

§42-241.3 Operation and Maintenance Agreement

- B. Special Requirement for Homeowners' and Other Associations. For all *structural stormwater BMPs* required pursuant to Subpart B and that are to be or are owned and maintained by a homeowners' association, property owners' association, or similar entity, the required operation and maintenance agreement shall include all of the following provisions:
- (1) Acknowledgment that the association shall continuously operate and maintain the *stormwater* control and management facilities.
 - (2) Granting to the *County* a right of entry to inspect, monitor, maintain, repair, and reconstruct *structural stormwater BMPs*.
 - (3) Allowing the *County* to recover from the association and its members any and all costs the *County* expends to maintain or repair the *structural stormwater BMPs* or to correct any operational deficiencies. Failure to pay the *County* all of its expended costs, after 45 days written notice, shall constitute a breach of the agreement. In case of a deficiency, the *County* shall thereafter be entitled to bring an action against the association and its members to pay, or foreclose upon the lien hereby authorized by the agreement against the property, or both. Interest, collection costs, and attorney fees shall be added to the recovery.
 - (4) A statement that this agreement shall not obligate the *County* to maintain or repair any *structural stormwater BMPs*, and the *County* shall not be liable to any *person* for the condition or operation of *structural stormwater BMPs*.
 - (5) A statement that this agreement shall not in any way diminish, limit, or restrict the right of the *County* to enforce any of its ordinances as authorized by law.
 - (6) A provision indemnifying and holding harmless the *County* for any costs and injuries arising from or related to the *structural stormwater BMP*, unless the *County* has agreed in writing to assume the maintenance responsibility for the *BMP* and has accepted dedication of any and all rights necessary to carry out that maintenance.