

**URBAN COUNTY COUNCIL
SCHEDULE OF MEETINGS
January 26-February 2, 2009**

Monday, January 26

Human Rights Commission Community Relations Meeting.....4:30 pm
Conference Room-5th Floor Government Center

Human Rights Commission Monthly Meeting.....5:30 pm
Conference Room-5th Floor Government Center

South Nicholasville Rd Small Area Plan Meeting.....6:30 pm
Southern Acres Christian Church, Harvard Dr

Tuesday, January 27

Neighborhood Development Bond Fund Oversight Committee Meeting...9:00 am
Conference Room-5th Floor Government Center

Outside Agency Oversight Committee Meeting.....10:30 am
Conference Room-5th Floor Government Center

Council Meeting-State of the Merged Govt. Address.....12:00 pm
Patterson Ballroom-Hyatt Regency

Budget & Finance Committee Meeting.....1:00 pm
Council Chambers-2nd Floor Government Center

Council Work Session..... 3:00 pm
Council Chambers-2nd Floor Government Center

Mayor's Youth Council Meeting.....5:30 pm
Conference Room-5th Floor Government Center

Wednesday, January 28

Commission for Citizens with Disabilities.....9:00 am
Conference Room-4C Lexington Public Library

MPO-Transportation Policy Committee Meeting.....1:30 pm
Council Chambers-2nd Floor Government Center

Thursday, January 29

Infill & Redevelopment Steering Committee Meeting.....8:30 am
Conference Room-7th Floor Phoenix Building

Storm Water Fee Task Force Meeting.....2:00 pm
Basement Conference Room-Central Library

Friday, January 30

No Meetings

Monday, February 2

No Meetings

LEXINGTON-FAYETTE URBAN COUNTY COUNCIL

WORK SESSION AGENDA

January 27, 2009

- I. Public Comment – Issues on Agenda**
- II. Requested Rezoning / Docket Approval – None**
- III. Approval of Summary-Yes, January 20, 2009-pp.3-7**
- IV. Budget Amendments – None**
- V. New Business, pp.9-19**
- VI. Continuing Business / Presentations**
 - A. Planning Committee**
 - B. Police & Fire Pension Fund Report**
- VII. Council Report**
- VIII. Mayor's Report – None**
- IX. Public Comment – Issues Not on Agenda**

ADMINISTRATIVE SYNOPSIS

New Business Items

- A. Authorization to Accept Donations from Hunter Presbyterian Church, Joshua C. Santana, PSC, and Richard and Judith Flewelling on Behalf of the Department of Social Services, Division of Adult & Tenant Services, Cardinal Valley Center. (037-09) (Helm)

This request will authorize the acceptance of donations from Hunter Presbyterian Church of \$500, Joshua C. Santana, PSC, of \$100, and Richard and Judith Flewelling of \$250 on Behalf of the Division of Adult & Tenant Services to sponsor the annual Holiday Celebration held at Cardinal Valley Center. **p.9**

- B. Authorization of an Exchange of Information Agreement with the Commonwealth of Kentucky, Finance & Administration Cabinet, Department of Revenue, on Behalf of LFUCG Department of Finance & Administration, Division of Revenue. (054-09) (O'Mara/Koch)

This request will authorize an Exchange of Information Agreement with the Kentucky Department of Revenue (KDOR) on behalf of LFUCG Division of Revenue for the sharing of information required for official government purposes only. **p.10**

- C. *Authorization to Purchase Rain Tainers for the Creation of the "Lily" Program as an Environmental Protection Agency (EPA) Green Infrastructure Project. (055-09) (Taylor)

This request will authorize the purchase of Rain Tainers and related parts at a cost not to exceed \$70,000 in FY2009 for the creation of the "Lily" Program as an EPA Green Infrastructure Project. This project will assist in fulfilling LFUCG's obligation to implement Supplemental Environmental Projects. This will be a cost-share program for citizens to purchase Rain Tainers. Funds are budgeted. **p.11**

- D. *Authorization to Amend Article I, Chapter 16 and Create Article X, Chapter 16 of the Code of Ordinances. (056-09) (Martin/Taylor)

This request will authorize an amendment to the Code of Ordinances of Article I of Chapter 16 and create Article X under Chapter 16 for the purpose of requiring proper maintenance, cleaning and repair of privately owned Stormwater control structures. The amendment to Article I is necessary to provide definitions for terms in Article X. The creation of Article X is in response to requirements found in LFUCG's Federal Consent Decree that was lodged with US District Court on March 14, 2008. **pp.12-19**

***EPA Consent Decree**

URBAN COUNTY COUNCIL
WORK SESSION SUMMARY
& TABLE OF MOTIONS

January 20, 2009

Councilwoman Gorton chaired the meeting. All Council Members were present except CM Gray and CMs Lawless, McChord, and Myers.

I. Public Comment – Issues on Agenda-Yes

Former CM Bill Farmer, Jr asked to speak after today's Parking Authority presentation.

II. Requested Rezoning / Docket Approval-Yes

A motion by CM Blues to place on the docket an ordinance amending Articles 28-4(h)(5); 28-5(h)(5); 17-3(c); and 17-5 of the zoning ordinance to allow additional signage in the Mixed-Use Community (MU-3) Zone, without a public hearing, seconded by CM Ellinger, passed without dissent.

A motion by CM Ellinger to approve the amended docket, seconded by CM James, passed without dissent.

III. Approval of Summary-Yes

A motion by CM Ellinger to approve the summary of 1/13/09, seconded by CM Beard, passed without dissent.

IV. Budget Amendments-Yes

A motion by CM Beard to approve the budget amendments, seconded by CM Ellinger, passed without dissent.

V. New Business

- A. Authorization of an Agreement on Behalf of the Office of the Urban County Council to the Fraternal Order of Firefighters of Lexington Fire Department, Inc. (036-09) (Langston)

- B. Authorization to Amend Section 23-5 of the Code of Ordinances Regarding the Department of Public Safety, Division of Police. (035-09) (Allen/ Bennett)
- C. Authorization of a Construction Operators' Cooperative Agreement with Kentucky American Water for Installation of a Waterline. (038-09) (Bastin/Bennett)
- D. Authorization of a Facility Usage Contract with the Fayette County Board of Education (FCBE) on Behalf of the Department of Public Safety, Division of Police. (039-09) (Bastin/Bennett)
- E. Authorization to Accept an Award from the Kentucky Office of Homeland Security on behalf of the Department of Public Safety, Division of Police. (042-09) (P. King/Bennett)
- F. Authorization to Submit Grant Application to the US Department of Justice, National Institute of Justice, on Behalf of the Department of Public Safety, Division of Police. (050-09) (P. King/Bennett)
- G. Authorization of an Agreement with Columbia Gas of Kentucky for Relocation of Utilities for the Clays Mill Road Improvements Project. (048-09) (P. King/Webb)
- H. Authorization of an Agreement with Kentucky Utilities Company (KU) for Relocation of Utilities for the Clays Mill Road Improvements Project. (051-09) (P. King/Webb)
- I. Authorization to Amend Resolution No. 737-2008 Regarding Payment to Kentucky Utilities Company for the Liberty / Todds Road Project. (052-09) (P. King/Webb)
- J. Authorization to Submit Nine (9) Grant Applications to the Kentucky Transportation Cabinet (KYTC) under the Congestion Mitigation and Air Quality (CMAQ) Program for FY2010 Projects. (053-09) (P. King /Webb)
- K. Authorization of a Claims Payment Agreement with Humana Insurance Company for Health Insurance Plans Platinum PPO, Gold PPO and Silver HDHP. (040-09) (Allen/Koch)
- L. Authorization to Submit a Grant Application to the Kentucky Department for Local Government on Behalf of the Urban County Council under the Neighborhood Stabilization Program. (049-09) (P. King/Koch)
- M. Authorization to Amend Section 21-5 of the Code of Ordinances in the Department of Environmental Quality, Division of Waste Management and the Chief Information Officer, Division of Computer Services. (041-09) (Allen/Taylor)

- N. Authorization of a Franchise Agreement with Level 3 Communications, LLC, for Telecommunications Franchise Services within Lexington-Fayette County. (044-09) (Cole)
- O. Authorization of a Franchise Agreement with TW Telecom of Kentucky, LLC for Telecommunications Franchise Services within Lexington-Fayette County. (045-09) (Cole)
- P. Authorization of an Agreement with Ikon Office Solutions, Inc. on Behalf of the Council Clerk's Office. (046-09) (Lamb/Kelly)
- Q. Authorization of Engagement Letters with Terry Sellars of Henry Watz Gardner Sellars and Gardner, PLLC, and Keith Moorman of Frost Brown Todd, PLLC, as Counsel for LFUCG. (047-09) (Askew)

A motion by CM Blues to approve new business items A-Q, seconded by CM Henson, passed without dissent.

VI. Continuing Business / Presentations

A. Corridors Committee Update

This update will be given at a later date.

B. Inter Governmental Committee Update

This update was given by CM James. There were 3 motions brought forward.

A motion by CM James to direct the Citizen's Advocate office to work with the CIO to produce a periodic program on GTV3 in order to let citizens know they have an impartial venue to report problems or complaints, seconded by CM Beard, passed without dissent.

A motion by CM James to direct the Citizen's Advocate office to work with the CIO and Council Office staff to identify software solutions for logging and tracking data which could also be used by Council Members and staff, seconded by CM Crosbie, passed without dissent.

A motion by CM James to require all outside boards/commissions to submit annual reports and meeting minutes to the LFUCG Administration for publication on the LFUCG web-site, seconded by CM Crosbie, passed without dissent.

C. Lexington & Fayette County Parking Authority Update

This update was done by Gary Means, Executive Director. Several CMs asked questions about the new parking meters. Former CM Bill Farmer Jr also spoke on this issue.

VII. Council Report

CM James-Sent congratulations to Pres. Obama.

CM Henson-Announced that there is a new bottlestop bus shelter on Versailles Rd; it is the first project of Arts in Motion.

A motion by CM Henson to refer to the Services Committee a proposal to remove on-street parking and install a center turn lane in the 1300 block of Alexandria Drive, seconded by CM James, passed without dissent.

CM Blues-Echoed CM James' comments about the historical transition of this afternoon-wished Pres. Obama all the best; announced 3 neighborhood association meetings: on 1/23, Brookfield Chase at 2 pm at the Northside Library and on 1/26 at 7 pm, Oakwood at their Shelter and Radcliff-Marlboro at their shelter.

CM Ellinger-A motion by CM Ellinger to place into Budget & Finance Committee the completed internal audit of the Div. of Community Correction, seconded by CM Beard, passed without dissent.

CM Crosbie-Announced that the next Citizen's Fire Academy class will start on Monday (1/26); thanked the FOF for having a fundraiser for their Shop w/a Firefighter program.

CM Stinnett-Announced that there will be a public meeting for Liberty Park on 2/10/09 at 6:30 pm at the Eastland Church of God; also announced the next 6th Dist. President's meeting will be held on next Tuesday (1/27/09) at 6:30 pm at Spencerian College.

CM Gorton-Stated that the Storm Water Fee Task Force met on 1/15 and the major item decided was that the fee will be based on 2500 sq. ft. ERU; the next meeting will be on 1/22/09 at 9:00 am at the Public Library-this topic will be expenses and costs for the Stormwater program; thanked Comm. Dhuwaraha (Rama) and his 'computer folk' for having the task force minutes online; announced that the newest CM, Doug Martin, will be sworn in on Thursday night before the 7 pm Council Meeting.

VIII. Mayor's Report-Yes

A motion by CM Blues to approve the Mayor's Report, seconded by CM Henson, passed without dissent.

CM Stinnett asked a question about the recommendation to the Black & Williams Community Center Board and CM Blues answered it.

IX. Public Comment-Issues not on the agenda-None

A motion by CM Ellinger to adjourn work session, seconded by CM Stinnett, passed without dissent.

Work Session was adjourned at 4:32 pm.

Budget Information For New Business Items
January 27, 2009 Work Session

Item	Number	Amount	Fund	Name / Description
A	037-09	850	1103	Donation Fund
B	054-09	NA		
C	055-09	32,950	1115	Urban Services District Fund
		37,050	1140	Storm Water Fund – EPA
D	056-09	NA		



037-09

Mayor Jim Newberry

LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT
Division of Adult & Tenant Services

TO: MAYOR JIM NEWBERRY
LEXINGTON FAYETTE URBAN COUNTY COUNCIL

FROM: CHERYL L. TALBERT, DIRECTOR *CT*
ADULT & TENANT SERVICES

THROUGH: MARLENE HELM
COMMISSIONER OF SOCIAL SERVICES

DATE: DECEMBER 18, 2008

SUBJECT: DONATIONS

This action authorizes the Mayor to accept donations from the following individuals and organizations on behalf of the Division of Adult & Tenant Services, Cardinal Valley Center:

Hunter Presbyterian Church-\$500

Joshua C. Santana, PSC-\$100

Richard and Judith Flewelling-\$250

Monetary donations were made specifically for the annual Holiday Celebration held at the center.

HORSE CAPITAL OF THE WORLD

1055 Industry Rd. Lexington, KY 40507 (859) 258-3810 www.lfucg.com

RECEIVED

DEC 19 2008

COMMISSIONER



054-09

Mayor Jim Newberry
LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT
Division of Revenue

MEMORANDUM

TO: Mayor Jim Newberry *KXK*
VIA: Kyna Koch
Commissioner of Finance
FROM: Bill O'Mara *WPO*
DATE: January 13, 2009
RE: Exchange of Information Agreement

The Kentucky Revenue Cabinet has requested an updated Exchange of Information Agreement with Lexington-Fayette Urban Co. Government (LFUCG). The contract allows the Kentucky Revenue Cabinet and the Division of Revenue of LFUCG to share information needed for official government purposes only. The contract limits the people allowed to request and receive any shared information to those listed in the contract.

Please approve the contract and execute the attached copies.

If you have any questions, please contact me at 258-3354.



*055-09

Mayor Jim Newberry

LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT

Commissioner's Office

Department of Environmental Quality

TO: Jim Newberry, Mayor
Urban County Council

From: Cheryl Taylor, Commissioner
Department of Environmental Quality

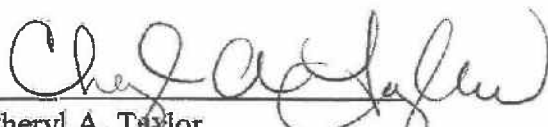
Date: January 20, 2009

Subject: Request Council Authorization to Purchase Rain Tainers for
Environmental Protection Agency (EPA) Green Infrastructure Projects for
Consent Decree.

The Department of Environmental Quality requests the purchase of Rain Tainers for the creation of the "Lily" program as a green infrastructure project for the EPA consent decree. This project would assist in fulfilling the Lexington-Fayette Urban County Government's obligation to implement Supplemental Environmental Projects (SEPs). The "Lily" program will be a cost-share program for citizens to purchase Rain Tainers. The container and related parts will not exceed \$70,000 in FY 2009 budget.

Funds for purchase of the Rain Tainers are budgeted in accounts:

Fund	Dept ID	Section	Account	Amount
1140	313102	3121	75101	\$37,050
1115	313102	3121	75101	\$32,950


Cheryl A. Taylor
Commissioner of Environmental Quality

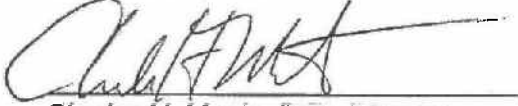
HORSE CAPITAL OF THE WORLD



*056-09

Mayor Jim Newberry
LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT
Division of Water Quality

To: Mayor Jim Newberry
Urban County Council

From: 
Charles H. Martin, P.E., Director
Division of Water Quality

Date: January 21, 2009

Re: Amend Code of Ordinance Chapter 16, Article I / Create Code of Ordinance Chapter 16,
Article X – Privately Owned Stormwater Control Maintenance

The purpose of this memorandum is to request an amendment to LFUCG Code of Ordinances Chapter 16, Article I and to create a Chapter 16, Article X for the purpose of requiring proper maintenance, cleaning and repair of privately owned stormwater control structures.

Amendment of Chapter 16, Article I is necessary to provide definitions for terms used in Article X. Creation of Article X is in response to requirements found in LFUCG's Federal Consent Decree, which was lodged with U.S. District Court on March 14, 2008. The specific requirement is as follows:

By January 31, 2009, develop and propose an ordinance to the UCC that would require proper maintenance, cleaning, and repair of privately-owned stormwater control structures which were required under approved plans or ordinances.

Questions regarding this memorandum should be directed to Charles Martin at 425-2455.

*056-09

ORDINANCE NO. _____ - 2009

AN ORDINANCE RELATING TO STORMWATER DISCHARGES CREATING SECTION 16-1(f) OF THE CODE OF ORDINANCES DEFINING TERMS AND CREATING ARTICLE X OF CHAPTER 16 OF THE CODE OR ORDINANCES TO ENSURE COMPLIANCE WITH THE URBAN COUNTY GOVERNMENT'S MS4 PERMIT AND REDUCE IMPACTS TO PUBLIC HEALTH, WELFARE AND THE ENVIRONMENT DUE TO STORMWATER RUNOFF; INCORPORATING THE STORMWATER MANUAL BY REFERENCE; EXPRESSING INTENT TO ENSURE ADEQUATE MAINTENANCE OF STORMWATER CONTROL DEVICES ON PRIVATE PROPERTY; PROVIDING THAT IN RESIDENTIAL AREAS WHERE A PUBLIC EASEMENT FOR A STORMWATER CONTROL DEVICE EXISTS THE PRIVATE PROPERTY OWNER IS RESPONSIBLE FOR NON-STRUCTURAL MAINTENANCE OF ANY STORMWATER CONTROL DEVICE; PROVIDING THAT IN RESIDENTIAL AREAS WHERE A PUBLIC EASEMENT FOR A STORMWATER CONTROL DEVICE EXISTS THE URBAN COUNTY GOVERNMENT IS RESPONSIBLE FOR ALL STRUCTURAL REPAIRS NECESSARY TO MAINTAIN THE STORMWATER DETENTION FUNCTION OF THE STORMWATER CONTROL DEVICE BUT THE GOVERNMENT SHALL NOT UNDERTAKE ANY ACTION TO MAINTAIN THE STORMWATER CONTROL DEVICE AS A RETENTION FACILITY THAT PERMANENTLY CONTAINS WATER; PROVIDING THAT IN A RESIDENTIAL AREA WHERE NO PUBLIC EASEMENT EXISTS, THE PROPERTY OWNER IS RESPONSIBLE FOR ALL NON-STRUCTURAL MAINTENANCE AND STRUCTURAL MAINTENANCE OF THE STORMWATER CONTROL DEVICE; PROVIDING THAT NO TREES, STRUCTURES, EQUIPMENT, UNSAFE CONDITIONS, OR CONDITIONS THAT ADVERSELY AFFECT CONTROL OF WATER QUANTITY OR WATER QUALITY SHALL BE PERMITTED IN STORMWATER CONTROL DEVICES IN RESIDENTIAL AREAS; PROVIDING THAT ALL MAINTENANCE AND REPAIR OF STORMWATER CONTROL DEVICES IN COMMERCIAL AND INDUSTRIAL AREAS IS THE RESPONSIBILITY OF THE OWNER OR MANAGER OF THE PROPERTY; PROVIDING FOR NOTICE OF ANY MAINTENANCE OR REPAIR PROBLEMS; PROVIDING THAT WHERE A STORMWATER CONTROL DEVICE IS LOCATED FULLY OR PARTIALLY UNDERGROUND, THE OWNER OR MANAGER SHALL CAUSE AN ANNUAL INSPECTION TO BE PERFORMED AND REPORTED TO THE DIVISION OF WATER QUALITY AND PROVIDING THAT NO TREES, STRUCTURES, EQUIPMENT, UNSAFE CONDITIONS, CONDITIONS THAT ADVERSELY AFFECT CONTROL OF WATER QUANTITY OR WATER QUALITY SHALL BE PERMITTED IN STORMWATER CONTROL DEVICES IN COMMERCIAL AND INDUSTRIAL AREAS.

WHEREAS, the mission of the stormwater management program of the Urban County Government includes safely and efficiently managing stormwater runoff,

enhancing public health and safety, protect lives and property, and minimize the discharge of pollutants in stormwater in compliance with applicable federal and state laws, and enhance the natural resources of the community; and

WHEREAS, the Urban County Government, the United States Environmental Protection Agency, and the Commonwealth of Kentucky have entered into a Consent Decree in a case styled *United States, et al. v. Lexington-Fayette Urban County Government*, United States District Court for the Eastern District of Kentucky, Case No. 5:06-CV-00386, that provides for an ordinance be developed and proposed to the Urban County Council by January 31, 2009 that would require proper maintenance, cleaning, and repair of privately-owned stormwater control structures which were required under approved plans or ordinances; and

WHEREAS, the responsibility for maintenance, cleaning, and repair of stormwater control structures is properly shared by private property owners and the Urban County Government depending on the location, property rights, and type of structure;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 - That Subsection 16-1(f) be and hereby is created to read as follows:

(f) With relation to article X of this chapter and any permits issued pursuant thereto the following definitions apply:

- (1) "Agricultural Activities" are activities related to planting of crops or pasture associated with farming or the horse industry, excluding construction for buildings or structures associated with such activities.
- (2) "Authorized Enforcement Agency" means employees or designees of the director of the division of environmental policy.

- (3) "Commercial area" means an area developed for commercial uses including retail, offices, apartment buildings, townhouse/condominium developments, golf courses or other non-residential, non-agricultural, or non-industrial uses.
- (4) "CWA" means the Clean Water Act, also referred to as "the Act" or the "Federal Water Pollution Control Act" as subsequently amended (33 U.S.C. Section 1251 et seq.).
- (5) "Detention basin" or "detention pond" means a stormwater quantity control device that is designed to control peak discharge during a rain event and to completely drain after the design storm passes.
- (6) "Drainage Way" means any channel that conveys surface runoff throughout the site.
- (7) "Hazardous Materials" means any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.
- (8) "Industrial area" means an area developed for industrial activity.
- (9) "Industrial Facility" means any facility located within LFUCG's jurisdictional boundary from which there is a "stormwater discharge associated with industrial activity" as defined in 401 KAR 5:002 Section 1, excluding Construction Sites. It also includes SARA Section 313 facilities referenced in 401 KAR 5:060 Section 12 that have a reasonable potential to discharge pollutants of concern at significant levels in stormwater from industrial activities.
- (10) "Manager" means a person who manages, controls, operates, maintains, and/or directs a commercial or industrial facility or activity.
- (11) MS4, or "Municipal Separate Storm Sewer System", is the conveyance, or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels and storm drains) that is owned or operated by LFUCG that discharges to waters of the United States:
 - a. designed or used for collecting or conveying stormwater;
 - b. which is not combined sewer; and
 - c. which is not part of a Publicly Owned Treatment Works (POTW) as defined at KRS 224.01-010.
- (12) "Person" means any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.
- (13) "Residential area" means an area which has been developed for single family or two-family dwelling units.
- (14) "Retention basin" or "retention pond" means a basin or pond that has a permanent pool exclusive of basins or ponds on property used solely for agricultural activities.
- (15) "Stormwater" means stormwater runoff, snowmelt runoff, surface runoff and drainage.

- (16) "Stormwater control device" means any detention basin, detention pond, drainage way, extended detention basin, retention basin, catch basin, or any other structure or equipment designed to control stormwater quantity or improve stormwater quality.

Section 2 - That Article X of Chapter 16 of the Code of Ordinances be and hereby is Created to read as follows:

Article X. STORMWATER DISCHARGES.

A. General

Sec. 16-84. Purpose and Intent.

The purpose of this Article is to set forth ordinances that will ensure compliance with the urban county government's MS4 permit regulations implementing the Clean Water Act and reduce impacts to public health, welfare, and the environment due to stormwater runoff from public and private properties, including flooding and property damage.

Sec. 16-85. Stormwater Manual incorporated.

The urban county government Stormwater Manual, adopted in 2009, is incorporated herein by reference provided that in the event of any conflict between the manual and this Article the provisions of this Article shall apply.

B. Maintenance of Privately Owned Stormwater Controls

Sec. 16-86. Purpose and intent, applicability.

(a) The purpose of sections 16-87 and 16-88 is to ensure adequate maintenance of stormwater control devices located on private property.

(b) These sections apply to any stormwater control device that is entirely or partially located on private property.

Sec. 16-87. Stormwater control devices in residential areas.

- (a) In a residential area where a public easement for a stormwater control device exists, the private property owner is responsible for non-structural maintenance of any detention basin, detention pond, retention basin, retention pond or any other stormwater control device located on the owner's property, including but not limited to mowing the area, including any embankment, removing algae and all debris that accumulates in the basin, including litter and tree limbs, sodding or

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- seeding bare areas, including areas on the embankment, and taking care of any landscaped areas such as trees and shrubs.
- (b) In a residential area where a public easement for a stormwater control device exists, the urban county government is responsible for all structural repairs, maintaining the integrity of any embankment and the structural items in the embankment, including concrete, pipe, gabions, stone, spillways, headwalls, repairing eroded areas on the embankment that threaten the stability of the embankment, repairing paved ditches and inlet structures in the basin, removing excess silt that affects the functionality of the stormwater control device and removing large debris that obstructs any outlet pipes or spillways of any dam provided the above-described actions are necessary to maintain the stormwater detention function of the stormwater control device. The urban county government shall not undertake any action, including, but not limited to, replacement of a liner, to maintain the stormwater control device as a retention facility that permanently contains water.
- (c) In a residential area where no public easement exists, the property owner is responsible for non-structural maintenance of any detention basin, detention pond, retention basin, retention pond or any other stormwater control device located on the owner's property, including but not limited to mowing the area, including any embankment, removing algae and all debris that accumulates in the basin, including litter and tree limbs, sodding or seeding bare areas, including areas on the embankment, and taking care of any landscaped areas such as trees and shrubs and is also responsible for all structural repairs, maintaining the integrity of any embankment and the structural items in the embankment, including concrete, pipe, gabions, stone, spillways, headwalls, repairing eroded areas on the embankment that threaten the stability of the embankment, repairing paved ditches and inlet structures in the basin, removing excess silt that affects the functionality of the stormwater control device as directed by the urban county government, and removing large debris that obstructs any outlet pipes or spillways of any dam.
- (d) No trees shall be planted on any dam structure associated with a stormwater control device.
- (e) No structures or equipment including but not limited to, fences, gazebos, swimming pools, trampolines, or buildings shall be placed in a stormwater control device.
- (f) No fill dirt shall be placed in a stormwater control device without prior approval by the director, division of water quality.
- (g) The property owner is responsible for taking reasonable care to ensure that a stormwater control device does not contain conditions that are unsafe or that

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adversely affect water quality including, but not limited to, leaving tools or equipment or misusing pesticides and/or herbicides in the basin.

(h) The property owner shall ensure that no equipment, structures, materials, or substances are located in the easement that may adversely affect the performance of a stormwater control device in controlling stormwater quantity or that adversely affect water quality.

(i) Nothing herein shall preclude the urban county government from assuming responsibility to maintain any stormwater control device pursuant to contract, easement, or other legal arrangement.

Sec. 16-88. Stormwater Controls in Commercial and Industrial Areas.

- (a) Maintenance and repair of retention and detention basins and other stormwater control devices located on property used for commercial or industrial purposes is the responsibility of the property owner and the manager of the property who shall ensure the facilities are operating as intended.
- (b) The property owner and/or manager of the property may be notified in writing by the division of water quality of any problems or maintenance or repair concerns that must be addressed or corrected, such as removing debris from the basin, repairing eroded areas on the embankment, replacing a crushed pipe, or improving embankment stability.
- (c) On property where a stormwater control device is located fully or partially underground, the owner and manager of the property shall be responsible for causing an inspection of the facility to be performed annually and shall submit an annual inspection report to the division of water quality by January 31 of each year for the prior calendar year. The inspection report shall be prepared by a Professional Engineer licensed to practice in Kentucky and shall address the condition of the device for meeting its intended purpose.
- (d) No trees shall be planted on any dam structure associated with a stormwater control device.
- (e) No structures, including but not limited to, fences, gazebos, swimming pools, trampolines, or buildings shall be placed in a stormwater control device.
- (f) No fill dirt shall be placed in a stormwater control device without prior approval by the director, division of water quality.
- (g) The property owner or manager is responsible for taking reasonable care to ensure that a stormwater control device does not contain conditions that are unsafe or that adversely affect water quality including, but not limited to, leaving tools or equipment or misusing pesticides and/or herbicides in a basin.

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(h) The property owner or manager shall ensure that no structures, materials, or substances are located in the stormwater control device that may adversely affect its performance in controlling stormwater quantity or that adversely affect water quality.

Section 3 – That this Ordinance shall be effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL:

MAYOR

ATTEST:

CLERK OF THE URBAN COUNTY COUNCIL

PUBLISHED:

00195926.DOC