

**Instructions to Preparing Attorney
Deed of Easement for Permanent Drainage Purposes**

The following are instructions to the drafting attorney for preparation of the form Deed of Easement for Permanent Drainage Purposes (the “Permanent Drainage Easement”) in accordance with the requirements of the City of Raleigh.

This Permanent Drainage Easement must be recorded immediately after recording of the subdivision plat and must be the first encumbrance against the subdivided Property, with priority granted only to other easements required by the City of Raleigh. Any mortgages, non-governmental liens, or deeds of trust against the Property must be subordinated to this Permanent Drainage Easement.

Preparation of this form may be deemed to be the practice of law in the State of North Carolina and should only be performed by an attorney licensed to practice in the State of North Carolina.

Before preparing this form, you should have copies of all approval documents issued for the proposed development by the City of Raleigh. These approval documents may list additional conditions of approval that must be satisfied prior to authorization to record lots or issuance of permits for the project. Once completed, submit the completed Permanent Drainage Easement with copies of any map that will be recorded and serve as the property description for this instrument to the City at LegalDocumentReview@raleighnc.gov for review by City staff prior to execution.

The instructions below are numbered in accordance with the areas in the Permanent Drainage Easement requiring customization for each individual project. All fields must be filled out and none should be left blank or with the reference number remaining. The terms in this instructions document shall bear the same meaning as defined in the Permanent Drainage Easement.

- [1] Name of attorney (or law firm) preparing this form for submission to the City for review.
- [2] Wake County or Durham County Tax Property Identification Number, whichever shall apply.
- [3] City of Raleigh Project ID Number. Typically starts with SPR, BLDR, BLDNR or RCMP
- [4] Legal name of Grantor, which should match name of owner in property records and in deed conveying property to Grantor.
- [5] State of legal formation of Grantor. If Grantor is an unmarried individual, then insert “N/A” in this field. If Grantor is a married individual and his or her spouse is either on the deed conveying the Property to Grantor or has marital interest in the Property, then insert the legal name of spouse in this field.
- [6] Type of legal entity of Grantor. If Grantor is an unmarried individual, then insert “N/A” in this field. If Grantor is a married individual and his or her spouse is either on the deed conveying the Property to Grantor or has marital interest in the Property, then insert “spouse” in this field.
- [7] Insert “X” in the appropriate box to describe the status of the Property. Please “blank” the other box.
- [8] Print name and title of individual signing on behalf of Grantor. The individual signing the Permanent Drainage Easement on behalf of Grantor must be authorized to bind the Property to the terms of the instrument. If Grantor is an individual signing in a personal capacity, “N/A” may be inserted for title.
- [9] Insert legal name of trustee on deed of trust to be subordinated to Permanent Drainage Easement, if

applicable. Multiple subordination pages must be utilized if multiple deeds of trust, mortgages, or liens must be subordinated. If not applicable, indicate "N/A" in this field.

[10] Insert legal name of beneficiary on deed of trust to be subordinated to Permanent Drainage Easement. If not applicable, indicate "N/A" in this field.

[11] Insert deed book and page information for deed of trust being subordinated to Permanent Drainage Easement. If not applicable, indicate "N/A" in this field.

[12] Insert full name of attorney (as licensed) and NC State Bar identification number for the attorney that prepared this Permanent Drainage Easement form.

Exhibit A

[13] Insert full name of surveyor (as licensed) that prepared the plat dedicating the Easement.

[14] Insert the name of the plat as titled on the plat dedicating the Easement.

[15] Insert the date of the plat dedicating the Easement.

[16] Insert Wake or Durham, whichever is applicable to the Property.

Upon approval of the form by City staff, the instrument may be executed and recorded.

Instrument prepared by: _____[1]_____
[Utilizing City of Raleigh Form Instrument]

Brief description for index: Permanent Drainage Easement

Property: _____[2]_____

City Project ID: _____[3]_____

Mail after recording to: City of Raleigh
Real Estate Office
P.O. Box 590
Raleigh, NC 27602

DEED OF EASEMENT FOR PERMANENT DRAINAGE PURPOSES

This Deed of Easement for Permanent Drainage Purposes (this “Permanent Drainage Easement”) is made and executed this _____ day of _____, _____, by _____[4]_____, a _____[5]_____ _____[6]_____ (the “Grantor”) to the City of Raleigh, a North Carolina municipal corporation, with a mailing address of PO Box 590, Raleigh, NC 27602 (the “City”).

Grantor warrants that it is the owner of the property (the “Property”) described in the instrument recorded at Book _____, Page _____, ____[16]_____ County Registry, that it is vested of the premises in fee simple, and that the premises are free from encumbrances except as expressly stated within this instrument.

For valuable consideration, the receipt of which is hereby acknowledged by Grantor, which may include permitting and approvals of the City for development activity on the Property, and in further consideration of the mutual covenants and terms, conditions and restrictions hereinafter set forth, the Grantor hereby gives, grants, bargains and conveys unto the City, its successors and assigns, in perpetuity, the right, privilege and easement (“Easement”), now and hereafter, to accept, contain, and transmit stormwater runoff and surface water drainage from adjacent properties, including the public streets, and specifically including the right, privilege and easement to access, construct, install, reconstruct, improve, inspect, repair, maintain, operate and use culverts, ditches, swales, impoundments, subsurface piping and other drainage control facilities (“Facilities”), together with the perpetual right to clear and keep clear the full width of said Easement area, the area subject to this Easement being more particularly identified and described in Exhibit A as “City of Raleigh Permanent Drainage Easement” (or by an equivalent label), attached hereto and incorporated herein by reference.

THE PROPERTY HEREIN DESCRIBED AND CONVEYED IS: (choose one)

☐ [7] Located on a parcel that includes the Grantor's primary residence, but the Grantor's primary residence is not a property interest being conveyed; or

☐ [7] Does not include a primary residence.

Subordination

[Any existing deeds of trust, mortgages, or liens encumbering the Property, other than property tax liens for the current tax year or governmental improvement assessment liens, must be subordinated to this Permanent Drainage Easement. Such encumbrances must be listed and the Permanent Drainage Easement must be executed by the beneficiary and trustee (if trustee execution is necessary per the terms of the security instrument), mortgagee, or lien holder to evidence such subordination.]

GRANTOR REPRESENTS THAT NO SUPERIOR DEEDS OF TRUST, MORTGAGES, OR LIENS (OTHER THAN PROPERTY TAX LIENS FOR THE CURRENT TAX YEAR OR GOVERNMENTAL IMPROVEMENT ASSESSMENT LIENS) ENCUMBER OR AFFECT THE PROPERTY AT THE TIME OF THE EXECUTION AND RECORDING OF THIS PERMANENT DRAINAGE EASEMENT, OR THAT IF ANY OF THE FOREGOING EXIST, THEY SHALL BE SUBORDINATE TO THIS PERMANENT DRAINAGE EASEMENT THROUGH THE SUBORDINATION LANGUAGE HEREIN.

Grantor acknowledges that the City is acting in reliance on Grantor's authority to enter into this Permanent Drainage Easement and the terms, conditions, obligations, and restrictions imposed herein in its authorization to either subdivide the Property or in the issuance of any permits or development approvals associated with any construction of improvements on the Property and that the City may suffer irreparable harm from the violation of the terms established herein.

TO HAVE AND TO HOLD the terms, conditions, obligations and restrictions imposed herein shall be binding upon the Grantor, its successors and assigns, and shall continue as a servitude running with the land in perpetuity. Grantor covenants that it is vested of the Property in fee simple, has the right to convey the same in fee simple, that the Property is free from encumbrances except as herein stated or subordinated herein, and that Grantor will warrant and defend such title to the same against claims of all persons. This Permanent Drainage Easement shall not divest the Grantor of any rights or interests in its Property not herein mentioned.

THE FURTHER TERMS AND CONDITIONS of the easement interest herein conveyed are as follows:

1. City's operation, maintenance, repair or improvement of the Facilities does not guarantee the Grantor with complete protection from property damage for all storm events. City shall have the right to enter upon the Easement to obtain samples of stormwater from time to time for testing purposes.

2. City shall have the right to remove from the Easement, now or at any time in the future, trees, structures, or other obstructions that may endanger the proper maintenance and operation of the Facilities.
3. In laying, constructing, replacing, enlarging, repairing and maintaining subgrade Facilities (excluding swales and/or ditches), City shall remove all surplus earth, make level the surface of the ground above the Easement, replace and repair existing driveways and walkways, and restore any disturbed area to a condition substantially equal to its condition immediately prior to commencement of any such work.
4. Grantor shall not erect any permanent structures over or across the Easement area, including but not limited to: buildings, sheds, walls, masonry structures, tennis courts, swimming pools, and structures located on a permanent, enclosed foundation.
5. This Easement shall not prohibit Grantor from installing fencing within the Easement, subject to the written approval by the City's Director of Engineering Services or designee, and subject to applicable federal, state, and local laws and ordinances. All risk of damage to said fencing caused by the maintenance and repair of the Facilities shall be with the Grantor.
6. Grantor shall not attempt to block or otherwise impede the natural flow of water on, within, or upon the Easement area. Any alterations to Facilities proposed by the Grantor must first be approved in writing by the City's Stormwater Manager or designee prior to installation. Grantor shall immediately notify City in the event the Facilities become blocked or the natural flow of water is impeded.
7. Routine maintenance of above grade Facilities (including ditches and swales) such as minor pruning, mowing, and weeding, will be the responsibility of the Grantor, subject to reasonably accepted landscaping practices. Major maintenance determined to be necessary by the City's Stormwater Manager or other authorized designee will be performed by the City. The City shall be responsible for maintenance of all subgrade infrastructure.
8. Grantor shall in all other respects remain the fee simple owner of the Property and the area subject to the Easement, and may make all lawful uses of the Property; provided, however, no use may be made of the Easement that interferes or is inconsistent with the City's easement rights and full, reasonable use thereof for stormwater drainage purposes.

[Signature pages follow this page]

[Grantor Signature Page]

IN WITNESS WHEREOF, Grantor hereby executes this Permanent Drainage Easement under seal as of the day and year first above written.

GRANTOR:

_____[4]_____

By: _____ (SEAL)

Name: _____[8]_____

Its: _____[8]_____ (Title)

NORTH CAROLINA

WAKE COUNTY

GRANTOR
ACKNOWLEDGMENT

I certify that the following person personally appeared before me this day and acknowledged to me that he or she signed the foregoing document for the purpose stated therein and in the capacity indicated: _____

(Print name of signatory in blank)

Date: _____

My Commission Expires:

Print Name: _____

[Affix Notary Stamp or Seal]

**PROPERTY DESCRIPTION VERIFIED AND
APPROVED FOR RECORDING:**
ENGINEERING SERVICES DEPARTMENT

By: _____

Name: _____

Title: _____

[Subordination signature page follow this page.]

[Subordination Signature Page]

_____[9]_____, as Trustee, and _____[10]_____, as Beneficiary, under that certain Deed of Trust recorded in Book _____[11]_____, Page _____[11]_____ Wake County Registry, North Carolina, join in this Permanent Drainage Easement for the sole purpose of expressing their consent hereto and of binding, subjecting and subordinating said Deed of Trust and their interest in the Property to the terms, covenants and conditions of this Permanent Drainage Easement.

TRUSTEE:

_____[9]_____

By: _____ (SEAL)

Name: _____

Its: _____ (Title)

BENEFICIARY:

_____[10]_____

By: _____ (SEAL)

Name: _____

Its: _____ (Title)

[Notary acknowledgments for the Trustee and Beneficiary follow this page.]

NORTH CAROLINA

WAKE COUNTY

TRUSTEE
ACKNOWLEDGMENT

I certify that the following person personally appeared before me this day and acknowledged to me that he or she signed the foregoing document for the purpose stated therein and in the capacity indicated: _____
(Print name of signatory in blank)

Date: _____

My Commission Expires:

Print Name: _____

[Affix Notary Stamp or Seal]

NORTH CAROLINA

WAKE COUNTY

BENEFICIARY
ACKNOWLEDGMENT

I certify that the following person personally appeared before me this day and acknowledged to me that he or she signed the foregoing document for the purpose stated therein and in the capacity indicated: _____
(Print name of signatory in blank)

Date: _____

My Commission Expires:

Print Name: _____

[Affix Notary Stamp or Seal]

Attorney Certification:

I, _____[12]_____, an attorney licensed to practice law in the State of North Carolina, certify to the City of Raleigh that this Permanent Drainage Easement has been prepared in accordance with the instructions provided by the City of Raleigh, that I am familiar with the requirements of any development approvals of the City of Raleigh associated with this Permanent Drainage Easement and have prepared this instrument in accordance with such requirements. If a deed of trust is being subordinated to this Permanent Drainage Easement and the signature of the trustee is not provided, I hereby certify that I have reviewed that deed of trust and verify that the terms of the deed of trust do not require trustee consent or signature for the subordination to be effective.

Attorney at Law

NC Bar #: _____[12]_____

EXHIBIT A

Those “City of Raleigh Permanent Drainage Easement” area(s) specifically enumerated herein located in, upon, and across the Property of the Grantor, and being more specifically identified and described on a plat prepared by _____[13]_____, entitled “ _____[14]_____,” dated _____[15]_____, and recorded in Book of Maps _____, Page(s) _____, ____[16]____ County Registry.