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## **Drainage Easement Policy**

In this policy, “the County” means Warren County Fiscal Court, acting through Warren County Stormwater (WCS) as its designated stormwater authority, and “Director” means the Director of WCS or their designee. This policy addresses accepted stormwater infrastructure located within County right-of-way and drainage easements recorded on private property, as identified in each provision below.

- a. The County’s responsibilities under this section are as follows:
  - i. The County will repair and maintain accepted stormwater infrastructure located within County right-of-way.
  - ii. The County will repair drainage structures (headwalls, drop inlets, drywells, or other infrastructure) within a single or two-family residential drainage easement.
  - iii. The County will repair sinkhole collapses occurring within a single or two-family residential drainage easement.
  - iv. The County is not responsible for erosion repairs within any drainage easement, unless the erosion causes visible undermining or an imminent risk to the function of a headwall, drop inlet, drywell, or other appurtenance, as determined by the Director or designee.
  - v. The property owner is responsible for repairing eroded areas and maintaining vegetation in compliance with County Ordinances.
- b. The property owner shall be responsible for all necessary repairs for any sinkhole collapse or damage to drainage structures which occur in a drainage easement other than a single or two-family residential.
- c. Permanent structures, including but not limited to buildings, garages, decks, pools, and similar improvements, are prohibited within a drainage easement unless approved in writing by the Director or designee under paragraph d. The County shall not be responsible for any items within a drainage easement (trees, playhouses, fences, storage sheds, or other structures). If these items must be removed to make needed repairs, The County is not obligated to replace or reset following the corrective work. The County has the right to prohibit the placement of such items that may interfere with the conveyance of stormwater in a drainage easement. All drainage easements shall be maintained by the respective owner(s) of the respective lot(s) over which said easements cross and no drainage easements shall be altered in any way by filling, changing the contour thereof, or by building any structure thereon, except upon prior written approval of the Director or designee.
- d. The Director or designee may grant written approval for a permanent structure or alteration otherwise prohibited under this policy only where the structure or alteration does not impede or impound the flow of stormwater, create significant erosion, introduce pollutants or sediment that degrade water quality, or restrict access to the easement for inspection or maintenance, and the property owner agrees in writing to assume all risk and liability for damage resulting from stormwater flow across the property. Satisfaction of the foregoing conditions does not entitle the property owner to approval. The Director or designee retains sole discretion to deny any request under this paragraph, notwithstanding compliance with the stated conditions, where denial is deemed necessary to protect the public health, safety, the function of the County's stormwater system, or the purposes of this policy. Any request for approval may require a revised drainage study prepared by a licensed civil engineer, demonstrating that the proposed structure or alteration offsets any impact on the easement's function, which The County may review and approve before work begins. Where a structure is permitted to remain under this clause, The County may remove all or part of it as necessary to perform maintenance or repairs, and the property owner is solely responsible for its condition and reconstruction thereafter.

# Understanding Drainage Easements on Your Property

*A Guide for Warren County Property Owners*

Drainage easements affect what you can build, plant, and change on your property. This guide explains what a drainage easement is, how to find yours, and what it means for property improvements. It summarizes the Warren County Stormwater (WCS) Drainage Easement Policy in plain language. WCS operates on behalf of Warren County Fiscal Court (the County) to manage drainage easements and stormwater infrastructure countywide, excluding the City of Bowling Green, and this guide uses “WCS” and “the County” interchangeably. Where this guide and the Policy differ, the Policy governs.

## What Is a Drainage Easement?

If you own property in Warren County, particularly in a subdivision, there is a good chance a drainage easement runs through it. A drainage easement is a legal right, recorded against your property, that allows stormwater to flow across a designated portion of your land. Easements exist to prevent flooding, manage stormwater runoff, and protect water quality in local waterways such as streams, creeks, and caves.

Some easements are larger, standalone tracts that contain a retention or detention basin rather than a pipe or ditch. These basins store stormwater, either permanently (retention) or temporarily during and after a storm (detention), before releasing it at a controlled rate.

Drainage easements are recorded in your property's deed or plat and typically run along property lines, rear yards, or side yards.

Understanding your easement matters because it affects what you can build, where you can landscape, and how you maintain your property, due to the potential impacts these changes can have on drainage, flooding, and water quality. Building or altering land within an easement without approval can lead to code violations, required removal of structures, and disputes with neighbors.

## How to Find Your Drainage Easement

Before starting any construction, landscaping, or drainage work, confirm exactly where your easements are and what they allow.

### Check your property survey

Your survey is the most reliable source. Look for dashed lines labeled "D.E." (drainage easement), "P.U.E." (public utility easement), or "U.E." (utility easement).

### Review your deed and plat

Your deed's legal description often references easements. The subdivision plat, filed with the County Clerk when your neighborhood was developed, shows every drainage easement in the development. Plat records are available through the Warren County Clerk or the City-County Planning Commission.

### Request a title search

If your property has changed hands multiple times or has a complex easement history, a title search should reveal all recorded easements, including any not shown on your survey.

## What You Can and Cannot Do Within a Drainage Easement

Anything within a drainage easement must not interfere with stormwater flow, introduce pollutants or sediment that degrade water quality, or block The County's ability to access it for maintenance or repair. The examples below apply that principle to common situations.

### Generally not allowed

- Permanent structures. Fences, sheds, pools, additions, and other permanent structures are not allowed within a drainage easement without an approved exception. WCS can require removal at the owner's expense.
- Grade changes. Altering ground elevation within an easement can redirect water and cause flooding on neighboring properties.
- Obstructing flow. Dense hedges, raised beds, and fill material can block the intended drainage path.
- Paving over swales. Many easements contain swales or shallow graded channels. Paving over a swale prevents it from functioning and can violate County ordinances.

### Generally allowed

- Grass and low ground cover.
- Small plantings and green stormwater infrastructure, such as shrubs, flowers, rain gardens, and bioswales. Check with WCS before planting, since some trees are acceptable and others are not, depending on maintenance access and infrastructure conflicts.
- Removable items, such as patio furniture and potted plants, that can be relocated quickly if WCS needs access.

## Retention and Detention Basins

Retention and detention basins are treated differently from linear drainage easements because they store water rather than convey it. Within a basin easement:

- No filling, grading, or planting that would reduce the basin's storage volume.
- No structures or plantings on the embankment or over the outlet structure.
- Mowing and side-slope maintenance responsibilities depend on whether the basin is maintained by WCS, an HOA, or the property owner; check your plat and any HOA covenants to confirm which applies.

Contact WCS before undertaking any work at or near a retention or detention basin.

## How Drainage Easements Affect Property Improvements

### Building permits and setbacks

When you apply for a building permit, the reviewing agencies check your proposed construction against recorded easements, among other things. A project that encroaches on a drainage easement will not be approved. This is one of the most common causes of permit delays in Warren County.

### Fences

Fences within drainage easements are one of the most common violations. A fence is not allowed within an easement unless WCS grants a written exception. Because an approved fence must still allow water to pass freely, plank and privacy fencing are not eligible, and WCS may remove any part of an approved fence to perform maintenance without obligation to rebuild it.

### Driveways and pavement

Extending a driveway or adding pavement or gravel within a drainage easement can block stormwater flow. Adding pavement within an easement typically requires an engineered redesign of the drainage plan, reviewed and approved by WCS.

## **Modifying, Relocating, or Requesting an Exception**

Some recorded drainage easements do not contain constructed stormwater infrastructure. In these cases, a property owner may request that WCS grant an exception allowing a structure to remain without changing the recorded easement or drainage plan. The property owner may request permission to modify or relocate the easement; however, complete removal of a recorded easement is rarely granted; modification, relocation, or exception are the more common paths and require a plat revision.

### **Modifying or Relocating an Easement**

A drainage study revision, prepared by a licensed civil engineer, is required for any modification or relocation of a recorded easement. The study must show that the proposed change offsets any impact on the easement's function. WCS and Warren County Public Works must review and approve this plan before the recordation of a revise plat.

### **Requesting an Exception**

An exception allows a structure to remain in place without changing the recorded easement or drainage plan. An exception is granted only where the structure does not impede or impound stormwater flow, does not introduce pollutants or sediment that degrade water quality, access for inspection and maintenance is preserved, and the owner agrees in writing to assume all risk for damage from stormwater. WCS may require a drainage study if needed to confirm these conditions are met, but a full drainage study revision is not automatically required for every exception request. Even where an exception is granted, WCS may still remove all or part of the structure to perform maintenance, and the owner is responsible for its condition and reconstruction afterward, at their own expense. These requests are evaluated case by case and are not guaranteed. Full terms are set out in the WCS Drainage Easement Policy.

## **Neighbor Disputes**

Drainage easements often run along shared property lines, which makes them a common source of disputes between neighbors. Frequent scenarios include:

- Blocked swales, where one property fills or obstructs a swale and causes water to pond on a neighbor's property.
- Unauthorized structures, such as a fence or shed placed in the easement, that disrupt drainage patterns.
- Grade changes, where regrading on one property redirects water onto a neighboring lot.
- Maintenance disagreements over who is responsible for the drainage infrastructure within an easement.

Drainage disputes often involve both technical and legal questions. We recommend consulting a licensed civil engineer to assess the drainage conditions and legal counsel to advise on your rights, before pursuing negotiation, HOA mediation, or legal action.

## Frequently Asked Questions

### ***Can I build a fence in a drainage easement?***

Generally, no. Fences are considered permanent structures and are not allowed within a drainage easement unless WCS grants a written exception. See "Modifying, Relocating, or Requesting an Exception" above.

### ***Who is responsible for maintaining a drainage easement on my property?***

The property owner handles routine upkeep, such as mowing, clearing debris from inlets and pipes, keeping the easement area accessible and unobstructed, and repairing erosion. WCS is responsible for maintaining the drainage infrastructure itself, such as pipes, ditches, and catch basins, and will also repair erosion if it causes visible undermining or an imminent risk to that infrastructure.

### ***Who maintains a retention or detention basin near my property?***

Maintenance responsibility depends on how the basin was dedicated when the subdivision was developed. Some basins are maintained by WCS, others by an HOA or the property owner. Check your plat, deed, or HOA covenants to determine who is responsible, or contact WCS to confirm.

### ***What happens if I build in a drainage easement without realizing it?***

WCS can require removal at the owner's expense, even if the structure was built unknowingly. This is why confirming easement locations with a current survey before any construction is essential. If you have already built within an easement, an attorney and engineer can help you explore options such as an encroachment agreement or an easement exception.

### ***How wide is a typical drainage easement in Warren County?***

An easement's width is intended to protect and maintain the flowline of the conveyance it contains, whether a pipe or ditch, or access to the system. The flowline often runs along the centerline of the easement but does not exclusively; its actual location should be confirmed on-site rather than assumed. Drainage easements typically range from 5 to 30 feet wide, depending on the subdivision and the infrastructure involved. 10 to 20-foot rear easements and 5 to 10-foot side easements are common in residential subdivisions, and easements of 20 feet or more are typical along major drainage conveyances or retention areas. Retention and detention basin easements are not sized by width in the same way; their footprint is set by the required storage volume and depth, so it can vary considerably regardless of the width figures above.