

**Montgomery County, TN
Storm Water Program Management Manual**

**Appendix A - Example Storm Water Facility Operation and
Maintenance Agreement**

****EXAMPLE****

**COVENANTS FOR PERMANENT MAINTENANCE OF
STORM WATER FACILITIES AND BEST MANAGEMENT PRACTICES**

THE TERMS STORM WATER FACILITIES AND BEST MANAGEMENT PRACTICES MAY REFER TO WATER QUANTITY AND/OR WATER QUALITY FACILITIES (i.e., detention basins, retention basins, storm water ponds, storm water wetlands, water quality buffers, swales, pipes, oil/water separators, etc.)

_____, (an individual/ a Tennessee or other state corporation/ partnership) with its (office/ residence) located at _____, (hereinafter "Property Owner") grants these Covenants for Maintenance of Storm water Facilities and Best Management Practices (hereinafter "Covenants") on this the _____ day of _____.

WITNESSETH:

WHEREAS, The Montgomery County Storm water Management Resolution requires property owners to enter, into permanent maintenance agreements for storm water and best management practices before the property is developed.

NOW THEREFORE, as a condition of the approval of a Storm water Management Plan by the Montgomery County Building and Codes Department, the property owner warrants, covenants, and grants as follows:

1. The Property Owner warrants that it is the owner of property located in Montgomery County at _____ (address); **Tax Map** _____ **Parcel** _____ as recorded by deed in the land records of Montgomery County, Tennessee in **Deed Book** _____ at page _____ (hereinafter- referred to as the "Property") and that it has the right to grant said Covenants.

2. The Property Owner desires to develop all or a portion of the above described property in accordance with an approved Grading, Drainage and Erosion Control Plan for the property entitled _____, dated _____ and prepared by _____ (hereinafter "Plan").

3. The Property Owner will construct and maintain the storm water facilities and best management practices in strict accord with the Plan, specifications, calculations, and conditions required by the Montgomery County Building and Codes Department.

4. The Property Owner will provide a surety bond, letter of credit, or cash bond acceptable to Montgomery County and in an amount to be determined by the Montgomery County Building and Codes Department to guarantee that the storm water facilities and best management practices are constructed in accordance with the plan.

5. To ensure that subsequent property owners have notice of these Covenants and the obligations therein, the Property Owner will include in all instruments conveying any or all of the above described property on which the storm water facilities and best management practices are

located, the specific instrument numbers referencing these Covenants and the recorded subdivision plat indicated in paragraph 12 herein.

6. The Property Owner will provide for adequate long term operation and maintenance of the approved storm water facilities and best management practices described in the Plan to ensure that the facilities and practices remain in proper working condition in accordance with approved design standards and all applicable rules and regulations. The Property Owner shall perform such maintenance activities as described in the attached "Maintenance Guidance and Checklist", along with necessary landscaping (e.g., vegetation planting or removal, etc.) and trash removal as part of regular maintenance.

7. In order to provide access to storm water facilities and best management practices by personnel, vehicles and equipment, the Property Owner will provide an access easement from a public street in strict accord with the Plan and any conditions required by the Montgomery County Building and Codes Department. The access easement is determined by zoning districts, and has an internal unobstructed, traversable access width located within and along the entire length of the easement. The Property Owner further covenants that no structure or building will be erected on the access easement; that no woody vegetation will be allowed to grow on the access easement; and that no use will be made which will interfere with the use of said easement for access to the facilities. If access to the facilities is obstructed and Montgomery County is required to remove the obstruction, the County will follow the notice procedure, double lien, and collection process as set forth in paragraph 9 herein.

8. Property Owner grants permission to the County, its agents and employees, to enter upon the property to inspect and monitor said facilities whenever the County deems necessary.

9. If the County determines that the storm water facilities and/or best management practices are not being maintained in good working order, the County will provide written notice to the current Property Owner to repair, replace, reconstruct, or maintain said facilities within a reasonable time frame. Said written notice must include identification of the property, the storm water facility(ies) or best management practice(s), a statement of the issue to repair, replace, reconstruct, or maintain said facilities.

10. (a) If the County determines that the storm water facilities and/or best management practices are not being maintained in good working order and gives written notice to the current Property Owner to repair, replace, reconstruct, or maintain said facilities within a reasonable time, and the property owner fails to comply with the County's notice within the time specified, Property Owner authorizes the County or its agents to enter upon the Property to repair, reconstruct, replace or perform maintenance on said facilities at the Property Owner's expense.

(b) Property Owner further authorizes the County to place a lien for double the amount of said expenses of repair, maintenance or reconstruction against the property.

(c) If the Property Owner fails to pay the County after forty-five (45) days written notice, the Property Owner authorizes the County to collect said expenses from the Property Owner through the appropriate legal action, with the Property Owner to be liable for the reasonable expenses of collection, court costs, and attorney fees.

(d) Property Owner recognizes, it is expressly understood and agreed that Building and Codes Department is under no obligation to maintain or repair said facilities, and

in no event shall this Agreement to be construed to impose any such obligation on Montgomery County.

11. These Covenants shall be binding on the Property Owner's heirs, administrators, executors, successors, and assigns, and any and all subsequent property owners. Upon conveyance of the Property, these Covenants shall transfer to and be binding upon the new property owner and the original Property Owner shall be released from any and all responsibilities and obligations under these Covenants.

12. These Covenants are permanent and shall run with the land.

13. Property Owner will record a plat showing and accurately defining the easements for storm water facilities and best management practices an access easement to these facilities on a survey plat of record. The survey plat must reference the tracking number, where these Covenants are recorded and contain a note that the property owner is responsible for maintaining the facility or practice.

14. Property Owner will record these Covenants with the Montgomery County, Tennessee Register of Deeds and return the original to the County Building and Codes Department before the final plat is signed by the Building and Codes Department, and before all or any portion of the property is transferred or conveyed.

15. After completion and acceptance of storm water facilities Montgomery County Building and Codes Department will require a maintenance bond for a period of up to three (3) years for construction maintenance. Upon the Building Commissioner and Property Owner's satisfaction of all duties set forth in this Covenant and proof of same, the property owner may make application to the County for the return or refund of the bond, letter of credit or cash bond.

16. The Addendum attached hereto is made a part hereof, incorporated herein, and adopted by reference as if set out below.

Property Owner's Name (Printed)

Property Owner's Signature

Sworn to and Subscribed before Me

This _____ day of _____, 20____

Notary Public

My Commission Expires: _____