

**Whatcom County Public Works**  
**322 N. Commercial Street**  
**Bellingham, WA 98225**

**MAINTENANCE AGREEMENT FOR WATER QUALITY IMPROVEMENT PROJECT THROUGH THE LAKE WHATCOM HOMEOWNER INCENTIVE PROGRAM (HIP)**

This agreement is made between:

**Landowner(s):** <<NAME>>

**and**

**Whatcom County:** a political subdivision of the State of Washington.

This agreement identifies and confirms the terms, conditions and obligations agreed upon between Whatcom County (County); and the Landowner(s) for a water quality improvement project on the property described herein, as part of the Lake Whatcom Homeowner Incentive Program (HIP).

Completed water quality improvements are depicted in **Exhibit "A"**, attached and incorporated, on lands owned by Landowner described as:

<<FULL LEGAL DESCRIPTION>>

*Insert full legal description without abbreviations (if you copy from Real Property Search it will have abbreviations). Look for deed online with Recorded Documents search, advanced search on Civic Plus. Snip a screen shot of the full legal description and insert here (no need to retype)*

and designated by tax parcel number(s) <<16-digit PARCEL NUMBER>>, located on <<ADDRESS>> within Whatcom County, Washington.

**1. The Landowner agrees:**

- 1.1 To preserve and not intentionally compromise the integrity of the water quality improvements described in Exhibit "A".
- 1.2 To conduct in good-faith the inspection and maintenance activities identified in Exhibit "B".
- 1.3 To submit, upon request from HIP staff, current photos of the improvements to confirm that they have been preserved and maintained in accordance with this agreement.

OR

To provide reasonable property access to the County, its agents, employees and contractors, with at least one (1) week notice (or with such other notice as may be otherwise mutually agreed in writing by and between the parties), and during daytime hours, Monday through Saturday (unless otherwise arranged between the parties), to periodically inspect the water quality improvements.

- 1.4 To inform the County, its agents, employees and contractors of all known safety hazards on the property.

1.5 To disclose the terms of the agreement to subsequent landowners, at future sale of the property, by completing MLS Form 17, Seller's Disclosure Form, and notifying the County in writing at close of sale.

**2. Conditions**

2.1 This agreement may not be amended or abrogated, in part or entirely, without the express written consent of the parties. The water quality improvements described in Exhibit "A" may be replaced with different water quality improvements that provide the same or better levels of water quality treatment, with the written consent of both parties.

2.2 This Agreement does not authorize the County; or any third party to assume jurisdiction over, or any ownership interest in, the premises. The Landowner retains all rights, consistent with the terms of this Agreement, to control trespass except as authorized in this agreement and retains all responsibility for taxes, assessments, and damage claims.

**3. Remedies.** In the event the landowner does not comply with the terms of this agreement, the County may give written notice of non-compliance to owner. If notice is provided, and landowner does not satisfy the conditions for compliance with this agreement, the owner may be required to remit the full amount of the financial support received through the HIP within thirty (30) days of receipt of written notice of non-compliance. If the amount thus owing is not remitted by the landowner, the County may obtain a judgment that may include the amount owing plus attorney's fees and costs, which judgment can then be filed as a lien against the property; the County may also utilize any other methods of collection that are legally available. Alternatively, the County may elect specific performance rather than reimbursement.

Landowner(s) guarantee(s) their ownership of the above-described real property, and further guarantee(s) that there are no outstanding rights or legal interests that interfere with this Agreement.

**Landowner(s) Signature(s):**

\_\_\_\_\_  
\_\_\_\_\_

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally appeared

\_\_\_\_\_ to me personally known to be the person(s) individually or jointly described in and who executed the above instrument and who acknowledged to me the act of signing thereof.

\_\_\_\_\_  
NOTARY PUBLIC, in and for the State of Washington,  
residing at:

\_\_\_\_\_  
My Commission Expires \_\_\_\_\_

Whatcom County  
Acknowledged and Accepted By:

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Jon Hutchings  
Public Works Director

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Date

APPROVED AS TO FORM:

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Christopher Quin  
Senior Civil Deputy Prosecuting Attorney

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Date

**EXHIBIT "A"**

**GRAPHIC DEPICTION OF WATER QUALITY IMPROVEMENTS AND THEIR LOCATION**

**EXHIBIT "B"**

**MAINTENANCE AGREEMENT**

**A:** Maintenance activities that involve either simple observation or routine clean-up similar to typical maintenance and care of other property amenities.

**B:** Maintenance activities that may qualify for technical and/or financial assistance from the County/City, as available, upon the occasion that major repairs or replacements are necessary, provided that the repairs are not required as a result of intentional damage or any violation of applicable regulations. Landowner(s) are to have satisfactorily completed "A"-designated activities to be eligible.

**YOUR AGREEMENT WILL ONLY INCLUDE THE SCHEDULE OF ACTIVITIES FOR THE BMPS INCLUDED IN YOUR PROJECT. ALL ARE INCLUDED IN THE BLANK EXAMPLE FOR REFERENCE.**

**Schedule of Activities for Native Landscaping**

<b>Designation</b>	<b>Action</b>	<b>Frequency</b>	<b>Notes</b>
A	Pull weeds	Once per year, in spring, or as desired for aesthetics	Remove any easily-pulled weeds and grass growing in landscaped areas. Weeds are not required to be pulled as long as native plants remain unaffected by weed growth.
A	Water plants	Once every other week during first three summers, more often during drought years	Water plants as needed to achieve a total of 1" of irrigation per week from July 4 <sup>th</sup> - Labor Day. If rain occurs during that period, irrigation may not be necessary.
A	Replace dead plants	Once per year for first five years, as needed, in fall.	Goal is to achieve 80% survivorship after three years. Replace plants that die with more-applicable plants if 80% goal is difficult to meet.
B	Identify and remove invasive species and/or noxious weeds	Every five years or as needed	If known invasive species (e.g. Himalayan blackberry, Bohemian knotweed, yellow-flag iris) are identified, control using guidance provided by Whatcom Weeds.
B	Replace mulch	Every five years or as needed	Ensure a minimum of 4" of woody mulch covers all landscaped areas. If your system is planted effectively, and maintenance occurs as described above, mulch <b>may not need</b> to be replaced for many years.

### Schedule of Activities for Infiltration Trenches and Associated Conveyance Piping

Designation	Action	Frequency	Notes
A	Observe function	Once per year, during large (>1" in 24 hours) rain storm	Observe water flowing from drains to facility and look inside clean outs to be sure water is entering facility as designed.
A	Observe "drain down" time	Once per year, during large (>1" in 24 hours) rain storm	If water ponds on surface (or backs up in pipe), check system 48 hours after rain event to ensure water has drained down.
A	Clean out drains and pipes leading to system	Twice per year, once in fall and once in spring	Use wet/dry vacuum to remove debris and sediment from pipes and drains. If adding water, do not allow dirty water into trench
A	Clean Gutters	Twice per year, once in fall and once in spring	Remove leaves/needles by hand and place in compost/yard waste bin. Do not wash debris into trench or put removed materials on paved surface or lawn.
A	Clear overflow grate	Once per year, in late fall	Make sure drain is clear to allow overflow water to enter downstream system safely
A	Pull weeds	Once per year, in spring	Remove any easily-pulled weeds and grass growing in rock areas.
B	Remove and replace top layer of rock	Every five years, or as needed	The top 2 inches of rock may become clogged with sediment, restricting drainage and allowing plants to grow. Remove rock and sediment and replace with clean material. Do not use water to "wash" sediment into facility.
B	Replace drainage fabric	Every 20 years, or as needed. Rarely	If using fabric <b>between</b> layers of rock or <b>on the bottom</b> of the facility, replace fabric when replacing rock layers. If using fabric <b>on the sides</b> of the facility, only replace this fabric if entire facility needs to be re-constructed.
B	Remove and replace all drain rock	Every 20 years or as needed. Rarely.	This step <b><u>may not be required</u></b> for life of facility (50 years) if preventive maintenance above is completed regularly.

### Schedule of Activities for Lake Whatcom Rain Gardens and Associated Conveyance Piping

Designation	Action	Frequency	Notes
A	Observe function	Once per year, during large (>1" in 24 hours) rain storm	Observe water flowing from drains to facility and look inside clean outs to be sure water is entering facility as designed.
A	Observe "drain down" time	Once per year, during large (>1" in 24 hours) rain storm	If water ponds on surface (or backs up in pipe), check system 48 hours after rain event to ensure water has drained down.
A	Clean out drains and pipes leading to system (including gutters)	Twice per year, once in fall and once in spring	Use wet/dry vacuum to remove debris and sediment from pipes and drains. If adding water, do not allow dirty water into rain garden
A	Clear overflow grate	Once per year, in late fall	Make sure drain is clear to allow overflow water to enter downstream system safely
A	Pull weeds	Once per year, in spring, or as desired for aesthetics	Remove any easily-pulled weeds and grass growing in rain garden bottom or side slopes. Weeds are not required to be pulled as long as native plants and function remain unaffected by weed growth.
A	Water plants	Once every other week during first three summers, more often during drought years	Water plants as needed to achieve a total of 1" of irrigation per week from July 4 <sup>th</sup> - Labor Day. If rain occurs during that period, irrigation may not be necessary.
A	Replace dead plants	Once per year for first five years, as needed, in fall.	Goal is to achieve 80% survivorship after three years. Replace plants that die with more-applicable plants if 80% goal is difficult to meet.
B	Replace mulch	Every five years or as needed	Ensure a minimum of 4" of woody mulch covers all rain garden soils and side slopes. If your system is planted effectively, and maintenance occurs as described above, mulch may not need to be replaced for the life of the facility.
B	Replace rain garden soil	Every 20 years, or as needed. Rarely	This step <b>may not be required</b> for life of facility (50 years) if preventive maintenance above is completed regularly.

### Schedule of Activities for Media Filter Drain Systems and Associated Conveyance Piping

Designation	Action	Frequency	Notes
A	Observe function	Once per year, during large (>1" in 24 hours) rain storm	Observe water flowing from drains to facility and look inside clean outs to be sure water is entering facility as designed.
A	Observe "drain down" time	Once per year, during large (>1" in 24 hours) rain storm	If water ponds on surface (or backs up in pipe), check system 48 hours after rain event to ensure water has drained down.
A	Clean out drains and pipes leading to system	Twice per year, once in fall and once in spring	Use wet/dry vacuum to remove debris and sediment from pipes and drains. If adding water, do not allow dirty water into trench
A	Clean Gutters	Twice per year, once in fall and once in spring	Remove leaves/needles by hand and place in compost/yard waste bin. Do not wash debris into trench or put removed materials on paved surface or lawn.
A	Clear overflow grate	Once per year, in late fall	Make sure drain is clear to allow overflow water to enter downstream system safely
A	Pull weeds	Once per year, in spring	Remove any easily-pulled weeds and grass growing on the MFD surface.
B	Remove and replace top layer of rock	Every five years or as needed	The top 2 inches of rock may become clogged with sediment, restricting drainage and allowing plants to grow. Remove rock and sediment and replace with clean material. Do not use water to "wash" sediment into facility.
B	Replace drainage fabric	Every 20 years or as needed. Rarely	For MFD mix that is wrapped in fabric, remove media and fabric and replace both at the same time. Fabric on sides of facility does not need replacement unless entire system is being reconstructed.
B	Remove and replace all MFD Materials	Every 20 years or as needed. Rarely.	This step <b><u>may not be required</u></b> for life of facility (50 years) if preventive maintenance above is completed regularly.



**Schedule of Activities for Dispersion Systems, Dispersion Areas, and Associated Conveyance Piping**

<b>Designation</b>	<b>Action</b>	<b>Frequency</b>	<b>Notes</b>
A	Observe function	Once per year, during large rain storm	Observe water flowing from drains to facility and look inside clean outs to be sure water is entering facility as designed.
A	Clean out drains and pipes leading to system	Twice per year, once in fall and once in spring	Use wet/dry vacuum to remove debris and sediment from pipes and drains. If adding water, do not allow dirty water into trench
A	Clean Gutters	Twice per year, once in fall and once in spring	Remove leaves/needles by hand and place in compost/yard waste bin. Do not wash debris into trench or put removed materials on paved surface or lawn.
A	Pull weeds	Once per year, in spring	Remove any easily-pulled weeds and grass growing in rock areas.
B	Remove and replace top layer of rock	Every five years or as needed	The top 2 inches of rock may become clogged with sediment, restricting drainage and allowing plants to grow. Remove rock and sediment and replace with clean material. Do not use water to "wash" sediment into facility.
B	Replace drainage fabric	Every 20 years, or as needed. Rarely	If using fabric <b>between</b> layers of material, replace fabric when replacing rock layers. If using fabric <b>on the sides</b> of the facility, only replace this fabric if entire facility needs to be reconstructed.
B	Remove and replace all drain rock	Every 20 years or as needed. Rarely.	This step <b>may not be required</b> for life of facility (50 years) if preventive maintenance above is completed regularly.

**Schedule of Activities for Permeable Surfacing Consisting of Spaced Pavers with Permeable Gaps**

<b>Designation</b>	<b>Action</b>	<b>Frequency</b>	<b>Notes</b>
<b>A</b>	Observe function	Once per year, during large rain storm	Observe water flowing from surface onto and through pavement. No ponding/puddling should be seen on the surface.
<b>A</b>	Clear overflow grate	Once per year, in late fall	Make sure drain is clear to allow overflow water to enter downstream system safely
<b>A</b>	Remove debris/leaf litter	As needed throughout the fall season to prevent clogging	Rake large debris from pavement. Collect and dispose of leaves using food waste composting bins or haul away to disposal site
<b>A</b>	Replace joint filler	Once per year for first five years, as needed, in fall.	Follow manufacturer's specifications for specific material needed to fill gaps. Do not use sand.
<b>A</b>	Level paver surface	As needed, dependent on use and wear	Using a screwdriver or other hand tool, lift up any uneven pavers and remove any debris under or around it. Set paver level and refill gaps.
<b>A</b>	Pull weeds	Once per year, in spring	Remove any easily-pulled weeds or grass growing on the surface or in gaps between pavers.
<b>B</b>	Remove and replace base layer of rock	Every 20 years or as needed. Rarely.	The top 2 inches of rock may become clogged with sediment, restricting drainage. Remove rock and sediment and replace with clean material. Do not use water to "wash" sediment into facility.