

Stormwater Facility Maintenance Problems and Proposed Solutions

Problem: Maintenance responsibility for many facilities is unassigned or unclear.

Proposed Solution: Assign clear responsibility. This may vary depending on the owner(s) of the facility; a recommended system is shown in the table below.

Problem: There is no inspection of facilities to ensure that they are operational, or even still in existence.

Proposed Solution: Facilities serving 5,000 square feet or less impervious surface (which includes most homes) shall be inspected once every three years; facilities serving 5,001- 10,000 square feet impervious surface shall be inspected every two years; facilities serving more than 10,000 square feet impervious surface shall be inspected at least once a year. The inspection may be quick, sufficient to establish that the facility exists and is not obviously compromised.

Problem: Even if facilities are failing or don't exist, the property owner won't fix them.

Proposed Solution: The property owner is given 30 days to correct this problem. If they fail to, the jurisdiction corrects the problem and bills the owner.

Problem: Homeowners' associations don't maintain their facilities, and eventually dissolve.

Proposed Solution: Require the HOA to include provisions in their recorded declaration to ensure membership is mandatory, the HOA has lien authority, that it maintains adequate funding at all times, and that it cannot dissolve without another entity accepting maintenance responsibility. Alternatively, the jurisdiction can accept all responsibility.

Problem: Individual homeowners won't maintain their facilities and will eventually destroy them.

Proposed Solution: Inspections ensure that if facilities fall into disrepair, they are replaced or corrected. The inspection/maintenance schedule is recorded on the deed and passed to future owners.

Problem: There is insufficient funding for inspection and maintenance.

Proposed Solution: Establish a stormwater utility to provide adequate funding.

Owner/Type	Minimum Inspection Frequency	BMP Maintenance Responsibility
Facilities serving more than 10,000 sq. ft. impervious surface	Annual	Owner*
Facilities serving 5,001-10,000 sq. ft. impervious surface	Every 2 years	Owner or HOA*
Facilities serving less than 5,000 sq. ft. impervious surface	Every 3 years	Owner
Government-Owned BMPs	Annual	Government

* Government may also choose to accept maintenance responsibility, if desired.

Key Elements of Maintenance and Inspection Provisions in the Etowah HCP Stormwater Ordinance

Definition: *Inspection and Maintenance Agreement and Covenant*

- Written agreement providing for the long-term inspection and maintenance of stormwater management facilities. Recorded on deed.

3.4. Stormwater Management Inspection and Maintenance Agreement and Covenant

- Prior to construction, stormwater facilities must have an approved inspection/maintenance plan unless stormwater facility deeded to local jurisdiction. Plan is binding for current and subsequent owners and recorded in deed.
- Responsibility for stormwater facilities remains with the property owner and passes to future owner unless deeded to local jurisdiction.
- Maintenance plan must include an inspection/maintenance schedule.

7.1. Maintenance Responsibility

- The owner of the property shall maintain stormwater facilities as described in maintenance agreement and schedule.
- If the owner of stormwater facility is an owner's association, unit owners' association, or homeowners' association, the owner shall provide the local jurisdiction a copy of the association's recorded declaration. The declaration must provide:
 - That stormwater facility is commonly owned and will be maintained per maintenance schedule;
 - That membership in association is mandatory for all current and future owners;
 - That association has lien authority to ensure the collection of dues;
 - That stormwater maintenance has funding priority over other expenses, unless local jurisdiction overrides;
 - That funds for stormwater management be kept separate from other funds;
 - That funding be available at all times for repairs;
 - That, to the extent permitted by law, the association cannot dissolve w/o passing stormwater maintenance responsibility to another legal entity.
- The local jurisdiction can accept responsibility for stormwater facilities.
- Stormwater facilities must be inspected to identify maintenance needs and comply with maintenance plan.

7.2 Maintenance Inspections

- Owner/responsible party must maintain stormwater facility per maintenance plan.
- If stormwater management facility not maintained and/or becomes a danger to public safety/public health the local jurisdiction will notify responsible party.

- Frequency of inspections ranges from annually to once every three years and depends on the number of square feet of impervious surface that the facility serves. Inspections are not required to involve water quality sampling, soil sampling, or tests of functionality. Inspections will be primarily visual to ensure that BMP is installed and function is not noticeably compromised.
- Inspection reports shall be submitted to the local jurisdiction for all stormwater management systems.
- Owner has 30 days to correct deficiencies found in inspection.

7.3. Right-of-Entry for Inspection

- Local jurisdiction can enter property for inspection.

7.4. Records of Maintenance Activities

- Responsible party shall provide records of maintenance to local jurisdiction.

7.5. Failure to Maintain

- If owner fails to maintain facility, local jurisdiction can perform maintenance and bill owner, place lien on property and place property on *ad valorem* tax bill.