

**CITY OF RYE  
1051 BOSTON POST ROAD  
RYE, NY 10580**

**AGENDA**

**REGULAR MEETING OF THE CITY COUNCIL  
COUNCIL CHAMBERS, CITY HALL  
Wednesday, March 14, 2018  
7:30 p.m.**

*Please Note: The Council will convene at 6:30 p.m. and it is expected they will adjourn into Executive Session at 6:31 p.m. to discuss attorney-client privileged matter, personal matters and labor negotiations.*

1. Pledge of Allegiance.
2. Roll Call.
3. Draft unapproved minutes of the regular meeting of the City Council held February 28, 2018.
4. Continuation of the Public Hearing to amend local law Chapter 176, "Energy Conservation", of the Rye City Code by amending provisions related to the Sustainable Energy Loan Program in the City of Rye in accordance with Article 5-L of the General Municipal Law.
5. Residents may be heard on matters for Council consideration that do not appear on the agenda.
6. Consideration to set a Public Hearing for March 28, 2018 to amend local law Chapter 64, "Boats and Harbors" of the Rye City Code by amending provisions related to moorings.
7. Consideration of a resolution to amend the 2018 Adopted Fees and Charges for the Rye Boat Basin Enterprise Fund by adding a winter trailer only storage fee of \$350 plus NYS tax. This is for trailers that are either empty or box style trailers.
8. Consideration of proposed revisions to the Regulations of the City of Rye Municipal Boat Basin as recommended by the Boat Basin Commission regarding extending the deadline for the renewals of slip permits to March 31 and if not renewed the slips will be sold as of April 1.
9. Consideration of proposed revisions and addition to the Rules and Regulations of the City of Rye Police Department:
  - New General Order #102.9 regarding Harassment and Sexual Harassment policy.
  - General Order #103.1 regarding performance and conduct policy.

- General Order #103.3 regarding Use of Force / Deadly Physical Force policy.
- General Order #103.4 regarding guidelines for firearms policy.
- General Order #104.1 regarding Uniform Specifications and Equipment policy.
- General Order #111.1 regarding Evidence and Non – Agency Property Management policy

10. Appointments to Boards and Commissions, by the Mayor with Council approval.

11. Miscellaneous communications and reports.

12. Old Business.

13. New Business.

14. Adjournment.

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The next regular meeting of the City Council will be held on Wednesday, March 28, 2018.

City Council meetings are available live on Cablevision Channel 75, Verizon Channel 39, and on the City Website, indexed by Agenda item, at [www.ryeny.gov](http://www.ryeny.gov) under “RyeTV Live”.

**The Mayor and City Council have office hours in the Mayor’s Conference Room Annex at Rye City Hall, 1051 Boston Post Road. The Mayor’s Conference Room Annex is located on the 1<sup>st</sup> floor of City Hall adjacent to the Council Chambers. Hours are as follows:**

**Mondays 9:30 a.m. to 11:00 a.m.**

**Councilwoman Danielle Tagger-Epstein & Councilwoman Julie Souza**

**Wednesdays 9:00 a.m. to 10:30 a.m.**

**Mayor Josh Cohn, Deputy Mayor Emily Hurd & Councilwoman Sara Goddard**

***DRAFT UNAPPROVED MINUTES*** of the  
Regular Meeting of the City Council of the City of  
Rye held in City Hall on February 28, 2018, at 7:30  
P.M.

PRESENT:

JOSH COHN, Mayor  
SARA GODDARD  
EMILY HURD  
RICHARD MECCA  
JULIE SOUZA  
DANIELLE TAGGER-EPSTEIN  
Councilmembers

ABSENT:

BENJAMIN STACKS

The Council convened at 6:30 P.M. Councilman Mecca made a motion, seconded by Councilwoman Souza, to adjourn immediately into executive session at 6:30 P.M. to discuss personnel and litigation matters.

At 7:42 P.M., Councilman Mecca made a motion, seconded by Councilwoman Souza, to adjourn the executive session. The regular meeting of the City Council began at 7:47 P.M.

1. Pledge of Allegiance.

Mayor Cohn called the meeting to order and invited the Council to join in the Pledge of Allegiance.

2. Roll Call.

Mayor Cohn asked the City Clerk to call the roll; a quorum was present to conduct official City business.

3. Draft unapproved minutes of the regular meeting of the City Council held February 7, 2018.

Councilman Mecca a motion, seconded by Councilwoman Souza and unanimously carried, to adopt the minutes of the regular meeting of the City Council held February 7, 2018.

4. Public Hearing to amend local law Chapter 176, "Energy Conservation", of the Rye City Code by amending provisions related to the Sustainable Energy Loan Program in the City of Rye in accordance with Article 5-L of the General Municipal Law.

Mark Thielking and Sarah Smiley, Energize NY, made a brief presentation of review to the Council on the PACE 2.0 program (Property Assessed Clean Energy). He reminded the Council that Energize NY is a nonprofit organization that offers PACE financing under General Municipal Law Article 5-L. The program allows those wanting to upgrade to cleaner energy initiatives to finance capital improvements. He stated that with the amendment of Article 5-L and the introduction of PACE 2.0, the cap of financing available would be 35% of the property's appraised value.

Mayor Cohn asked for clarification on the property's appraised value, whether the appraisal would be prior to or after improvements. Mr. Thielking responded that both could be used. He stated that many improvements were renovations, and so the appraisals would not significantly change. To add to that point, Mr. Thielking confirmed for the Mayor and the Council that the loan-to-value limitation would be 90% of the property value (land and improvements).

Mr. Thielking continued to discuss changes between PACE 1.0 and PACE 2.0, such as construction financing, satisfying NYSERDA's cost effectiveness test (cumulative savings must exceed the total cost of the project), among other items.

Councilwoman Goddard asked certain questions about the draft local law. Specifically, she asked why the provision on being current with any existing mortgage was not included in the existing local law. Mr. Thielking responded that it could be added into the local law.

Councilwoman Goddard asked for clarification on the due date. There was general discussion that the current local law draft was unclear, and Mr. Thielking responded that the issue would be cleared up.

Mayor Cohn stated that the last time Energize NY was present before the Council, there was discussion about other PACE 2.0 programs, as it is relatively new in New York. He asked for documentation on other successes or defaults in other jurisdictions. Mr. Thielking responded that he would forward the annual report.

Councilwoman Souza asked about the delinquency rate in New York. Mr. Thielking responded that out of 20 projects, there had been one technical delinquency due to a bank issue.

Mayor Cohn stated that as the City considers this, his understanding is that the City is allowed to shape its own law, with rights of modification.

Councilwoman Goddard confirmed that with classifying or restricting the City's own law, it also can have control over including certain property types, such as adding commercial properties. Mr. Thielking confirmed that this was the case.

Councilwoman Tagger-Epstein asked if the City would be involved in the process or if it would always be left to Energize NY if PACE 2.0 was adopted. Mr. Thielking responded that the City would take the lead on promoting it. However, Energize NY would handle logistics, with a duty to send the City an annual report on the program.

Councilwoman Hurd made a motion, seconded by Councilman Mecca, to open the public hearing.

Councilwoman Souza asked if anyone had heard about organizations that would be interested in taking advantage of the program in Rye. Councilwoman Hurd responded that she reached out to a local real estate broker of commercial properties with respect to the central business district. She said she would give the Council a future update on the broker's response. Mr. Thielking added that in the City of Rye, there have been five properties up for discussion, some with substantial interest. There was general discussion about certain projects being able to move forward with 2.0.

Bob Zahm, 7 Ridgewood Drive, stated that Christ Church would be hosting a seminar on solar energy on March 12, 2018. Councilwoman Souza asked Mr. Zahm and Mr. Thielking to exchange information.

There was discussion over houses of worship looking into solar and greener energy.

Councilwoman Hurd asked if houses of worship are categorized under nonprofits by definition. Both Energize NY and other Councilmembers responded that they would be.

Mayor Cohn stated that the public hearing would be continued to the next City Council meeting.

5. Residents may be heard on matters for Council consideration that do not appear on the agenda.

Jordan Glass, Esq., attorney for Heal the Harbor, spoke about Hen Island. He stated that the Hen Island community had been seeping pollution into the harbor and has failed to fix the mosquito problem. He recited several lines from a decision brought by Mr. Ray Tartaglione against the City, which stated that the City may regulate the systems at hand. Mr. Glass said that the County had not preempted the law in this field. He stated concern for potential health issues generated by Hen Island and asked the Council to act accordingly.

Ray Tartaglione, 10 Hen Island, stated concern for sewage entering the Long Island Sound from Hen Island. He said he had been speaking on the issue for ten years to no avail. He recounted those who spoke out against the sewage and mosquito issues over the years. He asked that a committee be formed to oversee the sewage issues.

Bob Zahm, 7 Ridgewood Drive, thanked the City for being responsive to the recent sewer breakage. He asked for the timeline for a solution.

Mayor Cohn responded that the City thinks it has found the leak, which is now closed. There is a temporary bypass in operation, which is believed to be successful. The City Engineer is working on permanent solutions.

Mr. Zahm also asked about the WWI Memorial and flag pole status. Councilwoman Goddard responded that the City is now going out to bid to fix the memorial. Mr. Zahm also reported that he observed parking blocking traffic in the downtown in spots where no parking is permitted. Lastly, he reported that the Con Ed work on Theodore Fremd had been disruptive. He also stated that the walkway on Playland Access/ Theodore Fremd had been in disrepair with no progress in sight. City Manager Serrano said that he would call the County on the issue.

Richard Smith, Rye Park neighborhood, stated that the neighborhood had an opportunity to review the recent traffic report from Maser Consulting, and has provided comments to the City Council. He asked that the City begin to take traffic mitigating steps within the neighborhood.

Items 6, 7, and 8 were taken together:

6. Consideration of a request by the Rye Free Reading Room for use of the Village Green and City Hall Parking lot to host the Annual Vehicle Fair on Sunday, May 20, 2018 from 8:00 a.m. to 5:00 p.m.
7. Consideration of a request by the Rye Free Reading Room to allow two food trucks as part of the Vehicle Fair on May 20, 2018 from 11:00 a.m. to 3:00 p.m.
8. Consideration of a request by the Rye Free Reading Room for use of the Village Green on select Thursday, July 19<sup>th</sup> from 3:00 p.m. to 9:30 p.m. for a free theater performance.

Chris Shoemaker, Rye Free Reading Room, asked the City Council for permission to hold the events for the community in items 6, 7, and 8.

Councilman Mecca made motion to approve Items 6, 7 and 8, (6,7,8), seconded by Tagger-Epstein, and unanimously carried. This approved a request by the Rye Free Reading Room for use of the Village Green and City Hall Parking lot to host the Annual Vehicle Fair on Sunday, May 20, 2018 from 8:00 a.m. to 5:00 p.m., a request by the Rye Free Reading Room to allow two food trucks as part of the Vehicle Fair on May 20, 2018 from 11:00 a.m. to 3:00 p.m., and a request by the Rye Free Reading Room for use of the Village Green on select Thursday, July 19<sup>th</sup> from 3:00 p.m. to 9:30 p.m. for a free theater performance.

Councilwoman Hurd said that at Council office hours, they had a visitor asking about plans and renovations for the library, particularly space allocated to teenagers instead of other users. She said the person also asked about reference books being de-shelved. Lastly, she said that she would love to see a formal presentation about the library's plans and progress for its capital improvements at a future meeting.

Francis Jenkins, Rye Free Reading Room, explained some of the renovations and restructuring of the library. He thanked the Council for their support.

Mayor Cohn asked the Rye Free Reading Room to organize a presentation to the Council.

9. Authorize payment of the balance of the 2017/2018 Rye Neck Union Free School District taxes collected by the City to the School District. Roll Call.

Councilwoman Tagger-Epstein made a motion, seconded by Councilwoman Souza, to authorize the payment of the balance of \$75,080.78, the 2017/2018 Rye Neck Union Free School District taxes collected by the City to the School District, on March 1, 2018.

ROLL CALL

AYES: Councilmembers Goddard, Hurd, Mecca, Souza, Tagger-Epstein, Mayor Cohn  
NAYS: None  
ABSENT: Stacks

10. Appointments to Boards and Commissions, by the Mayor with Council approval.

Mayor Cohn thanked Mr. Franklin Chu, longstanding Board of Assessment Review who had resigned, for his many years of service. In his place, Mayor Cohn appointed Matt Fahey to fill Mr. Chu's unexpired term, and to a five year term ending September 1, 2023.

Mayor Cohn also appointed David Crosier to the Traffic and Pedestrian Safety Committee for a three-year term, expiring January 1, 2021.

Mayor Cohn made the following appointments to the Rye Cable and Communications Committee:

Steven Fairchild, Chairman, for a three-year term expiring January 1, 2021  
Kate Conn, for a two-year term expiring January 1, 2020  
Maryellen Doran, for a one-year term expiring January 1, 2019  
Paula Fung, for a three-year term expiring January 1, 2021  
Ken Knowles, for a two-year term expiring January 1, 2020  
Susan Olson, for a one-year term expiring January 1, 2019  
Lisa Tidball (non-voting member), for a three-year term expiring January 1, 2021  
Kim Berns, for a two-year term expiring January 1, 2020

Councilwoman Souza made a motion, seconded by Councilman Mecca and unanimously carried, to approve the appointments made by Mayor Cohn.

11. Addition of two new resident positions to the Long Island Tunnel Advisory Committee, by the Mayor.

Mayor Cohn stated that there had been a lot of community interest in the new committee added for the purpose of monitoring the proposed "Long Island Tunnel." As a result, Mayor Cohn, with the approval of the Council, added two new resident positions to the Long Island Tunnel Advisory Committee.

12. Consideration of a request by the Midland Elementary School PTO to approve a parade to precede the Midland Elementary School Fair on Saturday, April 21, 2018 from 9:00 a.m. to 10:15 a.m.

Councilwoman Souza made a motion, seconded by Councilwoman Tagger-Epstein and unanimously carried, to approve a request by the Midland Elementary School PTO to approve a parade to precede the Midland Elementary School Fair on Saturday, April 21, 2018 from 9:00 a.m. to 10:15 A.M.

13. Miscellaneous communications and reports.

Councilwoman Tagger-Epstein encouraged all to attend the Rye YMCA fundraiser, to be held Friday, March 2, 2018 at Shenorock Shore Club at 7:00 P.M.

Councilwoman Hurd announced that the Rye Town Park Commission had hired a new park director, Lawrence Vargas. She said that Mr. Vargas was extremely energetic and that she was looking forward to what he has to offer. She also stated that the Commission was still working on a lease for the restaurant, but hopefully there will be news on that item soon. Councilwoman Hurd also announced that the Chamber of Commerce meeting will be held the first Wednesday of March at 8:30 A.M. at Morgan's Fish House. On behalf of the Boat Basin, Councilwoman Hurd announced that the sampling for the dredging had been completed.

Councilman Mecca stated that the Planning Commission had recently heard the proposal for 23-25 Purchase Street, which is the location where the building was torn down last year. Councilman Mecca also inquired to the possibility of opening the employee lot in City Hall to the public on Saturdays and Sundays.

Councilwoman Goddard announced that Rye Sustainability would be hosting a presentation by Sustainable Westchester on March 19, 2018 at 7:30 P.M. at the Rye Free Reading room on Community Choice Aggregation. The event is free, and registration can be done on Eventbrite or at the door. The Sustainability Committee will also be holding an event on March 24, 2018 between 10:00 A.M. and 1:00 P.M. to clean invasive garbage and vines along Playland Parkway. The rain date will be held March 31, 2018. On behalf of the Sustainability Committee, Councilwoman Goddard thanked the Rye PBA for a \$100 donation to help cover the cost of garbage bags, water and snacks.

Mayor Cohn recounted the tragic recent events in Parkland, Florida. He stated that in our own community, the City of Rye has reached out to school district to help in any way that it could. Mayor Cohn commended Public Safety Commissioner Corcoran for working with the school district on training and resources in this area.

14. Old Business.

There was nothing discussed under this agenda item.

15. New Business.



Councilman Mecca felt there was a level of unfairness in the local law regarding the notice requirements for placing tables outside in certain districts of Rye for commercial properties. He explained that the requirement is for certified mail of a 500 foot radius, more than any other requirement before any other board within the City code. There was discussion among the Council of reducing that requirement in the interest of fairness.

16. Adjournment.

There being no further business to discuss, councilman Mecca made a motion, seconded by Councilwoman Souza, to adjourn the meeting at 9:09 P.M.

Respectfully submitted,

Carolyn D'Andrea  
City Clerk



# CITY COUNCIL AGENDA

NO. 4

DEPT.: City Manager

DATE: March 9, 2018

CONTACT: Marcus Serrano, City Manager

**AGENDA ITEM:** Continuation Public Hearing to amend local law Chapter 176, "Energy Conservation", of the Rye City Code by amending provisions related to the Sustainable Energy Loan Program in the City of Rye in accordance with Article 5-L of the General Municipal Law.

**FOR THE MEETING OF:**

March 14, 2018

**RYE CITY CODE,**

CHAPTER        176  
SECTION

**RECOMMENDATION:** Continue the Public Hearing to amend local law Chapter 176, "Energy Conservation", of the Rye City Code by amending provisions related to the Sustainable Energy Loan Program in the City of Rye in accordance with Article 5-L of the General Municipal Law.

**IMPACT:**    Environmental    Fiscal    Neighborhood    Other:

**BACKGROUND:**

The Public Hearing was opened on February 28, 2018 and continued to March 14, 2018 to consider amending Chapter 176 of the City Code to allow for the financing of energy efficient programs through the Energize NY Benefit Financing Program. The attached Local Law will amend the program as described.

See attached proposed Local Law.

**LOCAL LAW NO 1-2018**

**1. A LOCAL LAW TO AMEND CHAPTER 176 ENERGY CONSERVATION PROGRAM IN THE CITY OF RYE BY AMENDING PROVISIONS RELATED TO THE SUSTAINABLE ENERGY LOAN PROGRAM IN THE CITY OF RYE IN ACCORDANCE WITH ARTICLE 5-L OF THE GENERAL MUNICIPAL LAW.**

Be it enacted by the City of Rye as follows:

**Section 1.** This Local Law shall be known as the “Energize NY Benefit Financing Program,” and shall read as follows:

**ARTICLE I**

**§176-1. Legislative findings, intent and purpose, authority.**

- A. It is the policy of both the City of Rye and the State of New York to achieve energy efficiency and renewable energy goals, reduce greenhouse gas emissions, mitigate the effect of global climate change, and advance a clean energy economy. The City finds that it can fulfill this policy by providing property assessed clean energy financing to property owners for the installation of renewable energy systems and energy efficiency measures. This chapter establishes a program that will allow the Energy Improvement Corporation (“EIC”), a local development corporation, acting on behalf of the City of Rye pursuant to the municipal agreement to be entered into between the City of Rye and EIC pursuant to Article 5-G of the New York General Municipal Law (the “Municipal Agreement”), to make funds available to qualified property owners that will be repaid by such property owners through charges on the real properties benefited by such funds, thereby fulfilling the purposes of this law and fulfilling an important public purpose.
- B. The City of Rye is authorized to implement this Energize NY Benefit Financing Program pursuant to the Municipal Home Rule Law and Article 5-L of the New York General Municipal Law.
- C. This law shall be known and may be cited as the “Energize NY Benefit Financing Program Law of the City of Rye”.

**§176-2. Definitions**

For purposes of this law, and unless otherwise expressly stated or unless the context requires, the following terms shall have the meanings indicated:

**Authority** – The New York State Energy Research and Development Authority, as defined by subdivision two of section eighteen hundred fifty-one of the Public Authorities Law, or its successor.

**EIC** – the Energy Improvement Corporation, a local development corporation, duly organized under section fourteen hundred eleven of the Not-For-Profit Corporation Law, authorized hereby on behalf of the City of Rye to implement the Energize NY Benefit Financing Program by providing funds to qualified property owners (as defined in this law) and providing for repayment of such funds from monies collected by the City of Rye tax collecting officer as a charge to be levied on the real property and collected in the same manner and same form as the City of Rye taxes.

**Energy Audit** – A formal evaluation or “assessment” of the energy consumption of a permanent building or structural improvement to real property, conducted by a contractor certified by the Authority, or certified by a certifying entity approved by the Authority, for the purpose of identifying appropriate energy efficiency improvements that could be made to the property.

**Energy Efficiency Improvement** – Any renovation or retrofitting of a building to reduce energy consumption, such as window and door replacement, lighting, caulking, weatherstripping, air sealing, insulation, and heating and cooling system upgrades, and similar improvements, determined to be cost-effective pursuant to criteria established by the Authority, not including lighting measures or household appliances that are not permanently fixed to real property.

**Qualified Property Owner** – An owner of residential or commercial real property located within the boundaries of the City of Rye that is determined to be eligible to participate in the Energize NY Benefit Financing Program under the procedures for eligibility set forth under this law.

**Renewable Energy System** – An energy generating system for the generation of electric or thermal energy, to be used primarily at such property, except when the Qualified Property Owner is a commercial entity in which case the system may be used for other properties in addition to the subject property, by means of solar thermal, solar photovoltaic, wind, geothermal, anaerobic digester gas-to-electricity systems, fuel cell technologies, or other renewable energy technology approved by the Authority not including the combustion or pyrolysis of solid waste.

**Renewable Energy System Feasibility Study** – A written study, conducted by a contractor certified by the Authority, or certified by a certifying entity approved by the Authority, for the purpose of determining the feasibility of installing a renewable energy system.

### **§176-3. Establishment of an Energize NY Benefit Financing Program**

- A. An Energize NY Benefit Financing Program is hereby established by the City of Rye, whereby EIC acting on its behalf pursuant to the Municipal Agreement, may provide funds to Qualified Property Owners in accordance with the procedures set forth under this law, to finance the acquisition, construction and installation of Renewable Energy Systems and Energy Efficiency Improvements and the verification of the installation of such systems and improvements.
- B. For funds provided to a Qualified Property Owner which is a commercial entity, not-for-profit organization, or entity other than an individual, EIC shall have the authority to impose requirements on the maximum amount of funds to be provided, which may consider factors including but not limited to the property value, projected savings, project cost, and existing indebtedness secured by such property.
- C. For financings made to a Qualified Property Owner who is an individual, the funds provided shall not exceed the lesser of: (i) ten percent of the appraised value of the real property where the Renewable Energy Systems and/or Energy Efficiency Improvements will be located, or (ii) the actual cost of installing the Renewable Energy Systems and/or Energy Efficiency Improvements, including the costs of necessary equipment, materials, and labor and the cost of verification of such systems and improvements.

### **§176-4. Procedures for eligibility**

- A. Any property owner in the City of Rye may submit an application to EIC on such forms as have been prepared by EIC and made available to property owners on the website of EIC and at the City Clerk's offices.
- B. Every application submitted by a property owner shall be reviewed by EIC acting on behalf of the City, which shall make a positive or negative determination on such application based upon the criteria for making a financing enumerated in section 5 of this law. EIC may also request further information from the property owner where necessary to aid in its determination.
- C. If a positive determination on an application is made by EIC acting on behalf of the City, the property owner shall be deemed a Qualified Property Owner and shall be eligible to participate in the Energize NY Benefit Financing Program in accordance with the procedure set forth under section 6 of this law; provided that in no case shall a property owner that has received funds from another municipal corporation for the acquisition, construction and installation of Energy Efficiency Improvements and/or Renewable Energy Systems be deemed a Qualified Property Owner.

**§176-5. Application criteria**

Upon the submission of an application, EIC acting on behalf of the City, shall make a positive or negative determination on such application based upon the following criteria for the making of a financing:

- A. The proposed Energy Efficiency Improvements and/or Renewable Energy Systems are determined to be cost effective based on guidelines issued by the Authority;
- B. The property owner may not be in bankruptcy and the property may not constitute property subject to any pending bankruptcy proceeding;
- C. The amount financed under the Energize NY Benefit Financing Program shall be repaid over a term not to exceed the weighted average of the useful life of Renewable Energy Systems and Energy Efficiency Improvements to be installed on the property as determined by EIC;
- D. Sufficient funds are available from EIC to provide financing to the property owner;
- E. The property owner is current in payments on any existing mortgage;
- F. The property owner is current in payments on any existing real property taxes and has been current on real property taxes for the previous three years; and
- G. Such additional criteria, not inconsistent with the criteria set forth above, as the City, or EIC acting on its behalf, may set from time to time.

**§176-6. Opt-in, Energize NY Finance Agreement**

- A. A Qualified Property Owner may participate in the Energize NY Benefit Financing Program through the execution of an energize NY finance agreement made by and between the Qualified Property Owner and EIC, acting on the behalf of the City (the “Energize NY Finance Agreement”).
- B. Upon execution of the Energize NY Finance Agreement, the Qualified Property Owner shall be eligible to receive funds from EIC acting on behalf of City, for the acquisition, construction, and installation of qualifying Renewable Energy Systems and Energy Efficiency Improvements; provided the requirements of Section 7 of this law have been met.
- C. The Energize NY Finance Agreement shall include the terms and conditions of repayment set forth under section 8 of this law.

**§176-7. Energy audit, renewable energy system feasibility study**

- A. No funds shall be made available for Energy Efficiency Improvements unless determined to be appropriate through an Energy Audit as defined in Section 2.
- B. No funds shall be made available for a Renewable Energy System unless determined to be feasible through a Renewable Energy System Feasibility Study as defined in Section 2.
- C. The cost of such Energy Audit and/or Renewable Energy System Feasibility Study shall be borne solely by the property owner but may be included in the financed amount if the work is approved.

**§176-8. Terms and conditions of repayment**

The Energize NY Finance Agreement between the Qualified Property Owner and EIC acting on behalf of the City, shall set forth the terms and conditions of repayment in accordance with the following:

- A. The principal amount of the funds paid to the Qualified Property Owner hereunder, together with the interest thereon, shall be paid by the property owner as a charge on their property tax bill and shall be levied and collected at the same time and in the same manner as City property taxes, provided that such charge shall be separately listed on the tax bill. The City shall make payment to EIC or its designee in the amount of all such separately listed charges within 30 days of the date the payment is due to be made to the City.
- B. The term of such repayment shall be determined at the time the Energize NY Finance Agreement is executed by the property owner and EIC, provided that in no case shall the term exceed the weighted average of the useful life of the systems and improvements as determined by EIC acting on behalf of the City.
- C. The rate of interest for the charge shall be fixed by EIC acting on behalf of the City at the time the Energize NY Finance Agreement is executed by the property owner and EIC.
- D. The charge shall constitute a lien upon the real property benefited by the Energize NY Benefit Financing Program as set forth in Article 5-L of the General Municipal Law and shall run with the land. A transferee of title to the benefited real property shall be required to pay any future installments, including interest thereon.

**§176-9. Verification and report**

- A. EIC shall be responsible for verifying and reporting to the City on the installation and performance of Renewable Energy Systems and Energy Efficiency Improvements financed by such Program.
- B. The City shall verify and report on the installation and performance of Renewable Energy Systems and Energy Efficiency Improvements financed by the Energize NY Benefit Financing Program in such form and manner as the Authority may establish.

**Section 2.** This local law shall take effect upon filing with the Secretary of State.



**RESOLUTION ADOPTING LOCAL LAW NO.1-2018, A LOCAL LAW TO IMPROVE AND STRENGTHEN THE SUSTAINABLE ENERGY LOAN PROGRAM**

**WHEREAS**, there was duly presented and introduced to this Council at a meeting held on February 28, 2018, a proposed local law entitled, "**A LOCAL LAW TO IMPROVE AND STRENGTHEN THE SUSTAINABLE ENERGY LOAN PROGRAM**"; now, therefore be it

**RESOLVED**, that said local law be enacted in form as follows:

**LOCAL LAW NO. 1-2018, CITY OF RYE, NEW YORK**

**A LOCAL LAW TO IMPROVE AND STRENGTHEN THE SUSTAINABLE ENERGY LOAN PROGRAM.**

**BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF RYE, as follows:**

**Section 1. Legislative Intent.**

This Council hereby finds and determines that the City of Rye enacted Local Law No. Local Law #10-2014, pursuant to provisions of New York General Municipal Law, to establish a Sustainable Energy Loan Program. This program authorized the Energy Improvement Corporation (“EIC”), a local development corporation acting on behalf of the City of Rye, to make funds available to qualified property owners for the installation of renewable energy systems and energy-efficiency measures.

This Council further finds that the New York State Legislature recently amended certain provisions of the municipal sustainable energy loan program to “eliminate barriers that have been identified that have prevented the program from reaching its full potential.”

This Council finds that the amendments to the program, enacted as Chapter 320 of the 2017 Laws of the State of New York, seek to encourage net metered and community solar projects, will allow the City of Rye’s program to use monies available from the State or any State authority, and will permit a more flexible loan standard for commercial properties.

Therefore, the purpose of this law is to amend the *(municipality name)*’s Sustainable Energy Loan Program in conformity with changes recently enacted to the New York State enabling legislation.

**Section 2. Amendments.**

Chapter 176 of the City of Rye CODE is hereby amended as follows:

**CHAPTER 176**

**Article I. Sustainable Energy Loan Program**

**Please see attached document with tracked changes.**

**Section 6. Effective Date.**

This law shall take effect immediately upon its filing in the Office of the Secretary of State.

[ ] Brackets denote deletion of existing language  
\_\_\_ Underlining denotes addition of new language

DATED:

APPROVED BY:

\_\_\_\_\_  
(*CHIEF EXECUTIVE OF MUNICIPALITY*)

Date:

10/25/17 FINAL

Deleted: 2/22/13 FINAL

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**LOCAL LAW NO. - 20**

Deleted: ¶  
¶

**A LOCAL LAW TO ~~AMEND THE~~ SUSTAINABLE ENERGY LOAN PROGRAM  
IN THE \_\_\_\_\_**

Deleted: ESTABLISH

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Be it enacted by the [County/City/Town/Village] of \_\_\_\_\_ as follows:

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**Section 1.** ~~This Local Law shall be known as the~~ “Energize NY Benefit Financing Program,” ~~and shall~~ read as follows:

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**ARTICLE I**

**§1. Legislative findings, intent and purpose, authority.**

A. It is the policy of both the \_\_\_\_\_ and the State of New York to achieve energy efficiency and renewable energy goals, reduce greenhouse gas emissions, mitigate the effect of global climate change, and advance a clean energy economy. The \_\_\_\_\_ finds that it can fulfill this policy by providing property assessed clean energy financing to property owners for the installation of renewable energy systems and energy efficiency measures. This chapter establishes a program that will allow the Energy Improvement Corporation (“EIC”), a local development corporation, acting on behalf of the \_\_\_\_\_ pursuant to the municipal agreement to be entered into between the \_\_\_\_\_ and EIC pursuant to Article 5-G of the New York General Municipal Law (the “Municipal Agreement”), to make funds available to qualified property owners that will be repaid by such property owners through charges on the real properties benefited by such funds, thereby fulfilling the purposes of this law and fulfilling an important public purpose.

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B. The \_\_\_\_\_ is authorized to implement this Energize NY Benefit Financing Program pursuant to the Municipal Home Rule Law and Article 5-L of the New York General Municipal Law.

C. This law shall be known and may be cited as the “Energize NY Benefit Financing Program Law of the \_\_\_\_\_”.

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**§2. Definitions**

For purposes of this law, and unless otherwise expressly stated or unless the context requires, the following terms shall have the meanings indicated:

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**Authority** – The New York State Energy Research and Development Authority, as defined by subdivision two of section eighteen hundred fifty-one of the [Public Authorities Law](#), or its successor.

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**EIC** – the Energy Improvement Corporation, a local development corporation, duly organized under section fourteen hundred eleven of the Not-For-Profit Corporation Law, authorized hereby on behalf of the \_\_\_\_\_ to implement the Energize NY Benefit Financing Program by providing funds to qualified property owners (as defined in this [law](#)) and providing for repayment of such funds from monies collected by the \_\_\_\_\_ tax [collecting officer](#) as a charge to be levied on the real property and collected in the same manner and same form as the \_\_\_\_\_ taxes.

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**Energy Audit** – A formal evaluation or “assessment” of the energy consumption of a permanent building or structural improvement to real property, conducted by a contractor certified by the Authority, or certified by a certifying entity approved by the Authority, for the purpose of identifying appropriate energy efficiency improvements that could be made to the property.

**Energy Efficiency Improvement** – Any renovation or retrofitting of a building to reduce energy consumption, such as window and door replacement, lighting, caulking, weatherstripping, air sealing, insulation, and heating and cooling system upgrades, and similar improvements, determined to be cost-effective pursuant to criteria established by the Authority, not including lighting measures or household appliances that are not permanently fixed to real property.

**Qualified Property Owner** – An owner of residential or commercial real property located within the boundaries of the \_\_\_\_\_ that is determined to be eligible to participate in the Energize NY Benefit Financing Program under the procedures for eligibility set forth under this [law](#).

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**Renewable Energy System** – An energy generating system for the generation of electric or thermal energy, to be used primarily at such property, [except when the Qualified Property Owner is a commercial entity in which case the system may be used for other properties in addition to the subject property.](#) by means of solar thermal, solar photovoltaic, wind, geothermal, anaerobic digester gas-to-electricity systems, fuel cell technologies, or other renewable energy technology approved by the Authority not including the combustion or pyrolysis of solid waste.

**Renewable Energy System Feasibility Study** – A written study, conducted by a contractor certified by the Authority, or certified by a certifying entity approved by the Authority, for the purpose of determining the feasibility of installing a renewable energy system.

### §3. Establishment of an Energize NY Benefit Financing Program

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A. An Energize NY Benefit Financing Program is hereby established by the \_\_\_\_\_, whereby EIC acting on its behalf [pursuant to the Municipal](#)

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Agreement, may provide funds to Qualified Property Owners in accordance with the procedures set forth under this law, to finance the acquisition, construction and installation of Renewable Energy Systems and Energy Efficiency Improvements and the verification of the installation of such systems and improvements.

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B. For funds provided to a Qualified Property Owner which is a commercial entity, not-for-profit organization, or entity other than an individual, EIC shall have the authority to impose requirements on the maximum amount of funds to be provided, which may consider factors including but not limited to the property value, projected savings, project cost, and existing indebtedness secured by such property.

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C. For financings made to a Qualified Property Owner who is an individual, the funds provided shall not exceed the lesser of (i) ten percent of the appraised value of the real property where the Renewable Energy Systems and/or Energy Efficiency Improvements will be located, or (ii) the actual cost of installing the Renewable Energy Systems and/or Energy Efficiency Improvements, including the costs of necessary equipment, materials, and labor and the cost of verification of such systems and improvements.

#### §4. Procedures for eligibility

A. Any property owner in the \_\_\_\_\_ may submit an application to EIC on such forms as have been prepared by EIC and made available to property owners on the website of EIC and at the \_\_\_\_\_ offices.

B. Every application submitted by a property owner shall be reviewed by EIC acting on behalf of the \_\_\_\_\_, which shall make a positive or negative determination on such application based upon the criteria for making a financing enumerated in section 5 of this law. EIC may also request further information from the property owner where necessary to aid in its determination.

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C. If a positive determination on an application is made by EIC acting on behalf of the \_\_\_\_\_, the property owner shall be deemed a Qualified Property Owner and shall be eligible to participate in the Energize NY Benefit Financing Program in accordance with the procedure set forth under section 6 of this law; provided that in no case shall a property owner that has received funds from another municipal corporation for the acquisition, construction and installation of Energy Efficiency Improvements and/or Renewable Energy Systems be deemed a Qualified Property Owner.

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#### §5. Application criteria

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Upon the submission of an application, EIC acting on behalf of the \_\_\_\_\_, shall make a positive or negative determination on such application based upon the following criteria for the making of a financing:

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A. The proposed Energy Efficiency Improvements and/or Renewable Energy Systems are determined to be cost effective based on guidelines issued by the Authority;

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B. The property owner may not be in bankruptcy and the property may not constitute property subject to any pending bankruptcy proceeding;

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C. The amount financed under the Energize NY Benefit Financing Program shall be repaid over a term not to exceed the weighted average of the useful life of Renewable Energy Systems and Energy Efficiency Improvements to be installed on the property as determined by EIC;

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Deleted: and/or Renewable Energy Systems will generate an estimated annual cost savings greater than the annual charge payments

D. Sufficient funds are available from EIC to provide financing to the property owner;

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E. The property owner is current in payments on any existing mortgage;

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F. The property owner is current in payments on any existing real property taxes and has been current on real property taxes for the previous three years; and

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G. Such additional criteria, not inconsistent with the criteria set forth above, as the \_\_\_\_\_, or EIC acting on its behalf, may set from time to time.

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**§6. Opt-in, Energize NY Finance Agreement**

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A. A Qualified Property Owner may participate in the Energize NY Benefit Financing Program through the execution of an energize NY finance agreement made by and between the Qualified Property Owner and EIC, acting on the behalf of the \_\_\_\_\_ (the "Energize NY Finance Agreement").

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B. Upon execution of the Energize NY Finance Agreement, the Qualified Property Owner shall be eligible to receive funds from EIC acting on behalf of \_\_\_\_\_, for the acquisition, construction, and installation of qualifying Renewable Energy Systems and Energy Efficiency Improvements; provided the requirements of Section 7 of this Jaw have been met.

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C. The Energize NY Finance Agreement shall include the terms and conditions of repayment set forth under section 8 of this Jaw.

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**§7. Energy audit, renewable energy system feasibility study**

A. No funds shall be made available for Energy Efficiency Improvements unless determined to be appropriate through an Energy Audit as defined in Section 2.

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- B. No funds shall be made available for a Renewable Energy System unless determined to be feasible through a Renewable Energy System Feasibility Study as defined in Section 2.
- C. The cost of such Energy Audit and/or Renewable Energy System Feasibility Study shall be borne solely by the property owner but may be included in the financed amount if the work is approved.

**§8. Terms and conditions of repayment**

The Energize NY Finance Agreement between the Qualified Property Owner and EIC acting on behalf of the \_\_\_\_\_, shall set forth the terms and conditions of repayment in accordance with the following:

- A. The principal amount of the funds paid to the Qualified Property Owner hereunder, together with the interest thereon, shall be paid by the property owner as a charge on their \_\_\_\_\_ tax bill and shall be levied and collected at the same time and in the same manner as \_\_\_\_\_ property taxes, provided that such charge shall be separately listed on the tax bill. The \_\_\_\_\_ shall make payment to EIC or its designee in the amount of all such separately listed charges within 30 days of the date the payment is due to be made to \_\_\_\_\_.
- B. The term of such repayment shall be determined at the time the Energize NY Finance Agreement is executed by the property owner and EIC, provided that in no case shall the term exceed the weighted average of the useful life of the systems and improvements as determined by EIC acting on behalf of the \_\_\_\_\_.
- C. The rate of interest for the charge shall be fixed by EIC acting on behalf of the \_\_\_\_\_ at the time the Energize NY Finance Agreement is executed by the property owner and EIC.
- D. The charge shall constitute a lien upon the real property benefited by the Energize NY Benefit Financing Program as set forth in Article 5-L of the General Municipal Law and shall run with the land. A transferee of title to the benefited real property shall be required to pay any future installments, including interest thereon.

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**§9. Verification and report**

- A. EIC shall be responsible for verifying and reporting to the \_\_\_\_\_ on the installation and performance of Renewable Energy Systems and Energy Efficiency Improvements financed by such Program.

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B. The \_\_\_\_\_ shall verify and report on the installation and performance of Renewable Energy Systems and Energy Efficiency Improvements financed by the Energize NY Benefit Financing Program in such form and manner as the Authority may establish.

**Section 2.** This local law shall take effect upon filing with the Secretary of State.

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# CITY COUNCIL AGENDA

NO. 6

DEPT.: Boat Basin

DATE: March 9, 2018

CONTACT: Sally Rogol, Superintendent of Recreation

**AGENDA ITEM:** Public Hearing to amend local law Chapter 64, "Boats and Harbors" of the Rye City Code by amending provisions related to moorings.

**FOR THE MEETING OF:**

March 14, 2018

**RYE CITY CODE,**

CHAPTER 64  
SECTION

**RECOMMENDATION:** That the Council hold a Public Hearing to amend local law Chapter 64, "Boats and Harbors" of the Rye City Code by amending provisions related to moorings.

**IMPACT:**  Environmental  Fiscal  Neighborhood  Other:

**BACKGROUND:** After a review of Chapter 64 by the Police Department it was determined that modifications would be required to allow adequate authority for enforcement of the moorings. The Police and Corporation Counsel have provided their recommendation to the Boat Basin Commission. They have reviewed and agreed to the changes. They now recommend to the City Council to approve the modifications as submitted.

See attached proposed Local Law addressing these recommendations.

**CITY OF RYE**  
**LOCAL LAW NO. 201**

A local law to amend Chapter 64 “Boats and Harbors” of the Code of the City of Rye by amending Sections 64- ”, as follows:

**Be it enacted by the City Council of the City of Rye as follows:**

**Section 1: Chapter 64. Boats and Harbors**

**Article I. Boats and Docks.**

**§ 64-1. Excursion boats.**

**With the exceptions set forth in § 64-1(A), no person shall operate excursion boats within the City or operate boats regularly carrying passengers or freight, or both, without first obtaining the consent of the Council and subject to such restrictive provisions as the Council may deem advisable, except that this section shall not apply to boats running to and from the docks under the control of the Westchester County Park Commission.**

**A. Boat excursions for the purposes of duck hunting, kayaking, stand up paddle boarding or other similar contracted for activities shall be permitted upon issuance of a permit by the Boat Basin Supervisor.**

**§ 64-2. Sale of goods at docks.**

[to be deleted entirely]

**Article II. Harbors**

**§ 64-3. Title, Scope and purpose.**

**A.**

**This article shall be known as**

**B.**

**The general purpose of this article is to**

**§ 64-4. Definitions.**

**BAY CONSTABLE - Seasonal employee as defined under Westchester County Civil Service**

**BOAT – Includes every kind of boat, houseboat, vessel, or floating craft, including but not limited to, jets skis, kayaks, paddle boards, and canoes.**

**BOAT BASIN SUPERVISOR** – The administrative official appointed by the City Manager to oversee the Boat Basin daily functions.

**§ 64-5. Boat identification.**

**A.** All boats anchored or moored in Rye’s waterways, **including docks**, shall be registered or documented in compliance with federal and state laws **and in accordance with this Chapter.**

**B. Identification.** **Vessel operators shall identify themselves and produce the vessel’s registration to city, state or federal law enforcement authorities upon request. Failure to produce such registration upon request shall be presumptive evidence of a violation of this section.**

**§ 64-6. Discharges from boats.**

[no change]

**§ 64-7. Toilet facilities.**

[no change]

**§ 64-8. Living on boats.**

[no change]

**§ 64-9. Noise on boats.**

The operation of any radio, ~~phonograph~~ or television or the use of any musical instrument or other sound-making instrument or device on any boat in such a manner as to disturb the peace is prohibited, except that the transmission of audible signals that are necessary for normal navigation or for emergency purposes is permitted.

**§ 64-10. Moorings and floats.**

Within the jurisdictional area provided by § 46-a of the Navigation Law and § 64-3 of this chapter, the following restrictions apply:

A. No boat shall be moored within the lines of any channel.

**B. No person shall anchor or moor a vessel or float in a mooring area without first obtaining an annual mooring permit from the Boat Basin Supervisor. Such permit shall be applied for on forms to be supplied by the Boat Basin Supervisor and shall be accompanied by an application fee as shall be fixed from time to time by resolution of the City Council. The person shall file annually with the Boat Basin Supervisor a local address of an authorized agent for legal service of process, in order to have a local contact in case of an emergency or violation of this chapter. Upon receipt of a properly prepared application, the Boat Basin Supervisor shall determine if the application is complete and, if so, shall process the application. No application shall be deemed complete until**

**the permit fee is paid. No permit shall be issued if the person has any unpaid dues or fees from prior years.**

- C. ~~Moorings anchoring rafts and/or floats, except those governed by upland owners' property rights, must be assigned a permit by the Bay Constable~~**Boat Basin Supervisor. An annual mooring permit, which contains the name of the authorized mooring location in the City of Rye, shall be valid for a period of one year, commencing \_\_\_\_\_ of each year and terminating on \_\_\_\_\_ of the same year.** The number must be permanently affixed to said raft and/or float. ~~The Bay Constable~~ **Boat Basin Supervisor** may promulgate regulations governing rafts and floats, subject to the approval of the ~~State Commissioner of Parks, Recreations and Historic Preservation and the City Council.~~**Boat Basin Commission.**
- D. No boat shall be moored in such a manner as to interfere with the use of a preexisting mooring. The right to use a mooring space shall be based on a first-come first-served basis. A neighborhood association, yacht club or other entity administering the moorings of its membership may maintain lists identifying its owners and may file copies of this information with the City. ~~In addition, others may register the placement of their moorings with the Bay Constable.~~
- E. A mooring location shall be occupied only by the vessel or float assigned to the location, unless written consent is granted by the Boat Basin Supervisor to use the mooring for another vessel or float. The vessel which is assigned a location or granted written consent shall be fully registered, and all registration and current contact information shall be provided to the Boat Basin Supervisor.
- F. Owners of vessels or floats assigned a location in the mooring area shall furnish, install and maintain either mooring buoys or mooring rafts as designated by the Boat Basin Supervisor.
- G. Moorings must be **hauled and** serviced each year, including the use of a winter stick during winter and a clearly visible float or buoy at all other times in accordance with the Uniform State Waterway Marking System. **A permanent mooring shall be raised at least once every three years for inspection, at the owner's expense. The Boat Basin Supervisor may inspect the mooring by appointment or may accept a written statement by a contractor certifying that he has inspected the mooring and that it is in safe condition. The inspection certificate shall be dated and signed by the person who has done the inspection and shall certify that the mooring anchor, all ground tackle, including lines, shackles, swivels and chains, are in safe condition. No mooring permit shall be granted by the Boat Basin Supervisor unless the applicant submit a current inspection certificate for the mooring. In addition, failure to use a winter stick will**

**result in a denial of a mooring permit for the following season.**

- H. Moorings anchoring rafts and/or floats, except those governed by upland owners' property rights, must be assigned a permit by the Bay Constable **Boat Basin Supervisor**. The number must be permanently affixed to said raft and/or float. The Bay Constable **Boat Basin Supervisor** may promulgate regulations governing rafts and floats, subject to the approval of the State Commissioner of Parks, Recreations and Historic Preservation and the City Council. **Boat Basin Commission.**
- I. Unsafe moorings or abandoned moorings, which represent a hazard to navigation, may be removed **by or at the direction of the Boat Basin Supervisor or the Rye Police Department** by the enforcement officers if their owners fail to take corrective action following notification. The notification and removal procedures shall be promulgated by the City Police Department using the procedures established under 1224 of the State Vehicle and Traffic Law as a model. **If directions given by the Boat Basin Supervisor with respect to the removal of unauthorized moorings or changes in location are not carried out within seven days after notice from the Boat Basin Supervisor or the Rye Police Department in person, or by the posting of the order in a visible location in a waterproof envelope on the mooring device, or by regular and certified mail, if a mailing address is known, the Boat Basin Supervisor may cause such moorings to be removed and temporarily stored at the owner's expense.**
- J. **Charges for removal and storage of vessels and mooring devices. After removal of any vessel or mooring device as provided in this article, the Boat Basin Supervisor may store or cause such vessel or mooring device to be stored in a suitable place at the expense of the owner. Such owner may redeem the same upon payment of all expenses to the person with whom such property is stored.**
- K. ~~An annual permit fee will be imposed on all privately owned boats having moorings in Rye waters, with the exception of the Durland Scout Center, a nonprofit organization. Said fee will be set annually by the City Council before adoption of the budget for the following year.~~
- L. **Mooring buoys. A mooring buoy shall be constructed of Styrofoam, plastic, metal or other material approved by the Boat Basin Supervisor, spherical, conical or cylindrical in shape, no less than six inches or more than 24 inches in diameter. The portion above the waters shall be no less than 12 inches or more than 24 inches, exclusive of whips or staffs. Each buoy shall be painted white. The mooring permit number shall be clearly marked on the mooring buoy and shall be of bold, clear numeral, four inches in height, of a contrasting color, or engraved into buoys, clearly visible from a distance of 50 feet. Each permanent mooring buoy anchor shall be of mushroom or navy type only and shall be approved**

by the harbormaster.

**§ 64-12. Notice of removal and sale at auction.**

**It shall be the duty of the Boat Basin Supervisor to ascertain, to the extent possible, the last record owner and lienholder, if any, of the vessel and to notify such owner and lienholder, if any, by regular and certified mail, informing them of the removal and storage of usch vessel and of the amount which will be required to redeem the same; the amount of unpaid summonses, if any, which must be paid at the time of redemption of the vessel; that title to such vessel shall vest in the City of Rye; and that such vessel may be sold at public auction or otherwise disposed at the direction of the Boat Basin Supervisor if not redeemed within 30 days of such notice.**

**§ 64-13. Hazards to navigation.**

Any boat, raft or float which becomes a menace to navigation or unseaworthy or sinks, grounds or otherwise becomes disabled shall be removed by the owner or person in charge thereof upon order of the ~~enforcement authorities~~ **Police Department of the City of Rye, including Bay Constables, and any other official authorized pursuant to § 64-15 below.** If such boat is not removed within five days after an order to do so, it may be removed by or at the discretion of the enforcement authorities at the expense of the owner or person in charge of said boat. Such removed boats shall be disposed of in accordance with federal, state **and City rules and regulations.**

**§ 64-14. Speed limit.**

No motor-drive boat shall be operated at a speed exceeding five statute miles per hour, except for boats and vessels operated by police, emergency officials or federal enforcement officials in the line of duty or under emergency circumstances. **In addition, no vessel shall be operated by any person within such limits so as to make dangerous wakes that have the potential to cause injury to personal on another vessel or to cause damage to another vessel, structure or shoreline.**

**§ 64-15. Observance of navigation laws.**

All provisions of the Navigation Law of the State of New York, all laws enacted by the Congress of the United States and all rules and regulations of the United States Coast Guard governing navigable or inland waters of the United States, insofar as they are applicable to the City waterways, are hereby made applicable to same.

**§ 64-16. Power to adopt rules.**

The ~~Recreation Commission~~ **Boat Basin Commission** of the City of Rye shall have the power to adopt rules and regulations governing the use of the City of Rye marina, subject to the approval of the City Council.

**§ 64-17. Enforcing authority.**

The enforcing authority of this article shall be the Police Department of the City of Rye or duly authorized ~~deputies~~ personnel, **including Bay Constables and any other official authorized to issue summonses and appearance tickets pursuant to Article 150 of the New York State Criminal Procedure Law.**

**§ 64-18. Penalties for offenses.**

A. Any person, firm, association or corporation violating any of the foregoing provisions of this chapter shall be guilty of an offense and may, upon conviction, be punished by a fine not exceeding \$250 or imprisonment not exceeding 15 days, or both, for each and every day in violation.

**(1) In addition, any person who has been convicted of a violation of xx-xx or xxx-xx herein shall have any current permits revoked and may not be permitted to apply for or to receive permits for two years.**

**B. Appeals. The City Manager shall be empowered to hear and decide appeals from and review any order, requirement, decision or determination made by the Boat Basin Supervisor with respect to the issuance or revocation of a mooring permit.**

**(1) Request for hearing. Upon the denial of a permit by the Boat Basin Supervisor in connection with the issuance of a mooring permit or upon issuance of a notice of revocation of any such permit, the aggrieved applicant may, within 10 days after receiving written notice from the Boat Basin Supervisor, file an appeal, in writing, in the office of the City Manager requesting a review of any such determination. The City Manager shall hear and decide such appeals and may reverse or affirm, wholly or partly, or may modify the determination appealed from and/or make such determination and order which, in his or her opinion, should be made under the circumstances.**

**(2) Hearing. Upon receipt of a request for a hearing as provided above, the City Manager shall set a time and place for a hearing. Such hearing shall commence no later than 30 days after the date on which the request was filed, unless an extension of said time period is agreed upon by both the City Manager and the aggrieved party. Failure by the City Manager to commence said hearing within the above-specified time period shall not be deemed to constitute approval of such request if good and sufficient reason exists.**

**(3) Conduct of hearing. The applicant or his representative shall be given an opportunity to show cause why such decision by the Boat Basin Supervisor should be modified or withdrawn. The burden of proof in this regard shall be upon said applicant or his representative, who shall be required to demonstrate by a fair preponderance of the evidence that the Boat Basin Supervisor's decision should be withdrawn or modified.**

**(4) Findings. Upon consideration of the evidence presented, the City Manager shall sustain, modify or revoke the Boat Basin Supervisor's decision.**

**§ 64-19. Disclaimer of responsibility for City.**

**The City assumes no responsibility for the safety of any vessel at the Boat Basin and shall not be responsible for loss or damage or injury to persons or property due to wind, waves, theft, collision, chafing, vandalism, fire, low water levels, or any other cause. The City shall not be liable for any damage to the vessel occurring before, during or after a severe storm, hurricane, or other emergency, for service performed, or for the failure to provide services.**

**Section 2: Severability.**

If any clause, sentence, paragraph, section or part of any section of this title shall be adjudged by any court of competent jurisdiction to be invalid, such judgment 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 and in which such judgment shall have been rendered.

**Section 3: Effective date.**

This local law will take effect immediately on filing in the office of the Secretary of State.





# CITY COUNCIL AGENDA

NO. 7

DEPT.: Boat Basin

DATE: March 9, 2018

CONTACT: Sally Rogol, Superintendent of Recreation

**AGENDA ITEM:** Resolution to amend the 2018 Adopted Fees and Charges for the Rye Boat Basin Enterprise Fund.

**FOR THE MEETING OF:**

March 14, 2018

**RYE CITY CODE:**

CHAPTER  
SECTION

**RECOMMENDATION:** That the Council amend the 2018 Adopted Fees and Charges for the Rye Boat Basin Enterprise Fund.

**IMPACT:**  Environmental  Fiscal  Neighborhood  Other:

**BACKGROUND:** The Boat Basin Commission is requesting that the City Council amend the 2018 Adopted Fees and Charges by adding a winter trailer only storage @ \$350 plus NYS tax to be added to the fee schedule. This is for trailers that are either empty or box style trailers.

Please see memo from Ms. Rogol.



# CITY COUNCIL AGENDA

NO. 8

DEPT.: Boat Basin

DATE: March 9, 2018

CONTACT: Sally Rogol, Superintendent of Recreation

**AGENDA ITEM:** Resolution to extend the deadline for the renewals of slip permits to March 31 and if not renewed the slips will be sold as of April 1.

**FOR THE MEETING OF:**

March 14, 2018

**RYE CITY CODE:**

CHAPTER  
SECTION

**RECOMMENDATION:** That the Council extend the deadline for the renewals of slip permits to March 31 and if not renewed the slips will be sold as of April 1.

**IMPACT:**  Environmental  Fiscal  Neighborhood  Other:

**BACKGROUND:** The Boat Basin Commission is requesting that the City Council approve the extension of the deadline for slip renewals to March 31 and if not renewed the slips will be sold as of April 1.

Please see memo from Ms. Rogol.

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INTEROFFICE MEMORANDUM

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TO:           MARCUS SERRANO, CITY MANAGER  
FROM:         SALLY ROGOL  
SUBJECT:      GRACE PERIOD/FEE SCHEDULE  
DATE:         MARCH 9, 2018  
CC:           GEORGE HOGBEN

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1. At the January commission meeting, Supervisor Hogben asked for some guidance from the commission on when he can sell slips that are not paid. Given that February 15<sup>th</sup> is the cut off day for renewals and the late fee adopted begins on February 16<sup>th</sup>, the commission felt that any members not renewing their slips by March 31 where not entitle to be guaranteed their slips and are no longer members in good standing.

The Boat Basin Commission would like council to approve this stipulation allowing the supervisor to sell any unpaid slips as of April 1.

2. At the February commission meeting, the commission voted to add a winter trailer only storage @ \$350 plus NYS tax to be added to the fee schedule. This is for trailers that are either empty or box style trailers.

Please let us know if you need any additional information.



# CITY COUNCIL AGENDA

NO. 9

DEPT.: Police

DATE: March 9, 2018

CONTACT: Michael C. Corcoran, Jr., Commissioner of Public Safety

**AGENDA ITEM:** Consideration of the proposed revisions and addition to the Rules and Regulations of the City of Rye Police Department: General Order #102.9, General Order #103.1, General Order #103.3, General Order #103.4, General Order #104.1 and General Order #111.1.

**FOR THE MEETING OF:**

March 8, 2018

**RYE CITY CODE,**  
CHAPTER  
SECTION

**RECOMMENDATION:** Approval of a revision to seven (5) General Orders and the addition of one (1) General Order.

**IMPACT:**  Environmental  Fiscal  Neighborhood  Other:  
Enhancement of the operational effectiveness of the Department.

**BACKGROUND:**

- New General Order #102.9 regarding Harassment and Sexual Harassment policy.
- General Order #103.1 regarding performance and conduct policy.
- General Order #103.3 regarding Use of Force / Deadly Physical Force policy.
- General Order #103.4 regarding guidelines for firearms policy.
- General Order #104.1 regarding Uniform Specifications and Equipment policy.
- General Order #111.1 regarding Evidence and Non – Agency Property Management policy.

The General Orders have been provided to the Rye Police Association for review pursuant to the provisions of the collective bargaining agreement.

**CITY OF RYE POLICE DEPARTMENT**

General Order # 102.9	New [ x ]	Revised [ ]
Supersedes:		
Subject: HARASSMENT – SEXUAL HARASSMENT		
Date Issued	Date Effective	Page 1 of 3
Issuing Authority: Michael C. Corcoran, Jr., Commissioner of Public Safety		

PURPOSE

The purpose of this order is to formally state the policies of the City of Rye Police Department on the issues of Harassment and Sexual Harassment, and to ensure the rights and opportunities of all people to seek, obtain, and hold employment in an environment free of Harassment and Sexual Harassment and to set forth the procedures for resolving alleged acts of employment discrimination.

POLICY

The City of Rye Police Department believes in upholding the dignity of individuals and recognizes the rights of all people to equal opportunities. In this regard, the department has had a long-standing policy of protecting and safeguarding the rights and opportunities of all individuals to seek, obtain, and hold employment without being subjected to harassment of any kind in the workplace. Harassment based on sex, race, religion, color, disability or national origin is illegal and can unreasonably interfere with an employee's work performance or create an intimidating, hostile, or offensive working environment.

DEFINITIONS

- Verbal Harassment: Abusive verbal language related to an employee's sex including sexual innuendoes, suggestive or derogatory or insulting comments or sounds, whistling, jokes of a sexual nature, sexual propositions and threats.
- Non-Verbal Harassment: Abusive written language, showing or displaying pornographic or sexually explicit objects or pictures, graphic commentaries, leering, or obscene gestures in the workplace.
- Physical Harassment: Physical contact which is not welcome, including touching, grabbing, hugging, pinching, coerced sexual intercourse, assault or persistent brushing up against a person's body.

PROCEDURE

Sexual harassment on the job is sex discrimination that violates Title VII of the Civil Rights Act of 1964 and is illegal according to the 1980 Equal Employment Opportunity Commission (EEOC) guidelines. For the purpose of this policy, sexual harassment shall be defined as unwelcome sexual advances, requests for sexual favors or other conduct of a sexual nature;

- (1) when submission is either explicitly or inexplicably a term and condition of employment,
- (2) when submission or rejection is used as a basis for employment decisions and
- (3) when such conduct unreasonably interferes with work performance or creates an intimidating, hostile or offensive working environment.

This policy further includes, but is not limited to the following inappropriate forms of sexual harassment which will be considered serious enough to warrant immediate discipline up to dismissal:

- (1) **VERBAL HARASSMENT**
- (2) **NON-VERBAL HARASSMENT**
- (3) **PHYSICAL HARASSMENT**

The City of Rye Police Department will also consider inappropriate verbal, non-verbal or physical conduct relating to an individual's race, religion, color, disability or national origin as harassment when this conduct;

- (1) has the purpose or effect of unreasonably interfering with an individual's work performance,
- (2) has the purpose or effect of creating an intimidating, hostile or offensive working environment, or
- (3) otherwise adversely affects an individual's employment opportunities.

Any employee who believes that he or she has been the victim of harassment based on sex, race, religion, color, disability or national origin or who has witnessed anyone engaging in any of the prohibited activities identified in this policy should report the harassment at once to their supervisor, Division Commander or the Commissioner of Public Safety without fear of reprisal. Complaints may be made in person or in writing. All complaints will be held in confidence and disclosed only to the extent necessary for investigation. The department will do everything in its power to rectify the situation without delay.

Investigation of a complaint will normally include conferring with the parties involved and any named or apparent witnesses. The particular facts of the allegation will be examined individually, with a review of the nature of the behavior and the context in which the incident(s) occurred. No action will be taken without the knowledge of the complaining employee, and confidentiality will be maintained throughout the investigatory process.

- A. All employees and job applicants are encouraged to report any alleged acts of employment discrimination to their superiors in the chain of command or directly to the Commissioner of Public Safety. No one shall be subject to retaliation of any

kind for having made a complaint, or for having assisted in any manner with the pursuit or investigation of a complaint.

- B. Retaliation against any individual because he or she has filed a harassment complaint or has cooperated in an investigation of a complaint is illegal and will result in disciplinary action.

Knowingly false complaints may be the subject of appropriate disciplinary action.

**CITY OF RYE POLICE DEPARTMENT**

General Order #103.1	New [ ]	Revised [ x ]
Supersedes: 103.1 issued 12/15/03		
Subject: General Regulations		
Date Issued	Date Effective	Page 1 of 11
Issuing Authority: Michael C. Corcoran Jr., Commissioner of Public Safety		

PURPOSE:

To establish standards of performance and conduct for all members of this department.

POLICY:

All members of the Rye Police Department shall maintain compliance with the policies, rules, regulations, orders and guidelines. Non-compliance shall be cause for counselling, re-training, reprimand and or disciplinary action.

PERFORMANCE:

All members of the Rye Police Department will:

1. Obey all laws of the United States and of any state and local jurisdiction in which officers are present both on duty and off duty. A conviction of any law shall be prima facia evidence of a violation of this section.
2. Conduct themselves at all times both on and off duty in such a manner as to reflect most favorably on the Department. Conduct unbecoming an officer shall include that which brings the Department into disrepute or reflects discredit upon the officer as a member of the Department or that which impairs the operation or efficiency of the Department or officer.
3. Carry out their duties and responsibilities while on duty.
4. Perform all duties as directed by competent authority and Department General Orders.
5. Report for duty at the time and place required and shall be physically and mentally fit to perform their duty.
6. Remain on assigned posts or in assignment until:
  - a. designated time of termination.
  - b. properly relieved.
  - c. authorization from competent authority.
  - d. police necessity.



7. Maintain Department property issued or assigned for use; never abusing, misusing, defacing or damaging said equipment.
8. Make accurate and concise entries in Department records in chronological order, without delay.
9. Make corrections on written or typed Department records by drawing a line through the incorrect matter and entering the correction immediately above, then initialing the change.
10. Answer the Department phones promptly, stating in a courteous manner the command or the division, rank or title and surname.
11. Shall truthfully answer all questions specifically directed and related to the scope of their employment and the operations of the Department, which may be asked of them in compliance with G.O. 119.2.
12. Shall perform their assigned duties as expeditiously as possible. Once assigned to a detail an officer shall respond directly to that location unless a more emergent situation arises while en route.
13. Shall courteously and promptly record in writing any complaints made by a citizen against any member or the Department. Members may attempt to resolve the complaint, but shall never attempt to dissuade any citizen from lodging a complaint against any member or the Department. Members shall follow departmental procedures for processing complaints. (G.O. 120.2)
14. When assigned to uniform duty, wear the regulation uniform unless otherwise directed by competent authority. (G.O. 104.1)
15. Notify the desk officer whenever they leave their assigned post, vehicle or assignment.
16. Operate Department vehicles in a careful and prudent manner and shall obey all laws and Department procedures pertaining to such operation.
17. Make only authorized and necessary transmissions on Department radios.
18. Keep Department vehicle in public view while assigned to general patrol duty.
19. Be responsible for the humane treatment and safe keeping of prisoners in custody or detained in Headquarters over which said member has supervision.
20. Take meal period at the designated time, for a period not exceeding 30 minutes and remain available and subject to recall during meal.
21. Have on file their current address including apartment number, if any. Mailing address, if different, must also be on file. The current physical address must contain street, road, route number. Where a number is not assigned, a physical description as to how to locate the residence is required. Current telephone number must be on file.

22. Report immediately, in writing, changes in address or telephone number.
23. Report in writing any change in marital status or the addition of dependents.
24. Remain awake while on duty. If unable to do so, they shall so report to their immediate supervisor who shall determine the proper course of action. The supervisor will document the action taken via E Mail to the Patrol Commander.
25. Submit all necessary reports on time and in accordance with established departmental procedures. Reports shall be truthful and complete.
26. Maintain sufficient competency to properly perform their duties and assume the responsibilities of their positions. They shall know local, state and federal laws as they apply to their duties and enforce those laws.
27. No member shall work more than 16 hours in any given 24 hour period except under emergency conditions and with the approval of the Patrol Commander.

PROHIBITED CONDUCT:

Members SHALL NOT (either by commission or omission):

1. Members shall not commit or omit any acts that constitute a violation of any of the rules, regulations, directives or orders of the Rye Police Department.
2. Engage in conduct that brings discredit upon the department.
3. Fail to perform a duty.
4. Disobey a lawful order.
5. Be insubordinate or disrespectful towards a superior officer.
6. Be inattentive to duty.
7. Lounge or sleep on duty.
8. Be absent from duty without proper authorization.
9. Receive, solicit or attempt to solicit a bribe or gratuity in any form.
10. Associate or fraternize with known criminals, unless that person is a family member, and at no time will police related information be discussed.
11. Interfere with cases being handled by this Department or by any other governmental agency.
12. Make false accusations of a criminal or petty offense.
13. Intentionally make any arrest, search or seizure that is not in accordance with the law, and/or departmental procedure.
14. Make any false official statement.

15. Remove, alter or change any official department record except as provided for in Department procedure.
16. Disseminate or release information contained in a department record except in conformance with Department procedure.
17. Publicly criticize the official actions of a Department member.
18. Obligate the Department financially in any manner except as authorized by the Commissioner of Public Safety.
19. Engage in any activity or personal business that causes neglect or inattentiveness to duty.
20. Consume intoxicants on duty or in uniform on/off duty, or 5 hours prior to reporting for duty.
21. Bring or permit an intoxicant to be brought into Police Headquarters or a department vehicle, unless pursuant to police duties.
22. While on duty, Officer will not enter a premise serving intoxicants except for meal or performance of duty.
23. Recommend the use of a particular professional or commercial service to anyone except when transacting personal affairs.
24. Engage in illegal gambling anywhere except in the performance of duty.
25. Use Department equipment, uniforms, badges or firearms in the performance of off-duty employment, except as otherwise approved by the Commissioner of Public Safety via a "Secondary Employment" application which is renewed annually.
26. Allow use of depiction of themselves in regulation uniform in any advertising of any commodity or commercial enterprise, without the permission of the Commissioner of Public Safety.
27. While in uniform, on or off duty, engage in any personal activities. Personal activities include, but are not limited to, shopping and carrying package(s) or article(s).
28. Use Department logo, stationery or forms unless authorized by the Commissioner of Public Safety.
29. Permit unauthorized persons to ride in a department vehicle without permission of the Patrol Commander, Detective Commander or Commissioner of Public Safety.
30. Ride in or on a non-Department vehicle during duty hours without permission of the Patrol Commander, Detective Commander or Commissioner of Public Safety.
31. Operate a Department vehicle outside the City, except in performance of official duty.
32. Express any prejudice concerning race, religion, politics, sex, national origin, lifestyle or similar personal characteristics.

33. Make personal long distance telephone calls chargeable to the Department.
34. Accept or make long distance telephone calls on departmental phones without the approval of a superior or supervisor.
35. Take still pictures or video or other devices that capture audio, while on duty, except in the performance of duty, or as specifically authorized by the Commissioner of Public Safety.

POLITICAL ACTIVITY:

Members SHALL NOT:

1. Use their official capacity to influence, interfere with or affect the results of an election.
2. Otherwise engage in prohibited activities on the federal, state, county or municipal level.
3. Members may participate fully in public affairs except as provided by law, to the extent that such endeavors do not impair the neutral and efficient performance of official duties or create real or apparent conflicts of interest.

FINANCIAL RESTRICTIONS:

Members SHALL NOT:

1. Use a photograph in uniform or mention rank, title or membership in the Department for commercial advertising.
2. Accept a testimonial award or gift, loan or thing of value to defray or reimburse any fine or penalty or reward for police service except:
  - a. Award of departmental recognition.
  - b. Award from a media outlet to a member of officer's family for a brave or meritorious act.
3. Purchase or acquire property of another, without approval of the Commissioner of Public Safety, knowing or having reason to know, that such property was held in custody of this Department.
4. Solicit, contribute or pay, directly or indirectly, or otherwise aid another to solicit, contribute or pay any money or other valuable consideration that will be used in connection with a matter affecting the Department or member of the Department without permission of the Commissioner of Public Safety.
5. Undertake any financial obligation that they know they will be unable to meet.
6. Members will upon the order of the Commissioner of Public Safety, submit financial disclosure statements in connection with a complaint in which this information is material to an investigation. This information shall only be used for an internal investigation and will not be made public.

COMPLIANCE WITH ORDERS:

All Members WILL:

1. Be familiar with contents of the Department's General Orders.
2. Obey lawful orders and instructions of supervising officers.
3. Be punctual when reporting for duty.
4. Be governed by orders affecting another rank when temporarily assigned to perform the duties of that rank, except as otherwise indicated.
5. Keep Department locker neat, clean and secured with a lock. The Commissioner of Public Safety must have the ability to gain access to the member's locker when necessity arises.
6. No member will post or cause to be posted any material (notes, stickers, pictures, etc.) in or on any department property, building or vehicle without prior written approval from the Commissioner of Public Safety, Patrol Commander or Detective Commander.

PERSONAL APPEARANCE:

All members SHALL:

1. Be neat and clean.
2. Keep uniforms clean, well pressed and in good repair, including clean uniform accessories and cleaned, shined shoes.
3. While on duty, wear uniforms or other clothing in accordance with established departmental procedures.
4. Wear cap squarely on head, with center of visor directly over nose. (Cap may be removed while performing duty in Department vehicle or on emergency assignment.)
5. Prevent non-uniform articles from showing above uniform collar.
6. Not wear earrings or other adornments while performing duty in uniform.
7. Have hair that is clean, neat and combed, and shall not be worn longer than the top of the shirt collar or back of the neck when standing with the head in a normal posture. The bulk or length of the hair shall not interfere with the normal wearing of all standard headgear.
8. Male members' sideburns shall be neatly trimmed and rectangular in shape, not extending below the bottom of the earlobe.
9. Male members shall be clean shaven except that they may have a mustache that is neatly trimmed and does not extend more than 1/4 inch beyond or below the corners of the mouth.
10. Wigs or hairpieces are permitted if they conform to the above standards for natural hair.

11. Nail polish may be worn in a neutral color.
12. Attend court and court related proceedings in proper uniform, in accordance with G.O. 104.1.
13. Non-uniformed members shall report for regular duty and court appearances in proper business attire, however, commanding officer may approve other attire due to nature of member assignment.

GIFTS & GRATUITIES:

All members shall not:

1. Under any circumstances, solicit or accept any gifts, gratuity, loan or fee where there is any direct or indirect connection between the solicitation and their official position.
2. Use their official positions, official identification cards or badges for personal or financial gain.
3. Use their official position, official identification cards or badges for obtaining privileges not otherwise available to them except in the performance of duty.
4. Use their official position, official identification cards or badges to avoid consequences of illegal acts.
5. Lend to another person their identification cards or badges or permit them to be photographed or reproduced without the approval of the Commissioner of Public Safety.
6. Authorize the use of their names, photographs, official titles that identify them as officers, in connection with testimonials or advertisements of any commodity or commercial enterprise, without the approval of the Commissioner of Public Safety.

PUBLIC CONTACT:

Members shall:

1. Give name and shield number to anyone requesting them.
2. Be courteous and respectful.
3. Avoid conflict with Department policy when lecturing, giving speeches or submitting articles for publication.

Members Shall Not:

1. Use discourteous or disrespectful remarks regarding another person's ethnicity, race, religion, gender or sexual orientation.
2. Divulge or discuss official department business except as authorized.
3. Engage in conduct prejudicial to good order, efficiency or discipline of the Department.
4. Patronize an unlicensed premise (social clubs, after hours clubs) where there is illegal sale of alcoholic beverages and/or use of drugs, except in the performance of duty.

EMPLOYMENT:

Members may engage in off-duty employment subject to existing policy along with the following limitations:

1. Such employment shall not interfere with the officer's employment with the Department.
2. Members shall submit a written request for off-duty employment to the Commissioner of Public Safety whose approval must be granted prior to engaging in such employment. (Annually)
3. Render the member unavailable during any emergency.
4. Physically or mentally exhaust the member to the point that his/her performance may be affected.
5. Require that any special consideration be given to scheduling of the members regular duty hours.
6. Bring the department into disrepute or impair the operation of the Department or the member.
7. Members who accept off-duty employment must be aware that they will not in most instances be entitled to or receive legal representation and/or indemnification from the City. Those benefits of City employment are afforded to municipal employees only when they act within the scope of their employment and in discharge of official duties.
8. An officer may not be employed in a position that is specifically prohibited by law, i.e., Alcohol Beverage Control Law, Racing, Wagering, and Breeding Law, etc.
9. Alcohol Beverage Control Law - No member shall have interest, either directly or indirectly, in the manufacture or sale of alcoholic beverages or to offer for sale or recommend to any licensee, any alcoholic beverage.
10. Alcohol Beverage Control law - No member shall be employed in any retail licensed establishment where consumption of alcoholic beverages is permitted on premise except when authorized by the ABC Board and the Commissioner of Public Safety.

NOTE: Employment in a licensed establishment for off premise consumption (deli, grocery, etc.) is not prohibited under this section.

11. Racing, Wagering and Breeding Law - Members of the Department shall not hold, directly or indirectly, any proprietary interest, stock, office, or employment with any firm, association or corporation that;
  - a. Is licensed by the Wagering and Breeding Board to conduct pari-mutuel racing.
  - b. Conducts its occupation, trade or business at race tracks at which pari-mutuel race meets are conducted.
  - c. Owns or leases to any enfranchised or licensed association or corporation a racetrack at which pari-mutuel racing is conducted.

- d. Participates in the management of any franchised holder or licensee conducting pari-mutuel racing.

ILLNESS OR INJURY:

1. Members shall not feign illness or injury, falsely report themselves ill or injured, on or off duty, or otherwise deceive or attempt to deceive any official of the Department as to the condition of their health.
2. Members reporting sick or injured while on duty may be excused by the tour supervisor if he/she is satisfied that the illness or injury is genuine.
3. Members off duty, who are reporting themselves as sick or injured and will not be able to report for their next tour of duty, shall call the desk officer at least two hours before the scheduled tour is to begin each day of absence. If this two hour limit cannot be met, then a reasonable excuse as to why shall also be provided.
4. Members who will be absent due to illness or injury, shall at the Commissioners request, provide a doctor's note stating the nature and extent of the claimed illness or injury, if such illness or injury causes the officer to be absent in excess of 3 sick days. (G.O. 116.4)
5. Members who are injured while on duty or off duty and acting in their official capacity as police officers, shall follow the procedures as prescribed in other sections of this manual under sick policy.

SMOKING POLICY

1. Smoking is prohibited in all City of Rye facilities, without exception, in compliance with the City of Rye Smoking Policy.
2. Smoking is prohibited in all City of Rye vehicles.
3. Smoking is allowed by employees in specific outdoor areas that have been designated for each City facility. For Police Headquarters, the designated smoking area is the patio/north driveway area.
4. Uniformed members of the service shall not smoke in public view while in uniform, except in the designated smoking area.



DISCRETION:

1. One of the most critical aspects concerning the use of police authority is that of discretion. Discretion, if used properly, can be a highly successful tool to resolve problems and conflicts. Discretion is necessary for many reasons. Among the most predominant is the lack of resources to deal with violations of many laws. Police must differentiate between:
  - a. ambiguous and obsolete laws;
  - b. the effects of enforcement and community relations;
  - c. the role of police in society; and
  - d. the effectiveness and efficiency of the overall operation.
2. Officers may use discretion in many areas, such as:
  - a. the arrest or release for minor violations;
  - b. issuance of a summons or verbal warning;
  - c. settling minor disputes;
  - d. when performing selective enforcement; and
  - e. when assigned to enforce a targeted (specific) violation.
3. The department recognizes limitations to this power. Therefore, officers must clear many decisions of an enforcement nature through a supervisor, such as:
  - a. potential arrests in misdemeanor or felony situations;
  - b. potential sensitive areas; and
  - c. those areas defined by the department, the village or the district attorney's office that limit police officers' discretion as a matter of policy.
4. Officers do not have any discretion when:
  - a. given a lawful order;
  - b. dealing with compliance of department rules and regulations; or
  - c. dealing with specific laws mandating certain actions by the police.

EQUAL EMPLOYMENT OPPORTUNITY POLICY:

1. The Civil Rights Act of 1964 and the New York Human Rights Law provide the legal basis for equal employment opportunity to all without regard to race, color, religion, sex, age, national origin, disability or marital status. It is the policy of the department to treat each person with respect, dignity and integrity due them as an individual and to prohibit discrimination in all phases of the employer-employee relationship.
2. The department shall prohibit discrimination against any person in recruitment, appointment, training, promotion, retention, discipline, or any other aspect of personnel administration for reasons of political or religious opinions or affiliations or because of race, color, national origin, sexual orientation, disability, marital status, or age except where specific age,

sex, or physical requirements constitute a bonafide occupational qualification necessary to properly and efficiently function on the job, or because of any other non-merit factor.

3. It is the responsibility of each member of the department to ensure the opportunity for equal employment and to maintain a non-discriminatory work environment.
4. The department is an Equal Employment Opportunity employer committed to the intent and spirit of this procedure. All employees are encouraged to report any complaints.

**CITY OF RYE POLICE DEPARTMENT**

General Order # 103.3	New [ ]	Revised [X]
Supersedes: 103.4 issued 11/01/96		
Subject: Use of Force / Deadly Physical Force		
Date Issued	Date Effective	Page 1 of 7
Issuing Authority: Michael C. Corcoran, Jr., Commissioner of Public Safety		

PURPOSE

To establish the Standard Operating Procedures and reporting requirements for the use of **Physical Force**, including **Deadly Physical Force**, by Sworn Members in performance of their official duties.

POLICY

It is the policy of this department to value and preserve human life. Sworn Members will use only the level of **Physical Force** that is objectively reasonable, in light of the facts and circumstances confronting them, to accomplish the performance of their official duties, while protecting the safety of the officer and others, in accordance with Article 35 of the New York State Penal Law, the Department's General Orders and the current training standards of this Department. It is the responsibility of each Sworn Member to be aware of the requirements of each of the foregoing and be guided accordingly.

When deciding to use **Physical Force** all Sworn Members will consider:

1. The severity of the crime(s) at issue.
2. Whether the subject poses an immediate threat to the safety of the officer(s), themselves or others.
3. Whether the subject is actively resisting arrest or attempting to evade arrest by flight.

DEFINITIONS

- A. **De-escalation Techniques** - taking action(s) or communicating verbally or non-verbally during a potential force encounter in an attempt to stabilize the situation without the use of force. De-escalation may include the

- use of such techniques as command presence, advisements, warnings, verbal persuasion, tactical positioning and THE display of department equipment.
- B. **Restraining Force** - use of force which is limited to holding and restraining a person.
  - C. **Physical Force** - use of any part of the officer's body, O.C. sprays, Conducted Electrical Weapons(CEW's) and use of any object (riot baton, straight baton, flashlight, body shield) as a less lethal weapon to compel compliance.
  - D. **Less Lethal Force** - any use of force which an officer applies that is not likely to cause death or **Serious Physical Injury**.
  - E. **Deadly Physical Force** - any use of force which, under the circumstances in which it is used, is readily capable of causing death or other **Serious Physical Injury**.
  - F. **Physical Injury** - impairment of physical condition or substantial pain.
  - G. **Serious Physical Injury** - **Physical Injury** which creates a substantial risk of death, or which causes death or serious and protracted disfigurement, protracted impairment of health or protracted loss or impairment of the function of any bodily organ.
  - H. **Objectively Reasonable** - the determination that the necessity for using force and the level of force used is based upon the officer's evaluation of the situation in light of the totality of the circumstances known to the officer at the time the force is used and upon what a reasonably prudent officer would use under the same or similar situations.

## PROCEDURE

### A. **GENERAL PROVISIONS**

1. Use of **Physical Force** should be discontinued when resistance ceases or when the incident is under control.
2. **Physical Force** will not be used against individuals in restraints, except as **Objectively Reasonable** to prevent imminent bodily injury to the individual, the officer, or another person. In these situations, only the minimal amount of force necessary to control the situation will be used.
3. Once the scene is safe and as soon as practical, an officer will provide appropriate medical care consistent with his/her training to any individual who has visible injuries, complains of being injured, or requests medical attention.
4. All uses of force by Sworn Members will be documented through a Use of Force Report and an Incident report.

5. **Restraining Force** and **De-escalation Techniques** will not constitute a Use of Force.
6. Nothing contained herein will be deemed to limit the routine restraint of prisoners, including, without limitation, the use of handcuffs and shackles.

#### B. DE-ESCALATION TECHNIQUES

1. Sworn Members will use **De-escalation Techniques** and other alternatives to higher levels of force consistent with his/her training whenever possible and appropriate before resorting to force and to reduce the need for force.
2. Whenever possible and when such delay will not compromise the safety of the officer or another person and will not result in the destruction of evidence, escape of a suspect, or commission of a crime, Sworn Members will allow individuals time and opportunity to submit to verbal commands before force is used.
3. **Restraining Force** and other compliant handcuffing will be performed as outlined in G.O. 110.1.

#### C. RESTRAINT TECHNIQUES

1. When **De-escalation Techniques** are not effective or appropriate, Sworn Members may consider the use of **Physical Force** to control a non-compliant or actively resistant individual.
2. Sworn Members are authorized to use **Physical Force**:
  - a. To protect the officer or others from immediate physical harm.
  - b. To restrain or subdue an individual who is actively resisting or evading arrest.
  - c. To bring an unlawful situation safely and effectively under control.
  - d. When the officer reasonably believes use of **Restraining Force** alone would result in injury to himself, the suspect or a third party, or would result in further escalation of force.
3. All sworn members will be trained annually on department issued weapons placed at this level of force, namely O.C. Spray, CEWs and Police Batons.

#### D. DEADLY PHYSICAL FORCE

##### 1. Confrontation Situations

Sworn Members are authorized to use **Deadly Physical Force** to defend the officer or another person from what the officer reasonably perceives as an immediate threat of death or **Serious Physical Injury**.

## 2. Apprehension and Pursuit Situations

- a. When a Sworn Member acting on personally known information has reasonable cause to believe that an armed or dangerous subject has committed a felony which involved the use or attempted use, or threatened immediate use of **Deadly Physical Force** against a person; and
- b. There is a substantial risk that the fleeing subject will cause death or **Serious Physical Injury** if not immediately apprehended; and
- c. There is no other reasonable means to effect the arrest; and
- d. The discharge does not appear likely to injure innocent bystanders.
- e. Where feasible, the officer will identify himself/herself as a law enforcement officer and warn of his/her intent to use deadly force.

The foundation of this policy is found in Section 35.30 of the Penal Law as modified by the holding of the United States Supreme Court in *Tennessee v. Garner*. That court held that the firing at a fleeing felon is unconstitutional unless the discharging officer has probable cause to believe that the suspected person poses a significant threat of death or **Serious Physical Injury** to the officer or others. Officers should be thoroughly familiar with the above section and the holding in *Tennessee v. Garner*.

## 3. Injured Animal

Sworn Members are authorized to use **Deadly Physical Force** to kill a dangerous animal only when no other means to bring the animal under control exists, or for the destruction of a critically injured animal.

Headquarters will be notified whenever possible prior to the discharge of a firearm. Following the discharge an Animal Destruction report will be completed in accordance with G.O. 120.5.

## 4. Moving Vehicles

Discharging a firearm at or from a moving vehicle is prohibited unless the occupants of same are using **Deadly Physical Force** against the officer, or another person and the officer reasonably believes that he will not endanger innocent persons.

**5. Warning Shots**

Sworn Members are not authorized to use their firearm to fire warning shots.

**6. Firing Shots for Alarm**

Firearms will not be discharged to summon assistance except where the officer's safety or that of another is seriously endangered and they believe there is no reasonable alternative. Extreme care must be exercised in such situations to prevent injury to the officer or other persons.

**7. Firearms Practice and Testing**

- a. Sworn Members may discharge firearms in a controlled setting for training purposes at legitimate firing ranges or for other lawful recreational purposes conducted in accordance with applicable law, rules and regulations.
- b. Sworn Members will receive training, at least annually, on this department's use of force policy and NYS Penal Law Article 35.

**8. Post Incident Management**

- a. In every instance in which a Sworn Member, whose action(s) or use of force in an official capacity, uses **Deadly Physical Force** and where such use of force results in death or bodily injury to another person the following steps will be taken:
  - i. If the incident involves a Sworn Member's weapon, it will be replaced with another weapon and all weapons carried by the officer at the time of the incident will be safeguarded and turned over to the Tour Supervisor.
  - ii. The involved officer will be given the opportunity to call his/her family as soon as possible to avoid the possibility of learning about the incident through other than official sources, e.g. press, radio, TV, etc.
  - iii. The officer will not be allowed to talk to the press. All information regarding the incident will be given out through the office of the Commissioner of Public Safety. (see G.O. 119.2)

- iv. Prior to the officer making a written statement, he/she will be provided the opportunity to consult with a P.B.A representative.
- v. The officer will be relieved of regular duty and transported to the hospital as soon as practical.
- vi. Supervisory Notification and Response General Order (114.2) will be followed.

## REPORTING

### A. GENERAL PROVISIONS

1. All Use of Force reports, Incident reports, and Supplemental reports will be completed in a timely and accurate manner by the involved Sworn Member.
2. All Use of Force reports will include:
  - a. The location of the incident, date, time, source and defendant's pedigree information.
  - b. The condition of the defendant.
  - c. Any **Physical Force** used.
  - d. Any firearms information.
  - e. Any medical care provided.
  - f. Any uninvolved witnesses to the incident.
  - g. Any comments that do not appear in an Incident report or a Supplemental report.
  - h. Police photos and video information.
  - i. Any other Officers on scene.
  - j. Reporting Officer, Tour Supervisor and Patrol Commander review.
3. Unless ordered by the Patrol Commander, at minimum, Incident reports will contain the reasons for the use of force, any injuries prior to and after the use of force for all involved parties and any medical care given.

### B. DE-ESCALATION TECHNIQUES

1. A Sworn Member that uses **De-escalation Techniques** will, depending on the nature of the call, enter comments on the Incident report.

### C. RESTRAINT TECHNIQUES

1. Any Sworn Member that uses **Physical Force** will give verbal notification to the Tour Supervisor as soon as practical.



2. If there is any obvious medical need, EMS will respond to provide medical care and/or transport the subject to the hospital.
3. Handling and transport of prisoners will be conducted as outlined in General Order 110.1.
4. Any special considerations regarding prisoner handling and transport for CEW use or O.C. Spray can be found in G.O. 103.10 or 103.7.
5. Each Officer that uses **Physical Force** will submit a Use of Force report.
6. The assigned officer will submit an Incident report along with the Use of Force report.
7. Additional officers will submit a Supplemental Report.
8. All uses of force will be investigated as outlined in G.O. 120.4.

**D. DEADLY PHYSICAL FORCE**

1. Any Sworn Member that uses **Deadly Physical Force** will give verbal notification to the Tour Supervisor as soon as practical.
2. The Tour Supervisor will respond to the scene immediately and follow the steps as outlined in the Post Incident Management section of this G.O.
3. EMS will respond immediately for transport to the hospital.
4. Handling and transport of prisoners will be conducted as outlined in General Order 110.1.
5. Each Officer that uses **Deadly Physical Force** will submit a Use of Force report.
6. The assigned officer will submit an Incident report along with the Use of Force report.
7. Additional officers will submit a Supplemental Report.
8. All uses of force will be investigated as outlined in G.O. 120.4.
9. Firearm Discharge Report will be completed as outlined in G.O. 120.5.

**CITY OF RYE POLICE DEPARTMENT**

General Order # 103.4	New [ ]	Revised [X]
Supersedes: 103.4 issued 2/17/06 & 103.6		
Subject: Firearms Procedure		
Date Issued	Date Effective	Page 1 of 6
Issuing Authority: Michael C. Corcoran, Jr., Commissioner of Public Safety		

PURPOSE

The purpose of this order is to establish guidelines for firearms and ammunition authorized for use by Sworn Members of the City of Rye Police Department.

POLICY

It is recognized that this department is responsible for properly training its personnel in the use of all firearms we are authorized to carry. Department issued weapons shall be maintained and inspected by the department armorer to insure their reliability and safety. All Sworn Members that carry a firearm outside the State of New York are required to comply with the laws, rules, regulations, ordinances or other such restrictions as may apply to those jurisdictions.

DEFINITIONS

- A. **Firearms** - inclusive term for all department issued handguns, shotguns, and police patrol rifles.
- B. **Special Weapons** - selective term for shotguns and police patrol rifles.
- C. **Handgun** - department issued semi-automatic sidearm.
- D. **Shotgun** - department issued 12 gauge shotgun.
- E. **Police Patrol Rifle** - department issued AR-15 type carbine chambered rifle.

**F. Car Ready:**

1. **Shotgun** - chamber empty, bolt forward, safety on, loaded magazine tube.
2. **Police Patrol Rifle** - chamber empty, bolt forward, selector switch on safe, ejection port dust cover closed, magazine well empty. Magazines stored in reachable area, not in plain sight.

**G. Off Duty Firearms** - selective term for all department authorized handguns.

**H. Non-Department Firearms** - the term for all non-department firearms, including, but not limited to seized, safe-keeping and court ordered firearms that are stored by the department.

PROCEDURE

**A. Ammunition**

1. Only ammunition that is issued or authorized by the Department will be loaded into on or off duty firearms. Ammunition is authorized for use if it is:
  - a. Appropriate to the firearm which it is loaded;  
**and**
  - b. Has a bullet designed to expand on impact; **and**
  - c. Is commercially produced and not a "re-load"
2. All ammunition in the department inventory will be securely stored in the Armory or at the Police Range.

**B. Handguns**

1. Patrol Division

Only department issued semi-automatic pistols will be carried by members of patrol as a primary duty sidearm. Primary sidearm will be carried in department issued holster. During in service firearms training, Sworn Member's handguns will be inspected by firearms instructors to make sure they are in proper working order. All Sworn Members will keep their issued handgun clean. The Patrol Division, while on a Post assignment, will carry three fully loaded magazines with a round in the firing chamber.

2. Command Staff, Detective Division and Other Plain Clothes Officers

Aforementioned will carry department issued semi-automatic pistol. During in service firearms training, Sworn Member's handguns will be inspected by firearms instructors to make sure they are in proper working order. All members will keep their issued handgun clean.

3. Backup Weapons

A personally owned concealed handgun, in addition to the department issued weapon, may be carried while on duty, provided that the weapon has been registered with the department and that the Sworn Member is qualified in the use of that type of handgun. Handguns with an exposed hammer will not be carried in the "cocked" position.

4. Off Duty Handguns

- a. Timely notification of acquisitions and/or transfers of personally owned handguns will be made to the department and the State of New York through a C-Form.
- b. Only handguns and ammunition authorized by the department will be carried. Authorized handguns are the Sworn Member's service sidearm or any handgun, personally owned by the Sworn Member, for which they have submitted a C-Form for.
- c. All Sworn Members who show proficiency with their service handgun will be qualified to carry a semi-automatic off duty firearm.
- d. Sworn Members who wish to carry a revolver must show proficiency to a Department Firearms Instructor to be qualified.
- e. Sworn Members will be responsible for the safe and proper care/storage and use of such handguns while off duty.

5. Reporting

Sworn Members will immediately report loss or theft of a firearm or the discharge of their weapon to the Police Department that has jurisdiction over the location where the incident occurred. In addition, if outside the confines of the City of Rye, the Member

will inform this department by telephone without delay, and in writing within twenty four hours of the loss, theft, or discharge. The report will include all facts and information regarding the loss, theft, or discharge of the firearm, along with a copy of the relevant Incident Report. Firearm discharges will comply with the provisions outlined in G.O. 120.5. Exceptions to this would be legitimate competition, practice or hunting at legal locations.

**C. Special Weapons**

1. Responsibility for the security and/or the use of special weapons will be that of the member that deploys the weapon. No member shall accept/deploy a special weapon unless he/she is qualified in the use of the weapon by a Department Firearms Instructor.
2. Special Weapon Storage:
  - a. At headquarters, the Patrol Rifles and Shotguns are to be stored in the armory unloaded.
  - b. In the vehicles:
    - i. Special Weapons will be carried in vehicles that are equipped with either a locking storage rack or a locking trunk safe. Exceptions will require authorization by the tour Supervisor and or extreme circumstances.
    - ii. The weapons will be secured in the vehicle in "Car Ready" position.
3. The following are examples of situations in which deployment of special weapons may be appropriate:
  - a. Felony situations in which suspect(s) are armed or believed to be armed.
  - b. A crime is reported and a firearm is involved in the commission of the crime.
  - c. In searches for suspect(s) reported to be armed.
  - d. Situations where distance or fortified location affords the suspect(s) a tactically superior position, such as hostage / barricaded perpetrator situations.
  - e. Suspect believed to be wearing protective body armor.

- f. To destroy sick or injured animals or any animal that poses a threat of serious physical injury or death to the officer or a third party.
  - g. Civil disorder under strict discipline with approval of a supervisor.
  - h. For training purposes.
4. It is the patrol officer's duty to notify the next officer that utilizes the vehicle that special weapon(s) are secured in the vehicle. The proper indication should be made in the activity sheet. An inspection of the weapon will be made at every tour by the assigned officer.
  5. During a change of tours, or in any non-emergency relief situation, should the relieving officer not be qualified or not wish to deploy a special weapon it will be the relieved officer's responsibility to remove and secure the weapon.
  6. In the case that the vehicle is not used on the next consecutive tour. The weapons will be removed, made safe and empty and returned to the armory.
  7. The officer who deploys the weapon will remain in possession of the weapon unless he/she turns the weapon over to another qualified officer of this department.
  8. The weapons will be removed from the vehicle and secured in the armory if the vehicle is taken out of service for repair.
  9. If the weapon or sighting system does not appear to be operating to specifications, the tour supervisor and the department armorer should be notified via department email. The weapon is to be placed back into the armory and labeled "OUT OF SERVICE".
  10. Whenever a special weapon is discharged by an officer, other than for training, qualification, practice or ballistic testing, a Firearms Discharge Report will be completed by the officer who discharged the weapon, along with any other required paperwork as outlined in G.O. 120.5 and G.O. 103.3.

D. Department Armorer and Firearms Instructors

1. Inventory and control of all department firearms will be the responsibility of the **Department Armorer**. The Department Armorer will periodically audit all department firearms.
2. Inventory and control of all non-department firearms will be the responsibility of the **Department Armorer**.
3. Inventory and control of all department ammunition will be the responsibility of the **Department Firearms Instructors**.

## CITY OF RYE POLICE DEPARTMENT

General Order #104.1	New [ ]      Revised [ x ] Supersedes:104.1 issued 02/17/06
<b>Subject:</b> Uniform Specifications and Equipment	
Date Issued	Date Effective
Page 1 of 10	
<b>Issuing Authority:</b> Michael C. Corcoran Jr., Commissioner of Public Safety	

**Purpose:**

1. To set forth standard Rules and Regulations regarding the uniforms and equipment for uniformed members of the Department.
2. To ensure that the regulations and specifications enumerated and detailed within this Directive are strictly adhered to.

**Policy:**

1. The policy of the department regarding uniform and equipment is to ensure that the uniformed members, when on duty, wear the prescribed uniform in a clean and presentable manner, which will instill a distinct sense of pride and honor to the member and the department.
2. The Commanding Officers and their designees shall be directly responsible for inspecting the uniforms of their respective personnel, in addition to being responsible for enforcing the regulations and specifications as noted herein.
3. Dress uniforms will only be worn when authorized by the Commissioner of Public Safety.

**Guidelines:**

1. Uniformed members of the department, while on duty, shall wear the prescribed uniforms as detailed in the provisions and guidelines within this directive and General Order #104.3, "Uniform Classifications".
2. Members shall not deviate, modify or interchange, in any manner, the prescribed uniforms set forth within these regulations, except as specifically authorized by higher authority.
3. Members shall not wear distinguishable uniform items with civilian clothes.



4. Do not wear uniform, shield or display identification cards while participating in a rally, demonstration or other public assemblage except as authorized by the department.
5. Wear uniform of the day or uniform specified by Patrol Commander. When assigned to Detective Division or duty in civilian clothes, wear uniform when directed.
6. Detective Division personnel and other uniform members normally assigned to duties requiring civilian clothes, shall wear the prescribed uniform when so directed.
7. Members shall have their shields at all times on the outermost garment, while in uniform. In addition, members shall wear department authorized breast bars only above their shields, except when high visibility vest is worn.
8. High Visibility Clothing - All Patrol Officers are equipped with a high visibility reflective vest. These are to be worn primarily when officers are on roadways for an extended period directing traffic, investigating accidents, school crossings, etc. In the case of inclement weather when a high visibility reflective rain coat is worn, there is no need to use the reflective vest.
9. Wear the prescribed uniform, if regularly assigned to duty in uniform when appearing in court. This is interpreted to mean that one is to wear the uniform if regularly assigned to uniform duty when appearing in any court in relation to official duties with this department. At no time will any member of this Department appear in court or at any hearing in uniform, when he or she is a litigant, is appearing at a hearing pursuant to disciplinary charges, is to testify on behalf of a member of the service who has been served with departmental charges, or is bringing an action against the City.
10. Seasonal uniform changes will be made as specified in General Order 104.3, "Uniform Classifications," or as directed by the Patrol Commander.
11. Do not wear gloves or suspenders when outer garment is removed. (Gloves may be worn when appropriate for a tactical/medical situations.) No exposed colored tee shirts are allowed.
12. Breast/award bars authorized by the Commissioner of Public Safety may be worn when in uniform.
13. It is the responsibility of each individual member to safeguard his/her shield and identification card at all times to ensure that the shield and/or identification card does not fall into the possession of any unauthorized individual.

14. Members may wear black elastic mourning band, one-half (1/2) inch wide, on the shield, covering the seal of the City upon the death of a member of the force. The mourning band shall be worn as follows:
  - a. Active Member of City of Rye Police Department  
From the time of death until 2400 hours on the fifth (5) day after death.
  - b. Active Member - Members of Other Command  
From the time of death until 2400 hours on the fifth (5) day after death.
  - c. Retired Member  
While attending funeral.
15. Tour supervisors shall ensure that all uniformed members of the service adhere strictly to the prescribed uniform regulations and that uniforms are clean and presentable. Supervisors shall require that any uniform which is not proper, presentable or in compliance with uniform specifications be immediately remedied. Supervisors shall periodically inspect the uniforms and equipment of each member under his or her command.

DESCRIPTION OF UNIFORMS, SPECIFICATIONS AND EQUIPMENT

In accordance with the above, the supervisor conducting roll call shall inspect the uniform and equipment of each officer and ensure strict compliance with uniform regulations.

Regulation Uniform

Protective Vests	All sworn police personnel will be issued soft body armor. It is mandatory for all personnel assigned to patrol duty to wear this soft body armor when working in uniform. Personnel assigned to other than patrol duty (headquarters, schools, etc.) will be required to have soft body armor readily available should the need arise.
Uniform Cap	Regulation City of Rye Police Department 8 point navy blue cap with black visor and strap. Chrome cap device bearing shield number affixed to center of cap.
Baseball Cap	Black "baseball" style cap with department insignia affixed to front.
Trousers	Navy Blue BDU style trousers authorized by the Department.

Uniform Shirt	Navy blue military type, long sleeved with shoulder straps and patches as issued. To be worn with collar insignia, name plate, and appropriate 4 year service stripes. Department shield, officer name and collar brass may be embroidered appropriate for rank.
Turtleneck Shirt	Black, department issued pullover turtleneck shirt, with letters "RPD" embroidered on the collar. The turtleneck shirt shall not be worn as an outer garment, but may be worn under the winter duty coat or the authorized V-neck Uniform sweater by uniformed members of the service while performing patrol duty in uniform between November 1 <sup>st</sup> and May 1 <sup>st</sup> . If during the course of a tour a member of the service removes the winter duty coat, due to a change of assignment or for other reasons, the regulation uniform shirt or the regulation uniform shirt with turtleneck shirt beneath shall be worn.
Short Sleeved Shirt	Optional short sleeve uniform shirt shall be worn open at the neck. When a T-shirt is exposed, it shall be white ONLY.
Tie	Black knit break away type may be worn with long sleeve uniform shirt.
Tie Clasp	Optional, but in keeping with good taste.
Foot Wear	Black or dark blue socks with black oxford style shoes.  Optional black military type boots may be worn.
Helmet	Department issued all-purpose helmet must be kept available by all members of the Department for rapid deployment. Helmets will be worn when directed by a supervisor.



Regulation Uniform Lieutenant

Uniforms same as those required for Sergeants except:

Insignia of Rank	One (1) gold bar to be worn as follows:  1. Collar of short sleeve uniform shirt (small insignia) and winter coat (large insignia).  2. Collar of duty jacket (large insignia).  3. Collar of long sleeve uniform shirt (small insignia)
Uniform Cap	Same as required for Police Officer, except cap will be worn with gold strap and gold cap device.
Winter Coat	Jacket as issued by department with appropriate insignia, or sweater as issued.
Baseball Cap	Black "baseball" style cap with department insignia affixed to front.
Trousers	Same as required for officers
Uniform Shirt	Regulation white military type shirt with appropriate insignia Optional- May wear navy blue shirt when assigned to outside detail.

Shields, Nameplates, Identification Cards

1. Wear shield at all times while in uniform on the outermost garment.
2. Wear name plate over right breast pocket on outermost garment. White metal - police officer, yellow metal, ranking officers and detectives. While wearing duty uniform, nameplate may be worn, at the member's option, ¼ inch below the shield, affixed to a black leather holder fastened to the shield. Embroidered shield/nameplate/collar brass same locations in rank appropriate color.
3. While on duty, carry shield and identification card at all times. When not in uniform be prepared to present both when necessary to establish identification.

4. Display shield on the outermost garment when wearing civilian clothes at the scene of an emergency.

Required Equipment

Sergeants, Detectives and Police Officers performing duty in uniform and not assigned to police headquarters are required to carry the following equipment:

1. Department issued semi-automatic pistol.
2. Holster as issued by the Department.
3. Two fully loaded magazines in department issued twin magazine holder.
4. Regulation handcuffs and key, carried in handcuff case or strap worn on rear of belt or non-gun side.
5. One equipment belt, black leather basket weave design or black nylon, issued or authorized by the Department.
6. One pair latex gloves in glove pack or in pocket.
7. Serviceable flashlight, readily available on all tours.
8. Department issued expandable baton. Expandable baton will be carried in department-issued holder by members trained in its use.
9. Department issued FOB.
10. Serviceable watch, properly set.
11. Serviceable portable police radio with proper battery in department-issued case.
12. Belt Keepers, black leather/nylon loop, to secure gun belt to trouser belt shall be worn.
13. Two ball point pens, black ink.
14. O.C. spray issued by the Department.
15. Sergeants, Detectives and Police Officers assigned to Police Headquarters in uniform will carry all items in 1-13 or the below listed items:
  - a. Department issued semi-automatic pistol.
  - b. Holster on the waist as approved by the Department  
Lead Firearms Instructor.

- c. One extra loaded magazine as approved by the Lead Firearms Instructor
  - d. Regulation handcuffs in case on rear of belt or non-gun side.
  - e. Serviceable watch properly set and two ballpoint pens, black ink.
16. Sergeants, Detectives and Police Officers assigned to a non-uniform assignment will carry all items above. Different types of holsters may be carried with prior approval from the Lead Firearms Instructor. In addition, members will carry his or her badge in a manner in which it can be displayed on the outermost garment.

Optional Uniform Items

Baton Holder	Black leather/nylon break-away scabbard on gun belt.
Flashlight holder	Black leather/nylon holder, for wear on gun belt.
Awards holder	Black leather designed to affix shields and medals Same will be trimmed to fit awards, i.e., no exposed holes
Knife	Folding type maximum blade length 4 inches
Knife Pouch	Black leather/nylon to match belt.
Traffic Whistle	
Backup Weapons	Second handgun and ammunition must be totally concealed from view. Must be approved

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by Lead Firearms Instructor. Except as contained herein, no officer shall carry on duty any weapon described in sections 165.01 - .05 of the Penal Law unless same is issued or authorized by the department.

High-visibility gloves

May be worn when directing traffic.

Tactical gloves

Black in color, may be worn when appropriate for tactical situations.

Summer Uniform Cap

Regulation City of Rye Police Department navy blue cap with black visor and strap and perforated frame. Chrome cap device bearing shield number affixed to center of cap.

Outer Vest Carrier

Optional vest carrier for body armor. Carrier will be designed to appear like uniform shirt with appropriate shield, name embroidered in corresponding rank color. Department uniform shirt will be worn underneath with shoulder patches and collar insignia.

Emblems, Insignia, Breast Bars and Qualification Badges

Awards Bar - Department Authorized Only

Award/breast bar is horizontally centered 1/4 inch above the center of the shield.

Additional bars are worn with space between each bar, in order of importance.

Only 1 bar will be worn for each award class. Numbers will be placed in the bar to correspond to the number of bars received in that class.



Service Stripes (hash marks)

One stripe for completion of each 4 years of service, worn on left sleeve only.

Specialized Unit Uniforms

Uniformed members of the service assigned to duties requiring other than the standard uniform, including the Marine Unit and Bicycle Patrol, shall wear prescribed uniforms as described in General Order #104.3, "Uniform Classifications", or as approved by the Commissioner of Public Safety.

**CITY OF RYE POLICE DEPARTMENT**

General Order # 111.1	New [ ]	Revised [ x ]
Supersedes: 111.1 issued 11/1/96		
Subject: Evidence and Non – Agency Property Management		
Date Issued	Date Effective	Pages 1 of 10
Issuing Authority: Michael C. Corcoran, Jr., Commissioner of Public Safety		

Purpose:

The purpose of this directive is to establish policy and uniformity of procedure in reference to all property or evidence that may come into the official possession of the Rye Police Department.

Policy:

It will be the policy of this department to provide for the proper and lawful management and control of found, recovered, evidentiary and any other property in the custody of this department.

Procedure:

Initial Intake:

All evidence will be secured in a numbered evidence locker in the patrol safe. A Property Form will be completed and attached for tracking purposes. After securing the evidence, the locker key will be given to a Detective. If no Detective is available, the key will be placed in an envelope and deposited into the locked report box located at the front desk.

RESPONSIBILITIES OF PROPERTY CONTROL:

1. The Detective Commander shall be responsible for the custody, control and eventual disposition of all property that is turned in for any reason.

2. Recordkeeping

- a. The Detective Commander will maintain a permanent file in the form of an evidence log.
- b. The evidence log will indicate the location of property in the evidence locker.

3. Storage

- a. Access to the evidence room is limited to the Detective Division Commanding Officer and Detectives.
- b. The evidence room shall be locked at all times when authorized personnel are not in the room.
- c. All evidence or property shall be placed in the evidence lockers until removed by the Duty Detective.
- d. The Duty Detective will review the evidence/property bag for completeness and assign a bin number for storage of the property based on classification. Reference G.O. 113.4 Section 1.
- e. The Duty Detective will secure all drug evidence and money in the evidence room, in a secured designated drug or currency locker.
- f. Found Property: after all reports are completed, the found property will be tagged (date, time, case #, officer) and placed in the temporary evidence storage locker. The next on Duty Detective will remove and place property into found property locker located in the Detective Division.

4. Inventory and Audits

- a. On a semi-Annual basis, the Commissioner of Public Safety shall conduct an inspection of the property storage sites to determine adherence to department property management procedures. He/She will insure that property is being protected from damage and the property storage areas are being maintained in a clean and orderly fashion.
- b. The Commissioner of Public Safety shall designate supervisory personnel not directly involved in the security of evidence or found property to conduct an annual audit of all property and to make an appropriate written report to the Commissioner of Public Safety regarding the outcome of the audit. The property and evidence audit shall include an inventory and review of the property records for each audit to ensure compliance with written directives. The minimum amount of property to be inspected during the audit shall be 5% of the agency's total property room inventory or fifty items whichever is less. This agency will conduct two audits annually.
- c. Unannounced spot inspections of the evidence room shall be conducted at least annually at the direction of the Commissioner of Public Safety. Property accountability, security procedures, and accuracy of records will be checked.
- d. When a new Evidence Room Manager is designated, a complete inventory of all property will be conducted, to insure that records are current and properly annotated. This will be conducted jointly by the new designated Evidence Room Manager and the outgoing Evidence Room Manager.

5. Access to Property and Evidence Storage Areas

Access to evidence and found property storage locations shall be limited to the following:

- a) Evidence Room Manager/Custodian – All locations
- b) Armorer/Firearms Custodian – Firearm storage area
- c) Supervisors – Access to the RPD Impound Lot at the Department of Public Works, when access is required supervisors will be responsible for notifying the Patrol Commander/Detective Commander as to their reason for entering. It is also important to note the Supervisor is responsible for securing the Impound Yard when he exits.

6. Taking Custody of and Securing Property/Evidence

1. All evidence, including motor vehicles, taken into custody by an employee will be properly tagged, marked, or sealed in evidence packaging.
  - a) Digital Images will be logged by Detective personnel into the Case Management system.
2. Evidence will be marked with the officer initials for future identification whenever possible. Marking will be done so as not to:
  - a) Damage the evidence
  - b) Impair Processing
  - c) Allow the mark to be accidentally or readily removed.

3. Property / Evidence will be secured in the Property/ Evidence Lockers before the end of the employees shift.
4. All drugs or money will be placed in evidence bags and sealed, separate from any other evidence by the employee turning in these items. The Evidence Room Manger or Designee will not accept these items unless sealed.
  - a) All narcotics and dangerous drugs will be field tested prior to sealing, using department field testing kit.
  - b) All controlled substances, including capsules and pills, will be counted and weighed by the reporting officer prior to sealing in evidence containers.
5. If drugs are taken into custody under circumstances other than arrests or investigations, it will be noted on a recovered property sheet by the reporting officer that the drugs are to be destroyed.
6. All property or evidence removed from any towed or impounded vehicle shall be recorded in the property section of the employees report.
7. All handguns taken in as evidence or for safekeeping shall be placed in one of the designated weapons retention areas located inside Rye Police Headquarters.
8. In the event an on Duty Detective is not available:
  - a) Property/Evidence will be placed in one of the secure Evidence lockers located in the safe at the front of the building.

- b) Blood and Urine samples or other perishable items that require refrigeration will be secured in the evidence refrigerator.
  - c) When extenuating circumstances exist, (bulk items, large quantities, or critical evidence) the Tour Supervisor in charge at the scene will decide if the evidence room manger or designee will be recalled to duty to take custody of the property.
9. The Evidence Room Manager or his/her designee will retrieve all property from the evidence locker (s) and refrigerator each morning for transfer to the appropriate location.
- a) All containers of narcotics and dangerous drugs shall be inspected for tampering by the evidence room manager as a safe guard against the substitution of material having the same weight.

7. Right of Refusal

- 1. Any property or evidence submitted to the temporary storage location that is not packaged as specified in this order may be rejected for transfer to a permanent storage location. The property custodian will notify the reporting officer and his/her immediate supervisor via email.
- 2. The reporting officer will respond to the property custodian during normal business hours and make the appropriate corrections.
- 3. The reporting officer will resubmit the evidence/property for permanent storage and will add a supplemental report to the original report documenting any corrections made to the improperly booked evidence.

4. The Evidence Room Manager will also note any changes into Case Management.

RELEASE OF PROPERTY TO POLICE PERSONNEL:

1. After secured in the evidence room, evidence will be released only to the officer who took in the property with the following exceptions:
  - a. The Detective Division Commander.
  - b. Detective Division personnel may sign out evidence when necessary to complete any follow up on a particular case.
  - c. Firearms instructors may sign out firearms for testing purposes at the direction of the Commissioner of Public Safety.
  - d. The Commissioner of Public Safety may authorize the removal of evidence to assist in case follow up/case analysis or intelligence gathering.
  - e. Accident investigation personnel may sign out evidence in connection with their investigations.
  - f. When evidence is checked out, the officer taking the property must sign out in the ID log and fill out receipt form (see attached).
  - g. When evidence is signed out of the evidence room and the seal on the evidence bag is broken, the employee must:
    1. Complete a new evidence bag.
    2. Secure the evidence and the old bag in a new evidence bag.
    3. Seal the new bag and properly mark and secure the evidence.



TRANSFER OF EVIDENCE:

When evidence is transferred to another agency (i.e. Court, Crime Lab etc.), the person accepting the evidence must sign for the property as directed in this General Order and provide the officer with a signed receipt indicating the property turned over, the date, and time. Detectives will check the evidence both in and out utilizing the Evidence Room Log and the records management system.

DESTRUCTION OF DRUGS:

1. The Duty Detective will deliver the items to be destroyed to the place of destruction and insure that they are destroyed.
2. After the drugs are destroyed, the Detective Commander will return the Affidavit of Destruction, signed by himself and the Duty Detective, to the judge who issued the destruction order. Copies of the affidavit are distributed to:
  - a. The judge who issued the destruction order.
  - b. The Detective Commander
  - c. Placed into case file which contains the documentation of the taking in of the drugs.
3. Prior to destruction, all drugs will be documented “destroyed” in the evidence log.

DESTRUCTION OF WEAPONS:

1. All weapons designated for destruction will be disposed of in compliance with the New York State Penal Law Section 400.05.
2. Prior to destruction, all weapons will be documented “destroyed” in the evidence log.
3. All serial numbers will be run through Ejustice prior to destruction.

RELEASE OF PROPERTY:

1. Owner

In all cases where property is to be released, the officer returning the property should ask the person to whom the property is to be returned for proper identification, preferably a photo ID. The Claimant will then print their name at the bottom of the Property Receipt Form, then sign their full name and enter the date the property was returned.

2. Victim

a. If the person requesting the release of property is a victim of a crime:

\* The Duty Detective will check the case file to determine if an arrest was made.

b. If an arrest was made, the Duty Detective should contact the District Attorney's office to insure the case has been disposed of prior to the property being returned. If no disposition has been made, the property may not be released without the express permission of the District Attorney's office and the Detective Commander.

c. If a case has been disposed of and the department holds property of a victim, the Duty Detective should contact the victim to make arrangements for the return of the property.

d. If no arrest was made, the property may be returned if it is unlikely the property will be needed in the event of an arrest in the future.

4. FINDER OF PROPERTY:

- a. If the requesting person is a finder of property, the Duty Detective should check the case file documenting the taking of the property to determine the reason the property is being held.
- b. If the property is determined to be found and of returnable nature i.e., not drugs or weapons, the Duty Detective should refer to Personal Property Law of the State of New York Section 253 (Refer to Chapter 16A, J.C.C.) for the time limits on holding property and only release in compliance with the statute.
- c. If the time limits for holding property have passed, the property may be released to the finder after the property receipt form is signed.

5. OTHER REQUESTING PERSON: (Family of deceased, etc., owner)

- a. The Duty Detective will check the case file to determine the reason the property is being held. If releasable, the officer should follow the procedures in accordance with this General Order.
- b. If a weapon is involved for which a permit for possession is required, the officer will request to see the permit prior to releasing the weapons.
- c. If the property is of a deceased individual the person attempting to claim the item must show that they have power of attorney or certified paperwork that they have the authority to claim such property.