



Return after        Jessica Sloan  
recording to:      Town of Apex  
                         PO Box 250  
                         Apex, NC 27502

### **STORMWATER WETLANDS 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 STORMWATER WETLANDS: \_\_\_\_\_

Stormwater wetlands are constructed systems that mimic the functions of natural wetlands and use physical, chemical, and biological processes to treat stormwater pollution. The stormwater wetlands system is defined as the wetlands area, outlet structure, pretreatment including forebays, grassed swales, and the vegetated filter if one is provided.

Inspection and maintenance procedures:

- Immediately after the stormwater wetlands are planted, the plants shall be watered twice weekly or as needed until the plants become established (commonly six weeks). The watering shall take place according to the odd/even watering schedule cited in the Town of Apex Code of Ordinances.
- No portion of the stormwater wetlands shall be fertilized after the first initial fertilization that is required to establish the wetland plants.
- Stable groundcover shall be maintained to reduce sediment load to the wetlands.

After the stormwater wetlands are 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.

<b>BMP Element</b>	<b>Potential Problems</b>	<b>Problem Remediation</b>
<b>The entire BMP</b>	Trash/debris is present.	Remove the trash/debris.
<b>The perimeter of the wetland</b>	Areas of bare soil and/or erosive gullies have formed.	Regrade 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.
	Vegetation is too short or too long.	Maintain vegetation at a height of approximately six inches.
<b>The inlet device: pipe or swale</b>	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).	Regrade 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.
<b>The forebay</b>	Sediment has accumulated to a depth greater than the original design depth for sediment storage.	Search for the source of the sediment and remedy the problem if possible. Remove the sediment and dispose of it in a location where it will not cause impacts to streams or the BMP.
	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. If pesticide is used, wipe it on the plants rather than spraying.
	Algal growth covers over 50% of the area.	Consult a professional to remove and control algal growth.

BMP Element	Potential Problems	Problem Remediation
<b>The deep pool, shallow water, and shallow land areas</b>	Cattails, phragmites or other invasive plants cover 50% of the basin surface.	Remove the plants by wiping them with pesticide (do not spray).
	Shallow land remains flooded more than 5 days after a storm event.	Unclog the outlet device immediately.
	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 if a soil test indicates it is necessary.
	Best professional practices show that pruning is needed to maintain optimal plant health.	Prune according to best professional practices.
	Sediment has accumulated and reduced the depth to 75% of the original design depth of the deep pools.	Search for the source of the sediment and remedy the problem if possible. Remove the sediment and dispose of it in a location where it will not cause impacts to streams or the BMP.
<b>The embankment</b>	Evidence of muskrat or beaver activity is present.	Use traps to remove muskrats and consult a professional to remove beavers.
	A tree has started to grow on the embankment.	Consult a dam safety specialist to remove the tree.
	An annual inspection shows that the embankment needs repair.	Make all needed repairs. Consult a professional.
<b>The micropool</b>	Sediment has accumulated and reduced the depth to 75% of the original design depth.	Search for the source of the sediment and remedy the problem if possible. Remove the sediment and dispose of it in a location where it will not cause impacts to streams or the BMP.

BMP Element	Potential Problems	Problem Remediation
	Plants are growing in the micropool.	Remove the plants, preferably by hand. If pesticide is used, wipe it on the plants rather than spraying.
<b>The outlet device</b>	Clogging has occurred.	Clean out the outlet device. Dispose of the sediment off-site.
	The outlet device is damaged.	Repair or replace 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