**Appendix F:** **ESC Law**

ESC Law Summary:

**Phase II Stormwater Management: Erosion and Sedimentation Control Law**

Municipalities in New York State have the power and responsibility to make land use decisions that determine how each community uses not only its land, but also its water and other natural resources. These decisions directly determine whether the community's resources will support a good quality of life for its citizens.

The Stormwater Phase II program requires regulated MS4s (Municipal Separate Storm Sewer Systems), such as Ardsley, to incorporate stormwater management into the local code. This requirement ensures that local stormwater management programs meet the community's objectives for protecting public health and welfare; makes certain that stormwater management takes into account the individual locality's natural resources, and gives local boards direct input into landscaping, placement of structures, long-term maintenance, enforcement and other issues that are best determined locally.

The State of New York recommends that every community, whether or not it is regulated under Phase II, adopt a Stormwater Management Local Law. By adopting the Erosion and Sedimentation Control (ESC) Law, regulated MS4 communities will meet the Phase II requirement for "an ordinance or other regulatory mechanism" to carry out Minimum Control Measures 4 and 5 for control of construction site and post-construction runoff.

With the law in place, no construction site or developed site should discharge more pollution or volume of runoff than the site did when it was in a natural condition. Under the ESC law, erosion and sediment controls are functioning during every regulated construction project. Environmentally sound land use practices will minimize stormwater runoff. Effective control of runoff from construction sites will be accomplished through stormwater plans (SPPP) prepared by construction site operators and reviewed during local permitting. Inspections will ensure that runoff controls are in place and functioning during construction. Construction site operators will routinely implement stormwater plans. Architects, engineers and designers will follow state technical standards in planning and construction. Stormwater control measures remain on the site as needed after construction.

The law itself has a General Provisions introduction (Article 1), Stormwater Control (Article 2) containing instructions on how to prepare and implement a Stormwater Pollution Prevention Plan (SWPPP), portions applying to Subdivisions (Article 3) and Site Plan Reviews (Article 4), ESC Law Amendment (Article 5) amending LL No. 4-2008, Administration and Enforcement (Article 6) detailing construction site inspection and enforcement procedures, and a final Repealer (Article 7) placing the entire law in Chapter 171 of the Village Code.

The law will apply to construction activity including clearing, grading, excavating, soil disturbance or placement of fill that results (a) the construction of any new building, or (b) any new construction on previously undeveloped lots or sub-divided lots, or (c) any new construction on previously developed lots on which a building has been or will be demolished, or (d) any land disturbance of equal to or greater than one acre, or (e) any activities disturbing less than one acre of total land area that is part of a larger common plan of development or sale, even though multiple separate and distinct land development activities may take place at different times on different schedules, as defined under "Land Development Activity" (Article 2, Section 1).

# Chapter 171: STORMWATER MANAGEMENT AND EROSION AND SEDIMENT CONTROL

[HISTORY:*Originally* adopted by the Village Board of Trustees of the Village of Ardsley 3-21-2005 by L.L. No. 4-2005. NYSDEC amended their ESC Sample Law March 2006. L.L. No. 4-2008 was adopted by the Board of Trustees of the Village of Ardsley on 9-2-2008. NYSDEC amended the NYS Stormwater Design Manual May 2010. The following version incorporates L.L. No. 4-2008 and modifications which must now be included as required by DEC.

**GENERAL REFERENCES**
Excavations — See Ch. 105.
Flood damage prevention — See Ch. 115.
Removal of soil — See Ch. 169.

## Article 1. General Provisions

### Section 1. Findings of Fact

It is hereby determined that:

**1.1** Land development activities and associated increases in site impervious cover often alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, flooding, stream channel erosion, or sediment transport and deposition;

**1.2** This stormwater runoff contributes to increased quantities of water-borne pollutants, including siltation of aquatic habitat for fish and other desirable species;

**1.3** Clearing and grading during construction tends to increase soil erosion and add to the loss of native vegetation necessary for terrestrial and aquatic habitat;

**1.4** Improper design and construction of stormwater management practices can increase the velocity of stormwater runoff thereby increasing stream bank erosion and sedimentation;

**1.5** Impervious surfaces allow less water to percolate into the soil, thereby decreasing groundwater recharge and stream baseflow;

**1.6** Substantial economic losses can result from these adverse impacts on the waters of the municipality;

**1.7** Stormwater runoff, soil erosion and nonpoint source pollution can be controlled and minimized through the regulation of stormwater runoff from land development activities;

**1.8** The regulation of stormwater runoff discharges from land development activities in order to control and minimize increases in stormwater runoff rates and volumes, soil erosion, stream channel erosion, and nonpoint source pollution associated with stormwater runoff is in the public interest and will minimize threats to public health and safety.

**1.9** Regulation of land development activities by means of performance standards governing stormwater management and site design will produce development compatible with the natural functions of a particular site or an entire watershed and thereby mit igate the adverse effects of erosion and sedimentation from development.

### Section 2. Purpose

The purpose of this local law is to establish minimum stormwater management requirements and controls to protect and safeguard the general health, safety, and welfare of the public residing within this jurisdiction and to address the findings of fact in Section 1 hereof. This local law seeks to meet those purposes by achieving the following objectives:

**2.1** Meet the requirements of minimum measures 4 and 5 of the SPDES General Permit for Stormwater Discharges from Municipal Separate Stormwater Sewer Systems (MS4s), Permit no. GP-0-10-002 or as amended or revised;

**2.2** Require land development activities to conform to the substantive requirements of the NYS Department of Environmental Conservation State Pollutant Discharge Elimination System (SPDES) General Permit for Construction Activities GP-0-10-001 or as amended or revised;

**2.3** Minimize increases in stormwater runoff from land development activities in order to reduce flooding, siltation, increases in stream temperature, and streambank erosion and maintain the integrity of stream channels;

**2.4** Minimize increases in pollution caused by stormwater runoff from land development activities which would otherwise degrade local water quality;

**2.5** Minimize the total annual volume of stormwater runoff which flows from any specific site during and following development to the maximum extent practicable; and

**2.6** Reduce stormwater runoff rates and volumes, soil erosion and nonpoint source pollution, wherever possible, through stormwater management practices and to ensure that these management practices are properly maintained and eliminate threats to public safety.

**2.7** Encourage the use of green infrastructure practices to control stormwater runoff in order to, among other things, protect natural areas, reduce impervious cover, and implement runoff reduction techniques to the maximum extent practicable.

## Section 3. Statutory Authority

In accordance with Article 10 of the Municipal Home Rule Law of the State of New York, the **Village Board of Trustees of the Village of Ardsley** has the authority to enact local laws and amend local laws and for the purpose of promoting the health, safety or general welfare of the **Village of Ardsley** and for the protection and enhancement of its physical environment. The **Village Board of Trustees of the Village of Ardsley** may include in any such local law provisions for the appointment of any municipal officer, employees, or independent contractor to effectuate, administer and enforce such local law.

## Section 4. Applicability

**4.1** This local law shall be applicable to all land development activities as defined in this local law, Article 2, Section 1**.**

**4.2** The municipality shall designate a Stormwater Management Officer who shall accept and review all stormwater pollution prevention plans and forward such plans to the applicable municipal board. The Stormwater Management Officer may (1) review the plans, (2) upon approval by the Village Board of Trustees of the Village of Ardsley, engage the services of a registered professional engineer to review the plans, specifications and related documents at a cost not to exceed a fee schedule established by said governing board, or (3) accept the certification of a licensed professional that the plans conform to the requirements of this law.

**4.3** All land development activities subject to review and approval by the **Village of Ardsley** under **subdivision, site plan, and/or special permit** regulations shall be reviewed subject to the standards contained in this local law

**4.4** All land development activities not subject to review as stated in section 4.3 shall be required to submit a Stormwater Pollution Prevention Plan (SWPPP) to the Stormwater Management Officer who shall approve the SWPPP if it complies with the requirements of this law.

## Section 5. Exemptions

The following activities may be exempt from review under this law.

**5.1** Agricultural activity as defined in this local law.

**5.2** Silviculturalactivity except that landing areas and log haul roads are subject to this law.

**5.3** Routine maintenance activities that disturb less than five acres and are performed to maintain the

original line and grade, hydraulic capacity or original purpose of a facility.

**5.4** Repairs to any stormwater management practice or facility deemed necessary by the Stormwater Management Officer.

**5.5** Any part of a subdivision if a plat for the subdivision has been approved by the **Village of Ardsley** on or before the effective date of this law.

**5.6** Land development activities for which a building permit has been approved on or before the effective date of this law.

**5.7** Cemetery graves.

**5.8** Installation of fence, sign, telephone, and electric poles and other kinds of posts or poles.

**5.9** Emergency activity immediately necessary to protect life, property or natural resources.

**5.10** Activities of an individual engaging in home gardening by growing flowers, vegetable and other plants primarily for use by that person and his or her family.

**5.11** Landscaping and horticultural activities in connection with an existing structure.

# Article 2. Stormwater Control

## Section 1. Definitions

The terms used in this local law or in documents prepared or reviewed under this local law shall have the meaning as set forth in this section.

**Agricultural Activity** - the activity of an active farm including grazing and watering livestock, irrigating crops, harvesting crops, using land for growing agricultural products, and cutting timber for sale, but shall not include the operation of a dude ranch or similar operation, or the construction of new structures associated with agricultural activities.

**Applicant** - a property owner or agent of a property owner who has filed an application for a land development activity.

**Building** - any structure, either temporary or permanent, having walls and a roof, designed for the shelter of any person, animal, or property, and occupying more than 100 square feet of area.

**Channel** - a natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.

**Clearing** - any activity that removes the vegetative surface cover.

**Dedication** - the deliberate appropriation of property by its owner for general public use.

**Department** - the New York State Department of Environmental Conservation

**Design Manual** - the *New York State Stormwater Management Design Manual*, most recent version including applicable updates, that serves as the official guide for stormwater management principles, methods and practices.

**Developer** - a person who undertakes land development activities.

**Erosion Control Manual** - the most recent version of the "New York Standards and Specifications for Erosion and Sediment Control" manual, commonly known as the "Blue Book".

**Grading** - excavation or fill of material, including the resulting conditions thereof.

**Green Infrastructure** - Green infrastructure refers to practices and devices used to infiltrate, evapotranspire or reuse stormwater, using soils and vegetation rather than hardscape collection, conveyance and storage structures. Common green infrastructure approaches include green roofs, trees and tree boxes, rain gardens, vegetated swales, pocket wetlands, infiltration planters, vegetated median strips, reforestation, and protection and enhancement of riparian buffers and floodplains.

**Impervious Cover**- those surfaces, improvements and structures that cannot effectively infiltrate rainfall, snow melt and water (e.g., building rooftops, pavement, sidewalks, driveways, etc).

**Industrial Stormwater Permit** - a State Pollutant Discharge Elimination System permit issued to a commercial industry or group of industries which regulates the pollutant levels associated with industrial stormwater discharges or specifies on-site pollution control strategies.

**Infiltration** - the process of percolating stormwater into the subsoil.

**Jurisdictional Wetland** - an area that is inundated or saturated by surface water or groundwater at a frequency

and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

**Land Development Activity** - construction activity, including clearing, grading, excavating, soil disturbance or placement of fill, that results in the construction of any new building, or any new construction on previously undeveloped lots or subdivided lots, or any new construction on previously developed lots on which a building has been or will be demolished, or any land disturbance of equal to or greater than one acre, or any activities disturbing less than one acre of total land area that is part of a larger common plan of development or sale, even though multiple separate and distinct land development activities may take place at different times on different schedules.

**Landowner** - the legal or beneficial owner of land, including those holding the right to purchase or lease the land, or any other person holding proprietary rights in the land.

**Maintenance Agreement** - a legally recorded document that acts as a property deed restriction, and which provides for long-term maintenance of stormwater management practices.

**Nonpoint Source Pollution** - pollution from any source other than from any discernible, confined, and discrete conveyances, and shall include, but not be limited to, pollutants from agricultural, silvicultural, mining, construction, subsurface disposal and urban runoff sources.

**Phasing** - clearing a parcel of land in distinct pieces or parts, with the stabilization of each piece completed before the clearing of the next.

**Pollutant of Concern** - sediment or a water quality measurement that addresses sediment (such as total suspended solids, turbidity or siltation) and any other pollutant that has been identified as a cause of impairment of any water body that will receive a discharge from the land development activity.

**Project** - land development activity

**Qualified Inspector** - a person who is knowledgeable in the principles and practices of erosion and sediment control, such as a licensed Professional Engineer, Certified Professional in Erosion and Sediment Control (CPESC), or Registered Landscape Architect or a person working under the direct supervision of, and at the same company as, the licensed Professional Engineer or Registered Landscape Architect, provided that person has training in the principles and practices of erosion and sediment control.

**Recharge** - the replenishment of underground water reserves.

**Sediment Control** - measures that prevent eroded sediment from leaving the site.

**Sensitive Areas** - cold water fisheries, shellfish beds, swimming beaches, groundwater recharge areas, water supply reservoirs, habitats for threatened, endangered or special concern species.

**SPDES General Permit for Construction Activities GP-0-10-001** - A permit under the New York State Pollutant Discharge Elimination System (SPDES) issued to developers of construction activities to regulate disturbance of one or more acres of land.

**SPDES General Permit for Stormwater Discharges from Municipal Separate Stormwater Sewer Systems GP-0-10-002** - A permit under the New York State Pollutant Discharge Elimination System (SPDES) issued to municipalities to regulate discharges from municipal separate storm sewers for compliance with EPA established water quality standards and/or to specify stormwater control standards

**Stabilization** - the use of practices that prevent exposed soil from eroding.

**Stop Work Order** - an order issued which requires that all construction activity on a site be stopped.

**Stormwater** - rainwater, surface runoff, snowmelt and drainage

**Stormwater Hotspot** - a land use or activity that generates higher concentrations of hydrocarbons, trace metals or toxicants than are found in typical stormwater runoff, based on monitoring studies.

**Stormwater Management** - the use of structural or non-structural practices that are designed to reduce stormwater runoff and mitigate its adverse impacts on property, natural resources and the environment.

**Stormwater Management Facility** - one or a series of stormwater management practices installed, stabilized and operating for the purpose of controlling stormwater runoff.

**Stormwater Management Officer** - an employee or officer designated by the municipality to accept and review stormwater pollution prevention plans, forward the plans to the applicable municipal board and inspect stormwater management practices

**Stormwater Management Practices (SMPs)** - measures, either structural or nonstructural, that are determined to be the most effective, practical means of preventing flood damage and preventing or reducing point source or nonpoint source pollution inputs to stormwater runoff and water bodies.

**Stormwater Pollution Prevention Plan (SWPPP)** - a plan for controlling stormwater runoff and pollutants from a site during and after construction activities.
**Stormwater Runoff** - flow on the surface of the ground, resulting from precipitation
**Surface Waters of the State of New York** - lakes, bays, sounds, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Atlantic ocean within the territorial seas of the state of New York and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters that do not combine or effect a junction with natural surface or underground waters), which are wholly or partially within or bordering the state or within its jurisdiction.
Storm sewers and waste treatment systems, including treatment ponds or lagoons which also meet the criteria of this definition are not waters of the state. This exclusion applies only to manmade bodies of water which neither were originally created in waters of the state (such as a disposal area in wetlands) nor resulted from impoundment of waters of the state.
**Trained Contractor** - an employee from the contracting (construction) company, who has received four (4) hours of Department endorsed training in proper erosion and sediment control principles. After receiving the initial training, the *trained contractor* shall receive four (4) hours of training every three (3) years. It can also mean an employee from the contracting (construction) company who meets the *qualified inspector* qualifications.
**Watercourse** - a permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water.
**Waterway** - a channel that directs surface runoff to a watercourse or to the public storm drain.

## Section 2. Stormwater Pollution Prevention Plans

### 2.1. Stormwater Pollution Prevention Plan Requirement

No application for approval of a land development activity shall be reviewed until the appropriate board has received a Stormwater Pollution Prevention Plan (SWPPP) prepared in accordance with the specifications in this local law.

### 2.2 Contents of Stormwater Pollution Prevention Plans

2.2.1 All SWPPPs shall provide the following background information and erosion and sediment controls:

1 Background information about the scope of the project, including location, type and size of project.

2 Site map/construction drawing(s) for the project, including a general location map. At a minimum, the site map should show the total site area; all improvements; areas of disturbance; areas that will not be disturbed; existing vegetation; on-site and adjacent off-site surface water(s); wetlands and drainage patterns that could be affected by the construction activity; existing and final slopes; locations of off-site material, waste, borrow or equipment storage areas; and location(s) of the stormwater discharges(s);

3 Description of the soil(s) present at the site;

4 Construction phasing plan describing the intended sequence of construction activities, including clearing and grubbing, excavation and grading, utility and infrastructure installation and any other activity at the site that results in soil disturbance. Consistent with the New York Standards and Specifications for Erosion and Sediment Control (Erosion Control Manual), not more than five (5) acres shall be disturbed at any one time unless pursuant to an approved SWPPP.

5. Description of the pollution prevention measures that will be used to control litter, construction chemicals and construction debris from becoming a pollutant source in stormwater runoff;

6 Description of construction and waste materials expected to be stored on-site with updates as appropriate, and a description of controls to reduce pollutants from these materials including storage practices to minimize exposure of the materials to stormwater, and spill -prevention and response;

7 Temporary and permanent structural and vegetative measures to be used for soil stabilization, runoff control and sediment control for each stage of the project from initial land clearing and grubbing to project close-out;

8 A site map/construction drawing(s) specifying the location(s), size(s) and length(s) of each erosion and sediment control practice;

9 Dimensions, material specifications and installation details for all erosion and sediment control practices, including the siting and sizing of any temporary sediment basins;
10 Temporary practices that will be converted to permanent control measures;
11 Implementation schedule for staging temporary erosion and sediment control practices, including the timing of initial placement and duration that each practice should remain in place;

12 Maintenance schedule to ensure continuous and effective operation of the erosion and sediment control practice;
13 Name(s) of the receiving water(s);
14 Delineation of SWPPP implementation responsibilities for each part of the site;
15 Description of structural practices designed to divert flows from exposed soils, store flows, or otherwise limit runoff and the discharge of pollutants from exposed areas of the site to the degree attainable; and
16 Any existing data that describe the stormwater runoff at the site.

2.2.2 Land development activities as defined in Section 1 of this Article and meeting Condition "A", "B", "C" or "D" below shall also include water quantity and water quality controls (post-construction stormwater runoff controls) as set forth in Section 2.2.3 below as applicable:

Condition A - Stormwater runoff from land development activities discharging a pollutant of concern to either an impaired water identified on the Department's 303(d) list of impaired waters or a Total Maximum Daily Load (TMDL) designated watershed for which pollutants in stormwater have been identified as a source of the impairment.

Condition B - Stormwater runoff from land development activities disturbing five (5) or more acres.

Condition C - Stormwater runoff from land development activity disturbing between one (1) and five (5) acres of land during the course of the project, exclusive of the construction of single family residences with 25% or less impervious cover at total build out and construction activities at agricultural properties.

Condition D - Stormwater runoff from land development activities disturbing between one (1) and five (5) acres of land for a single family residential subdivision that will result in greater than 25% impervious cover at total build out.

2.2.3 SWPPP Requirements for Condition A, B, C and D:
1 All information in Section 2.2 .1 of this local law
2 Description of each post-construction stormwater management practice, including documentation of the five step planning process for stormwater management using green infrastructure as outlined in the Design Manual using the practices in Schedules A1, A2 and A3.
3 Site map/construction drawing(s) showing the specific location(s) and size(s) of each post-construction stormwater management practice;
4 Hydrologic and hydraulic analysis for all structural components of the stormwater management system for the applicable design storms
5 Comparison of post-development stormwater runoff conditions with pre-development conditions
6 Dimensions, material specifications and installation details for each post-construction stormwater management practice;
7 Maintenance schedule to ensure continuous and effective operation of each post-construction stormwater management practice.
8 Maintenance easements to ensure access to all stormwater management practices at the site for the purpose of inspection and repair. Easements shall be recorded on the plan and shall remain in effect with transfer of title to the property.
9 Inspection and maintenance agreement binding on all subsequent landowners served by the on-site stormwater management measures in accordance with Article 2, Section 4 of this local law.
10 For Condition A, B, C or D the SWPPP shall be prepared by a landscape architect, certified professional or professional engineer and must be signed by the professional preparing the plan, who shall certify that the

design of all stormwater management practices meet the requirements in this local law.

**2.3 Other Environmental Permits**

The applicant shall assure that all other applicable environmental permits have been or will be acquired for the land development activity prior to approval of the final stormwater design plan.

**2.4 Contractor Certification**

2.4.1 Each contractor and subcontractor identified in the SWPPP who will be involved in soil disturbance and/or stormwater management practice installation shall sign and date a copy of the following certification statement before undertaking any land development activity : "I certify under penalty of law that I understand and agree to comply with the terms and conditions of the Stormwater Pollution Prevention Plan. I also understand that it is unlawful for any person to cause or contribute to a violation of water quality standards."

2.4.2 The certification must include the name and title of the person providing the signature, address and telephone number of the contracting firm; the address (or other identifying description) of the site; and the date the certification is made.

2.4.3 The certification statement(s) shall become part of the SWPPP for the land development activity.

**2.5** A copy of the SWPPP shall be retained at the site of the land development activity during construction from the date of initiation of construction activities to the date of final stabilization.

## Section 3. Performance and Design Criteria for Stormwater Management and Erosion and Sediment Control

All land development activities shall be subject to the following performance and design criteria:

**3.1 Technical Standards**

For the purpose of this local law, the following documents shall serve as the official guides and specifications for stormwater management. Stormwater management practices that are designed and constructed in accordance with these technical documents shall be presumed to meet the standards imposed by this law:

3.1.1 The New York State Stormwater Management Design Manual (New York State Department of Environmental Conservation, most current version or its successor, hereafter referred to as the Design Manual)

3.1.2 New York Standards and Specifications for Erosion and Sediment Control, (Empire State Chapter of the Soil and Water Conservation Society, 2004, most current version or its successor, hereafter referred to as the Erosion Control Manual).

**3.2 Equivalence to Technical Standards**

Where stormwater management practices are not in accordance with technical standards, the applicant or developer must demonstrate equivalence to the technical standards set forth in Article 2, Section 3.1 and the SWPPP shall be prepared by a licensed professional.

**3.3 Water Quality Standards**

Any land development activity shall not cause an increase in turbidity that will result in substantial visible contrast to natural conditions in surface waters of the state of New York.

## Section 4. Maintenance, Inspection and Repair of Stormwater Facilities

**4.1 Maintenance and Inspection During Construction**

4.1.1 The applicant or developer of the land development activity or their representative shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the applicant or developer to achieve compliance with the conditions of this local law. Sediment shall be removed from sediment traps or sediment ponds whenever their design capacity has been reduced by fifty (50) percent.

4.1.2 For land development activities as defined in Section 1 of this Article and meeting Condition A, B, C or D in Section 2.2.2, the applicant shall have a qualified inspector conduct site inspections and document the effectiveness of all erosion and sediment control practices every 7 days and within 24 hours of any storm event producing 0.5 inches of precipitation or more. Inspection reports shall be maintained in a site log book.

4.1.3 Construction activities disturbing five acres or more at any one time shall be inspected by a qualified inspector twice every 7 days.

4.1.4 The applicant or developer or their representative, one of which must be a trained contractor, shall be on site at all times when construction or grading activity takes place and shall inspect and document the effectiveness of all erosion and sediment control practices.

**4.2 Maintenance Easement(s)**

Prior to the issuance of any approval that has a stormwater management facility as one of the requirements, the applicant or developer must execute a maintenance easement agreement that shall be binding on all subsequent landowners served by the stormwater management facility. The easement shall provide for access to the facility at reasonable times for periodic inspection by the **Village of Ardsley** to ensure that the facility is maintained in proper working condition to meet design standards and any other provisions established by this local law. The easement shall be recorded by the grantor in the office of the County Clerk after approval by the counsel for the **Village of Ardsley**.

**4.3 Maintenance after Construction**

The owner or operator of permanent stormwater management practices installed in accordance with this law shall ensure they are operated and maintained[7] to achieve the goals of this law. Proper operation and maintenance also includes as a minimum, the following:

4.3.1 A preventive/corrective maintenance program for all critical facilities and systems of treatment and control (or related appurtenances) which are installed or used by the owner or operator to achieve the goals of this law.

4.3.2 Written procedures for operation and maintenance and training new maintenance personnel.

4.3.3 Discharges from the SMPs shall not exceed design criteria or cause or contribute to water quality standard violations in accordance with Article 2, section 3.3.

**4.4 Maintenance Agreements**

The **Village of Ardsley** shall approve a formal maintenance agreement for stormwater management facilities binding on all subsequent landowners and recorded in the office of the County Clerk as a deed restriction on the property prior to final plan approval. The maintenance agreement shall be consistent with the terms and conditions of Schedule B of this local law entitled Sample Stormwater Control Facility Maintenance Agreement. The **Village of Ardsley**, in lieu of a maintenance agreement, at its sole discretion may accept dedication of any existing or future stormwater management facility, provided such facility meets all the requirements of this local law and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance.

## Section 5. Severability and Effective Date

**5.1 Severability**

If the provisions of any article, section, subsection, paragraph, subdivision or clause of this local law shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any article, section, subsection, paragraph, subdivision or clause of this local law.

**5.2 Effective Date**

This Local Law shall be effective upon filing with the office of the Secretary of State.
Approved by: _____ Date _____

# Article 3. Subdivision Regulation Amendment

The Subdivision Regulations of the **Village of Ardsley** are hereby amended by adding the following to the information requirements:

A. *For Preliminary Subdivision Plat add*: Stormwater Pollution Prevention Plan: A Stormwater Pollution Prevention Plan (SWPPP) consistent with the requirements of Article 1 and 2 of this local law shall be required for Preliminary Subdivision Plat approval. The SWPPP shall meet the performance and design criteria and standards in Article 2 of this local law. The approved Preliminary Subdivision Plat shall be consistent with the provisions of this local law.

B. *For Final Subdivision Plat approval add*: Stormwater Pollution Prevention Plan: A Stormwater Pollution Prevention Plan consistent with the requirements of Article 1 and 2 of this local law and with the terms of preliminary plan approval shall be required for Final Subdivision Plat approval. The SWPPP shall meet the performance and design criteria and standards in Article 2 of this local law. The approved Final Subdivision Plat shall be consistent with the provisions of this local law.

# Article 4. Site Plan Review Regulation Amendment

The Site Plan Review regulations of the **Village of Ardsley** are hereby amended by adding the following to the information requirements:

*For Site Plan Approval add*: Stormwater Pollution Prevention Plan: A Stormwater Pollution Prevention Plan consistent with the requirements of Article 1 and 2 of this local law shall be required for Site Plan Approval. The

SWPPP shall meet the performance and design criteria and standards in Article 2 of this local law. The approved Site Plan shall be consistent with the provisions of this local law.

## Article 5. Erosion & Sediment Control Law Amendment

**Amendment:**The Erosion & Sediment Control Law of the **Village of Ardsley,** LL No. 4-2008**,** is hereby amended.

## Article 6. Administration and Enforcement

### Section 1. Construction Inspection

#### 1.1 Erosion and Sediment Control Inspection

The **Village of Ardsley** Stormwater Management Officer may require such inspections as necessary to determine compliance with this law and may either approve that portion of the work completed or notify the applicant wherein the work fails to comply with the requirements of this law and the stormwater pollution prevention plan (SWPPP) as approved. To obtain inspections, the applicant shall notify the **Village of Ardsley** enforcement official at least 48 hours before any of the following as required by the Stormwater Management Officer:

1.1.1 Start of construction
1.1.2 Installation of sediment and erosion control measures
1.1.3 Completion of site clearing
1.1.4 Completion of rough grading
1.1.5 Completion of final grading
1.1.6 Close of the construction season
1.1.7 Completion of final landscaping
1.1.8 Successful establishment of landscaping in public areas.

If any violations are found, the applicant and developer shall be notified in writing of the nature of the violation and the required corrective actions. No further work shall be conducted except for site stabilization until any violations are corrected and all work previously completed has received approval by the Stormwater Management Officer.

#### 1.2 Stormwater Management Practice Inspections

The **Village of Ardsley** Stormwater Management Officer, is responsible for conducting inspections of stormwater management practices (SMPs). All applicants are required to submit “as built” plans for any stormwater management practices located on-site after final construction is completed. The plan must show the final design specifications for all stormwater management facilities and must be certified by a professional engineer.

### 1.3 Inspection of Stormwater Facilities After Project Completion

Inspection programs shall be established on any reasonable basis, including but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of state or federal water or sediment quality standards or the SPDES stormwater permit; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other stormwater management practices.

### 1.4 Submission of Reports

The **Village of Ardsley** Stormwater Management Officer may require monitoring and reporting from entities subject to this law as are necessary to determine compliance with this law.

### 1.5 Right-of-Entry for Inspection

When any new stormwater management facility is installed on private property or when any new connection is made between private property and the public storm water system, the landowner shall grant to the **Village of Ardsley** the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection as specified in paragraph 1.3.

## Section 2. Performance Guarantee

### 2.1 Construction Completion Guarantee

In order to ensure the full and faithful completion of all land development activities related to compliance with all conditions set forth by the **Village of Ardsley** in its approval of the Stormwater Pollution Prevention Plan, the **Village of Ardsley** may require the applicant or developer to provide, prior to construction, a performance bond, cash escrow, or irrevocable letter of credit from an appropriate financial or surety institution which guarantees satisfactory completion of the project and names the **Village of Ardsley** as the beneficiary. The security shall be in an amount to be determined by the **Village of Ardsley** based on submission of final design plans, with reference to actual construction and landscaping costs. The performance guarantee shall remain in force until the surety is released from liability by the **Village of Ardsley**, provided that such period shall not be less than one year from the date of final acceptance or such other certification that the facility(ies) have been constructed in accordance with the approved plans and specifications and that a one year inspection has been conducted and the facilities have been found to be acceptable to the **Village of Ardsley.** Per annum interest on cash escrow deposits shall be reinvested in the account until the surety is released from liability.

### 2.2 Maintenance Guarantee

Where stormwater management and erosion and sediment control facilities are to be operated and maintained by the developer or by a corporation that owns or manages a commercial or industrial facility, the developer, prior to construction, may be required to provide the **Village of Ardsley** with an irrevocable letter of credit from an approved financial institution or surety to ensure proper operation and maintenance of all stormwater management and erosion control facilities both during and after construction, and until the facilities are removed from operation. If the developer or landowner fails to properly operate and maintain stormwater management and erosion and sediment control facilities, the **Village of Ardsley** may draw upon the account to cover the costs

of proper operation and maintenance, including engineering and inspection costs.

**2.3 Recordkeeping**

The **Village of Ardsley** may require entities subject to this law to maintain records demonstrating compliance with this law.

## Section 3. Enforcement and Penalties

**3.1 Notice of Violation.**

When the **Village of Ardsley** determines that a land development activity is not being carried out in accordance with the requirements of this local law, it may issue a written notice of violation to the landowner. The notice of violation shall contain :

3.1.1 the name and address of the landowner, developer or applicant;

3.1.2 the address when available or a description of the building, structure or land upon which the violation is occurring;

3.1.3 a statement specifying the nature of the violation;

3.1.4 a description of the remedial measures necessary to bring the land development activity into compliance with this local law and a time schedule for the completion of such remedial action;

3.1.5 a statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed;

3.1.6 a statement that the determination of violation may be appealed to the municipality by filing a written notice of appeal within fifteen (15) days of service of notice of violation.

**3.2 Stop Work Orders**

The **Village of Ardsley** may issue a stop work order for violations of this law. Persons receiving a stop work order shall be required to halt all land development activities, except those activities that address the violations leading to the stop work order. The stop work order shall be in effect until the **Village of Ardsley** confirms that the land development activity is in compliance and the violation has been satisfactorily addressed. Failure to address a stop work order in a timely manner may result in civil, criminal, or monetary penalties in accordance with the enforcement measures authorized in this local law.

**3.3 Violations**

Any land development activity that is commenced or is conducted contrary to this local law, may be restrained by injunction or otherwise abated in a manner provided by law.

**3.4 Penalties**

In addition to or as an alternative to any penalty provided herein or by law, any person who violates the provisions of this local law shall be guilty of a violation punishable by a fine not exceeding three hundred fifty dollars ($350) or imprisonment for a period not to exceed six months, or both for conviction of a first offense; for conviction of a second offense both of which were committed within a period of five years, punishable by a fine not less than three hundred fifty dollars nor more than seven hundred dollars ($700) or imprisonment for a period not to exceed six months, or both; and upon conviction for a third or subsequent offense all of which were committed within a period of five years, punishable by a fine not less than seven hundred dollars nor more than one thousand dollars ($1000) or imprisonment for a period not to exceed six months, or both. However, for the purposes of conferring jurisdiction upon courts and judicial officers generally, violations of this local law shall be deemed misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.

**3.5 Withholding of Certificate of Occupancy**

If any building or land development activity is installed or conducted in violation of this local law the Stormwater Management Officer may prevent the occupancy of said building or land.

**3.6 Restoration of lands**

Any violator may be required to restore land to its undisturbed condition. In the event that restoration is not undertaken within a reasonable time after notice, the **Village of Ardsley** may take necessary corrective action, the cost of which shall become a lien upon the property until paid.

### Section 4. Fees for Services

The **Village of Ardsley** may require any person undertaking land development activities regulated by this law to pay reasonable costs at prevailing rates for review of SWPPPs, inspections, or SMP maintenance performed by the **Village of Ardsley** or performed by a third party for the **Village of Ardsley**.

## Article 7. Repealer

**Repealer**: This local law amends, repeals and replaces Article XIV of Chapter 200 of the Zoning Code of the Village of Ardsley, Stormwater Control, Sections 200-107 to 200-111 inclusive.

## Schedule A1

| Green Infrastructure Planning General Categories and Specific Practices (*From: New York State Stormwater Management Design Manual, Table 3.1*) | | |
|---|---|---|
| **Group** | **Practice** | **Description** |
| **Preservation of Natural Resources** | Preservation of Undisturbed Areas | Delineate and place into permanent conservation easement undisturbed forests, native vegetated areas, riparian corridors, wetlands, and natural terrain. |
| | Preservation of Buffers | Define, delineate and place in permanent conservation easement naturally vegetated buffers along perennial streams, rivers, shorelines and wetlands. |
| | Reduction of Clearing and Grading | Limit clearing and grading to the minimum amount needed for roads, driveways, foundations, utilities and stormwater management facilities. |
| | Locating Development in Less Sensitive Areas | Avoid sensitive resource areas such as floodplains, steep slopes, erodible soils, wetlands, mature forests and critical habitats by locating development to fit the terrain in areas that will create the least impact. |
| | Open Space Design | Use clustering, conservation design or open space design to reduce impervious cover, preserve more open space and protect water resources. |
| | | Restore the original properties and porosity of the soil by deep till and amendment with compost to reduce the generation of runoff and enhance the runoff reduction performance of practices such as downspout disconnections, grass channels, filter strips, and tree clusters. |
| **Reduction of Impervious Cover** | Roadway Reduction | Minimize roadway widths and lengths to reduce site impervious area. |
| | Sidewalk Reduction | Minimize sidewalk lengths and widths to reduce site impervious area. |
| | Driveway Reduction | Minimize driveway lengths and widths to reduce site impervious area. |
| | Cul-de-sac Reduction | Minimize the number of cul-de-sacs and incorporate landscaped areas to reduce their impervious cover. |
| | Building Footprint Reduction | Reduce the impervious footprint of residences and commercial buildings by using alternate or taller buildings while maintaining the same floor to area ratio. |
| | Parking Reduction | Reduce imperviousness on parking lots by eliminating unneeded spaces, providing compact car spaces and efficient parking lanes, minimizing stall dimensions, using porous pavement surfaces in overflow parking areas, and using multi-storied parking decks where appropriate. |

## Schedule A2

| Green Infrastructure Techniques Acceptable for Runoff Reduction (*From: New York State Stormwater Management Design Manual, Table 3.2*) | | |
|---|---|---|
| **Group** | **Practice** | **Description** |
| **Runoff Reduction Techniques** | Conservation of natural areas | Retain the pre-development hydrologic and water quality characteristics of undisturbed natural areas, stream and wetland buffers by restoring and/or permanently conserving these areas on a site. |
| | Sheetflow to riparian buffers or filter strips | Undisturbed natural areas such as forested conservation areas and stream buffers or vegetated filter strips and riparian buffers can be used to treat and control stormwater runoff from some areas of a development project. |
| | Vegetated open swale | The natural drainage paths, or properly designed vegetated channels, can be used instead of constructing underground storm sewers or concrete open channels to increase time of concentration, reduce the peak discharge, and provide infiltration. |
| | Tree planting / tree box | Plant or conserve trees to reduce stormwater runoff, increase nutrient uptake, and provide bank stabilization. Trees can be used for applications such as landscaping, stormwater management practice areas, conservation areas and erosion and sediment control. |
| | Disconnection of rooftop runoff | Direct runoff from residential rooftop areas and upland overland runoff flow to designated pervious areas to reduce runoff volumes and rates. |
| | Stream daylighting for redevelopment projects | Stream daylight previously-culverted/piped streams to restore natural habitats, better attenuate runoff by increasing the storage size, promoting infiltration, and help reduce pollutant loads. |
| | Rain garden | Manage and treat small volumes of stormwater runoff using a conditioned planting soil bed and planting materials to filter runoff stored within a shallow depression. |
| | Green roof | Capture runoff by a layer of vegetation and soil installed on top of a conventional flat or sloped roof. The rooftop vegetation allows evaporation and evapotranspiration processes to reduce volume and discharge rate of runoff entering conveyance system. |
| | Stormwater planter | Small landscaped stormwater treatment devices that can be designed as infiltration or filtering practices. Stormwater planters use soil infiltration and biogeochemical processes to decrease stormwater quantity and improve water quality. |
| | Rain tank/Cistern | Capture and store stormwater runoff to be used for irrigation systems or filtered and reused for non-contact activities. |
| | Porous Pavement | Pervious types of pavements that provide an alternative to conventional paved surfaces, designed to infiltrate rainfall through the surface, thereby reducing stormwater runoff from a site and providing some pollutant uptake in the underlying soils. |

## Schedule A3

| Stormwater Management Practices Acceptable for Water Quality (*From: New York State Stormwater Management Design Manual, Table 5.1*) | | |
|---|---|---|
| **Group** | **Practice** | **Description** |
| **Pond** | Micropool Extended Detention Pond (P-1) | Pond that treats the majority of the water quality volume through extended detention, and incorporates a micropool at the outlet of the pond to prevent sediment resuspension. |
| | Wet Pond (P-2) | Pond that provides storage for the entire water quality volume in the permanent pool. |
| | Wet Extended Detention Pond (P-3) | Pond that treats a portion of the water quality volume by detaining storm flows above a permanent pool for a specified minimum detention time. |
| | Multiple Pond System (P-4) | A group of ponds that collectively treat the water quality volume. |
| | Pocket Pond (P-5) | A stormwater wetland design adapted for the treatment of runoff from small drainage areas that has little or no baseflow available to maintain water elevations and relies on groundwater to maintain a permanent pool. |
| **Wetland** | Shallow Wetland (W-1) | A wetland that provides water quality treatment entirely in a shallow marsh. |
| | Extended Detention Wetland (W-2) | A wetland system that provides some fraction of the water quality volume by detaining storm flows above the marsh surface. |
| | Pond/Wetland System (W-3) | A wetland system that provides a portion of the water quality volume in the permanent pool of a wet pond that precedes the marsh for a specified minimum detention time. |
| | Pocket Wetland (W-4) | A shallow wetland design adapted for the treatment of runoff from small drainage areas that has variable water levels and relies on groundwater for its permanent pool. |
| **Infiltration** | Infiltration Trench (I-1) | An infiltration practice that stores the water quality volume in the void spaces of a gravel trench before it is infiltrated into the ground. |
| | Infiltration Basin (I-2) | An infiltration practice that stores the water quality volume in a shallow depression before it is infiltrated into the ground. |
| | Dry Well (I-3) | An infiltration practice similar in design to the infiltration trench, and best suited for treatment of rooftop runoff. |
| **Filtering Practices** | Surface Sand Filter (F-1) | A filtering practice that treats stormwater by settling out larger particles in a sediment chamber, and then filtering stormwater through a sand matrix. |
| | Underground Sand Filter (F2) | A filtering practice that treats stormwater as it flows through underground settling and filtering chambers. |
| | Perimeter Sand Filter (F-3) | A filter that incorporates a sediment chamber and filter bed as parallel vaults adjacent to a parking lot. |
| | Organic Filter (F-4) | A filtering practice that uses an organic medium such as compost in the filter in place of sand. |
| | Bioretention (F-5) | A shallow depression that treats stormwater as it flows through a soil matrix, and is returned to the storm drain system. |
| **Open Channels** | Dry Swale (O-1) | An open drainage channel or depression explicitly designed to detain and promote the filtration of stormwater runoff into the soil media. |
| | Wet Swale (O-2) | An open drainage channel or depression designed to retain water or intercept groundwater for water quality treatment. |

## Schedule B

## SAMPLE STORMWATER CONTROL FACILITY MAINTENANCE AGREEMENT

Whereas, the Village of Ardsley and the _____ ("facility owner") want to enter into an agreement to provide for the long term maintenance and continuation of stormwater control measures approved by the Village of Ardsley for the below named project, and

Whereas, the Village of Ardsley and the facility owner desire that the stormwater control measures be built in accordance with the approved project plans and thereafter be maintained, cleaned, repaired, replaced and continued in perpetuity in order to ensure optimum performance of the components. Therefore, the Village of Ardsley and the facility owner agree as follows:

1 This agreement binds the Village of Ardsley and the facility owner, its successors and assigns, to the maintenance provisions depicted in the approved project plans which are attached as Schedule A of this agreement.

2 The facility owner shall maintain, clean, repair, replace and continue the stormwater control measures depicted in Schedule A as necessary to ensure optimum performance of the measures to design specifications. The stormwater control measures shall include, but shall not be limited to, the following: drainage ditches, swales, dry wells, infiltrators, drop inlets, pipes, culverts, soil absorption devices, stormwater ponds and wetlands, bioretention and rain gardens, tree boxes, green roofs, stormwater planters, rain tanks and cisterns, and porous pavement.

3 The facility owner shall be responsible for all expenses related to the maintenance of the stormwater control measures and shall establish a means for the collection and distribution of expenses among parties for any commonly owned facilities.

4 The facility owner shall provide for the periodic inspection of the stormwater control measures, at the frequency recommended in the Design Manual, to determine the condition and integrity of the measures. Such inspection shall be performed by a Professional Engineer licensed by the State of New York. The inspecting engineer shall prepare and submit to the Village of Ardsley within 30 days of the inspection, a written report of the findings including recommendations for those actions necessary for the continuation of the stormwater control measures.

5 The facility owner shall not authorize, undertake or permit alteration, abandonment, modification or discontinuation of the stormwater control measures except in accordance with written approval of the Village of Ardsley.

6 The facility owner shall undertake necessary repairs and replacement of the stormwater control measures at the direction of the Village of Ardsley or in accordance with the recommendations of the inspecting engineer.

7 The facility owner shall provide to the Village of Ardsley within 30 days of the date of this agreement, a security for the maintenance and continuation of the stormwater control measures in the form of ( a Bond, letter of credit or escrow account).

8 This agreement shall be recorded in the Office of the County Clerk, County of Westchester together with the deed for the common property and shall be included in the offering plan and/or prospectus approved pursuant to _____.

9 If ever the Village of Ardsley determines that the facility owner has failed to construct or maintain the stormwater control measures in accordance with the project plan or has failed to undertake corrective action specified by the Village of Ardsley or by the inspecting engineer, the Village of Ardsley is authorized to undertake such steps as reasonably necessary for the preservation, continuation or maintenance of the stormwater control measures and to affix the expenses thereof as a lien against the property.

10 This agreement is effective _____ .