

ARTICLE 940  
Operation and Maintenance

940.01	Responsibilities of developers and landowners.	940.03	Performance guarantee.
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940.01 RESPONSIBILITIES OF DEVELOPERS AND LANDOWNERS.

(a) The Municipality shall make the final determination on the continuing maintenance responsibilities prior to final approval of the SWM Site Plan. The Municipality 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 Municipality will accept the facilities. The Municipality reserves the right to accept or reject the ownership, maintenance, and operating responsibility for any portion of the stormwater management facilities and controls.

(b) Facilities, areas, or structures used as Stormwater Management BMPs shall be enumerated as permanent real estate appurtenances and recorded in the York County Recorder of Deeds Office as deed restrictions/protective covenants or easements that run with the land.

(c) The Operation and Maintenance (O&M) Plan shall be recorded as a restrictive deed covenant that runs with the land.

(d) The Municipality may take enforcement actions against an owner for any failure to satisfy the provisions of this Article.

(e) No person shall modify, remove, fill, landscape, or alter any SWM BMPs, facilities, areas, or structures without the written approval of the Municipality, with the exception of necessary maintenance activities such as mowing.  
(Ord. 32-2011. Passed 10-4-11.)

**940.02 OPERATION AND MAINTENANCE AGREEMENTS.**

(a) Prior to final approval of the SWM Site Plan, the property owner shall sign and record an Operation and Maintenance (O&M) Agreement (see Appendix A) covering all stormwater control facilities which are to be privately owned.

- (1) The owner, successor and assigns shall maintain all facilities in accordance with the approved maintenance schedule in the O&M Plan.
- (2) The owner shall convey to the Municipality easements to assure access for periodic inspections by the Municipality and maintenance, as necessary.
- (3) The owner shall keep on file with the Municipality the name, address, and telephone number of the person or company responsible for maintenance activities; in the event of a change, new information shall be submitted by the owner to the Municipality within ten (10) working days of the change.

(b) The owner is responsible for operation and maintenance (O&M) of the SWM BMPs. If the owner fails to adhere to the O&M Agreement, the municipality may perform the services required and charge the owner appropriate fees. Nonpayment of fees may result in a lien against the property.

(c) The Municipality is exempt from the requirement to sign and record an Operation and Maintenance Agreement.  
(Ord. 32-2011. Passed 10-4-11.)

**940.03 PERFORMANCE GUARANTEE.**

For SWM Site Plans that involve subdivision and land development, the applicant shall provide a financial guarantee to the Municipality for the timely installation and proper construction of all stormwater management controls as required by the approved SWM Site Plan and this Ordinance in accordance with the provisions of Sections 509, 510, and 511 of the Pennsylvania Municipalities Planning Code.  
(Ord. 32-2011. Passed 10-4-11.)

**940.04 MAINTENANCE GUARANTEE.**

For SWM Site Plans that involve the dedication of all or some of the required improvements following completion, the Municipality may require the posting of financial security to secure structural integrity of said improvements as well as the functioning of said improvements in accordance with the design and specifications as depicted on the SWM Site Plan for a term not to exceed 18 months from the date of acceptance of dedication. Said financial security shall be of the same type as otherwise required in Section 940.03 with regard to installation of such improvements, and the amount of the financial security shall not exceed 15% of the actual cost of installation of said improvements in accordance with the provisions of Section 509 of the Pennsylvania Municipalities Planning Code.  
(Ord. 32-2011. Passed 10-4-11.)

**940.05 MUNICIPAL STORMWATER MAINTENANCE FUND.**

(a) Persons installing stormwater storage facilities shall be required to pay a specified amount to the Municipal Stormwater Maintenance Fund to help defray costs of periodic inspections and maintenance expenses. The amount of the deposit shall be determined as follows:

- (1) If the storage facility is to be privately owned and maintained, the deposit shall cover the cost of periodic inspections performed by Municipality for a period of ten (10) years, as estimated by the Municipal Engineer. After that period of time, inspections expenses will be assessed by Municipality on an as needed basis thereafter.
  - (2) If the storage facility is to be owned and maintained by Municipality, the deposit shall cover the estimated costs for maintenance and inspections for ten (10) years. The Municipal Engineer will establish the estimated costs utilizing information submitted by the applicant.
  - (3) The amount of the deposit to the fund shall be converted to present worth of the annual series values. The Municipal Engineer shall determine the present worth equivalents which shall be subject to the approval of the governing body.
  - (4) The general formula for calculating the annual inspection fee shall be as follows:
    - A.  $I_{Ti} \times I_R \times N_i = I_{Ci}$
    - B.  $I_{Ci} + I_{Cii} + \dots = I_C$
    - C.  $.25 (I_C) = A_C$
    - D.  $I_C + A_C = \text{Annual Inspection Cost}$
    - E. Where:
      1.  $I_{Ti}$  = Inspection Time Per SWM BMP (Varies per BMP)
      2.  $I_R$  = Inspection Rate (Varies per Year)
      3.  $N_i$  = Quantity of Particular SWM BMP
      4.  $I_{Ci}$  = Inspection Cost for Particular SWM BMP
      5.  $I_C$  = Total Inspection Cost of all SWM BMPs
      6.  $A_C$  = Administrative Cost
- (Ord. 32-2011. Passed 10-4-11.)