

Maintenance Agreements

All projects required by the County of Santa Barbara to treat runoff from their developed site (as per NPDES Municipal General Permit and Attachment 4(B)(2i)) must have a signed, notarized, and record maintenance agreement between the County of Santa Barbara and the property owner or SUBDIVIDER/OWNER.

A copy of the standard form is shown in Attachment 1. In addition to identifying the responsibilities of each party entering into the agreement, the maintenance agreement must provide a clear description of duties and responsibilities that must be carried out by the property owner / SUBDIVIDER/OWNER in order to keep the approved treatment measures in good working condition.

1. Performance of routine maintenance

The property owner / SUBDIVIDER/OWNER shall be responsible to perform all maintenance according to the requirements of a Storm Water Quality Mitigation Plan (SWQMP) or equivalent.

The SWQMP or equivalent shall, at a minimum:

- a. show the locations of all treatment facilities and their drainage (treatment) areas,
- b. demonstrate how the treatment facilities comply with the conditions by treating runoff from the design storm, and
- c. include a long-term maintenance plan appropriate for the proposed facilities.
- d. include a site map showing the location of all treatment facilities.

2. Inspection and maintenance schedules

Maintenance requirements vary depending on the type and size of treatment measure. Owners must perform at least an annual inspection and retain documentation of the maintenance and repairs performed. A copy of that documentation may be submitted to the Public Works Department, who may then choose to perform an inspection of the facility as deemed necessary.

However, County staff may or may not perform routine inspections. A certified or responsible County inspector should either 1) be a registered geologist, engineer, or landscape contractors, 2) trained by a professional organization in the design, installation, and maintenance of treatment control BMPs.

3. Failure to maintain

If the owner/subdivider does not properly maintain the facilities, the County will enter the premises and perform the work, and retains the right to charge any costs for maintenance or repairs back to the property owner including legal fees.

4. Recording of the maintenance agreement

The maintenance agreement is recorded by the County Assessor. This helps ensure that the maintenance agreement is bound to the property in perpetuity. In some cases, the final recorded map will include a public access easement for maintenance to reinforce the County's right to enter and inspect the facilities.

Maintenance Tracking

Tracking Database

The County utilizes a simple spreadsheet database to track text information. Documents such as recorded maintenance agreements, as-built designs, electronic plans, and photographs are stored separately. This simple tracking system is used in Santa Barbara County where there is only one inspector for the long-term O&M of treatment control BMPs.

The fields described here record basic information about the location and simple design information, as well as information about records such as the as-built design and maintenance agreement.

Name	Common name to characterize the project or development
APN	List all APNs
Address	Map coordinates, GPS coordinates, or street address.
Area	Location by community or watershed.
Contact	Name and address of owner responsible for maintenance.
Recorded Agreement	Date of recordation
Permit No	Original development permit; building permits if appropriate.
Detail	Brief description of the treatment facilities to be inspected, i.e. swale, catch basin filters, bioretention.
First Inspected	Date of inspection
Field Notes	Description, observations, describing status of facilities. location of photos
Comments	Additional notes, reminders, etc. Follow-up to owner, letters. Name of contractor that performed prior maintenance.
Second Inspection	Date of inspection
Field Notes	Description, observations, etc.

Notification to Owners/subdividers

Prior to each rainy season, all owners/subdividers with regulated treatment control BMPs shall be sent a reminder to perform maintenance as described in their plans. This will allow the manager/owner to be prepared for the upcoming rainy season. In most cases, property owners do not think much about the treatment control measures at their property. Effective communication can eliminate unnecessary concerns and confusion on the part of the STP owner and provide a base for legal action for the enforcing agency. The greater the clarity, the smoother the process will be for all involved.

All correspondence will include the same basic information:

- **Facility address and/or owner's address**
- **Facility APN**
- **STP owner name and title**

- **Description of Authority** tells the manager by which regulation/code the local government gains authority to inspect the site and require repairs.
- **Deadline** by which time inspections and necessary maintenance must be performed.
- **Consequences** if response or repairs are not made.
- **Contact information** for the person to whom the manager can *speak* for assistance.

Prior to inspection by County staff, a Notification of Inspection Letter may be sent to the owner/subdivider. This letter serves several purposes:

1. Informs the manager that he/she should expect someone to be on their property
2. Encourages routine maintenance to be performed
3. Notifies the manager of any special pre-inspection actions that must be completed
4. Secures the name of the person who oversees the maintenance of the STP

Here is a sample facility inspection notification letter:

- [Facility Inspection Notification, Howard County, MD](#) is a letter of intent to inspect a facility in the near future.

In situations when an owner/subdivider fails to comply with a Maintenance Notification Letter and/or other requests for compliance, a letter using strong language would be sent. These notices are typically more formal than Maintenance Notification Letters and have a strong emphasis on the consequences if the manger/owner does not remedy the situation. Notices of Violation should include the basic information, plus:

- **Reference to previous correspondence** which can provide a paper trail in cases when disagreement of roles arises.
- **List of repairs** that should be detailed enough so it cannot be misinterpreted
- **List of violations** the STP manager/owner has accrued, including actions such as failing to comply with previous notices.
- **Copies of this letter may be sent to other agencies** affected, such as those responsible for dam safety, etc.

An example of such Notice of Violation is shown in Attachment 2.

Attachment 1: Example Maintenance Agreement

Recording requested by and when recorded return to:
Clerk of the Board of Supervisors
Santa Barbara County Public Works Department
105 East Anapamu Street
Santa Barbara, California 93101

No Fee Per Government Code Section 6103

Project:
APN:
Location:

**SUBDIVIDER/OWNER/OWNER'S AGREEMENT TO CONSTRUCT AND
MAINTAIN PRIVATE DRAINAGE IMPROVEMENTS FOR WATER QUALITY**

This Agreement is by and between: _____

and: **Santa Barbara County Public Works Department, Water Resources Division**

with reference to the following:

- A. _____ hereby known as the SUBDIVIDER/OWNER/OWNER, the owner of that property located on Assessor's Parcel No. _____ wish to develop said property in accordance with approved plans on file with the Santa Barbara County Public Works Department, Water Resources Division (Project Clean Water), Development Case File No. _____.
- B. The Santa Barbara County Planning Commission approved the project subject to compliance with certain conditions as set forth in the Condition of Approval letter from the Public Works Department, Water Resources Division, which incorporates conditions set forth by the County in the letter dated __, attached hereto as exhibit "A".

WHEREAS, the Conditions require that the SUBDIVIDER/OWNER/OWNER enter into an agreement with the Santa Barbara County Public Works Department, for the construction and maintenance of private drainage improvements for water quality treatment which benefit this development; and,

WHEREAS, the SUBDIVIDER/OWNER/OWNER wishes to construct and provide for such maintenance of those private drainage improvements upon development of the property as allowed by this approval;

NOW THEREFORE, the SUBDIVIDER/OWNER/OWNER, for the present owner(s) and heirs, executors, administrators, successors, and/or assigns of the owner(s) does hereby irrevocably agree as follows:

1. The SUBDIVIDER/OWNER/OWNER agrees to install, maintain, repair and replace all water quality drainage improvements according to plans, specifications, and to a standard approved by the Director of the Public Works Department, hereinafter referred to as the DIRECTOR.

Said installation of all drainage improvements shall be completed within one year following the execution of this agreement, or within such extension of that time as is approved by the Director.

There shall be no clearance for occupancy granted until such time as all water quality drainage improvements are constructed or installed in accordance with the approved plans and a Water Quality Improvement Certificate completed by a Registered Civil Engineer is submitted to the Public Works Department, Water Resources Division (Project Clean Water). All such improvements shall be maintained in a safe, usable and visually acceptable condition, free of obstructions to the design flow and free from impediments to use of the water quality improvements. Adequate access shall be maintained at all times to allow for maintenance, repair and replacement as needed.

All such maintenance, repair, replacement and installation shall be at the sole cost and expense of the owner(s) of the real property described on the attached Exhibit " B " and shall be performed as defined in Exhibit " C ". This commitment shall be recorded and made binding upon the heirs, executors, successors and/or assigns of the owners.

2. SUBDIVIDER/OWNER/OWNER hereby acknowledges that, during high intensity storms, some storm water from the public storm drain system may flow onto said real property.
3. Upon failure to complete needed inspection, repair, maintenance or replacement, the DIRECTOR or successor may, upon (10) calendar days' notice to the address last appearing for the parcel on the County Assessor's roll, enter upon the premises and complete such needed work or improvement at the cost of and to be recovered from owner, or owner's heirs, executors, administrators, successors and/or assigns, by bid force account, negotiated contract, or such other manner as may appear suitable to said DIRECTOR. Owner or owner's heirs, executors, administrators, successors and/or assigns shall repay the Public Works Department for all such costs and expensed incurred, including all costs reasonably incurred to enforce this agreement and reasonable attorney's fees if legal action is instituted.
4. SUBDIVIDER/OWNER/OWNER agrees that SUBDIVIDER/OWNER, and SUBDIVIDER/OWNER'S heirs, executors, administrator, successors and/or assigns shall indemnify the County of Santa Barbara Public Works Department, it's officers, agents and employees, defend them and save them harmless from, and against any act or omission to act as agents, employees, or independent contractors, and does hereby waive any claim against the County of Santa Barbara Public Works Department for failure to maintain said drainage improvements and/or easements or for County of Santa Barbara Public Works Department's failure to enforce any or all provisions of this agreement to the full extent permitted by law.
5. This agreement insures to and is for the benefit of the real property described in Exhibit " B ", and is intended to be a covenant running with said described real property, binding upon the heirs, executors, administrators, successors and/or assigns of the undersigned. In the event that this agreement is not enforceable as a covenant running with the land, it shall nevertheless be enforceable as an equitable servitude.
6. All parties to this agreement warrant and represent that they have the power and authority to enter into this agreement in the names, titles and capacities herein stated and on behalf of any entities, persons, or firms represented or purported to be represented by such entity(ies),

person(s) or firm(s) and that all formal requirements necessary or required by any state and/or federal law in order to enter into this agreement have been fully complied with.

Signature

Date

Title

Print or type name

Company

INSERT NOTARY HERE

CERTIFICATION

The SUBDIVIDER/OWNER'S agreement to construct and maintain private drainage improvements and private drainage maintenance easements set forth above, is hereby acknowledged, and the recordation hereof is approved.

Dated: _____

County of Santa Barbara

By: _____

Thomas D. Fayram, Deputy Public Works Director

APPROVED AS TO FORM:

DANIEL J. WALLACE,
INTERIM COUNTY COUNSEL

RAY AROMATORIO
RISK MANAGMENT

By: _____

Deputy County Counsel
Santa Barbara County

By: _____
Risk Program Administrator
Santa Barbara County

Attachment 2
EXAMPLE NOTICE OF VIOLATION

Whereas, _____ Home Owners Association (owner) did:

- a. fail to maintain the stormwater management facility located between Seneca Forest Circle and Hickory Forest Way known as Stormwater Facility #3302 in accordance with the provisions of Chapter 19 of the Montgomery County Code (MCC) and Executive Regulations 5-90 and,
- b. receive notice of maintenance deficiencies in a letter dated March 22, 2001 written by _____ of the Department of Environmental Protection (DEP) and received by owners agent, _____ Management, Inc., and receive notice of deficiencies through owners agent via telephone and,
- c. fail to correct maintenance items within the 30 day time frame specified in the letter dated March 22, 2001 and subsequent verbal compliance time extensions with agent of June 30, 2001 and July 31, 2001 and,

Whereby, owner and DEP agreed to meet on August 22, 2001 to discuss the maintenance items.

By this notice, the owner must:

- a. mow all vegetation 25 ft. around the low flow orifice and riser structures and,
- b. mow both sides of the dam embankment 15 feet from either toe to prevent woody growth and,
- c. remove all trash, solid waste, tree limbs, leaves or other items which obstruct or clog the low flow orifice and or riser structure and,
- d. comply with this Notice of Violation within 30 days.

Failure to comply, will result in the issuance of Class A Civil Citations in accordance with Chapter 19 of the MCC with each day representing a separate violation.

Signature implies no guilt but receipt of this Notice of Violation

_____(Signature)_____

_(Name)_____, Date

President of _____ Home Owners Association

_____, DEP Date

Phone Number, email address