



Lexington-Fayette Urban County Government
DEPARTMENT OF ENVIRONMENTAL QUALITY

Jim Newberry
Mayor

Cheryl Taylor
Commissioner

Repair, Maintenance, and Ownership of Stormwater Control Devices
Policy Statement

To ensure compliance with the Clean Water Act and to reduce adverse effects to the environment and to public health and welfare, the Lexington-Fayette Urban County Council has amended Section 16-1 of the Code of Ordinances. That amendment specifically relates to the ownership and maintenance of detention basins and retention ponds. This policy provides strict guidance on the activities and procedures necessary to apply provisions of that ordinance. In the event of any apparent conflict between this policy and the ordinance, the ordinance shall apply.

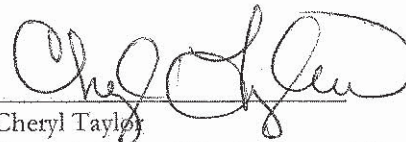
1. Maintenance of detention basins, retention ponds, and other stormwater control devices in residential areas with a public easement is a shared responsibility between the Lexington-Fayette Urban County Government (LFUCG) and the property owner. Access for LFUCG employees, contractors, and needed equipment is important. The LFUCG can not accept any maintenance responsibility if permanent access not available.
 - 1.1. Private property owners are responsible for the following non-structural maintenance activities in and around detention basins, retention ponds, and other stormwater control devices on the owner's property.
 - 1.1.1. Except for a reasonable uncut buffer meant for erosion control along a water body, all mowing shall meet standards established by ordinance (*Section 12-5, et al, of the Code of Ordinances*).
 - 1.1.2. Algae removal should be completed to the satisfaction of the property owners; the LFUCG currently has no requirements pertaining to algae removal.
 - 1.1.3. Litter, trash, and minor debris must be regularly removed.
 - 1.1.4. Fallen tree limbs smaller than twelve inches in diameter must be removed.
 - 1.1.5. Dead trees and fallen trees with a trunk diameter less than twelve inches (as measured four and one-half feet above the tree's ground line) must be removed.
 - 1.1.6. Bare areas must be replanted with either sod or seed to minimize erosion.
 - 1.1.7. Landscaping items, such as trees and shrubs, should be maintained to assure survival.
 - 1.2. The LFUCG is responsible for the following structural repairs and maintenance in and around detention basins, retention ponds, and other stormwater control devices. Employees of the Division of Water Quality (DWQ) shall have the sole authority to determine the need for such repairs and maintenance. The LFUCG will not accept this responsibility if permanent access, as stated above, is not available.
 - 1.2.1. Certain activities to secure the integrity of the basin or pond will be completed when the DWQ determines them to be needed.
 - 1.2.1.1. Severe erosion or other structural deficiencies that threaten the embankment, dam, or impoundment will be repaired to assure stability and function.
 - 1.2.1.2. Excess silt that threatens the ability of the basin or pond to act as a stormwater control device will be removed. Excess silt below normal pool level will not be removed.
 - 1.2.1.3. Large debris, including tree limbs twelve inches in diameter and larger, that threatens the ability of the basin or pond to act as a stormwater control device will be removed.

- 1.2.1.4. Dead trees and fallen trees with a trunk diameter twelve inches and larger (as measured four and one-half feet above the tree's ground line) will be removed.
- 1.2.2. The DWQ is responsible for the structural repair of the following items when deemed necessary to ensure the stability of an embankment or to maintain the function of the stormwater control device.
 - 1.2.2.1. Pipes that are part of the Municipal Separate Storm Sewer System (MS4);
 - 1.2.2.2. Gabion baskets used as retaining walls or erosion control structures;
 - 1.2.2.3. Concrete headwalls that are part of the MS4;
 - 1.2.2.4. Pond and basin spillways; and
 - 1.2.2.5. Paved ditches used to transport stormwater through a detention basin.
- 1.2.3. The LFUCG shall not take any action to assure the continuance of a permanent pool in a retention pond.
- 1.3. The DWQ will conduct periodic inspections of detention basins, retention ponds, and stormwater control devices in residential areas. The DWQ will notify the property owner of deficiencies and may require that those deficiencies be corrected within a specified time.
- 2. Maintenance of detention basins, retention ponds, and stormwater control devices in an area without a public easement is the sole responsibility of the property owner.
 - 2.1. All maintenance and repair activities, including those outlined in section 1, are the responsibility of the property owner.
 - 2.2. The DWQ will conduct periodic inspections of detention basins, retention ponds, and stormwater control devices. The DWQ will notify the property owner of deficiencies and may require that those deficiencies be corrected within a specified time.
- 3. Maintenance of detention basins and retention ponds in commercial and industrial areas is the sole responsibility of the property owner.
 - 3.1. All maintenance and repair activities, including those outlined in section 1, are the responsibility of the property owner.
 - 3.2. The DWQ will conduct periodic inspections of detention basins, retention ponds, and stormwater control devices in commercial and industrial areas. The DWQ will notify the property owner of deficiencies and may require that those deficiencies be corrected within a specified time.
- 4. The following General Provisions are applicable to all detention basins, retention ponds, and stormwater control devices.
 - 4.1. Trees shall not be planted on the dam or embankment of any detention basin or retention pond.
 - 4.2. Fill may not be placed in a detention basin, retention pond, or stormwater control structure without prior written permission from the director of the DWQ or the director's designee.
 - 4.3. Residential property owners and managers of the commercial and industrial properties shall take reasonable care to assure the following provisions.
 - 4.3.1. Unsafe conditions or conditions detrimental to water quality are not present within a detention basin, retention pond, or stormwater control device.
 - 4.3.2. No structures, materials, or substances are located within the detention basin, retention pond, or stormwater control device that may adversely alter its ability to control the quantity or quality of stormwater runoff.
- 5. Under all the following conditions, ownership of a detention basin may be transferred to the LFUCG.
 - 5.1. The basin shall not have a permanent pool of water.
 - 5.2. The basin exists because a residential area (including single family residences, duplexes, townhouses, or condominiums) was developed, and it was constructed from an approved plan.
 - 5.3. The basin was designed for and functions to control flooding or improve water quality.
 - 5.4. As measured at the top of the dam, the basin must impound more than one acre of water when full.

- 5.5. There is sufficient access to the basin, protected by a permanent easement or right of way, for staff, contractors, and equipment to complete maintenance and repairs.
- 5.6. The basin is not part of the back yard or side yard of a residence, and when the basin is full, water is farther than fifty feet from any residence.
- 5.7. All the land containing the basin must be transferred to the LFUCG via a fee simple deed.
- 5.8. The property owners must acknowledge that the LFUCG will only provide certain minimum prioritized maintenance, listed in the deed of transfer.
- 5.9. There is an established procedure for transferring a basin.
 - 5.9.1. The property owners must ensure that the stated criteria are met, and they must ask the DWQ to review the site for eligibility.
 - 5.9.2. If the DWQ concurs, the property owners must formally approve the transfer and submit a written request to the DWQ.
 - 5.9.3. The property owners must supply all legal documents necessary for the transfer of ownership.
 - 5.9.4. The Department of Law schedules the transfer of the property, including required action by the Urban County Council to accept the transfer.



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Cheryl Taylor
Commissioner of Environmental Quality

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