

STORMWATER FACILITY EASEMENT INSTRUCTIONS

Please note: All references to submittal of documents below refers to uploading documents to mybuildingpermit.com (MBP) at the normal time of submittal or resubmittal for land disturbing activity (LDA) permit review.

Step 1: Fill out the Snohomish County-approved Stormwater Facility Easement form on the following pages. An applicant may provide an additional Exhibit to describe and/or depict where the Stormwater Facility Easement governs site facilities. Note: It may save time if the Grantors have signed/notarized the form prior to uploading to MBP.

Step 2: Submit one copy of a current Title Report (dated within 30 days of submittal) showing all restrictions and easements of record and ownership of the applicant. Each cited and referenced document in the Title Report must be attached.

Step 3: If a corporation, partnership, limited liability company, or other entity has ownership of the subject property(ies), Proof of Authority granting (an) individual(s) to sign the Stormwater Facility Easement must be submitted. This may come in the form of a certificate, minutes of a board meeting, articles of incorporation, or some other written, signed document stating that said individual(s) may sign the instrument.

Step 4: If an applicant wishes to amend the content of the standard Stormwater Facility Easement (SFE), they should contact the project manager to discuss the changes. Note: Review of modifications to the standard SFE document requires additional time and approvals. Any proposed changes must be shown with strikethrough for deleted language and underline for language being added.

Step 5: Recording the SFE document.

When County building is closed to the public: After the initial county review, submit the signed/notarized SFE document along with a cover letter/sheet that includes name and phone number of contact for payment of recording fees by credit card, and an email address you would like the recording number and document to be emailed to. County staff will sign and print the final document and route it to the Auditor for recording. Note: The Auditor's office will call to get the credit card information for payment of recording fees prior to recording.

When County building is open to the public: After the initial review and the Grantors have signed, contact the drainage reviewer assigned to the project to arrange drop off and signature by Grantee (County); after County signs, record the SFE with the County Auditor; then provide the recording number (and the LDA permit number) to the PDS cashier. The applicant may keep the original.

USING THIS FORM

Snohomish County has approved the formatting and language contain within the following eight pages of the standard Stormwater Facility Easement form.

Applicants should modify all **yellow highlighted sections** by inserting details as noted in brackets, parentheses, and Xs. Bracketed sections call for insertion of appropriate language or information. The brackets themselves should be deleted when details have been inserted.

On the Auditor's recording cover page (next page), bracketed prompts are preceded by numbers. The applicant may add and delete these as needed. Assessor Tax Parcel Numbers noted in brackets may be added or deleted as necessary.

When language is highlighted between parentheses, only the required details shall be provided; do not delete the parentheses, except when placed between highlighted bracketed content. Xs are placeholders for numbers; these should be replaced by the applicable number. All yellow highlights shall be removed when the details have been provided.

Applicants must fill out the acknowledgement section(s) prior to submittal. The property(ies) to be governed by the Stormwater Facility Easement may be owned an individual, individuals, or corporate entities. Pages 5 through 7 address the standard acknowledgement language for the easement. An applicant may add or remove pages to this section of the easement as may be necessary for the parties required to sign and acknowledge the easement. This includes the section on Page 5 where only one Owner section is provided for executing the document. It is recommended that if more owners must execute the document, the applicant copy the Owner signature blocks and add them below the first using the same formatting.

Please do not change the formatting contained (most importantly the margins) within the document or make any changes to content not highlighted in yellow or as otherwise allowed above without consulting with your project manager. The form should be printed single-sided for recording purposes.

Review the final SFE document for compliance with format requirements of the Auditor, by visiting "Document Format Requirements" at the Auditor's website at:
<https://www.snohomishcountywa.gov/280/Document-Format-Requirements>

Return Address:

Insert contact name and email address for Auditor to email recording number and a copy of the document after recording.

Document Title(s) (or transactions contained therein):

1. Stormwater Facility Easement (Insert Project Name)

Reference Number(s) of Documents assigned or released:

N/A

Grantor(s) (First name, initials, last name, and title and/or entity name and incorporation type)

1. [Insert Grantor]

2. [Insert Grantor]

3. [Insert Grantor]

4. [Insert Grantor]

Grantee(s) (Last name first, then first name and initials):

1. Snohomish County, a political subdivision of the State of Washington

Legal Description (abbreviated: i.e. section, township, range, quarter/quarter or lot, block, plat)

1. [Insert Parcel Legal Description]

2. [Insert Parcel Legal Description]

Full legal is on Exhibit A.

Assessor Property Tax Parcel(s):

[Insert Assessor Tax Parcel Number]; [Insert Assessor Tax Parcel Number]

STORMWATER FACILITY EASEMENT
(INSERT PROJECT NAME)

THIS STORMWATER FACILITY EASEMENT (Insert Project Name) (the “Agreement”) is made this ___ day of _____, 20__ (the “Effective Date”) by and between [Insert individual(s) or name of corporate entity], a [Insert titles of individual(s) (e.g. property owner) or entity’s corporate status (e.g. Washington Limited Liability Company)] (“Owner”), and SNOHOMISH COUNTY, a political subdivision of the State of Washington (the “County”).

RECITALS

- A. Owner owns certain real property commonly known as [Insert street address or name of development], as more particularly described on Exhibit A to this Agreement (the “Property”).
- B. Owner is currently or has recently engaged in certain development activities on the Property requiring one or more permits or approvals from the County.
- C. As a part of Owner’s development activity on the Property, Owner has been required to develop a stormwater site plan for the Property (the “Stormwater Site Plan”), which has been approved by the County’s Department of Planning and Development Services (“PDS”) and is on file in PDS’s records department under File No. XX - XXXXXXX - LDA.
- D. The Stormwater Site Plan depicts the location on the Property of all stormwater management facilities (collectively, the “Stormwater Facilities”), including drainage facilities, detention facilities, retention facilities, flow control BMPs, source control BMPs, conveyance facilities, and all other structures or facilities that constitute stormwater facilities pursuant to the Snohomish County Code (“SCC” or the “County Code”) and/or the Snohomish County drainage manual (the “Drainage Manual”), as currently written or as may hereafter be amended.
- E. To protect the public from flooding, water quality degradation, damage to aquatic habitat, and other drainage impacts, it is important to ensure that the Stormwater Facilities are regularly maintained and function as intended.
- F. The County Code imposes certain maintenance obligations regarding the Stormwater Facilities on Owner and Owner’s successors in title to the Property.

- G. In the event Owner does not properly maintain the Stormwater Facilities, the County requires the right to enter onto the Property for the purpose of performing maintenance and related activities on or to the Stormwater Facilities, at Owner's cost and expense.
- H. In consideration for the County's issuance and approval of the development permits and approvals Owner requires or required in order to complete Owner's development activities on the Property, Owner now makes certain covenants to the County with respect to the Stormwater Facilities and grants certain easement rights to the County with respect to the Stormwater Facilities, all as more fully described below.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

AGREEMENT

1. Term of Agreement

This Agreement shall take effect on the Effective Date specified in the preamble. The term of this Agreement shall be perpetual; provided, however, that this Agreement may be terminated as described in Section 8 below.

2. Covenant to Inspect and Maintain Stormwater Facilities

Owner covenants to the County that Owner shall, at Owner's cost and expense, regularly inspect the Stormwater Facilities no less frequently than is required by the County Code and the Drainage Manual then in effect. Should neither the County Code nor the Drainage Manual specify an inspection frequency with respect to one or more of the Stormwater Facilities, Owner shall inspect same no less frequently than once per calendar year. Owner covenants to the County that Owner shall, at Owner's cost and expense, perform such maintenance and/or repair as may be necessary to keep and maintain the Stormwater Facilities in good condition and repair and functioning as intended, in compliance with SCC 30.63A.575, SCC 30.63A.590, and SCC 7.53.140, as those provisions may hereafter be amended, replaced or superseded.

3. Covenant to Keep Records

Owner covenants to the County that Owner shall, at all times during the term of this Agreement, develop, keep and maintain an operation and maintenance manual for the Stormwater Facilities as required by SCC 30.63A.575 and SCC 7.53.140, as those provisions may hereafter be amended, replaced or superseded. The operation and maintenance manual shall be available for inspection by County personnel at reasonable times upon reasonable prior notice.

4. Grant of Stormwater Facility Easement to County

Owner hereby grants to the County a perpetual, appurtenant easement in gross (the “Stormwater Facility Easement”) over, under, across and upon the Property. The County shall have the right, but not the obligation, to use the Stormwater Facility Easement for any one or more of the following purposes (each such use, a “Permitted Use,” and together, the “Permitted Uses”): to access, inspect, maintain, repair and/or replace any one or more of the Stormwater Facilities and/or any of their component parts. The County may bring onto the Property any equipment, machinery, tools or other supplies or materials that may be reasonably necessary in order to perform the Permitted Uses. Should the County elect to perform any invasive work in connection with the Permitted Uses, the County shall restore the surface of the Property to its condition prior to the commencement of such work as soon as reasonably possible after the completion of such work.

5. Covenant Not to Obstruct Stormwater Facilities

Owner covenants to the County that Owner shall not create, place or maintain, or allow any other person to create, place or maintain, any obstructions on the Property that would hinder the proper functioning of, or impede the County’s ability to access any one or more of the Stormwater Facilities. The County shall have the right, but not the obligation, to remove any such obstructions without notice and at Owner’s cost and expense.

6. Owner Shall Reimburse County for Maintenance Costs

6.1 Regular Maintenance

Should Owner fail to maintain one or more of the Stormwater Facilities in the condition required by Section 2 above, the County may, but need not, perform all or any portion of the necessary maintenance itself, and Owner shall reimburse the County for all reasonable costs and expenses incurred by the County in performing such work within ninety (90) days of receiving the County’s invoice for same. However, Owner’s obligation to reimburse the County pursuant to the preceding sentence shall only apply under the following circumstances: (i) the County performed an inspection of the Stormwater Facilities pursuant to Section 4 above; (ii) the County’s inspection revealed a need for maintenance or repair of one or more of the Stormwater Facilities; (iii) the County gave written notice to Owner of the need for maintenance or repair of the Stormwater Facilities (the “Maintenance Notice”); and (iv) Owner did not perform the necessary maintenance or repair within the applicable time period specified in the Drainage Manual, or, if no applicable time period is specified in the Drainage Manual, then within the time period specified in the Maintenance Notice.

6.2 Emergency Maintenance

In the event of an emergency, the County may, without first complying with any of the requirements contained in (i), (ii), (iii) or (iv) of Section 6.1 above, perform such emergency maintenance and/or repair on or to any one or more of the Stormwater Facilities as may be reasonably necessary to avoid imminent harm or damage to persons or property, and Owner shall reimburse the County for all reasonable costs incurred by the County in performing such emergency maintenance and/or repair.

7. Burdens Run With the Property; Benefits Held In Gross

The obligations and burdens described herein are intended to touch and concern the real property described in Exhibit A of this Agreement, and shall run with the Property and be binding on Owner's successors and assigns in title to the Property. The rights and benefits of this Agreement shall be held by the County in gross, in its governmental capacity. The County may exercise and enforce any one or more of those rights and benefits on behalf of the public. The County's rights and benefits under this Agreement shall automatically transfer to any successor to the County's governmental and regulatory authority over the Property (for example, to a municipality in the event the Property is annexed).

8. Termination

Should Owner or Owner's successor in title to the Property re-develop the Property, as permitted by the County Code and other applicable laws, rules and development regulations, in such a manner that the Stormwater Facilities are no longer necessary or useful for their intended purpose, Owner or Owner's successor in title may seek the County's approval to terminate this Agreement. In such event, the County shall agree to terminate this Agreement if termination is permitted by and consistent with the County Code and the Drainage Manual then in effect. To terminate this Agreement, both parties must execute, acknowledge and record a termination agreement.

9. Governing Law; Interpretation

This Agreement shall be governed by, and construed in accordance with, the laws of the State of Washington. Venue for any dispute involving this Agreement shall be the Superior Court in and for the County of Snohomish, State of Washington. This Agreement may be amended or otherwise modified only in writing, signed and acknowledged by the party to be charged. If any provision of this Agreement shall be held by a court of competent jurisdiction to be to any extent invalid or unenforceable, the remainder of this Agreement (or the application of such provision to persons or circumstances other than those in respect of which it is invalid or unenforceable) shall not be affected thereby, and each provision of this Agreement, unless specifically conditioned upon such invalid or unenforceable provision, shall be valid and enforceable to the fullest extent permitted by law.

Signed and delivered on the day and year first above written.

OWNER

_____,

By _____

Name: _____

Title: _____

COUNTY

Snohomish County, a political subdivision of the State of
Washington

By _____

Name: _____

Title: _____

CORPORATE ACKNOWLEDGEMENT

STATE OF WASHINGTON)

) ss.

COUNTY OF SNOHOMISH)

On this [redacted] day of [redacted], 201[redacted], before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared [redacted], to me known to be the person who signed as [redacted] of [redacted], the [redacted] that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said [redacted] for the uses and purposes therein mentioned, and on oath stated that [redacted] was duly elected, qualified and acting as said officer of the [redacted], and that s/he was authorized to execute said instrument.

IN WITNESS WHEREOF I have hereunto set my hand and official seal the day and year first above written.

Signature of Notary

Printed Name of Notary

NOTARY PUBLIC in and for the State of Washington,
residing at _____.

My appointment expires: _____.

INDIVIDUAL ACKNOWLEDGEMENT

STATE OF WASHINGTON)

) ss.

COUNTY OF SNOHOMISH)

On this [redacted] day of [redacted], 201[redacted], I certify that I know or have satisfactory evidence that [redacted] is the person who appeared before me, and said person acknowledged that he/she signed this instrument and acknowledged, on oath that he/she was authorized to execute the instrument and acknowledged it to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

IN WITNESS WHEREOF I have hereunto set my hand and official seal the day and year first above written.

Signature of Notary

Printed Name of Notary

NOTARY PUBLIC in and for the State of Washington,
residing at _____.

My appointment expires: _____.

EXHIBIT A

Legal Description of Property

**[INSERT LEGAL DESCRIPTION PER TITLE REPORT OR PUBLIC LAND SURVEYOR
WITH STAMP]**