

Easements & Rights-of-Way in Your Yard

What are Easements and Rights-of-Way?

An easement is an area where the property owner has restrictions on what they can do. They are a grant of one or more property rights by the property (e.g. your yard) for use by another entity (e.g. City of Rosemount, MnDOT, Dakota Electric, etc.). In other words, the recipient of the easement (e.g. City of Rosemount) has the right to use the land in the easement for a specific purpose. The homeowner still owns and maintains the easement but cannot use the land in a manner that interferes with the rights granted under the easement.

Rights-of-way are usually bands of land and allow travel across the designated land: streets, trails, sidewalks, etc. They can be public easements where the improvements (e.g. streets) are publicly owned and maintained; private easements that allow travel through another person's land (e.g. private streets in an HOA, driveways, etc.); or publicly owned land. The right-of-way typically includes the street, boulevard, sidewalk, and land adjacent to the street. 15' behind the back of the curb or road edge is a good rule of thumb for finding the edge of the right-of-way for most city owned streets in Rosemount; property pins will show the exact location. Rights-of-way will generally be wider for county and state roads/highways.



Common Types of Easements

Drainage and Utility (D&U) Easements – D&U easements have 3 primary purposes: (1) they are areas where storm sewers, sanitary sewers, water lines, stormwater ponds, infiltration basins and other utilities are located (2) they provide access to utilities for maintenance, inspection, or installation (3) they provide a location for the flow or storage of stormwater or flood water. Improvements made by the homeowner in D&U easements cannot alter drainage such that flow is blocked, water ponds on a neighbor's yard, or flood storage is decreased; or block maintenance access. If you create an obstruction that the City needs to remove to use the easement area or that alters the flow or storage of stormwater, the removal will be at your expense and the obstruction will not be replaced. Common obstructions that will be removed for maintenance access or that illegally alter drainage include trees, retaining walls, jungle gyms, pools, garages, firepits, patios, and sheds. Fences are allowed with an approved permit, if they won't affect the City's access and use of the easement area (e.g. fences aren't allowed through a pond); however, fences may also be removed by the City for maintenance access, the removal and replacement at your expense. It should be noted that native plant vegetation, like prairie or wetland vegetation, is often a component of infiltration basins or stormwater ponds. The vegetation helps maintain infiltration rates and remove some pollutants, like fertilizers. In such cases, mowing, removing, or otherwise altering vegetation without written approval from the City is not allowed; the City is unlikely to approve projects that remove or degrade native vegetation.



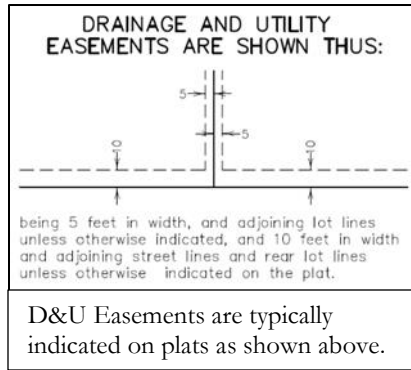
This fence illegally blocks City maintenance access to a sewer in a D&U Easement



Example of a conservation easement that includes a pond and natural buffer.

Conservation Easements - Conservation easements protect important natural features like lakes and wetlands. A natural buffer, a strip/area of native plants adjacent to the protected feature, is usually included in the easement to help filter pollutants from stormwater and provide wildlife habitat. Conservation easements must remain in their natural state. Mowing, clearing of brush, removal of trees including dead trees, and other vegetation alteration is not allowed without written City approval; approval will only be considered for purposes of safety, drainage, or habitat improvement. Man-made structures like fire pits, patios, sheds, fences, pools, retaining walls, play equipment, etc. are not allowed. Contact the City of Rosemount at 651-322-2022 if you are considering vegetation improvements.

How Do I Know if There is an Easement on My Property?



Frequently, the property survey or plat will show easements. The surest way to determine where easements are located on your property is to do a title search and work with a surveyor. Most residential properties in Rosemount have a 10-foot D&U Easement on their front property line and back property line, and a 5-foot D&U Easement at each of their side yard property lines. Some properties will have much more extensive D&U Easements that cover utilities, stormwater ponds, infiltration basins, flood storage areas, wetlands, maintenance access routes, or other features, so it is important to check where they are on your property. In general, D&U Easements will not be marked by signs; however, some conservation easements may be marked by signs. Conservation easements are most often found adjacent to wetlands, ponds, and lakes.

Maintenance and Improvements in Rights-of-Way

The homeowner is responsible for most boulevard maintenance, which typically involves mowing the grass so that it doesn't get taller than 8" and keeping the area free of weeds.

City policy has prohibited planting trees in rights-of-way without written City approval since 2010, and residents are discouraged from planting trees in the right-of-way because the roots tend to damage curbs and sidewalks over time and interfere with infrastructure maintenance. The City will remove trees that cause damage to infrastructure (above or below ground), that block traffic sight-lines, as part of infrastructure (e.g. road) maintenance, and that otherwise cause a safety hazard. The City is also proactively removing ash trees from rights-of-way to slow the spread of Emerald Ash Borer, an exotic pest that kills ash trees over time. The City trims low hanging branches from trees within the right-of-way in winter; neighborhoods where trees are trimmed rotate every year.



Trees with low hanging branches that block equipment or signs are trimmed in winter. This excludes trees along private rights-of-way such as those in most townhome associations.

The City does not perform maintenance associated with trees planted after 2010 in rights-of-way; and, the City does not perform any maintenance activities, including plowing of snow and trimming of trees, on private rights-of-way. Private rights-of-way are most often associated with townhome associations but can be found in other types of areas as well.

To learn about snow removal requirements and plowing operations, read the *Winter operations* flyer or visit www.rosemountmn.gov/Snowplowing. To learn more about the City's Pavement Management Program, visit www.rosemountmn.gov/Streets and select Pavement Management Program from the sidebar.

Locating Utilities on Your Property



Know where underground utilities are located before you dig to install trees, landscaping, or structures to avoid serious injury or costly damage. Call Gopher State One Call (GSOC) at 811 or visit www.gopherstateonecall.org to get public utilities marked; GSOC does not locate private utilities (e.g. buried electric to sheds, buried natural gas to firepits, etc.).

A Final Note on Proper Tree & Shrub Placement

A common mistake is to plant trees and shrubs without considering their mature size and shape. A tree that gets to be 40 feet wide planted one foot outside of the easement, may still need to be removed if maintenance/access is needed because half of the tree, or 20 feet, could be growing into the easement. Considering mature tree and shrub size and shape is also a good consideration to stay on friendly terms with neighbors who may not want trees and shrubs overhanging into their yard; property law allows neighbors to trim any portion of a tree or shrub that overhangs the property line.



SPIRIT OF PRIDE AND PROGRESS
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