

CITY UTILITIES DESIGN STANDARDS MANUAL

**Book 1
General Requirements (GR)
GR7 Easements**

June 2015

GR7.01 Purpose

All sanitary and stormwater collection systems and water distribution systems that are to be publicly owned, operated, and/or maintained shall be constructed in the public right-of-way, easements, or on property owned by City Utilities. No approval will be given for construction of, or improvements to, any City Utilities infrastructure without provisions for suitable permanent easement or right-of-way.

This Chapter outlines easement requirements. Easement requirements shall be discussed with City Utilities' staff during the planning stage of every project, which is when the easement acquisition process for each project will be defined. Easement locations, sizes and limits shall be determined as early as possible.

GR7.02 Existing Easements

Existing easements shall be shown on the construction plans. The plans shall include:

- The location, dimensions, and specified use of each existing easement
- The recording information of the existing easement, including the document number or the book and page number of the existing easement as found in the Allen County Recorder's Office

An existing easement that is an exclusive use easement for gas, electric, or other non-City owned utility does not permit the construction of a sanitary or stormwater collection system or a potable water distribution system. In such a case, City Utilities will have to acquire a new easement signed by the property owner and the beneficiary of the existing exclusive use easement.

Special attention shall be given to the type of easement. Some existing easements are specifically for stormwater drainage, potable water, sanitary sewer, or any combination thereof. Such easements can only be utilized for the use specified. For example, a sanitary sewer cannot be placed in an easement specified as a stormwater drainage easement. In such an instance, a new sanitary sewer easement shall be acquired and noted on the construction plans in the same manner as any other new easement.

Recording information for existing easements such as document number or book and page number shall be shown in the "remarks" column on the Property Acquisition Summary Sheet. An example of a Property Acquisition Summary Sheet is provided in [Exhibit GR7-1](#).

GR7.03 Types of Interest in Real Property for City Utilities Projects

The following terms apply to acquiring interest(s) in real property for the purposes of constructing, operating, and maintaining stormwater drainage, sanitary sewer, wastewater treatment, and potable water facilities.

1. Fee Simple Title

Fee simple title is ownership of the land. There can be encumbrances to fee simple title such as easements, zoning, and other limitations on use. Fee simple title is usually established by a recorded deed.

For the purpose of constructing major aboveground structures, City Utilities will normally acquire the property in fee simple title. Examples of projects that require fee simple title are pumping stations, wastewater treatment plant sites, potable water production facilities, major detention basins, and other miscellaneous projects of similar scope.

2. Sanitary Sewer, Stormwater Drainage, and Potable Water Permanent Easements

A permanent easement is a permanent interest in real property that allows the privilege of a specific and limited use of real property owned by someone else. A recorded easement, whether dedicated on a subdivision plat or in an easement agreement, will generally remain an encumbrance on the land regardless of any change in ownership of the underlying property. An easement can generally only be terminated by the grantee. The most common way that an easement terminates is by its own terms, usually by passage of a particular amount of time. Merger of Title, when the grantee purchases the land on which the grantee has an easement, also terminates an easement.

For the purpose of sanitary and stormwater collection systems and potable water distribution systems, City Utilities will acquire a permanent easement. The easement shall grant the right to construct, operate, and maintain those systems within the limits of the defined area. These easements shall be designated "Sanitary Sewer, Stormwater Drainage, and/or Potable Water Easement".

A permanent easement shall not be designed to include any portion of an existing or proposed permanent structure, unless City Utilities decides otherwise on a case by case basis. A property owner generally is restricted from constructing any improvements within the limits of an easement which might interfere with the privileges granted by the easement.

3. Temporary Construction Easement

A temporary construction easement is a temporary interest in real property that allows the privilege of a specific and limited use of real property owned by someone else, for activities associated with the act of construction. Temporary construction easements generally terminate on a specific date or after the completion of a particular accomplishment or action.

A temporary construction easement will be required if the activities associated with the construction process cannot be completed within the confines of the permanent easement or within the right-of-way. These activities may include activities such as structure removal,

ingress/egress of construction equipment and materials, stockpiling, grade adjustment, and other miscellaneous tasks.

Temporary construction easement lines may be drawn through permanent structures; however, the contract documents shall contain language which clearly indicates that all such permanent structures shall not be disturbed during construction.

GR7.04 – Easement Widths

Whenever possible, the total easement width, permanent plus temporary, shall be sufficient to permit the Contractor to have flexibility in the method of construction.

Standard minimum widths of permanent easements using trench construction are provided below. In no case shall these standards be a substitute for sound engineering judgment. Lesser easement widths may be allowed upon approval of such widths by City Utilities. Justification for the lesser easement widths shall be provided.

Figure GR7.1 – Minimum Easement Widths

| Size of Pipe | Standard Minimum Easement Width for Depths <18' | | |
|----------------------------------|---|------------------|-------|
| | Permanent | Temporary | Total |
| 8" – 12" and Service Connections | 20' | 15' on each side | 50' |
| 15" - 48" | 20' | 20' on each side | 60' |
| 54" - 72" | 25' | 25' on each side | 75' |
| 84" and larger | 30' | 30' on each side | 90' |

| Size of Pipe | Standard Minimum Easement Width for Depths >18' | | |
|----------------------------------|---|------------------|-------|
| | Permanent | Temporary | Total |
| 8" – 12" and Service Connections | 30' | 15' on each side | 60' |
| 15" - 48" | 30' | 25' on each side | 80' |
| 54" - 72" | 30' | 30' on each side | 90' |
| 84" and larger | 40' | 30' on each side | 100' |

GR7.05 Construction Plan Requirements

The construction plans shall show:

- the locations and dimensions of all proposed and existing permanent and temporary easements, including information required under Section GR7.02 herein
- that the proposed facilities or utilities will be within easements
- the parcels burdened by the proposed construction and the parcels adjacent to the parcels burdened by the proposed construction, including:
 - property owners' names and property address
 - document number or book and page number of last deed of record of the parcels
 - lot number of parcel

GR7.06 Easement Description Criteria

Easement descriptions prepared for City Utilities are to be consistent in general appearance and information provided. A Sample Easement Description is attached in [Exhibit GR7-2](#).

1. General Description Elements

Easement legal descriptions are no different from legal descriptions used for fee simple documents. The same basic requirements and elements are required. Legal descriptions are to be prepared by an Indiana registered Professional Surveyor or an attorney. There are two general types of legal descriptions that may be used for City Utilities projects: the aliquot part of a parcel and the perimeter description.

Every legal description will have three basic parts:

- Caption
- Body
- Certification

The caption is the opening clause of the legal description. It states the general locality, reference documents associated with the description, county and state of the parcel. The caption for an easement legal description shall be identical to the caption in the easement grantor's deed description to the extent applicable.

The body shall include a legal description that states the area encumbered by the easement. This shall be given in square feet to the nearest whole number or to the nearest one-thousandth of an acre. The body shall utilize the same qualifying calls and bounding calls as are found in the easement grantor's last deed of record as much as practical.

A line shall be added below the body that identifies the tax identification number for the underlying parcel.

The certification shall state who prepared the description, the patron of the description, and a date. The Professional Surveyor's signature and seal shall be included.

2. When Multiple Descriptions are Required

A legal description is required for each parcel that has a unique tax parcel number according to the Allen County Assessor's Office.

3. Aliquot Descriptions

A common method for describing an easement within a platted area of the City is to utilize the aliquot description method. This is sometimes referred to as the "OF" description. This method defines the location of the easement based on the existing boundary of the grantor's parcel and defines a width of the easement. An example is "The North xx feet of Lot yy of John's Subdivision." These types of descriptions require the easement to be parallel to a lot line or right-of-way.

The aliquot description shall only be used when the grantor's deed description is a lot or parcel defined by a plat. An aliquot description that refers back to a metes-and-bounds or perimeter description defined in a recorded deed is not acceptable. For instance, the "north xx number of feet of the grantor's lands described in Document #xxx" is not acceptable.

4. Perimeter Descriptions

The other acceptable description method is a perimeter description. A perimeter description will describe each course segment around the perimeter of a parcel. This results in a geometric figure that closes mathematically. Perimeter descriptions are also called metes-and-bounds descriptions, although this is an incorrect moniker.

The perimeter description will require a Point of Beginning and, if necessary, a "Point of Commencement". The description for the easement shall commence at the same point as the "Point of Commencement" identified in the easement grantor's deed. The proposed easement description shall follow the grantor's commencement courses and deed perimeter until it intersects a perimeter point of the easement description. This will be the "Point of Beginning". The clause "true point of beginning" is not acceptable.

The perimeter description courses are to be consistent with the distances and directions shown on the easement plat, see [Exhibit GR7-3](#) for a Sample Sanitary Sewer, Stormwater Drainage and Potable Water Easement Plat. The easement description is to utilize as many qualifying clauses as practical to insure conformity with the grantor's deed description. The easement description shall follow the easement perimeter in a clockwise motion.

A perimeter description shall only be used when the proposed easement is not parallel to an existing lot line, or if the grantor's deed description is not a lot or parcel defined by a plat. Per Title 865 Indiana Administrative Code (IAC), Rule 12, a boundary land survey or a location control route survey plat is required for a perimeter description. An easement plat, per [Exhibit GR7-3](#), can be utilized to these ends if it meets the requirements per Title 865 Indiana Administrative Code (IAC), Rule 12. This includes but is not limited to setting monument corners and providing a Professional Surveyor's report that is consistent with said requirements.

GR7.07 Easement Plat Criteria

Easement plats are graphical representations of the easement legal descriptions. They allow the grantors to see the easement in relation to their parcel lines.

1. General Requirements

Easement plats shall be prepared for each parcel on which a permanent and/or temporary easement shall be acquired. A single easement plat can be utilized for several contiguous parcels having the same owner that have different tax parcel numbers. The phrase "Sanitary Sewer, Stormwater Drainage, and Potable Water Easement" shall be used on all easement plats. Easement plats shall:

- have the title block in the lower right corner of the plat and the Professional Surveyor's certification and seal in the lower left corner; other formats may be approved by City Utilities on a case-by-case basis
- have the easement limits hatched for clarity; temporary and permanent easements shall be hatched in dissimilar manner so as to easily distinguish between easement types
- have a clear indication of the information taken from deeds and/or plats as well as information that was from calculated or measured sources
- have a statement to define the basis of bearings, which can be an established horizontal datum or an assumed north
- have the proper depiction of the different line types and widths for parcel lines, permanent easements, temporary easements, etc.
- have the street address, parcel Owner's name, tax parcel number and document number or book and page number of the last deed of record for the affected parcel
- show existing easements with specific uses labeled and the recording information of the easements;
- show all dimensions to the nearest one-hundredth of a foot;
- show angles or bearings to the nearest second
- have the easement area(s) stated, with permanent and temporary easements stated separately; the easement area on a

small residential lot shall be shown in square feet and the easement area for a larger area (generally more than 1 acre) shall be shown in acres

- show existing encroachments to proposed easements
- comply with Title 865 IAC 1-12-25

2. Release of Easement

City Utilities will determine if it is necessary to release an existing easement. City Utilities will handle the paperwork involved with releasing an easement. A sample Release of Easement Plat is provided in [Exhibit GR7-4](#); and a Certificate of Release of Sanitary Sewer, Stormwater Drainage and Potable Water Easement form is provided in [Exhibit GR7-7](#).

GR7.08 Easements on Railroad Rights-of-Way

Whenever possible, utilities shall avoid crossing underneath railroad tracks or into railroad rights-of-way. Most railroad companies will make the utility company sign a quitclaim grant of occupancy (license agreement) and charge a fee.

GR7.09 Easement Encroachments

An encroachment into an easement is an intrusion onto an easement by a building or another improvement that hinders, jeopardizes, or precludes the intended purpose of the easement. Encroachments in easements shall be clearly identified on the construction plans. An Easement Encroachment Agreement (see [Exhibit GR7-8](#) for form) may be required and shall be discussed with City Utilities.

1. Easement Encroachment Agreements

The plat and description(s) required for an easement encroachment agreement shall meet the same requirements as stated for an easement acquisition. In addition, it shall include sufficient information to clearly identify the encroachments. A Sample Easement Encroachment Plat is provided in [Exhibit GR7-5](#).

GR7.10 Execution of Easement Documents

The required easement plats and descriptions for CUE Projects shall be submitted to the Project Manager. The Project Manager will provide the front end documents, including easement agreements, encroachment agreements, release forms, and quitclaim forms. City Utilities will be responsible for getting the documents executed and recorded.

1. Easement Document Submittals

The submittal process for the easements shall be as follows.

- Once the easement requirements have been defined, one set of preliminary easement plats and descriptions shall be submitted.

- After the preliminary easement plats and descriptions have been approved, one set of final easement plats and descriptions shall be submitted along with the proper certificates: see [Exhibit GR 7-6](#) for Certificate of Sanitary Sewer, Stormwater Drainage and Potable Water Easement form; and [Exhibit GR7-7](#) for Certificate of Release of Sanitary Sewer, Stormwater Drainage, and Potable Water Easement form. The final easement plats and descriptions submitted shall contain a Professional Surveyor's original stamp, signature and date.

If City Utilities makes any changes or modifications to the plans after the easement plat(s) and description(s) are prepared, the Professional Surveyor will receive a copy of the revised sheets. If changes or revisions are necessary to the easement documents, the Professional Surveyor shall make the necessary revisions and resubmit the documents as previously described.

GR7.11 Property Acquisition Summary Sheet

Any project that requires acquisition of an easement will require a Property Acquisition Summary Sheet. The specific data to be shown on the Property Acquisition Summary Sheet is presented in the following paragraphs. An example of the layout for the Property Acquisition Summary Sheet is provided in [Exhibit GR7-1](#).

1. Parcel Numbers

Parcel numbers shall be assigned to each parcel of property to be acquired and shown on the plans. "Parcel 1" shall be assigned to the first parcel, and the remaining parcels shall be numbered consecutively from the beginning to the end of the project.

Parcel numbers shall not be changed after submission of the final easement plats. If it is determined that acquisition from any parcel will not be required, that number shall be removed from the plans and the notation "NOT USED" shall be placed in the owner's block on the Property Acquisition Summary Sheet.

Parcel numbers for property acquired for temporary easement shall also be numbered consecutively with normal parcel numbers, except that the letter "C" shall precede the number.

2. Owner's Name

The Property Acquisition Summary Sheet shall provide the owner's name(s) per the last deed of record.

3. Property Address

The address of the property served shall be shown. If the owner's tax mailing address differs from that of the parcel affected, the owner's tax mailing address shall be shown in the remarks column.

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4. Sheet Number
The sheet number is the number assigned to the plan sheet on which the particular parcel is shown. Some parcels will appear on more than one plan sheet, in which case all sheet numbers shall be included.
 5. Source of Title
This column shall show the Allen County Recorder's Office document number or deed book and page number of the parcel or such other evidence of title information as may be available.
 6. Area of Easements
The area required for permanent easement shall be shown in square feet or acres in the column designated "Sewer and Stormwater Drainage Easement". The area required for temporary construction easement shall be shown in square feet or acres in the designated column. Areas shall be shown to the nearest square foot or one-thousandth of an acre as appropriate.
 7. Remarks
Additional comments shall be placed in the remarks column of the Property Acquisition Summary sheet.
 8. Easement Document Number
City Utilities will place the Allen County Recorder's Office document number of the recorded easement in the last column of the Property Acquisition Summary sheet.