

## **ARTICLE VI. OPERATION AND MAINTENANCE OF FACILITIES**

### **SECTION 601. OPERATION AND MAINTENANCE RESPONSIBILITIES**

1. The STORMWATER MANAGEMENT PLAN for the PROJECT SITE shall contain an O&M PLAN prepared by the APPLICANT and approved by the TOWNSHIP providing for the necessary and proper operation and maintenance of all STORMWATER MANAGEMENT FACILITIES and EROSION and SEDIMENTATION Control Facilities. The O&M PLAN along with the required STORMWATER MANAGEMENT Agreement and Declaration of Easement document shall be recorded at the Lancaster County Recorder of Deeds office.
2. The STORMWATER MANAGEMENT PLAN for the PROJECT SITE shall establish responsibilities for the continuing operating and maintenance of all proposed STORMWATER MANAGEMENT FACILITIES, including BMPs, consistent with the following principals:
  - A. If the TOWNSHIP elects to accept dedication of streets, the TOWNSHIP is under no obligation to accept STORMWATER MANAGEMENT FACILITIES located outside of the public right-of-way.
  - B. If a PROJECT SITE is to be maintained in single ownership or if other IMPROVEMENTS are to be privately owned and maintained, then the operation and maintenance of STORMWATER MANAGEMENT FACILITIES shall be the responsibility of the owner, lessee, private management entity, or any other parties in interests.
  - C. The TOWNSHIP is exempt from the requirement to sign and record an O&M PLAN.
3. The O&M PLAN shall be subject to the review and approval of the TOWNSHIP Solicitor and COMMISSIONERS.
  - A. The following shall be addressed in the O&M PLAN:
    - (1) Description of maintenance requirements, including, but not limited to, the following:
      - (a) Regular inspection of the STORMWATER MANAGEMENT FACILITIES. To assure proper implementation of BMPs, maintenance and care of STORMWATER MANAGEMENT BMPs should be inspected by a qualified person, which may include the landowner, or the owner's DESIGNEE (including the TOWNSHIP for dedicated and owned facilities), according to the following minimum frequencies:
        - [i] Annually for the first five (5) years.
        - [ii] Once every three (3) years thereafter.
        - [iii] During or immediately after the cessation of a ten (10) year or greater STORM EVENT. A ten (10) year STORM EVENT is defined as rainfall exceeding five (5) inches in a twenty-four (24) hour period.
        - [iv] As specified in the O&M PLAN pursuant to this Article.

- (b) All PIPEs, SWALEs and detention facilities shall be kept free of any debris or other OBSTRUCTION and in original design condition.
- (c) Removal of silt from all permanent structures which trap silt or SEDIMENT in order to keep the material from building up in grass waterways, PIPEs, detention or retention basins, infiltration structures, or BMPs, and thus reducing their capacity to convey or store RUNOFF.
- (d) Re-establishment of vegetation of scoured AREAs or AREAs where vegetation has not been successfully established. Selection of seed mixtures shall be subject to approval by the TOWNSHIP.

4. RIPARIAN BUFFER and RIPARIAN FOREST BUFFER management plan prepared in accordance with 25 Pa. Code CHAPTER 102 §14(b)(4) if required.
5. Identification of a responsible individual, corporation, association or other entity for ownership, operation and maintenance of both temporary and permanent STORMWATER MANAGEMENT and EROSION and SEDIMENTATION Control Facilities.

#### **SECTION 602. MAINTENANCE OF STORMWATER MANAGEMENT FACILITIES DURING DEVELOPMENT**

1. The landowner, successor and assigns shall maintain all STORMWATER MANAGEMENT FACILITIES in good working order in accordance with the approved O&M PLAN.
2. The landowner shall keep on file with the TOWNSHIP, the name, address and telephone number of the person or company responsible for maintenance activities. In the event of a change, new information shall be submitted to the TOWNSHIP within ten (10) days of the change.

#### **SECTION 603. MAINTENANCE OF FACILITIES ACCEPTED BY THE TOWNSHIP**

1. If the COMMISSIONERS accept dedication for all or some of the required STORMWATER MANAGEMENT FACILITIES following completion, the COMMISSIONERS may require the posting of FINANCIAL SECURITY to secure structural integrity of said facilities as well as the functioning of said facilities in accordance with the design and specifications as depicted on the approved STORMWATER MANAGEMENT PLAN a term of eighteen (18) months from the date of acceptance of dedication. Said FINANCIAL SECURITY shall be the same type as required in Article V with regard to installation of such facilities, and the amount of the FINANCIAL SECURITY shall not exceed fifteen (15) percent of the actual cost of installation of said facilities.

#### **SECTION 604. MAINTENANCE AGREEMENT FOR PRIVATELY OWNED STORMWATER MANAGEMENT FACILITIES**

1. Prior to final approval of the PROJECT SITE's STORMWATER MANAGEMENT PLAN, the APPLICANT shall sign and record at the Lancaster County Recorder of Deeds Office, an O&M PLAN covering all STORMWATER MANAGEMENT FACILITIES including

RIPARIAN BUFFERs and RIPARIAN FORESTED BUFFERs that are to be privately owned. The O&M PLAN along with the STORMWATER MANAGEMENT Agreement and Declaration of Easement document shall be recorded as a restrictive covenant agreement that runs with the land. The agreement shall stipulate the following:

- A. The owner, successor and assigns shall maintain all STORMWATER facilities in accordance with the approved O&M PLAN and shall keep all facilities in a safe and attractive manner in accordance with the approved O&M PLAN and STORMWATER MANAGEMENT Agreement and Declaration of Easement document.
- B. The owner shall grant the right to the TOWNSHIP to use easements and rights-of-way to assure access for periodic inspections by the TOWNSHIP and maintenance, if required.
- C. The owner shall keep on file with the TOWNSHIP the name, address, and telephone number of the person or company responsible for maintenance of both temporary and permanent STORMWATER MANAGEMENT FACILITIES, in the event of a change, new information shall be submitted to the TOWNSHIP within ten (10) days of the change.
- D. Enumerate permanent STORMWATER MANAGEMENT FACILITIES as permanent real estate appurtenances and record as deed restrictions or easements that run with the land.
- E. If the owner fails to maintain the STORMWATER MANAGEMENT FACILITIES following due notice by the TOWNSHIP to correct the problem(s), the TOWNSHIP may perform the necessary maintenance work or corrective work and the owner shall reimburse the TOWNSHIP for all reasonable costs. Failure to reimburse the TOWNSHIP may lead to a lien being placed against any or all properties that utilize the facility.

2. Other items may be included in the O&M PLAN, STORMWATER MANAGEMENT Agreement and Declaration of Easement document where determined necessary to guarantee the satisfactory maintenance of all STORMWATER MANAGEMENT FACILITIES. The O&M PLAN along with the STORMWATER MANAGEMENT Agreement and Declaration of Easement document shall be subject to the review and approval of the TOWNSHIP solicitor and TOWNSHIP.

## **SECTION 605. MAINTENANCE OF EXISTING FACILITIES/BMPS**

1. STORMWATER MANAGEMENT FACILITIES existing on the effective date of this ORDINANCE on individual LOTS that have not been accepted by the TOWNSHIP or for which operation and maintenance responsibilities have not been assumed by a private entity such as a homeowners' association shall be maintained by the individual property owners. Such maintenance shall include at a minimum those items set forth in Section 601.3. If the TOWNSHIP determines at any time that any permanent STORMWATER MANAGEMENT FACILITY has been eliminated, altered, blocked through the erection of structures or the deposit of materials, or improperly maintained, the condition constitutes a nuisance and shall notify the property owner of corrective measures that are required, and

provide for a reasonable period of time, not to exceed thirty (30) days, within which the property owner shall take such corrective action. If the property owner does not take the required corrective action, the TOWNSHIP may either perform the work or contract for the performance for the work or bill the property owner for the cost of the work plus a penalty of ten (10) percent of the cost of the work. If such bill is not paid by the property owner within thirty (30) days, the TOWNSHIP may file a municipal claim against the property upon which the work was performed in accordance with the applicable laws.

2. No person shall modify, remove, FILL, landscape or alter STORMWATER MANAGEMENT FACILITIES or BMPs that have been installed on a property unless all necessary plan approvals and permits have been obtained to permit such MODIFICATION, removal, FILLING, landscaping or ALTERATION. No person shall place any structure, FILL, landscaping, or vegetation in a STORMWATER MANAGEMENT FACILITY or within a DRAINAGE or ACCESS EASEMENT.

#### **SECTION 606. RIGHT OF ENTRY ONTO PRIVATE PROPERTY**

Upon presentation of proper credentials, duly authorized representatives of the TOWNSHIP may enter, at reasonable times, upon any property, within the TOWNSHIP, to investigate or ascertain the condition of the subject property in regard to any aspect regulated by this ORDINANCE.

#### **SECTION 607. REVISIONS TO STORMWATER MANAGEMENT FACILITIES**

A revision which involves a change in STORMWATER MANAGEMENT Control methods or techniques, or which involves the relocation or redesign of control measures, or which is necessary because soil or other conditions are not as stated on the approved plan, shall require a resubmission by the APPLICANT in accordance with the plan requirements as set forth in Section 301.