



Return after Jessica Sloan
recording to: Town of Apex
 P.O. Box 250
 Apex, NC 27502

BIORETENTION AREA OPERATION & MAINTENANCE AGREEMENT

This Operation and Maintenance Agreement (“Agreement”) is established this _____ day of _____, 20_____, by _____ (“Owner”), who is the owner of the Property (hereinafter defined), on behalf of the Owner, the Association (if applicable), and all successor Owners of the Property and the Town of Apex (“Town”).

The “Property” is that certain property known as _____ and which is more particularly described in that certain deed recorded in Book _____ Page _____, Wake County Registry.

Owner represents, warrants, and agrees that Owner is financially responsible for the construction, maintenance, repair and replacement of all stormwater control structures, appurtenances and vegetation, including the impoundment, located on the Property. Owner agrees to perform the maintenance as outlined below and as may be applicable or required as part of the regulations set forth in Section 6.1.12 of the Town of Apex Unified Development Ordinance. A Homeowners Association or Property Owners Association shall not be the financially responsible party unless more than 50% of the lots or units have been sold and a resident of the subdivision has been named the president.

Owner shall keep a maintenance record for maintenance performed related to stormwater Best Management Practices on the Property (“BMP Maintenance Record”). The BMP Maintenance Record shall be kept by Owner in a log in a known, set location and made available upon request. Any deficient BMP elements noted in the inspection shall be corrected, repaired

or replaced immediately by Owner. These deficiencies can affect the integrity of structures, safety of the public, and the pollutant removal efficiency of the BMP.

NUMBER OF BIORETENTION AREAS: _____

Bioretention is the use of plants and soils for removal of pollutants from stormwater runoff via adsorption, filtration, sedimentation, volatilization, ion exchange, and biological decomposition. The bioretention system is defined as the bioretention cell, outlet structure, pretreatment including forebays, grassed swales, and the vegetated filter if one is provided.

Inspection and maintenance procedures:

- Immediately after the bioretention cell is planted, the plants shall be watered twice weekly if needed until the plants become established (commonly six weeks). The watering shall take place on designated days according to the odd/even watering schedule cited in the Town of Apex Code of Ordinances.
- Snow, mulch, or any other material shall never be piled on the surface of the bioretention cell.
- Heavy equipment shall never be driven over the bioretention cell.
- Special care shall be taken to prevent sediment from entering the bioretention cell.

After the bioretention cell is established, Owner shall inspect it once a month and within 24 hours after every storm event greater than 1.0 inches. Owner shall keep records of inspection and maintenance in a known, set location and will be made available upon request.

Notices to Owner shall be sent to:

(Phone number)

Notices to Town shall be sent to:

Stormwater & Utility Engineering Manager
 PO Box 250
 Apex, NC 27502
 (919) 249-3413

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

BMP Element	Potential Problems	Problem Remediation
The entire BMP	Trash/debris is present.	Remove the trash/debris.
The perimeter of the bioretention cell	Areas of bare soil and/or erosive gullies have formed.	Re-grade the soil if necessary to remove the gully and plant a ground cover. Water until it is established; provide lime and a one-time fertilizer application.
The inlet device: <i>pipe, stone verge, or swale</i>	The pipe is clogged (if applicable).	Unclog the pipe. Dispose of the sediment off-site.
	The pipe is cracked or otherwise damaged (if applicable).	Replace the pipe.
	Erosion is occurring in the swale (if applicable).	Re-grade the swale if necessary to smooth it over and provide erosion control devices such as reinforced turf matting or riprap to avoid future problems with erosion.
	Stone verge is clogged or covered in sediment (if applicable).	Remove sediment and clogged stone and replace with clean stone.
The pretreatment area	Flow is bypassing pretreatment area and/or gullies have formed.	Re-grade if necessary to route all flow to the pretreatment area. Re-stabilize the area after grading.
	Sediment has accumulated to a depth greater than 3 inches.	Search for the source of the sediment and remedy the problem if possible. Remove the sediment and restabilize the pretreatment area.
	Erosion has occurred.	Provide additional erosion protection such as reinforced turf matting or riprap if needed to prevent future erosion problems.
	Weeds are present.	Remove the weeds, preferably by hand.

BMP Element	Potential Problems	Problem Remediation
The bioretention cell: vegetation	Best professional practices show that pruning is needed to maintain optimal plant health.	Prune according to best professional practices.
	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 to establish ground cover.
	Tree stakes/wires are present six months after planting.	Remove tree stake/wires (which can kill tree if not removed).
The bioretention cell	Mulch is breaking down or has floated away.	Spot mulch if there are only random void areas. Replace whole mulch layer if necessary. Remove the remaining mulch and replace with triple shredded hard wood mulch at a maximum depth of 3 inches.
	Soils and/or mulch are clogged with sediment.	Determine the extent of the clogging. Remove/replace top layers or entire media as needed. Dispose of the spoil in an appropriate off-site location. Use triple shredded hard wood mulch at a maximum depth of 3 inches. Search for the source of the sediment and remedy the problem if possible.
	An annual soil test shows that pH has dropped or heavy metals have accumulated in the soil media.	Dolomitic lime shall be applied as recommended per the soil test and toxic soils shall be removed, disposed of properly and replaced with new planting media.
The underdrain system	Clogging has occurred.	Wash out the underdrain system.

BMP Element	Potential Problems	Problem Remediation
The drop inlet	Clogging has occurred.	Clean out the drop inlet. Dispose of the sediment off-site.
	The drop inlet is damaged.	Repair or replace the drop inlet.
The outlet device	Erosion or other signs of damage have occurred in the outlet.	Repair or replace as necessary.

The agreements, conditions and obligations contained herein are and shall be covenants and the same shall be binding upon the Owner and its agents, personal representatives, heirs and assigns and all other successors in interest and shall continue as a servitude running with the above described land in perpetuity. Owner agrees to notify the Town of Apex of any problems with the BMP and notify the Town prior to any changes to the BMP or responsible party.

IN WITNESS WHEREOF, the Owner has caused this instrument to be signed in its corporate name by its duly authorized officers and its seal to be hereunto affixed by authority of its Board of Directors, the day and year first written above.

(Owner)

Title

Attest:

Secretary (Corporate Seal)

STATE OF _____

_____ COUNTY

I, the undersigned Notary Public, do hereby certify that _____ personally appeared before me this day and acknowledge the execution of the foregoing instrument.

Witness my hand and official seal this _____ day of _____, 20_____.

My commission expires: _____

Notary Public

SEAL