

Return to:
East Nantmeal Township
Attn: Township Secretary
3383 Conestoga Road
Glenmoore, PA 19343

UPI No. 24-

EAST NANTMEAL TOWNSHIP, CHESTER COUNTY, PA
Simplified Approach
Stormwater Best Management Practices

Combined
Operation, Maintenance, and Inspection
Plan and Agreement

THIS AGREEMENT made and entered into this _____ day of _____, 20___, by and between _____, (hereinafter the Landowner), and East Nantmeal Township, Chester County, Pennsylvania, (hereinafter Municipality).

WITNESSETH

WHEREAS, the Landowner is the owner of certain real property by virtue of a deed of conveyance recorded in the land records of Chester County, Pennsylvania, at Deed Book _____ and Page _____, with a street address of _____ (hereinafter Property); and

WHEREAS, the Landowner is proceeding to build and develop the Property; and

WHEREAS, for the purposes of this Agreement, the following definitions shall apply:

BMP – Best Management Practice; activities, facilities, designs, measures, or procedures used to manage stormwater impacts from land development, to protect and maintain water quality and ground water recharge and to otherwise meet the purposes of the Municipality’s Stormwater Management Ordinance, including, but not limited to infiltration basins, infiltration beds infiltration trenches, rain gardens, vegetated swales with check dams, cisterns/rain barrels, pervious paver blocks, and

Conveyance – a man-made, existing, or proposed facility, structure or channel used for the transportation or transmission of stormwater from one place to another, including pipes, drainage ditches, channels, and swales (vegetated and other), gutters, and like facilities or features; and

WHEREAS, the Grading Permit (which includes the Simplified Approach Worksheets which include the Site Sketch Plan hereafter referred to as the “Plan and Worksheets”) issued by East Nantmeal Township for the Property provides for management of stormwater within the confines of the Property through the use of the BMP(s) shown on the Plan; and

WHEREAS, the Municipality and the Landowner agree that the health, safety, and welfare of the residents of the Municipality and the protection and maintenance of water quality require that on-site stormwater management BMP(s) be constructed, and adequately inspected, operated, and maintained on the Property by the Landowner in accordance with the approved Plan and Worksheets and the operation and maintenance requirements included herein. The Plan and Worksheets are attached hereto and incorporated herein together as Exhibit A. The corresponding maintenance requirements are attached hereto and incorporated herein together as Exhibit B: and

NOW, THEREFORE, in consideration of the foregoing, the mutual covenants contained herein, and the following terms and conditions, the parties hereto, intending to be legally bound hereby, agree as follows:

1. The foregoing recitals to this Agreement are incorporated as terms of this Agreement and obligations of the Landowner as if fully set forth in the body of this Agreement.
2. The Landowner shall construct the BMP(s) in accordance with the specifications identified in the approved Plan and Worksheets (copy attached as Exhibit A).
3. The Landowner shall inspect, operate, and maintain the BMP(s) as shown on the Plan and Worksheets in good working order acceptable to the Municipality and in accordance with the specific inspection and maintenance requirements outlined in Exhibit B.
4. The Landowner hereby grants permission to the Municipality, its authorized agents, and employees, to enter upon the Property from the public right-of-way or roadway, at reasonable times and upon presentation of proper identification, to inspect the BMP(s) whenever it deems necessary for compliance with this Agreement and the Municipality’s Stormwater Ordinance. Whenever possible, the Municipality shall notify the Landowner prior to entering the Property.

5. The Landowner acknowledges that, per the Municipality's Stormwater Ordinance, it is unlawful, without written approval of the Municipality, to:
 - a. Modify, remove, fill, landscape, alter or impair the effectiveness of any BMP or conveyance that is constructed as part of the Plan;
 - b. Place any structure, fill, landscaping, additional vegetation, yard waste, brush cuttings, or other waste or debris into a BMP or conveyance that would limit or alter the functioning of the BMP or conveyance;
 - c. Allow the BMP or conveyance to exist in a condition which does not conform to the Plan and Worksheets or this Agreement; and
 - d. Dispose of, discharge, place or otherwise allow pollutants including, but not limited to, deicers, pool additives, household chemicals and automotive fluids to directly or indirectly enter any BMP or conveyance.
6. In the event the Landowner fails to operate and maintain the BMP(s) (as shown on the Plan and Worksheets) in good working order acceptable to the Municipality, the Landowner shall be in violation of this Agreement, and the Landowner agrees that the Municipality or its representatives may, in addition to and not in derogation or diminution of any remedies available to it under the Stormwater Ordinance or other statutes, codes, rules or regulations, or this Agreement, enter upon the Property and take whatever action is deemed necessary to maintain said BMP(s).
7. It is expressly understood and agreed that the Municipality is under no obligation to maintain or repair said facilities, and in no event shall this Agreement be construed to impose any such obligation on the Municipality.
8. In the event the Municipality, pursuant to this Agreement, performs work of any nature, or expends any funds in performance of said work for labor, use of equipment, supplies, materials, and the like, the Landowner shall reimburse the Municipality within 15 days of delivery of an invoice from the Municipality for all expenses (direct and indirect) incurred. Failure of the Landowner to make prompt payment to the Municipality may result in enforcement proceedings, which may include the filing of a lien against the Property, which filing is expressly authorized by the Landowner.
9. The intent and purpose of this Agreement is to ensure the proper maintenance of the onsite BMP(s) by the Landowner; provided, however, that this Agreement shall not be deemed to create or effect any additional liability of any party for damage alleged to result from or be caused by stormwater runoff.

10. The Landowner, its executors, administrators, assigns, heirs, and other successors in interests, hereby release, indemnify and hold harmless and shall release, indemnify and hold harmless the Municipality, its elected and appointed officials, employees, consultants, contractors, agents and designated representatives (collectively the “Released Parties”) from all damages, accidents, casualties, occurrences or claims which might arise or be asserted against the Released Parties arising out of the construction, presence, existence, operation or maintenance of the BMP(s), including but not limited to stormwater runoff onto adjacent properties. In the event that a claim is asserted or threatened against the Released Parties, the Municipality shall notify the Landowner and the Landowner shall defend, at his own expense, any claim, suit, action or proceeding, or threatened claim, suit, action or proceeding against the Released Parties or, at the request of the Municipality, pay the cost, including attorneys’ fees, of defense of the same undertaken on behalf of the Released Parties. If any judgment or claims against the Released Parties shall be allowed or entered against the Released Parties, the Landowner shall pay all damages, judgments or claims and any costs and expenses incurred by the Released Parties, including attorneys’ fees, as a result of said damages, judgment, or claims.
11. The Municipality may enforce this Agreement in accordance with its Stormwater Ordinance, at law or in equity, against the Landowner for breach of this Agreement. Remedies may include fines, penalties, damages, or such equitable relief as the parties may agree upon or as may be determined by a Court of competent jurisdiction. Recovery by the Municipality shall include its reasonable attorneys’ fees and costs incurred in seeking relief under this Agreement.
12. Failure or delay in enforcing any provision of this Agreement shall not constitute a waiver by the Municipality of its rights of enforcement hereunder.
13. The Landowner shall inform future buyers of the Property about the function, operation, inspection, and maintenance requirements of the BMP(s) prior to the purchase of the Property by said future buyer, and upon purchase of the Property the future buyer assumes all responsibilities as Landowner and must comply with all requirements and obligations of this Agreement.
14. This Agreement shall inure to the benefit of and be binding upon, the Municipality and the Landowner and all subsequent owners of the Property, as well as their heirs, administrators, executors, assigns and successors in interest.

This Agreement shall be recorded at the Office of the Recorder of Deeds of the County of Chester, Pennsylvania, and shall constitute a covenant running with the Property and/or equitable servitude, in perpetuity.

ATTEST:

WITNESS the following signatures and seals:

(SEAL)

Attest:

Township Secretary

For the Municipality:

BOARD OF SUPERVISORS

EAST NANTMEAL TOWNSHIP

Chairman

(SEAL)

For the Landowner:

ATTEST/WITNESS:

County of Chester

Commonwealth of Pennsylvania

I, _____, a Notary Public in and for the County and State aforesaid, whose commission expires on the _____ day of _____, 20____, do hereby certify that _____ as Chairman of the Board of Supervisors of East Nantmeal Township whose name(s) is/are signed to the foregoing Agreement bearing date of the _____ day of _____, 20____, has acknowledged the same on behalf of East Nantmeal Township before me in my said County and State.

GIVEN UNDER MY HAND THIS _____ day of _____, 20____.

NOTARY PUBLIC

(SEAL)

County of Chester

Commonwealth of Pennsylvania

I, _____, a Notary Public in and for the County and State
aforesaid, whose commission expires on the _____ day of _____, 20____, do
hereby certify that _____ and _____ whose
name(s) is/are signed to the foregoing Agreement bearing date of the _____ day of
_____, 20____, has acknowledged the same as his/her/their act and deed before me in
my said County and State.

GIVEN UNDER MY HAND THIS _____ day of _____, 20____.

NOTARY PUBLIC

(SEAL)

Exhibits A and B MUST be attached

Exhibit A:
Approved Simplified Approach Worksheets and Site Sketch Plan

(include only those Worksheets and the Site Sketch Plan that were approved)

Exhibit B:
BMP Operation and Maintenance Requirements

(include only those sheets that apply to the Property, that is, those that correspond to the approved Worksheets and Plan)

BMP #1 Rain Barrel or Cistern

Operation and Maintenance Requirements

- a. Cisterns/Rain Barrels are to be cleared of debris routinely at least every three (3) months and after significant storms to allow stormwater from gutters to enter them.
- b. Gutters that directly convey rainwater to cisterns/rain barrels are to be routinely cleared of trash and debris at least every three (3) months and after significant rainfall events.
- c. Cisterns/Rain Barrels should be routinely emptied to allow for storage of additional rainwater.
- d. Overflow outlets from cisterns/rain barrels must be kept free and clear of debris.
- e. Cisterns/Rain Barrels that are damaged are to be fixed or replaced within two (2) weeks of being damaged.

BMP #2 - Rain Garden/Bioretenention or Dry Well #1

Operation and Maintenance Requirements

- a. Pruning and weeding are required as needed including removal of invasive species, especially while vegetation is being established for a rain garden.
- b. Mulch cover should be maintained in a rain garden, re-spread and replenished as needed to prevent erosion, reduce weed growth, and assist with plant survival, without restricting the infiltration of stormwater.
- c. At least twice a year the landowner is to inspect the rain garden for sediment buildup, ground cover and vegetative conditions and make any repairs as needed.
- d. Water as needed especially during periods of extended dry weather and drought.
- e. Trees and shrubs in a rain garden are to be inspected at least twice per year by the landowner to evaluate their health. If they are in poor health, they may need to be replaced.

BMP #3 - Infiltration Trench or Dry Well #2

Operation and Maintenance Requirements

- a. At least twice a year and after significant rainfall events the landowner is to inspect the infiltration trench and remove any accumulated debris, sediment, and invasive vegetation.
- b. Vegetation either over the surface of an infiltration trench or along the edge of an “open” trench is to be maintained in good condition, and any bare spots are to be re-vegetated as soon as possible.
- c. Vehicles are not to be parked or driven on an infiltration trench, and care is to be taken to avoid excessive compaction by mowers.
- d. Any debris, such as leaves blocking flow from entering an infiltration trench, is to be routinely removed.