosion when necessary to protect water quality and adjacent properties; and

Activities that the City will not perform within these City of Raleigh Permanent Public Drainage Easements:

- Cleaning up sticks, leaves or debris on private property after heavy rain or flooding;
- Repairing or replacing private property damaged by stormwater runoff or flooding, including but not limited to indoor damages, air conditioners, heating units, fences, gardens, lawns, shrubs, mail boxes, and dog houses;

- Clearing out incidental debris from creeks and drainage ditches such as trash, leaves, grass clippings or small tree branches;
- Clear cutting vegetation from creek banks as part of routine maintenance;
- Mowing a ditch or storm drainage easement on private property; or
- Re-grading or re-seeding a storm drainage easement after project warranty period.
- Other actions that do not prohibit or impact the functionality of the public drainage system.

Conditions set forth in public drainage easements shall be binding on the heirs, successors, assigns and grantees of the properties impacted. The owner and his or her successors, tenants, assigns and heirs agree to hold the City, its officers and employees harmless from any damage or claim whatsoever arising from the work. All claims for liability shall be made against the contractors doing the work.

Section 6. That all resolutions, orders, actions, and other policies in conflict herewith, are repealed to the extent of such conflict. This resolution shall not apply to drainage projects already approved or completed under the old policy.

Section 7. That this resolution shall become effective immediately upon its adoption.

Section 8. That this resolution may be altered, amended, or repealed in the complete and utter discretion of the City Council; provided, no such action shall, in any way, abrogate, repeal or waive the conditions attached to any improvement already made hereunder.

Adopted: June 21, 2016

Distribution: Department Heads