
ARTICLE 1390
Maintenance Responsibilities

1390.01 Financial Guarantee

1390.02 Maintenance Responsibilities

1390.03 Maintenance Agreement for
Privately Owned Stormwater
Facilities

1390.01. FINANCIAL GUARANTEE

- A. The Applicant shall provide a Financial Guarantee to the City of Franklin for the timely installation and proper construction of all stormwater management controls as required by the approved SWM Site Plan and this Ordinance, equal to 110% of the full construction cost of the required controls in accordance with the Municipalities Planning Code.
- B. At the completion of the project and as a prerequisite for the release of the Financial Guarantee, the Applicant shall:
- (1) Provide a certification of completion from an engineer, architect, surveyor or other Qualified Professional, verifying that all permanent facilities have been constructed according to the SWM Site Plan and Report and approved revisions thereto.
 - (2) Provide a set of Record Drawings.
 - (3) Request a final inspection from the City of Franklin to certify compliance with this Ordinance, after receipt of the certification of completion and Record Drawings by the City of Franklin.

1390.02. MAINTENANCE RESPONSIBILITIES

- A. The SWM Site Plan and Report for the project site shall describe the future operation and maintenance responsibilities. The description shall outline required routine maintenance actions and schedules necessary to ensure proper operation of the stormwater control facilities.
- B. The SWM Site Plan and Report for the project site shall establish responsibilities for the continuing operating and maintenance of all proposed stormwater control facilities, consistent with the following principals:
- (1) If a development consists of structures or lots that are to be separately owned and in which streets, sewers, and other public improvements are to

be dedicated to the City of Franklin, stormwater control facilities/BMPs may also be dedicated to and maintained by the City of Franklin.

- (2) If a development site is to be maintained in a single ownership or if sewers and other public improvements are to be privately owned and maintained, then the ownership and maintenance of stormwater control facilities/BMPs shall be the responsibility of the owner or private management entity.
 - (3) Facilities, areas, or structures used as stormwater BMPs shall be enumerated as permanent real estate appurtenances and recorded as deed restrictions or easements that run with the land.
 - (4) The SWM Site Plan and Report shall be recorded as a restrictive deed covenant that runs with the land.
 - (5) The City of Franklin may take enforcement actions against an Applicant for failure to satisfy any provision of this Ordinance.
- C. The City of Franklin, upon recommendation of the Municipal Engineer, shall make the final determination on the continuing maintenance responsibilities prior to final approval of the SWM Site Plan and Report. The City of Franklin may require a dedication of such facilities as part of the requirements for approval of the SWM Site Plan. Such a requirement is not an indication that the City of Franklin will accept the facilities. The City of Franklin reserves the right to accept or reject the ownership and operating responsibility for any portion of the stormwater management controls.
- D. If the City of Franklin accepts ownership of stormwater BMPs, the City of Franklin may, at its discretion, require a fee from the Applicant to the City of Franklin to offset the future cost of inspections, operations, and maintenance.
- E. It shall be unlawful to alter or remove any permanent stormwater BMP required by an approved SWM Site Plan, or to allow the property to remain in a condition, which does not conform to an approved SWM Site Plan, unless the City of Franklin grants an exception in writing.

1390.03. MAINTENANCE AGREEMENT FOR PRIVATELY OWNED STORMWATER FACILITIES

- A. Prior to final approval of the SWM Site Plan and Report, the Applicant shall sign the Operation and Maintenance (O&M) Agreement covering all stormwater control facilities that are to be privately owned. The Operation and Maintenance (O&M) Agreement shall be recorded with the SWM Site Plan and made a part thereof.
- (1) Municipalities are exempt from the requirement to sign and record an Operation and Maintenance (O&M) Agreement.

- B. Other items may be included in the Operation and Maintenance (O&M) Agreement where determined necessary to guarantee the satisfactory operation and maintenance of all BMP facilities. The Operation and Maintenance (O&M) Agreement shall be subject to the review and approval of the Municipal Engineer and the Solicitor.

- C. The owner is responsible for operation and maintenance of the stormwater BMPs. If the owner fails to adhere to the Operation and Maintenance (O&M) Agreement, the City of Franklin may perform the services required and charge the owner appropriate fees. Non-payment of fees may result in a lien against the property.