

LOCAL LAW 16-2010

A LOCAL LAW TO AMEND CHAPTER 348 – SUBDIVISIONS; AMEND CHAPTER 342 – ZONING; AMEND CHAPTER 186 – VILLAGE FLOOD DAMAGE PREVENTION; EROSION AND SEDIMENT CONTROL; and AMEND CHAPTER 294 -- STORMWATER MANAGEMENT AND EROSION & SEDIMENT CONTROL; WITH REGARD TO REQUIRING STORMWATER POLLUTION PREVENTION PLANS, AND ESTABLISHING SECTIONS OF THE LAW ON ADMINISTRATION, INSPECTION, ENFORCEMENT AND PENALTIES.

It is hereby enacted by The Board of Trustees of the Village Of Mamaroneck, to Amend the Code of the Village of Mamaroneck as follows:

Section 1.

New language is added to Village Code on Subdivisions, Chapter 348 - 8. B. enacting a new part (11) as follows:

§ 348-8, B.

- (11) Stormwater Pollution Prevention Plan: A Stormwater Pollution Prevention Plan (SWPPP) consistent with the requirements of Chapter 294 entitled Stormwater Management And Erosion & Sediment Control of the Mamaroneck Village Code shall be required for Preliminary Subdivision Plat approval. The SWPPP shall meet the performance and design criteria and standards provided for in Chapter 294. The approved Preliminary Subdivision Plat shall be consistent with the provisions of Chapter 294.

Section 2.

Village Code on Subdivisions, Chapter 348 - 10. B. (11) is deleted, and new language is added to Village Code on Subdivisions, Chapter 348 - 10. B. enacting a new part (11) and re-numbering the old part (11) as new part (12) as follows:

§ 348-10, B.

- (11) Stormwater Pollution Prevention Plan: A Stormwater Pollution Prevention Plan consistent with the requirements of Chapter 294 entitled Stormwater Management And Erosion & Sediment Control of the Mamaroneck Village Code 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 Chapter 294. The approved Final Subdivision Plat shall be consistent with the provisions of this Chapter 294.

- (12) A statement reading as follows:

Approved under authority of a resolution adopted

_____ by the Planning Board of the Village of Mamaroneck

Chairman _____

Secretary _____ Date _____

Section 3.

New language is added to Village Zoning Code Chapter 342, Article XI, Site Development Plan Approval, Chapter 342 – 75, enacting a new part E. as follows:

- E. Stormwater Pollution Prevention Plan: A Stormwater Pollution Prevention Plan (SWPP) consistent with the requirements of Chapter 294 entitled Stormwater Management And Erosion & Sediment Control of the Mamaroneck Village Code shall be required for Site Plan Approval. The SWPPP shall meet the performance and design criteria and standards in Chapter 294. The approved Site Plan shall be consistent with the provisions of Chapter 294.

Section 4.

New language is added to Village Flood Damage Prevention; Erosion And Sediment Control Code, Chapter 186, Article II, Erosion and Sediment Control, Chapter 186 – 10, D. (1) (c), enacting a new part [5] as follows:

- [5] Stormwater Pollution Prevention Plan: A Stormwater Pollution Prevention Plan (SWPP) consistent with the requirements of Chapter 294 entitled Stormwater Management And Erosion & Sediment Control of the Mamaroneck Village Code shall be required. The SWPPP shall meet the performance and design criteria and standards in Chapter 294. The approved erosion control permit shall be consistent with the provisions of Chapter 294.

Section 5.

New language is added to Chapter 294 entitled, “Stormwater Management and Erosion & Sediment Control” to establish new sections on Administration and Enforcement, and re-numbering Section 294-11 entitled Severability to the end of Chapter 294 as a new Section 294-15.

§294-11. Administration and Enforcement – Construction Inspections

A. Erosion and Sediment Control Inspection.

The Village of Mamaroneck’s Stormwater Management Officer(s) 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

Mamaroneck enforcement official at least 48 hours before any of the following as required by the Stormwater Management Officer:

1. Start of construction
2. Installation of sediment and erosion control measures
3. Completion of site clearing
4. Completion of rough grading
5. Completion of final grading
6. Close of the construction season
7. Completion of final landscaping
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.

B. Stormwater Management Practice Inspections

The Village of Mamaroneck's Stormwater Management Officer(s), are 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.

C. 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. Inspections may be performed by the SMO(s) or the Village Manager on consultation with the SMO(s) may designate an inspector required to have a Professional Engineer's (PE) license or Certified Professional in Erosion and Sediment Control (CPESC) certificate, as long as the designated inspector is required to submit a report.

D. Submission of Inspection Reports

The Village of Mamaroneck's Stormwater Management Officer(s) may require monitoring and reporting from entities subject to this law as are necessary to determine compliance with this law.

E. 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 Mamaroneck the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection as specified in paragraph 294-11 C.

§294-12. Performance Guarantee

A. 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 Mamaroneck in its approval of the Stormwater Pollution Prevention Plan, the Village of Mamaroneck 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 Mamaroneck as the beneficiary. The security shall be in an amount to be determined by the Village of Mamaroneck 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 Mamaroneck, 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 Mamaroneck. Per annum interest on cash escrow deposits shall be reinvested in the account until the surety is released from liability.

B. 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 Mamaroneck 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 Mamaroneck may draw upon the account to cover the costs of proper operation and maintenance, including engineering and inspection costs.

C. Recordkeeping

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

§294-13. Enforcement and Penalties

A. Notice of Violation.

When the Village of Mamaroneck 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:

1. the name and address of the landowner, developer or applicant;
2. the address when available or a description of the building, structure or land upon which the violation is occurring;
3. a statement specifying the nature of the violation;
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;
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;
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.

B. Stop Work Orders.

The Village of Mamaroneck 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 Mamaroneck 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.

C. 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.

D. 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.

E. Withholding of Certificate of Occupancy or Completion.

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

F. 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 Mamaroneck may take necessary corrective action, the cost of which shall become a lien upon the property until paid.

§294-14. Fees for Services

The Village of Mamaroneck 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 Mamaroneck or performed by a third party for the Village of Mamaroneck.

§294-15. Severability

If any clause, sentence, paragraph, section or part of this chapter shall be adjudged by any court of competent jurisdiction to be invalid, such adjudication shall not affect, impair or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such adjudication shall have been rendered.

Section 6. Effective Date

This Local Law shall take effect immediately upon adoption and filing in the office of the Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.