

## **CITY OF BISMARCK**

### **POLICY FOR RELEASE OF EASEMENTS**

**Effective Date:** \_\_10/27/2020\_\_\_\_\_

#### **GENERAL INFORMATION**

**Purpose:** The City of Bismarck finds it necessary and desirable to provide a process for the release of easements. The intent of the policy is to define the role of the Community Development and Engineering departments in leading the process, based on the manner in which the subject easement(s) is conveyed. Additionally, the policy provides direction under what circumstances to incorporate public notification and public hearings. This policy is not intended to supersede any process/procedures related to the release of easements which may be mandated by state or federal entities. Nor does this process impact any requirements listed in private agreements or restrictive covenants.

**Scope:** The policy provides direction to the release of easements which the City of Bismarck has standing to release. Easements which may be dedicated to the public within the Extraterritorial Area (ETA) would be the responsibility of the jurisdiction with appropriate standing to release. Easement release processes/procedures which may be mandated by state or federal entities are beyond the scope of this policy.

**Application of Policy:** For easements dedicated through the platting process and referenced on the face of the plat the Community Development Department will process the easement release through the plat modification process. For easements created through a separate easement document, the Engineering Department will process the release. Easement release processes/procedures which may be mandated by state or federal entities are beyond the scope of this policy.

#### **Definitions:**

- **Directly Adjacent** – Adjoining and sharing a common boundary.
- **Easement** – The right to use property owned by another for specific purposes. An easement may run to the benefit of a private party or parties, a public entity or a public utility.
- **Franchise Utility Easement** – Easements for the provision of utilities, such as: electricity; natural gas; telecommunications; and other utilities not provided by the City of Bismarck.
- **Plat** – The subdivision of land which depicts the layout of rights-of-way, easements, blocks, and lots established for individual ownership and development.

#### **Policy:**

##### **Release of easements dedicated on the face of a recorded plat**

The Community Development Department will administer the process for easement release requests when the easement is dedicated on a recorded plat. The Community Development Department will establish a timeframe and procedures for easement releases to be submitted

for review/consent by various interested parties, as appropriate, and provided to City Commission for final consideration.

Additionally, the City Commission will hold a public hearing on the easement release for all easements, except for franchise utility easements, which are recorded on the face of the plat. For such easements, the Community Development Department will notify directly adjacent property owners of the parcel, in which the easement is proposed to be released, at least 10 days prior to any public hearing on the subject easement release.

**Release of easements not dedicated on the face of a recorded plat**

For all other easements created through a separate easement document, except for franchise utility easements and those easements whose release may be mandated by state or federal entities, the Engineering Department will administer the easement release process.

Additionally, the City Commission will hold a public hearing on the easement release, except for franchise utility easements and are created through a separate easement document. For such easements, the Engineering Department will notify directly adjacent property owners, of the parcel in which the easement is proposed to be released, at least 10 days prior to any public hearing on the subject easement release. Easement releases in conjunction with a Minor or Major Plat would not be included in the notification of adjacent property owners, so long as the notification would occur through the platting process.