

Town of Surfside Beach Stormwater Practices Permanent Maintenance Covenants

THE TERM STORMWATER SYSTEMS MAY REFER TO WATER QUANTITY AND/OR WATER QUALITY FACILITIES, AND BEST MANAGEMENT PRACTICES, BMPS (i.e., detention basins, retention basins, stormwater ponds, stormwater wetlands, water quality buffers, swales, ditches, pipes, inlets, separators, filtering devices, water quality structures, etc.)

THIS Covenant made and entered into this _____ day of _____, 20____, by and between (Insert Full Name of property owner) _____ hereinafter called the “Owner”, and the Town of Surfside Beach, South Carolina hereinafter called the “Town”.

WHEREAS, the Property Owner is the owner of certain real property described as the Horry County Tax Map Number, (TMS#) _____ as recorded by deed in the Horry County Register of Deeds (ROD), Deed Book _____ Page _____, hereinafter called the “Property;” and

WHEREAS, the Owner is proceeding to, or has, made improvements on the Property; and

WHEREAS, the Site Plan/Subdivision Plan known as (Name of Plan/Development) _____

hereinafter called the “Plan,” which is expressly incorporated herein by reference, as approved, or to be approved, by the Town, provides for the construction and maintenance of stormwater facilities, BMPs, and improvements within the confines of the Property; and

WHEREAS, the Town requires that on-site stormwater facilities, BMPs, and improvements as shown on the Plan be constructed and adequately maintained by the Owner, its successors and assigns, including any homeowners association;

WHEREAS, the Owner, its successors and assigns, understands that the execution and adherence to the provisions of this Covenant is a condition precedent to the Town’s permitting, and/or approving the Site Plan, Storm Water Management Plan, and/or Subdivision Plan for the Property and the development located thereon;

NOW, THEREFORE, in consideration of the foregoing premises and mutual covenants the parties hereby agree as follows:

1. The on-site stormwater facilities, BMPs, and, improvements shall be constructed, operated, and maintained by the Owner, its successors and assigns, in accordance with the approved Plan and specifications identified in the Plan, as well as in accordance with State and federal requirements, the Town of Surfside Beach Stormwater Management Ordinance, and any and all other applicable Town ordinances.
2. The Owner, its successors and assigns, including any homeowners association, shall adequately maintain the stormwater facilities, BMPs, and improvements on the Property. Adequate maintenance required by this Covenant shall include, but is not limited to, scheduled and corrective maintenance as described on/in the approved Plan for all stormwater facilities, BMPs, and improvements intended to manage and/or control stormwater on the Property, with such facilities, BMPs, and improvements to expressly include, but not be limited to pipes, drainage structures, ditches, swales, vegetation, berms, pond areas, outlet structures, maintenance shelf(s) and access roads, or any other improvement associated with stormwater on the Property but excluding any such improvements

located on, under, or within any publicly owned or dedicated rights-of-way in which the State, County or Town has accepted maintenance of the roadways and/or drainage facilities. Adequate maintenance is herein defined as keeping such stormwater facilities, BMPs, and improvements in good working condition such that they satisfactorily perform their intended design functions.

3. The Owner, its successors and assigns, shall inspect the stormwater facilities, BMPs, and improvements as described on/in the approved Plan to assure safe and proper functioning of the stormwater facilities, BMPs, and improvements located on the Property. Any and all deficiencies identified during such inspections shall be repaired as necessary at the Owner's expense. A detailed repair plan may be required to be prepared by a professional engineer, licensed in the State of South Carolina.
4. The Owner, its successors and assigns, hereby grants permission to the Town, its authorized agents and employees, to enter upon the Property and to inspect the stormwater facilities, BMPs, and improvements as deemed necessary by the Town for purposes of protecting the public health, safety or welfare, for purposes of investigating or inspecting any reported or suspected deficiencies in the stormwater facilities, BMPs, and improvements on the Property, for purposes of responding to or investigating citizens' complaints relating to the management or control of stormwater on the Property, or for any other purpose deemed necessary by the Town. The Town shall provide the Owner, its successors and assigns, with a copy of any inspection findings, as well as a directive to commence with any required repairs. To the extent that the Town does not agree with or to the contemplated repairs proposed by the Owner, the Town may submit an alternate repair plan to the Owner or require the Owner to submit a detailed repair plan prepared by a professional engineer, licensed in the State of South Carolina.
5. In the event the Owner, its successors and assigns, fails to maintain the stormwater facilities, BMPs, and improvements on the Property in good working condition acceptable to the Town, or fails to make repairs as specified in the inspection report within a reasonable time frame as established by the Town, with such time frame not to be shorter than thirty (30) days, the Town may enter upon the Property and take any and all action necessary to correct deficiencies identified in the inspection report. The Owner, its successors and assigns, shall be responsible for any and all expenses incurred by the Town in taking such corrective action. This provision shall not be construed to allow the Town to erect any structure of a permanent nature on the land of the Owner outside the easement for the stormwater management/BMP facilities. It is expressly understood and agreed that this Covenant imposes no obligation or responsibility on the Town to routinely maintain or repair any stormwater facilities, BMPs, and improvements located on the property.
6. In the event that the Town performs or undertakes work of any kind pursuant to this Covenant or expends any funds or resources in performance of said work for labor, use of equipment, supplies, material, and the like, the Owner, its successors and assigns, shall reimburse the Town upon demand, within thirty (30) days of receipt of same.
7. This Covenant shall impose no liability on the Town with respect to the maintenance or repair of any stormwater facilities, BMPs, and improvements on the Property, nor does the Town assume any obligation or duty to undertake or perform any action allowed for, or permitted by, this Covenant. The Owner, its successors and assigns, further agrees to indemnify and hold the Town harmless from any liability arising out of the management, operation, maintenance, or failure of any stormwater facilities, BMPs, and improvement subject to this Covenant.
8. Notwithstanding any right extended to the Town pursuant to this Covenant, it is expressly recognized and acknowledged that the Town retains all prosecutorial rights and remedies available to it, including the enforcement of any and all applicable Town ordinances, against the Owner, its successors and assigns, relating to the operation, maintenance, and/or repair of stormwater facilities, BMPs, and improvements located on the Property.

