

**STORMWATER OPERATION AND MAINTENANCE  
AGREEMENT AND SECURITY**

Project Name: \_\_\_\_\_

Town Project Number: \_\_\_\_\_

Town BMP ID: \_\_\_\_\_

PIN Number: \_\_\_\_\_

Mail after recording to: Town of Morrisville  
Engineering Department  
P.O. Box 166  
Morrisville, NC 27560

NORTH CAROLINA

WAKE COUNTY

This STORMWATER OPERATION AND MAINTENANCE AGREEMENT AND SECURITY,  
made this day \_\_\_\_\_ of \_\_\_\_\_, 20 \_\_\_\_\_

by \_\_\_\_\_

whose principal address is \_\_\_\_\_

\_\_\_\_\_

with, to, and for the benefit of the Town of Morrisville, a municipal corporation of the State  
of North Carolina, whose address is P.O. Box 166, Morrisville, North Carolina 27560.

## Filter Strip, Restored Riparian Buffer and Level Spreader Operation and Maintenance Agreement

I will keep a maintenance record on this BMP. This maintenance record will be kept in a log in a known set location. Any deficient BMP elements noted in the inspection will be corrected, repaired or replaced immediately. These deficiencies can affect the integrity of structures, safety of the public, and the removal efficiency of the BMP.

Important maintenance procedures:

- Immediately after the filter strip is established, any newly planted vegetation will be watered twice weekly if needed until the plants become established (commonly six weeks).
- Once a year, the filter strip will be reseeded to maintain a dense growth of vegetation
- Stable groundcover will be maintained in the drainage area to reduce the sediment load to the vegetation.
- Two to three times a year, grass filter strips will be mowed and the clippings harvested to promote the growth of thick vegetation with optimum pollutant removal efficiency. Turf grass should not be cut shorter than 3 to 5 inches and may be allowed to grow as tall as 12 inches depending on aesthetic requirements (NIPC, 1993). Forested filter strips do not require this type of maintenance.
- Once a year, the soil will be aerated if necessary.
- Once a year, soil pH will be tested and lime will be added if necessary.

After the filter strip is established, it will be inspected **quarterly and within 24 hours after every storm event greater than 1.0 inch**. Records of operation and maintenance will be kept in a known set location and will be available upon request.

Inspection activities shall be performed as follows. Any problems that are found shall be repaired immediately.

<b>BMP element:</b>	<b>Potential problem:</b>	<b>How I will remediate the problem:</b>
<b>The entire filter strip system</b>	Trash/debris is present.	Remove the trash/debris.
<b>The flow splitter device (if applicable)</b>	The flow splitter device is clogged.	Unclog the conveyance and dispose of any sediment off-site.
	The flow splitter device is damaged.	Make any necessary repairs or replace if damage is too large for repair.

<b>BMP element:</b>	<b>Potential problem:</b>	<b>How I will remediate the problem:</b>
<b>The swale and the level lip</b>	The swale is clogged with sediment.	Remove the sediment and dispose of it off-site.
	The level lip is cracked, settled, undercut, eroded or otherwise damaged.	Repair or replace lip.
	There is erosion around the end of the level spreader that shows stormwater has bypassed it.	Regrade the soil to create a berm that is higher than the level lip, and then plant a ground cover and water until it is established. Provide lime and a one-time fertilizer application.
	Trees or shrubs have begun to grow on the swale or just downslope of the level lip.	Remove them.
<b>The bypass channel</b>	Areas of bare soil and/or erosive gullies have formed.	Regrade the soil if necessary to remove the gully, and then reestablish proper erosion control.
	Turf reinforcement is damaged or ripap is rolling downhill.	Study the site to see if a larger bypass channel is needed (enlarge if necessary). After this, reestablish the erosion control material.
<b>The filter strip</b>	Grass is too short or too long (if applicable).	Maintain grass at a height of approximately three to six inches.
	Areas of bare soil and/or erosive gullies have formed.	Regrade the soil if necessary to remove the gully, and then plant a ground cover and water until it is established. Provide lime and a one-time fertilizer application.
	Sediment is building up on the filter strip.	Remove the sediment and restabilize the soil with vegetation if necessary. Provide lime and a one-time fertilizer application.
	Plants are desiccated.	Provide additional irrigation and fertilizer as needed.
	Plants are dead, diseased or dying.	Determine the source of the problem: soils, hydrology, disease, etc. Remedy the problem and replace plants. Provide a one-time fertilizer application.
	Nuisance vegetation is choking out desirable species.	Remove vegetation by hand if possible. If herbicide is used, do not allow it to get into the receiving water.
<b>The receiving water</b>	Erosion or other signs of damage have occurred at the outlet.	Contact the Stormwater Division of the Town of Morrisville Engineering Department at 919-463-7025.

## **BMP Operation and Maintenance Security**

### Performance Security

The Town of Morrisville requires the submittal of a performance security prior to issuance of a permit in order to ensure that the *structural BMPs* are

1. installed by the permit holder as required by the approved stormwater management plan, and/or
2. maintained by the *owner* as required by the operation and maintenance agreement.

### Amount

1. Installation

The amount of an installation performance security shall be the total estimated construction cost of the *BMPs* approved under the permit, plus 25%.

2. Maintenance

The amount of a maintenance performance security shall be 30% of the total estimated construction cost of the *BMPs* approved under the permit.

### General Requirements

1. This agreement grants to the Town of Morrisville a right of entry to inspect, monitor, maintain, repair, and reconstruct *structural BMPs*.
2. The Town of Morrisville is authorized to recover from the property owner and/or association and its members, any and all costs the Town of Morrisville expends to maintain or repair the *structural BMPs* or to correct any operational deficiencies. Failure to pay the Town of Morrisville all of its expended costs, after forty-five days written notice, shall constitute a breach of the agreement. The Town of Morrisville shall thereafter be entitled to bring an action against the property owner and/or association and its members to pay, or foreclose upon the lien hereby authorized by the agreement against the property, or both, in case of a deficiency. Interest, collection costs, and attorney fees shall be added to the recovery.
3. This agreement shall not obligate the Town of Morrisville to maintain or repair any *structural BMPs*, and the Town of Morrisville shall not be liable to any person for the condition or operation of *structural BMPs*.
4. This agreement shall not in any way diminish, limit, or restrict the right of the Town of Morrisville to enforce any of its ordinances as authorized by law.
5. The property owner and/or association and its members indemnifies and holds harmless the Town of Morrisville for any costs and injuries arising from or related to the structural BMP, unless the Town of Morrisville has agreed in writing to assume the maintenance responsibility for the BMP and has accepted dedication of any and all rights necessary to carry out that maintenance.

### Special Requirement for Homeowners' and Other Associations

For all *structural BMPs* required pursuant to this ordinance and that are to be or are owned and maintained by a homeowners' association, property owners' association, or similar entity, the required operation and maintenance agreement shall include all of the following provisions:

1. Acknowledgment that the association shall continuously operate and maintain the stormwater control and management facilities.
2. Establishment of an escrow account, which can be spent solely for sediment removal, structural, biological or vegetative replacement, major repair, or reconstruction of the *structural BMPs*. If *structural BMPs* are not performing adequately or as intended or are not properly maintained, the Town of Morrisville, in its sole discretion, may remedy the situation, and in such instances the Town of Morrisville shall be fully reimbursed from the escrow account. Escrowed funds may be spent by the association for sediment removal, structural, biological or vegetative replacement, major repair, and reconstruction of the *structural BMPs*, provided that the Town of Morrisville shall first consent to the expenditure. This escrow account shall be established in lieu of the 30% maintenance performance security.
3. Both developer contribution and annual sinking funds shall fund the escrow account. Prior to plat recordation or issuance of construction permits, whichever shall first occur, the developer shall pay into the escrow account an amount equal to fifteen (15) per cent of the initial construction cost of the *structural BMPs*. Two-thirds (2/3) of the total amount of sinking fund budget, which shall be equal to 100% of the initial construction cost of the *BMPs*, shall be deposited into the escrow account within the first five (5) years and the full amount shall be deposited within ten (10) years following initial construction of the *structural BMPs*. Funds shall be deposited each year into the escrow account. A portion of the annual assessments of the association shall include an allocation into the escrow account. Any funds drawn down from the escrow account shall be replaced in accordance with the schedule of anticipated work used to create the sinking fund budget.
4. The percent of developer contribution and lengths of time to fund the escrow account may be varied by the Town of Morrisville depending on the design and materials of the stormwater control and management facility.

### Uses of Performance Security

1. Forfeiture Provisions

The performance security shall contain forfeiture provisions for failure, after proper notice, to complete work within the time specified, or to initiate or maintain any actions which may be required of the applicant or *owner* in accordance with this ordinance, approvals issued pursuant to this ordinance, or an operation and maintenance agreement established pursuant to this ordinance.

2. Default

Upon default of the *owner* to construct, maintain, repair and, if necessary, reconstruct any *structural BMP* in accordance with the applicable permit or operation and maintenance agreement, the Stormwater Administrator shall obtain and use all or any portion of the security to make necessary improvements based on an engineering estimate. Such expenditure of funds shall only be made after requesting the *owner* to comply with the permit or maintenance agreement. In the event of a default triggering the use of installation

performance security, the Town of Morrisville shall not return any of the unused deposited cash funds or other security, which shall be retained for maintenance.

3. Costs in Excess of Performance Security

If the Town of Morrisville takes action upon such failure by the applicant or *owner*, the Town of Morrisville may collect from the applicant or *owner* for the difference should the amount of the reasonable cost of such action exceed the amount of the security held.

4. Refund

After the Town's final approval of record drawings, as-builts and certifications, the installation performance security shall be refunded to the applicant or terminated, in accordance with the Town of Morrisville Unified Development Ordinance (UDO) and Engineering Design and Construction Manual (EDCM).

I acknowledge and agree by my signature below that I am responsible for the performance of the maintenance procedures listed above. I agree to notify the Town of Morrisville of any problems with the system or prior to any changes to the system or responsible party.

Project name: \_\_\_\_\_

BMP drainage area number: \_\_\_\_\_

Print name: \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Note: The legally responsible party should not be a homeowners association unless more than 50% of the lots have been sold and a resident of the subdivision has been named the president.

I, \_\_\_\_\_, a Notary Public for the State of \_\_\_\_\_, County of \_\_\_\_\_, do hereby certify that \_\_\_\_\_ personally appeared before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, and acknowledge the due execution of the forgoing filter strip, riparian buffer, and/or level spreader maintenance requirements.

Witness my hand and official seal,



SEAL

My commission expires \_\_\_\_\_

Town of Morrisville, North Carolina

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Acknowledgment of Town of Morrisville:

Wake County, North Carolina

I certify that the following person personally appeared before me this day and acknowledged to me that he or she executed the foregoing document on behalf of the Town of Morrisville in the capacity indicated with his or her signature: \_\_\_\_\_.

Date: \_\_\_\_\_

(affix notary seal or stamp here)

\_\_\_\_\_  
Notary Public

Printed/Typed Name: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_