



**DEPARTMENT OF PUBLIC WORKS ENGINEERING DIVISION
MEMORANDUM**

TO: All Engineers, Surveyors, and Developers
VIA: John A. Cosgrove, Jr., PE, Director of Public Works
FROM: Robert White Acting Engineering Division Chief
DATE: August 31, 2023
SUBJECT: Required documents for permits that require stormwater management

The intent of this memorandum is to provide the community options for inspections of stormwater management facilities. One of the following items are required to be submitted to the Department of Public Works during permit review.

1. A Declaration of Restrictive Covenants – This document gives Calvert County Government personal the right to access and inspect the stormwater management facilities on the subject property.

Or

2. A Plat or Replat of the subject property with the Declaration of Restrictive Covenants statement note located within the plat - This note on the plat gives Calvert County Government personal the right to access and inspect the stormwater management facilities on the subject property.

Or

3. An Inspection and Maintenance Agreement- This agreement makes the owner responsible to provide stormwater management inspections and reports prepared by a Professional Engineer licensed in the State of Maryland to the Department of Public Works. It also to gives Calvert County Government personal permission to inspect, if warranted, with a notice to be provided to the owner.

The applicant shall provide one of the three options listed above within the permit submittal for review. During the permit review process the document chosen will be forwarded to the Calvert County Government Attorney for review if applicable. Once the document is approved by the County Attorney, it shall be recorded by the Department of Public Works within the Land Records of Calvert County Maryland. The final recorded document will be placed within the Department of Public Works stormwater management folder for the subject property and a copy will be provide to the applicant.

1. Declaration of Restrictive Covenants

DECLARATION OF RESTRICTIVE COVENANTS
AND
GRANT OF EASEMENT

This Declaration of Restrictive Covenants and Grant of Easement is made this _____ day of _____, _____, by and between _____ and _____, his/her/its personal representatives, executors, heirs, successors, and assigns, hereinafter referred to as the "Grantors," owners of certain property lying and situate in the _____ Election District of Calvert County, Maryland, Subject Property Address _____, and more particularly described in a deed recorded among the land records of Calvert County, Maryland, at Liber _____, Folio _____, hereinafter referred to as the "Subject Property," and the Board of County Commissioners of Calvert County, Maryland, a public body corporate and politic, organized under the laws of the State of Maryland, hereinafter referred to as the "County."

WITNESSETH

WHEREAS, the Grantors desire to develop or redevelop a portion of the subject property; and

WHEREAS, prior to said development or redevelopment, the Grantors are required by Chapter 123 of the Code of Calvert County (the "Stormwater Management Regulations") to provide for certain stormwater management and to obtain a Grading and/or Building Permit, hereinafter alternatively referred to as "Permit"; and

WHEREAS, the Grantors have applied for a Permit for land disturbing activity at the subject property and desire to utilize a privately owned and operated stormwater management facilities located on the subject property (alternatively referred to hereinafter as the "On-Site Facilities", or the "Facilities"); and

WHEREAS, the Stormwater Management Regulations require that prior to the issuance of a Permit for development or redevelopment of properties to be served by a privately owned and operated stormwater management facilities, an inspection and maintenance agreement be executed by the Grantors for a Permit; and

WHEREAS, Grantors have full authority to execute this Declaration and Grant of Easement so as to bind the subject property and all of its current and future owners, successors and assigns.

NOW, THEREFORE, in consideration of the issuance by the County of a Grading Permit and in accordance with the requirements of the Stormwater Management Regulations and the mutual promises contained herein, the receipt and sufficiency of which is hereby acknowledged, the Grantors do hereby covenant and agree as follows:

1. The Grantors shall construct or cause to be constructed On-Site Stormwater management Facilities and shall provide for the maintenance of the On-Site Facilities to ensure that said Facilities are and remains in proper working condition in accordance with the Maryland Department of Environment standards and with applicable laws, rules, and regulations. If necessary, the Grantors shall levy regular or special assessments against any and all present or subsequent owners of other property served by the Facilities to ensure that the Facilities are properly maintained.
2. The County may, but is not obligated to, inspect the Facilities. If, after reasonable notice by the County as per the Stormwater Management Regulations, the Grantors shall fail to construct, repair, maintain or operate the Facilities in accordance with the Maryland Department of Environment standards and the law and all applicable rules and regulations, the County may, but is not obligated to, enter onto the Facilities and perform all necessary construction, repair, maintenance and operating work, and may assess the Grantors for the cost of said work. Said assessment shall be a lien against the Subject Property, the outstanding balance of which may be added to the property tax bill of said Subject Property and collected as ordinary taxes by the County. If property other than the Subject Property is also served by the Facility and is subject of a similar Declaration and Grant of Easement with the County, the owner(s) of all such properties shall be jointly and severally liable for the cost of any and all work performed by the County pursuant to this paragraph, and all said properties are jointly and severally subject to the imposition of liens pursuant to the provisions of this paragraph.
3. The Grantors acknowledge that the County may exercise its emergency authority as provided by law.
4. The Grantors hereby indemnify and save the County, its employees, successors, agents, and assigns, harmless from any and all claims for damages to persons or property arising from the installation, construction, failure, reconstruction, maintenance, repair, operation and use of the Facilities.
5. This Declaration of Restrictive Covenants and Grant of Easement in no way relieves the Grantors of responsibility for providing stormwater drainage, in addition to the on-site stormwater management facilities, as it may be deemed necessary by the County or other appropriate agency.
6. The Grantors do hereby grant and convey unto the County the use of easements being identified as Storm Drain Easements and Stormwater Management Access and Maintenance Easements as shown on the plat entitled _____ recorded among the Land Records of Calvert County, Maryland in Liber _____ Folio _____.

AND THE GRANTORS further grant to the County, its employees, agents, contractors and subcontractors, a right-of-entry on, over, above and through the Subject Property to perform investigations, conduct tests and observe the Facilities defined herein. Should the County exercise its right granted herein to construct, reconstruct, repair or otherwise maintain the Facilities defined herein at the sole cost and expense of the Grantors, the Grantors further warrant, guarantee, assure and provides the County, its employees, agents, contractors or subcontractors such additional easement and right-of-entry on, over, above and through the Subject Property as deemed necessary by the County.

The covenants and grant of easement contained herein shall run with the land and shall bind the Grantors and the Grantors' heirs, executors, administrators, successors, and assigns, and shall bind all present and subsequent owners of the Subject Property. Should the Subject Property be transferred or sold by the Grantors, the obligation for any assessment under Paragraph 2 above shall be the sole responsibility of the subsequent owner(s). Grantors shall have no liability for any such assessment should they no longer own the Subject Property. Grantors' obligation of indemnification under Paragraph 4 above shall solely be limited to claims arising from Grantors' installation, construction, failure, reconstruction, maintenance, repair, operation, and use of the Facility and not for any such acts by any subsequent owner(s).

IN WITNESS WHEREOF, the Grantor(s) have executed this DECLARATION OF RESTRICTIVE COVENANTS AND GRANT OF EASEMENT by their hand(s) and seal(s) on the date first written above.

WITNESS:

GRANTOR:

Signature

Signature (Seal)

Printed Name: _____

Printed Name: _____

WITNESS:

GRANTOR:

Signature

Signature (Seal)

Printed Name: _____

Printed Name: _____

INDIVIDUAL ACKNOWLEDGMENT

(Use When an Individual is Executing the Instrument)

STATE OF _____, City/County of _____, to wit:

I HEREBY CERTIFY that on this _____ day of _____, _____, before the undersigned, a Notary Public of the state and county aforesaid, personally appeared _____ [Name] and _____ [Name] personally known to me or satisfactorily proven to me to be the aforesaid **Grantor**, and said Grantor acknowledged the foregoing Declaration of Restrictive Covenants and Grant of Easement to be said Grantor's voluntary act and deed.

WITNESS my hand and notarial seal.

NOTARY PUBLIC

My Commission expires: _____

Trustee(s) signature joining solely for the purpose of the grant of an easement, without liability for any failure to perform on behalf of the Grantors:

ATTEST:

TRUSTEE(S):

Printed Name: _____

_____(SEAL)
Printed Name: _____

Printed Name: _____

_____(SEAL)
Printed Name: _____

THIS IS TO CERTIFY that the foregoing instrument was prepared by, or under the supervision of, the undersigned, an attorney duly admitted to practice before the Supreme Court of Maryland.

Office of the County Attorney
Calvert County, Maryland

Approved for form and legal sufficiency:

Office of the County Attorney
Calvert County, Maryland

Date

2. Plat or a replat of the subject property with the Declaration of Restrictive Covenants statement note located within the plat.

The following note be placed on the plat or replatting: “The platting or dedication of the following described land (Insert a correct description of the land subdivided) is with the free consent and in accordance with the desire of the undersigned owners, proprietors, mortgagees, or trustees. Furthermore, the undersigned (the “Grantors”) grant the Commissioners of Calvert County and their officers, agents, employees, contractors, and subcontractors, a perpetual easement across the subdivided land to access and inspect, and, if necessary, maintain, repair, construct, or reconstruct stormwater management facilities, structures, and devices within this subdivision.” This wording allows newly recorded subdivisions, property plats and replattings to not have to create Declaration of Restrictive Covenants form for each property, lot or parcel should future development require stormwater management.

3. Inspection and Maintenance Agreement

INSPECTION AND MAINTENANCE AGREEMENT

THIS INSPECTION AND MAINTENANCE AGREEMENT made this _____ day of _____, _____, by and between _____

and _____, his/her/its personal representatives, executors, heirs, successors and assigns, hereinafter referred to as the "Owner," owner of certain property lying and situate in the _____ Election District of Calvert County, Maryland, Subject Property Address _____,

and more particularly described in a deed recorded among the land records of Calvert County, Maryland, at Liber _____, Folio _____, hereinafter referred to as the "Subject Property," and the Board of County Commissioners of Calvert County, Maryland, a public body corporate and politic, organized under the laws of the State of Maryland, hereinafter referred to as the "County."

WITNESSETH

WHEREAS, the Owner's desire to develop or redevelop a portion of the Subject Property; and

WHEREAS, prior to said development or redevelopment, the Owner is required by Chapter 123 of the Code of Calvert County (the "Stormwater Management Regulations") to provide for certain stormwater management and to obtain a Grading and/or Building Permit, hereinafter alternatively referred to as "Permit"; and

WHEREAS, the Owner has applied for a Permit for land disturbing activity at the Subject Property and desire to utilize a privately owned and operated stormwater management facilities located on the Subject Property (alternatively referred to hereinafter as the "On-Site Facilities", or the "Facilities"); and

WHEREAS, the Stormwater Management Regulations require that prior to the issuance of a Permit for development or redevelopment of properties to be served by a privately owned and operated stormwater management facility, an inspection and maintenance agreement be executed by the Owner for a Permit; and

WHEREAS, in furtherance of Owner's desire to comply with the aforementioned provision of the Calvert County Code, the Owner is now entering into this Inspection and Maintenance Agreement.

NOW, THEREFORE, WITNESSETH, that for and in consideration of the issuance by the County of a Permit and in accordance with the requirements of the Stormwater Management Regulations and the mutual promises contained herein, the receipt and sufficiency of which is hereby acknowledged, the Owners do hereby agree as follows:

1. Owner shall construct or cause to be constructed On-Site Stormwater management Facilities and shall provide for the maintenance of the On-Site Facilities to ensure that said Facilities are and remains in proper working condition in accordance with the Maryland Department of Environment standards and with applicable laws, rules, and regulations. If necessary, the Owners shall levy regular or special assessments against any and all present or subsequent owners of other property served by the Facilities to ensure that the Facilities are properly maintained.
2. This Inspection and Maintenance Agreement in no way relieves the Owner of responsibility for providing stormwater drainage, in addition to the on-site stormwater management facility, as it may be deemed necessary by the County or other appropriate agency.
3. Owner shall provide and maintain inspection records prepared by a Professional Engineer licensed in the State of Maryland for the On-Site Facilities and supply them to the Department of Public Works @ Public.Works@calvertcountymd.gov attention Project Management Division on the first (1) year and every three (3) years thereafter and/or upon request from the County to ensure that said On-Site Facility is and remains in proper working condition in accordance with the approved site development plan, approved design standards and applicable laws, rules, and regulations.
4. The owner is hereby prohibited from altering the On-Site Facilities without prior approval from the Department of Public Works.
5. Owner shall provide access to the On-Site Facilities at all reasonable times for inspection by the County or its Agents or Contractors. The County or its Agents or Contractors shall notify the Owners thirty (30) days prior to an inspection.
6. County may, but is not obligated to, inspect the Facility. If, after reasonable notice by the County as per the Stormwater Management Regulations, the Owner shall fail to construct, reconstruct, repair, maintain or operate the Facilities in accordance with the approved site development plans, design standards, the law, and all applicable rules and regulations, the County may, but is not obligated to, enter onto the Subject Property and perform all necessary work, and may assess the Owners for the cost of said work. Said assessment shall be a lien against the Subject Property, the outstanding balance of which may be added to the property tax bill of said Subject Property and collected as ordinary taxes by the County. If property other than the Subject Property is also served by the Facilities and is subject of a similar Inspection and Maintenance Agreement with the County, the owner(s) of all such properties shall be jointly and severally liable for the cost of any and all work performed by the County pursuant to this paragraph, and all said properties are jointly and severally subject to the imposition of liens pursuant to the provisions of this paragraph.
7. The Owner acknowledge that the County may exercise its emergency authority as provided by law.
8. The Owner hereby indemnifies and saves the County, its employees, successors, agents, and assigns, harmless from any and all claims for damages to persons or property arising from the installation, construction, failure, reconstruction, maintenance, repair, operation and use of the Facilities.
9. Owner shall by covenant or other valid legal mechanism approved by the County Office of Law, provide for uniform regular or special assessment of all property owners affected by the private stormwater management Facilities to ensure that the private stormwater management Facilities are properly maintained in accordance with the Maryland Department of Environment standards and with applicable laws, rules, and regulations in effect at the time of this Agreement or as amended.

10. If the Owner or any other party subject to this Agreement, after reasonable notice by the Department of Public Works, fails to correct a violation of this agreement the Department of Public Works may perform or cause to be performed, any necessary work to correct the violation and return the Facilities to a proper condition.
11. It is specifically understood and agreed that all costs of performing necessary work to correct a violation shall be levied and collected from the Owner of all properties subject to this Agreement in accordance with the provisions of Chapter 123 of the Calvert County Code, or as amended.
12. This Agreement shall survive the execution of any deed, contract or agreement by Owner or any other party with an interest in the Subject Property and the conveyance of any interest therefrom shall not merge therein.
13. This Agreement shall bind upon and run with the Subject Property as a covenant.
14. This Agreement shall inure to the benefit of the parties hereto, their heirs, personal representatives, legal representatives, successors, and assigns, as appropriate.
15. This Agreement shall be construed in accordance with the laws of the State of Maryland Without giving effect to its choice of law provisions and any action brought hereunder shall be brought in the courts of this State, with venue solely in Calvert County.
16. This Agreement contains the full and final agreement between the parties and no other matter or variation therefrom unless in writing and duly executed by the parties hereto, shall be considered as part of this Agreement.
17. Owner by signature below hereby warrants that all property Owners subject to this Agreement have signed below and have joined in this Agreement.
18. This Agreement shall not be effective, nor shall any permits be issued until this Agreement is recorded among the Land Records of Calvert County.

IN WITNESS WHEREOF, the Owner(s) have executed this INSEPCION AND MAINTENANCE AGREEMENT by their hand(s) and seal(s) on the date first written above.

WITNESS:

Signature

Printed Name: _____

OWNER:

Signature (Seal)

Printed Name: _____

WITNESS:

Signature

Printed Name: _____

OWNER:

Signature (Seal)

Printed Name: _____

INDIVIDUAL ACKNOWLEDGMENT

(Use When an Individual is Executing the Instrument)

STATE OF _____, City/County of _____, to wit:

I HEREBY CERTIFY that on this _____ day of _____, _____, before the undersigned, a Notary Public of the state and county aforesaid, personally appeared _____ [Name] and _____ [Name] personally known to me or satisfactorily proven to me to be the aforesaid **Owners**, and said Owner acknowledged the foregoing Inspection and Maintenance Agreement to be said Owners' voluntary act and deed.

WITNESS my hand and notarial seal.

NOTARY PUBLIC

My Commission expires: _____

THIS IS TO CERTIFY that the foregoing instrument was prepared by, or under the supervision of, the undersigned, an attorney duly admitted to practice before the Supreme Court of Maryland.

Office of the County Attorney
Calvert County, Maryland

Approved for form and legal sufficiency:

Office of the County Attorney
Calvert County, Maryland

Date