

## City Agreement FAQ's

**Q. Why did we receive this Memorandum of Agreement from the City?**

- A. Part of the Declaration pertains to the maintenance responsibilities of the 3 BMP's in our neighborhood. Due to the varying opinions of the wording in our Declaration, our Attorney believed the only way to achieve a clear understanding, was to have the City of Virginia Beach clarify the rights and responsibilities regarding the easements surrounding the BMPs. The City has done this through this document.

**Q. Does this mean the HOA and City has taken some of our property?**

- A. Not at all. You have a deed and retain title to your property. By law, the City cannot redraw your property lines or take any property without your consent unless property is condemned.

**Q. Why can't I maintain my own property?**

- A. You are free to maintain the banks on your property. The maintenance must be in accordance with the guidance set forth by official state or regional authorities. See: *HR Storm Guide to Maintaining and Operating BMPs*

**Q. Will this impact our current dues?**

- A. Due to the current balance in the HOA accounts as of July 2020, the board does not anticipate the need to increase dues or have a special assessment.

**Q. What exactly is a BMP?**

- A. There are several types of BMPs. The three in our neighborhood are considered Stormwater Retention Ponds. They consist of the water and the banks surrounding the water.

**Q. I do not live around the BMPs, why do my dues have to go to pay for this maintenance?**

- A. The ponds serve everyone in IRF by collecting and retaining storm water and run off from all our properties.

**Q. How can the City just create new common areas on our private property?**

- A. The City has not created new common areas. If you look on your original plat you will note the placement of easements, which is the right of someone other than the owner to engage in certain acts or to use the owner's property in a particular way. Utility and cable companies have easements across private property so that they can maintain their lines and provide services. The Declaration has always identified the retention ponds as areas that the HOA has maintenance responsibility even though the areas include individual owners' property. As owners, we consent to these easements and to the Declaration when we purchase a property.

**Q. Does this mean anyone can come onto our property since this portion is common area?**

- A. Absolutely not. The Declaration as well as this Agreement outline the purpose of these easements and the extent in which they can be utilized and accessed. The words common area as applied to the easements for the purpose of assigning maintenance responsibilities.

**Q. Do I still have to pay property tax on these easements?**

A. Yes. Your property lines are not changing.

**Q. What is the 20' easement and where is it located?**

A. The 20' easement per your plat begins at the top of the bank and measures 20' away from the water. This easement is considered a maintenance easement. This area can be used when pond maintenance is necessary. Most likely scenario for use would be when dredging is performed or the initial maintenance of the banks.

**Q. I have a fence in the 20' easement. Does this mean a contractor cannot come into my yard?**

A. When you erected your fence, you would have been issued a variance from the City of VB. This allowed the construction of a fence in the easement with the understanding that the City can give you notice to remove the fence if they need to utilize that easement. The board understands that due to the size of many backyards', fences are in this easement. This should be taken into consideration when any maintenance is to be authorized by the board.

**Q. Why wasn't the community asked to give input or vote?**

A. A vote by homeowners would only be required if we were making a change to the Declaration. The board was not seeking to make any changes. We requested clarification on the existing rights and responsibilities that were already part of our Governing Documents.

**Q. Why can't homeowners keep their trees if they want to?**

A. This is not a decision made by the board. The City provides the guidance on how banks around our type of BMP's is to be maintained.

We hope this serves to answer your questions and concerns regarding the context of the Agreement. If you have any further questions or concerns, please email our Property Manager, Denniece Clanton. Her email is: [dclanton@unitedpropertyassociates.com](mailto:dclanton@unitedpropertyassociates.com) You can also reach her by phone at 757-518-3243.