

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

**REGULAR MEETING OF THE CITY COUNCIL
COUNCIL CHAMBERS, CITY HALL
Wednesday, November 30, 2022
6:30 p.m.**

Residents may email comments regarding the public hearing to: **publichearingcomments@ryeny.gov**. All comments must be received by 4:00 pm on the day of the meeting. The subject of the email should reference the hearing topic. Please include your name and address.

Please note: The Council will convene at 5:30 p.m. and it is expected they will adjourn into Executive Session at 5:31 p.m. to discuss pending litigation, personnel matters and pending contracts.

1. Pledge of Allegiance.
2. Roll Call.
3. Draft unapproved minutes of the Regular Meeting of the City Council held November 9, 2022.
4. Flooding Update.
5. 2023 Proposed Budget Discussion.
6. Resolution to name the newly erected lower pavilion at Rye Recreation after retired Rye Recreation Superintendent and 37-year City of Rye employee, Sally Rogol.
7. Continue the public hearing to adopt a new local law, Chapter 122, "Leaf Blower Regulations".
8. Set a public hearing for December 7, 2022 to adopt a new local law, Chapter 88 "Explosives, Blasting and Mechanical Rock Excavation", Repeal Chapter 98, Fire Prevention, Article VII, Explosives and Amend Sections 133-8, 133-9 and 133-10 of the Code of the City of Rye.
9. Residents may be heard on matters for Council consideration that do not appear on the agenda.
10. Appointment of Judge Valerie A. Livingston to City Court Judge (full-time), by the Mayor with Council approval, for a ten-year term expiring January 1, 2033 upon the retirement of City Court Judge Joseph Latwin on December 31, 2022.

11. Open a public hearing to consider an application from Airosmith Development engaged with AT&T to modify an existing facility located at 66 Milton Rd that does not substantially change the physical dimensions of the current facility.
12. Resolution to approve a new retainer agreement with the Corporation Counsel.
13. Resolution to waive parking restrictions and parking fees in all downtown parking lots and Purchase Street starting December 17 and through December 26, 2022.
14. Resolution designating the days and time of regular meetings of the City Council for 2023 setting January 4, 2023 as the first regular meeting.

15.

CONSENT AGENDA

- a. Consideration of a request by the Rye Little League to approve a parade to kickoff Opening Day of the Little League Season on Saturday, April 22, 2023 beginning at 11:00 a.m.
- b. Consideration of a request by Christ’s Church to add a rain date of Sunday, December 4, 2022 for its Annual Christmas Tree Sale from 8:00am-5:00pm (for the associated road closure). The event has already been approved for December 3, 2022.

16. Old Business/New Business.

17. Adjournment

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The next regular meeting of the City Council will be held on Wednesday, December 7, 2022 at 6:30 p.m.

** 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 under “RyeTV Live”.

DRAFT UNAPPROVED MINUTES of the
Regular Meeting of the City Council of the City of
Rye held in City Hall on November 9, 2022, at 6:30
P.M.

PRESENT:

JOSH COHN, Mayor
BILL HENDERSON
EMILY HURD
CAROLINA JOHNSON
JOSHUA NATHAN
JULIE SOUZA
BENJAMIN STACKS
Councilmembers

The Council convened at 6:30 P.M. The meeting was streamed live at www.ryeny.gov for public viewing.

1. Pledge of Allegiance.
2. Role Call.

The City Clerk called the roll and there was a quorum. Mayor Cohn announced that the leaf blower regulations will not be discussed at the meeting, other than putting the public meeting over until the next session.

3. Draft unapproved minutes of the Regular Meeting of the City Council held October 26, 2022.

Councilwoman Hurd made a motion, seconded by Councilwoman Johnson, to draft the unapproved minutes of the City Council meeting held October 26, 2022.

4. Flooding Update.

Mayor Cohn reported that the City of Rye submitted a FEMA application but were disappointed that SUNY Purchase decided not to join the City in the application, though SUNY was willing to remain in conversations. Assistant City Manager Brian Shea said the City submitted three applications to the BRIC program, the first being the SUNY berms project with an estimated cost of \$7-13 million with a non-federal cost share of 30%. Rye does not need SUNY's endorsement for phase one yet. The second application was for the Bowman dam and pond extension, scoping to fund necessary feasibility design study and associated activities, estimated to cost \$4 million with a non-federal cost share of 25%.

The third application is for assessment and updates to codes and ordinances, to assess and update Rye's flood damage prevention ordinance, building codes, and related standards and activities, with an estimated cost of \$1 million with a non-federal cost share of 25%. Another application was for scoping for the Rye Nature Center Access Road Project to create a new Nature

Center entrance that does not cross Blind Brook. Mr. Shea expects the FEMA to announce selections in early August with funding distributed in late fall or early winter.

The mayor noted the City Council's gratefulness for the letter from Shelly Mayor and Steve Otis in support of the FEMA application. D.C. advised it would be good to enlarge the Boston Post Road overpass over Blind Brook. The mayor asked Mr. Shea if remaking the brook would fit into redoing the nature center road, and Mr. Shea thought it was possible. City Manager Greg Usry said it is Rye's intention to preserve the contemplated design to move the road. Mr. Shea confirmed for Councilman Henderson that the \$7-13 million was for the berms, not scoping. Mr. Usry said DCMC worked tirelessly on their first task with Mr. Shea, Ramboll, and in coordination with Rye Brook.

5. Continue the public hearing to adopt a new local law, Chapter 122, "Landscapers and Leaf Blower Regulations."

Councilman Henderson made a motion, seconded by Councilwoman Hurd, to continue the public hearing to adopt new local leaf blower law at the November 30, 2022 meeting. The Council unanimously agreed.

6. Presentation of the proposed FY 2023 Budget by the City Manager.

City Manager Usry submitted for City Council's review and consideration the 2023 budget for the City of Rye. The proposed operating budget is \$44.3 million with a 5.24% real property tax increase. The current inflationary environment and the statutory cap calculation caused the budget to exceed the state tax cap. Mr. Usry maintained it was not practical to limit budget growth to 2%. The goal of the budget was to maintain current level of services, meet ongoing infrastructure investment needs, and further goals of the Council while minimizing the property tax impact on residents.

Mr. Usry believed the budget reflected a responsible approach to City operations and long-term investment, including a tax increase of 1.77% for street resurfacing and to address flood mitigation and resiliency costs. The budget outlined recommended use of Fund balance for capital reinvestment, not to supplement the operating budget or affect the tax rate. Mr. Usry said the 2023 budget for salaries and wages had an increase of \$1.76 million or 6.2%. Some material costs have doubled over the last year, and the '23 budget reflects an overall increase of 17% or \$580,000, mostly due to energy expenses.

In February '22, the City borrowed \$13.55 million with an interest cost just over 3%, compared to the current estimated rate of 4.7%, and an estimated savings to the City of over \$250,000 per year. The '23 budget increased \$120,000 in legal expenses due to ongoing legal matters across City departments, Council initiatives, and union contract negotiations. The City's contribution for EMS services for 2023 were \$354,000, an increase from '22 which reflects inflation and increased staffing. The Rye Reading Room asked for \$25,000 more than they did in '22, and the Rye Youth Council asked for \$5,000 more.

Mr. Usry maintained that significant non-property tax revenues were an important component of the budget. Sales tax, mortgage recording tax, and building permits are 16% of the total operating budget. Though the City has benefitted from increasing revenues over the last six years, the 2023 budget was responsive to the accelerated inflationary environment and economic slowdown. With mortgage rates at a 20-year high, the City is projecting a mortgage tax revenue decline of 30% for 2023. The City anticipated 8% reduction in new building activity. Mr. Usry noted a bright spot of interest income with the fed's dramatic short-term interest hike. The 2023 budget assumed an interest income of \$800,000, versus the \$50,000 year-to-date in 2022.

Mr. Usry recommended a portion of the unassigned General Fund monies go towards specific long-term investments and to replenish the Contingency Reserve Fund. In line with the Council's policy to maintain a reserve equal to 10% of projected expenses, the City projected a \$2.625 million surplus in fund balance in 2022. Mr. Usry noted the City allocated \$600,000 of surplus for the purchase of new communication systems for the police department, the first replacement in 20 years, but costs were underestimated in early '22. The '23 budget requested an additional \$225,000 for the projected '22 surplus to complete the new system acquisition. In '22, the City established its first fleet management plan, and it was determined that the annual cost of replacing City vehicles was \$1.2 million, but another \$400,000 in excess fund balance were allocated in the '23 budget.

Mr. Usry stated that the '21 year-end Capital Projects Fund totaled around \$7 million. In keeping with the previous Council policy, he recommended \$1.65 million of the '22 surplus be allocated to the Capital Projects Fund. He expected the Fund balance to exceed \$9.3 million by early '23. The Council has invested a significant amount of money and time on the issue of flooding over the past few years. In '22, the City spent \$450,000 on engineering studies and financial consultants related to the Blind Brook watershed and other flooding, and \$150,000 in engineering design to alleviate localized flooding caused by aging infrastructure. Mr. Usry believed it was just the beginning of a significant longer-term investment in flood mitigation and resiliency, and proposed \$250,000 added to the tax rate for that purpose.

Mr. Usry explained that since 2018 the City spent over \$9 million on road resurfacing, and has paved in excess of 34 lane miles. In recognition of the ongoing need, Mr. Usry proposed an additional \$250,000 to be added to the tax levy to assure the minimum annual investment will be just short of \$1 million. The 2023 budget would include a proposed \$1.9 million allocated for City roads and parking lots, likely to include Purchase Street and Rye Rec's parking lot. The annual cost of the sewer maintenance program totaled \$500,000. Per the terms of the settlement and stipulated order with Save the Sound, Rye was investing another \$150,000 every year in sewer improvements, but that did not include the ongoing capital investment related to Rye's overall sewer system.

In terms of the two Enterprise Funds, Mr. Usry forecasted Boat Basin revenues for '23 at just over \$900,000, with a budget expense of \$715,000. For '23 year-end the Boat Basin will have estimated unrestricted net assets of \$3.3 million, used mostly for the dredge

next fall. Golf Club revenues were assumed to be \$5.5 million with budgeted expenses of \$5.4 million, and unrestricted net assets of \$3.8 million.

Mr. Usry said the 2023 budget was mindful and deliberate in its allocation of the City's resources in unfavorable economic conditions. The budget reflected the new attention to flooding and emergency preparedness. During the pandemic, the City remained focused on the dynamic financial impacts and made timely adjustments. Active management was critical over the last three years and will continue into 2023. Mr. Usry appreciated the conscientious financial planning by City staff and noted the dedication of Joe Fazzino and staff in the Comptroller's office in creating the 2023 budget.

Deputy Comptroller Joe Fazzino presented slides focused on the General Fund and commented how different planning was for 2023. General Fund expenditures in the '23 budget were \$48,087,000, offset by property taxes of \$15,284,000, Appropriated Fund balance of \$3.1 million. Mr. Fazzino said the budget would balance through the property tax levy for 2023 of \$29,700,818, which was based on an assessed valuation of \$147,873,288. The overall property tax levy for '23 was \$2,508,644 more than '22, and two-thirds of overall revenues. The increase left the City over the property tax cap by \$1,572,133.

Mr. Fazzino explained that property tax levy increase was determined by overall operating expense increase of \$3.6 million. Revenues increased by about \$1 million, and the City dropped the property taxes to fund capital expenditures by \$100,000. Property taxes to fund vehicle replacement were flat for 2023 but \$400,000 was included in the tax rate. Budgeted salaries for '22 are expected to be down \$852,000 from '22 due to vacancies across departments. Recreation costs came in higher than expected due to the Recreation Department not reaching anticipated revenues.

Mr. Fazzino stated that sales tax came in \$400,000 over budget for '22, up 13% for the first three quarters. A concerted effort to collect delinquent property taxes was reflected in increased penalties and interest revenues. Interest income will be the largest factor in the revenues other than property taxes, and the City projected \$110,000 over budget for '22. Mortgage tax was projected at an increase over budget of \$770,000 and was not expected for '22. FEMA reimbursement of \$1 million was expected by year end. City Clerk Carolyn D'Andrea added that filming permit revenue was big this year due to local filming of Netflix's *The Watcher*, and the City was made whole for filming inconveniences.

The 2023 proposed expenditures totaled \$44,387,613 which was \$3.7 million over the originally budgeted 2022 expenditures, and Mr. Fazzino explained the larger components of the budget. Salaries would increase due to contracted raises and step increases, and he noted this was the last year of budget certainty as all contracts expire at the end of '23. Electricity and fuel prices would continue to inflate. Consultant expenses were up to implement cybersecurity, but a 2022 budgeted full-time position was removed, and the money was moved to consultants. Rye conservatively budgeted health care increases. The only decrease in the budget was for Workers' Compensation, which Mr. Fazzino attributed to the good training of DPW employees. The rate was in decline for four years. The largest

expenditure for the city was public safety. Most vacant positions should be filled by early 2023.

Mr. Fazzino presented a history of medical expenses since 2008, noting the dip in 2019 when the City moved every employee to NYSHIP, followed by a large COVID-induced spike that was still upwardly trending. Retirement expenses also showed a rise in 2021 due to COVID, which leveled and dipped in 2022. He noted it was for active employees, not retirees, and was based on state actuary studies. The 2024 NYS retirement rates will be made public in the fall.

As far as revenues other than property taxes, Mr. Fazzino said the City was cautious due to economic slowdown. Sales tax will be kept flat. Mortgage tax was always budgeted conservatively due to the ever-shifting market. Building permits were budgeted 8% lower for 2023, and interest income was budgeted at \$750,000 more than 2022. Parking meter revenues were expected to be \$35,000 higher next year due to the extended parking meter hours. Mr. Fazzino shared the 2023 proposed capital spending that included \$1.9 million for street resurfacing, a \$1.65 million transfer to the General Capital Projects account, \$250,000 in flood mitigation and resiliency, \$150,000 for sewer maintenance, and \$800,000 for the City Vehicle Replacement Program.

Mr. Fazzino stated the average tax bill on a \$1.7 million home was around \$27,500; 62% goes to the school district, 20% to the County, 17% to City taxes, and 1% to the library. The 2022 budgets for nearby towns did not reflect the inflation the City of Rye accounted for in 2023.

Mr. Fazzino concluded by sharing key dates for the 2023 budget. There was a budget work session scheduled for November 14th and 16th. On December 7th there would be a public hearing at the City Council meeting, and the Council would vote on the '23 budget on December 21st. Meetings will be held at 6:30 p.m.

Mayor Cohn said he thought the Council should only permanently bake into the tax rate monies needed for expenditures that are fully understood and recurring over the next few years. He thought there should be analysis of the \$150,000 yearly cost of Bowman Dam data collection before making it permanent. Mr. Usry clarified that if no tax rate dollars were allocated for flooding or any additional funding for roads in the 2023 budget, the operating budget for 2023 has a tax increase of roughly 3.5%, that reflects the costs of goods, services, and personnel. Per the Street resurfacing report, the City's path for road resurfacing should be between \$800,000 and \$1 million annually.

7. Consideration to set a public hearing on the 2023 Budget for December 7, 2022.

Councilman Nathan made the motion, seconded by Councilwoman Hurd, to set a public hearing on the 2023 Budget for December 7, 2022. The Council unanimously agreed.

8. Set a public hearing to adopt Local Law to override the State enacted tax levy limitation for December 21, 2022, if necessary.

Councilwoman Hurd made the motion, seconded by Councilman Stacks, to set a public hearing to adopt Local Law to override the State enacted treatment levy limitation for December 21, 2022. The Council unanimously agreed.

9. Consideration of a resolution adopting a SEQRA Negative Declaration and LWRP Coastal Consistency Determination in connection with the proposed construction of a new salt shed and recycling facility at the City's Public Works Facility at Disbrow Park.

City Planner Christian Miller explained that the City was required to adopt a SEQRA Negative Determination and LWRP Coastal Consistency Determination in order to proceed with funding and construction of the new salt shed and recycling facility (Building 5) at the Public Works facility in Disbrow Park. The Planning Commission discussed it several times and wrote a detailed memorandum for each project. Monday night the Board of Architectural Review approved plans for the salt shed and Building 5. In response to the Planning Commission's memo and comments from CCAC, the width of the salt shed was narrowed, and the wood previously discussed by the Council was approved. City Engineer Ryan Coyne explained that Building 5 would be for City recycling, and the resident recycling center will remain where it was until other plans are developed.

Mr. Miller addressed concerns expressed by the Commission and the CCAC about salt runoff affecting water quality. The plan included a biofilter to pretreat runoff, and Mr. Miller pointed out stream enhancements that would be included in the final design. By raising the shed four feet it would be in the theoretical 500-year flood zone for a tidal event, not the 100-year, and was higher than most sewage treatment facilities. There were containment measures for calcium chloride within the facility. Mr. Coyne said the 25-foot tower of salt chloride would not be washed away unless there was a 25-foot flood that pushed it out forcefully, and the City could consider storm reinforcements for the doors. He said it was most practical to buy salt at the end of winter when it was cheaper and readily available, then store the salt year-round.

Mr. Coyne said the salt cannot expire in dry conditions, and the calcium chloride liquid would be kept in large containers. He explained that the liquid does not mix with the salt until it is sprayed on top of salted roads. Its purpose is to lower the temperature at which salt prevents freezing. Mr. Coyne described other proposed locations for the salt shed, including several that lacked the space for both new buildings, and a location that was too elevated to put a 30-foot building on top. All alternate locations considered would involve runoff water passing through a filter and going into the marsh.

Mr. Miller explained to the mayor there was no need to involve the DEC and US Army Corps of Engineers because the City was not disturbing the wetland. Resident recycling will be eliminated from the plan. The Council requested a cost estimate for the storm door reinforcements.

Councilwoman Hurd made the motion, seconded by Councilwoman Johnson, to adopt the following resolution:

RESOLUTION

Adoption of a SEQRA Negative Declaration and Determination of LWRP Coastal Consistency in Connection with the Construction of a New Salt Shed and Recycling Facility Located at the City’s DPW Facility

WHEREAS, the City of Rye is proposing to construct a new 140’ x 70’ salt shed and recycling facility at the City’s Department of Public Works (DPW) facility located at 141 Oakland Beach Avenue (hereinafter “Proposed Action”); and

WHEREAS, the City Council referred the Proposed Action to the Rye City Planning Commission for its advisory review of wetland considerations; and

WHEREAS, the Proposed Action is located within the Waterfront Revitalization Area Boundary as identified in the City’s 1991 Local Waterfront Revitalization Program (LWRP); and

WHEREAS, as required by Chapter 73, *Coastal Zone Management Waterfront Consistency Review*, of the Rye City Code, the Planning Commission is required to provide an advisory opinion to the City Council as to the consistency of the Proposed Action with the policies of the LWRP; and

WHEREAS, in an October 26, 2022 memorandum to the City Council the Planning Commission found that the proposed action reduces impacts to wetland buffer areas to the maximum extent practicable and that the proposed action is consistent with the 44 policies of the City’s LWRP; and

WHEREAS, the Proposed Action was reviewed by the Board of Architectural Review for advisory aesthetic considerations;

WHEREAS, at its November 7, 2022 meeting the Board of Architectural Review supported the proposed building design; and

WHEREAS, the City was awarded a \$400,000 State and Municipal Facilities Capital Program Grant towards the completion of the Proposed Action; and

WHEREAS, an Environmental Assessment Form was presented to the City Council; and

WHEREAS, after circulation of a notice of intent and having no objection from any involved agency, the City Council hereby declares that it is the Lead Agency for the environmental review of this proposed action; and

WHEREAS, the City Council has reviewed the Environmental Assessment Form (EAF) and determines that the proposed action is consider an Unlisted Action; and

NOW, THEREFORE, BE IT RESOLVED, that the City Council based on its review of the Environmental Assessment Form (EAF), the criteria listed in Section 617.7(c) of SEQRA and the complete record, the City Council finds that the proposed action will not have a significant adverse environmental impact and hereby issues a Negative Declaration; and

BE IT FURTHER RESOLVED, that the City Council finds that based on its review of the coastal consistency application, the City’s LWRP and the advisory opinion of the Rye City Planning Commission that the proposed action is consistent with the coastal consistency polices of the City’s LWRP and the provisions of Chapter 73, *Coastal Zone Management Waterfront Consistency Review*, of the Rye City Code.

10. Consideration of a resolution adopting a SEQRA Negative Declaration and LWRP Coastal Consistency Determination in connection with the proposed construction of a new DPW garage and administrative building at the City’s Public Works Facility at Disbrow Park.

City Planner Christian Miller confirmed the proposed recycling facility went through the same Planning Commission process as the salt shed. The building would not be constructed in a wetland buffer or a flood zone. He presented renderings of the new structure. Councilwoman Hurd expressed her support for the appearance and utility of the proposed facility. Mr. Coyne confirmed they were pricing solar panels for both new structures at Disbrow Park. Mr. Miller said geothermal was also recommended by the Planning Commission for Building 5, which would need to be worked into the design before construction.

Councilwoman Hurd made the motion, seconded by Councilman Stacks, to adopt the following resolution:

RESOLUTION

Adoption of a SEQRA Negative Declaration and Determination of LWRP Coastal Consistency in Connection with the Construction of a New DPW Garage and Administrative Building

WHEREAS, the City of Rye is proposing to construct a new City’s Department of Public Works (DPW) garage and administrative building located at 141 Oakland Beach Avenue (hereinafter “Proposed Action”); and

WHEREAS, the Proposed Action is located in the same location and nearly the same footprint as existing DPW Building 5; and

WHEREAS, the Proposed Action is located within the Waterfront Revitalization Area Boundary as identified in the City’s 1991 Local Waterfront Revitalization Program (LWRP); and

WHEREAS, as required by Chapter 73, *Coastal Zone Management Waterfront Consistency Review*, of the Rye City Code, the Planning Commission is required to provide an advisory opinion to the City Council as to the consistency of the Proposed Action with the policies of the LWRP; and

WHEREAS, in an October 26, 2022 memorandum to the City Council the Planning Commission found that the Proposed Action is consistent with the 44 policies of the City's LWRP; and

WHEREAS, the Proposed Action was reviewed by the Board of Architectural Review for advisory aesthetic considerations; and

WHEREAS, at is November 7, 2022, meeting the Board of Architectural Review supported the proposed building design, but stated a preference for the muted tones for the façade of the green color scheme; and

WHEREAS, an Environmental Assessment Form was presented to the City Council; and

WHEREAS, the City Council is the only involved agency and hereby declares that it is the Lead Agency for the environmental review of this Proposed Action; and

WHEREAS, the City Council has reviewed the Environmental Assessment Form (EAF) and determines that the proposed action is consider an Unlisted Action; and

NOW, THEREFORE, BE IT RESOLVED, that the City Council based on its review of the Environmental Assessment Form (EAF), the criteria listed in Section 617.7(c) of SEQRA and the complete record, the City Council finds that the proposed action will not have a significant adverse environmental impact and hereby issues a Negative Declaration; and

BE IT FURTHER RESOLVED, that the City Council finds that based on its review of the coastal consistency application, the City's LWRP and the advisory opinion of the Rye City Planning Commission that the proposed action is consistent with the coastal consistency polices of the City's LWRP and the provisions of Chapter 73, *Coastal Zone Management Waterfront Consistency Review*, of the Rye City Code

11. Update on other Capital Projects.

Mr. Coyne gave updates on priority capital projects. Repairs were approved for Building 7, but it ran into supply chain issues. A new above-ground fuel tank was nearly ready to be installed to replace two underground tanks. As far as sewer projects, the Brevoort Lane force main, the Midland Avenue project, and the manhole rehabilitations were complete. The Locust Avenue siphon was complete, and Mr. Coyne remarked on its significance. The Central Avenue pump station was built and the electric will be installed this week and be finished by the end of November. Temporary pumps on 95 will be removed.

Mr. Miller explained that the preliminary design of the Forest Avenue sidewalk was complete, and the designs were posted to the City website. An informal neighborhood meeting will take place on November 16th to sit down with site-adjacent residents and get their feedback. The larger public meeting will be with City Council when appropriate. The City wanted more buy-in from the public and the Council before going to DOT for approval. Mr. Miller anticipated the project might be a year to two years out due to the DOT process.

Mr. Miller reported that the Board of Architectural Review granted a Certificate of Appropriateness for City Hall. He pointed out where the condenser units would be installed on the outside of City Hall. The BAR was concerned that the height of the units would not be visible through the windows, so the plan was to excavate several feet and place them below ground level. Mr. Coyne said the condensers were high-efficiency units but there would still be some noise. The cost of the upgrade was around \$2.5 million, which included electrical and lighting replacement. Technical upgrades for City Hall was anticipated to begin the week of Thanksgiving. Geothermal upgrades were determined to be too costly for City Hall.

Mr. Coyne confirmed the channel dredge started the day before the meeting, moving from AYC working in to the Harbor House, and next year would be the Boat Basin dredge.

Regarding street resurfacing, the City of Rye has paved over 17 miles in the past five years, which was about a third of Rye. The Pavement Condition Index for streets in Rye used to be in the 60s or low 70s but was now 83 due to repaving; the average PCI for the Northeast region was 77. The Pavement Management Study was refreshed every five years and would be conducted in the spring of 2023 which could change the PCI again.

Mr. Coyne presented a chart demonstrating how different amounts spent on resurfacing would improve the PCI. ConEd planned to replace the gas main on Purchase Street from Locust Ave to Theodore Fremd and School Street. This project will disrupt residents and businesses downtown. There would be a public meeting to discuss ConEd's plans. Addressing the constant ripping up of streets by ConEd, Mr. Coyne explained that all utility providers in New York were required to replace an exorbitant amount of old steel and cast irons mains for safety reasons.

Mr. Usry anticipated that lower-priority resurfacing projects would be added back into the budget for 2024, but the last two years had been focused on the \$45 million CIP which was now attainable. He said the \$1.9 million in the 2023 budget included parking lots. The increased tax rate funded just short of \$1 million for roads every year which was baked into the budget and keeps the City at an upward trajectory in terms of improvements. There are three different types of State aid for roads, and Mr. Usry kept the CHIPS in reserve this year because it had greater flexibility of use.

12. Review and adoption of an updated Procurement Policy for the City of Rye.

Deputy Comptroller Joe Fazzino stated the Procurement Policy had not been updated since 2011, and at the time the City raised not-required-for quotes and purchase orders from \$500 to \$1,500. Now the City was trying to get on the same page with purchase orders and second quotes,

going from \$2,500 to \$3,000 for one quote. Mr. Fazzino felt this was a fair raise for an 11-year span of rising costs. If an entity requires two quotes, the proposed increase was from \$3,000 to \$5,000, and anything over \$5,000 would still require the same three quotes. Council passed the quote piggybacking two years ago and now it would be added to the purchasing policy document.

Mr. Fazzino confirmed for the mayor that other than the piggybacking the text remains the same, only the numbers are changing, and he believed the changes would create more efficiency in the bidding process. He explained if there was a \$5,000 and an entity wanted to spend \$2,000 of it, a purchase order would be required to hold that money aside.

Councilwoman Souza made the motion, seconded by Councilwoman Johnson, to adopt an updated Procurement Policy for the City of Rye in accordance with the policy attached to the agenda for this Council meeting.

ROLL CALL

Ayes: Mayor Cohn, Councilmembers Henderson, Hurd, Johnson, Nathan, Souza, Stacks
Nays: None
Absent: None

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

There were no comments from residents.

14. Open a public hearing to consider a local law to add a new Chapter 89 “Fats, Oils and Grease Abatement” to the Code of the City of Rye, New York Regarding the Regulation, Inspection and Enforcement of Fat, Oil and Grease Handling and Disposal for Food Establishments.

Councilwoman Souza made a motion, seconded by Councilman Stacks, to open the public hearing. There were no residents who wished to speak.

Mr. Usry explained to Mayor Cohn that the template for the local law came from Rye Brook; like the City of Rye, they were required to adopt the law as a result of the settlement with Save the Sound. The law required restaurants to increase and upgrade grease traps to prevent oils, grease, and fats from going into the sanitary sewer.

Councilwoman Johnson made a motion, seconded by Councilman Stacks, to close the public hearing. The Council unanimously agreed.

Ms. Wilson clarified that the resolution was an unlisted action, not a Type 2 action, which required an EAF that was included in the agenda packet. She recommended a negative declaration. The resolution sets a fine of \$200 that was separate and would go into the fee schedule but was not part of the actual law.

Councilwoman Souza made a motion, seconded by Mayor Cohn, to adopt a resolution and the new Chapter 89 "Fats, Oils, and Grease Abatement" to the city code of the City of Rye, as follows:

RESOLUTION

Adopting a Local Law to Add a New Chapter 89 “Fats, Oils and Grease Abatement” to the Code of the City of Rye, New York Regarding the Regulation, Inspection and Enforcement of Fat, Oil and Grease Handling and Disposal for Food Establishments

WHEREAS, as a result of a legal action brought against the City of Rye by Save the Sound and Atlantic Clam Farms of Connecticut, Inc. (Case No. 7:15-cv-06323-CS), the City of Rye entered into a settlement agreement; and

WHEREAS, pursuant to a 2020 Stipulated Order, the City of Rye is required to implement a Fats, Oils and Grease (FOG) program to reduce and prevent the introduction of FOG into the City’s sanitary sewer lines; and

WHEREAS, as a component of the FOG program, the 2020 Stipulated Order requires the Rye City Council to adopt a local law requiring the routine inspection of grease generating properties (such as food establishments), the installation, regular maintenance and inspection of grease traps and enforcement mechanisms to insure the proper handling and disposal of fats, oils and grease; and

WHEREAS, on October 26, 2022, the City Council set a public hearing for November 9, 2022 on a draft local law to add a new Chapter 89, “Fats, Oils and Grease Abatement” to the Rye City Code; and

WHEREAS, notice of the hearing was published and circulated as required by law; and

WHEREAS, the City Council conducted a noticed public hearing on the local law on November 9, 2022, in which it gave all those wishing to be heard were given the opportunity to be heard; and

WHEREAS, a draft local law and Environmental Assessment Form was presented to the City Council; and

WHEREAS, the City Council has reviewed the Environmental Assessment Form (EAF) and determines that the proposed action is consider an Unlisted Action; and

WHEREAS, the City Council is the only Involved Agency in connection with the proposed action;

NOW, THEREFORE, BE IT RESOLVED, that the City Council based on its review of the Environmental Assessment Form (EAF), the criteria listed in Section 617.7(c) of SEQRA and the complete record, the City Council finds that the proposed action will not have a significant adverse environmental impact; and

BE IT FURTHER RESOLVED, that the City Council adopts Local Law #8-2022 to add a new Chapter 89 “Fats, Oils and Grease Abatement” to the Rye City Code; and

BE IT FURTHER RESOLVED, that the Fee Schedule of the City of Rye shall be amended to add a new fee for “Fats, Oils and Grease Inspection” in the amount of two-hundred dollars (\$200).

A Local Law to Add a New Chapter 89 “Fats, Oils and Grease Abatement” to the Code of the City of Rye, New York Regarding the Regulation, Inspection and Enforcement of Fat, Oil and Grease Handling and Disposal for Food Establishments

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

Section 1. The following new Chapter 89, titled “Fats, Oils and Grease Abatement” is hereby added to the Rye City Code:

**Chapter 89
FATS, OILS AND GREASE ABATEMENT**

§89-1 Purpose.

- A. The discharge of fats, oils, grease, sand, grit and other harmful materials into the sanitary sewer system poses a threat to the health, welfare and safety of the residents and the environment of the City of Rye by reducing system reliability and requires additional maintenance efforts which increase cost.
- B. The purpose of this chapter is to aid in the prevention of sanitary sewer blockages, backups and obstructions from contributions and accumulation of fats, oils, and grease into the sanitary sewer system from industrial or commercial establishments, particularly food preparation and serving facilities.

§ 89-2 Applicability.

This chapter shall apply to all existing and new food establishments within the City of Rye.

§ 89-3 Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

BUILDING INSPECTOR/FIRE INSPECTOR

The Fire Inspector, Building Inspector, Assistant Building Inspector of the City of Rye or City Engineer or their designee.

FATS, OILS, AND GREASE

Organic polar compounds derived from animal and/or plant sources that contain multiple carbon chain triglyceride molecules. These substances are detectable and measurable using analytical test procedures established in the United States Code of Federal Regulations, 40 CFR 136, as may be amended from time to time.

FOOD ESTABLISHMENT

Any establishment which serves made-to-order food or beverages that generates fats, oils and/or grease as defined herein for dine-in, takeout, or delivery. Food establishments shall include, but are not limited to, restaurants, cafes, fast-food establishments and food establishments within grocery stores, except as otherwise determined by the Building Inspector.

GREASE

A material comprised of fatty matter from animal or vegetable sources or hydrocarbons of petroleum origins.

GREASE TRAP/GREASE INTERCEPTOR

A device for separating and retaining waterborne fats, oils and grease and grease complexes prior to the wastewater exiting the trap and entering the sanitary sewer system. These devices also serve to collect settleable solids, generated by and from food preparation activities, prior to the water exiting the trap and entering the sanitary sewer system.

PERSON

Any individual person, firm, partnership, association, corporation, company, organization or legal entity of any kind, including public agencies and municipal corporations.

§89-4 Prohibited acts.

- A. Introduction of any additives into any establishment's wastewater system for the purpose of emulsifying fats, oils and grease is prohibited.
- B. Disposal of waste cooking oils into drainage pipes is prohibited. All waste cooking oils shall be collected and stored properly in receptacles such as barrels or drums for recycling or other acceptable methods of disposal.
- C. Discharge of wastewater from dishwashers to any grease trap or grease interceptor is prohibited.
- D. The use of biological additives for grease remediation or as a supplement to interceptor maintenance is prohibited, unless written approval from the Building Inspector.
- E. Discharge of wastes from toilets, urinals, wash basins and other fixtures containing fecal

materials to lines intended for grease interceptor service is prohibited.

- F. Discharge of fats, oils and grease to toilets, urinals, wash basins and other fixtures is prohibited.
- G. Discharge into the sanitary sewer system of any waste which has fats, oils and grease as well as solid materials removed from the grease control device is prohibited. Grease removed from grease interceptors shall be waste hauled periodically as part of the operation and maintenance requirements for grease interceptors. Licensed waste haulers or an approved recycling facility must be used to dispose of fats, oils and grease, including waste cooking oil.
- H. Installation of food grinders are prohibited unless specifically allowed in writing by the Building Inspector.
- I. No food waste disposal unit or dishwasher shall be connected to or discharged into any grease trap.

§89-5 Installation of grease traps.

- A. Grease trap installation generally. The Building Inspector or Fire Inspector may at any time require the installation and/or relocation of an internal or external grease trap at a Food Establishment, as he/she may deem necessary to maintain a particular building sewer pipe, any lateral sewer pipe or sewer main pipe free from obstructions caused by fats, oils or grease emanating from the Food Establishment. Food Establishments required to install grease traps shall be given a reasonable amount of time to complete the installation.
- B. Grease trap installation in all Food Establishments.
 - (1) In every case where a Food Establishment is preparing or selling food, a suitable internal or external grease trap conforming to the applicable building and plumbing codes must be installed.
 - (2) The Building Inspector or Fire Inspector may require that a grease trap in a food establishment be upgraded to the then current-day industry standards.
 - (3) Food waste, including fats, oils, and grease, cannot be discarded into a slop sink, floor drain, toilet or any other plumbing fixture not connected to a grease trap.
- C. Additional requirements for new or remodeled Food Establishments. New or remodeled Food Establishments, at the discretion of the Building Inspector or Fire Inspector, may be required to install an external grease trap. For the purpose of this regulation, a remodeled Food Establishment is a Food Establishment that undergoes a renovation requiring the submittal of plans to the City Building Department.

- D. Grease trap requirements. Grease traps must be sized in accordance with the standards set forth in the Uniform Code of the State of New York.

§89-6 Grease trap maintenance.

- A. All grease traps shall be maintained by the food establishment at the Food Establishment's expense. Such maintenance shall be performed such that all grease traps shall be maintained to assure proper operation and efficiency. All food establishments shall have all grease traps cleaned before the amount of grease exceeds 25% of the grease capacity of the grease trap or once every month for internal grease traps and once every six months for external grease traps, whichever comes first.
- B. Maintenance of grease traps shall include the complete removal of all contents, including floating materials, wastewater, bottom sludge and solids. The decanting or discharging of removed waste back into the trap from which it was removed or any other grease trap, for the purpose of reducing the volume to be disposed, is prohibited.
- C. Written logs, as well as all service reports by third party maintenance/service/plumbing professionals, of any repairs, inspections, maintenance, cleaning and pumpings of the grease trap(s) and/or grease trap plumbing shall be maintained on-site by the food establishment. The written logs and service reports shall include the date of service, the type of service, by whom, and the signature of the person performing the service. Said logs and service reports shall be made available on-site to the Building Inspector upon demand.
- D. Any biological additive(s) placed into the grease trap or building discharge line, including, but not limited to, enzymes, commercially available bacteria, or other additives designed to absorb, purge, consume, treat, or otherwise eliminate fats, oils, and grease, shall in no way be considered as a substitution to the maintenance procedures required herein.

§ 89-7 Best management practices required.

All Food Establishments shall adhere to best management practices dealing with fats, oils, and grease disposal and shall educate their employees to these practices. Best management practices include, but are not limited to, the following:

- A. Training kitchen staff on fats, oils and grease handling practices. The food establishment shall maintain proper written documentation of all training, including the date of training, the training topic, name of attendees, and copies of any distributed training materials. Said documentation shall be made available to the Building Inspector upon demand.
- B. Hanging fats, oils and grease-handling posters in the kitchen.
- C. Instructing employees that food waste shall be disposed of in the trash and not in the

sanitary sewer system.

- D. Providing ample paper towel dispensers for dry-wiping fats, oils and grease from spills, pots, frying, grilling equipment, and other surfaces saturated with fats, oils, and/or grease residue.
- E. Using strainer baskets in sinks to catch food waste.
- F. Directing all drains from fats, oils and grease-producing sources to a properly sized grease trap.
- G. Collecting and disposing of used fats, oils and grease through a licensed septage handler instead of pouring it down the drain.
- H. Capturing fats, oils and grease in ventilation and exhaust hoods.

§ 89-8 Storage and disposal.

A. Storage.

- (1) All waste fats, oils and grease and other related wastes requiring storage at the food establishment as a result of removal from grease traps or otherwise shall be collected and stored in a container(s) (i.e., fifty-five-gallon drums or such other suitable storage containers). The container(s) and the location of the container(s) shall be approved by the Building Inspector.
- (2) No more than 110 gallons (two fifty-five-gallon containers) shall be stored on site unless otherwise approved by the Building Inspector.
- (3) The container(s) shall be sealed, protected from the elements and provided with secondary containment in case of leakage. The container(s) shall be screened from public view, such screening to be approved by the Building Inspector.
- (4) All grease containers and surrounding areas must be kept in a sanitary condition at all times.

B. Disposal.

- (1) All waste fats, oils and grease and related wastes shall be removed from the food establishment only by a permitted septage handler.
- (2) All material removed from grease traps and hauling and disposal of fats, oils and grease and other related waste, shall be documented in the written log.
- (3) The food establishment is responsible for assuring that all waste fats, oils and grease and related wastes are disposed of in accordance with all federal, state and

local disposal regulations.

- (4) In no way shall any waste fats, oils and grease and related wastes material be disposed of in any private or public portion of the City's sanitary sewer collection system.

- C. The food establishment shall maintain proper written documentation of fats, oils and grease and related wastes removed from the food establishment including copies of bills and other paperwork from any third-party septage handler, noting the name, address and phone number of the septage handler, the date and volume in gallons of the waste that was removed from the premises, and the signature of the septage handler in the written log and/or service report. Said documentation shall be made available to the Building Inspector upon demand.

§ 89-9 Records retention.

Retention of records. Each Food Establishment shall retain all training, inspection, maintenance, cleaning, pumpings and disposal records for review by the Building Inspector upon his or her request. Such records shall be retained by the Food Establishment for no less than three years.

§ 89-10 Inspections.

- A. The Building Inspector, Fire Inspector, or their designees shall have the authority to enforce the provisions of this chapter. These officials may enter upon any premises at any reasonable time to inspect for compliance.

- B. Upon written notification by the Building Inspector or Fire Inspector, the food establishment shall be required to perform the required maintenance or repair within the time period specified.

- C. The food establishment may be required to install, at its sole expense, additional controls to prevent discharges of undesirable materials into the wastewater collection system.

- D. Refusal to provide reasonable cooperation and access shall constitute a violation of this chapter subject to enforcement as set forth below.

§ 89-11 Enforcement; violations and penalties.

- A. Notice of violation. When the City of Rye determines that a Food Establishment has violated or is in violation of a requirement or provision of this chapter, it may issue a written notice of violation to the Food Establishment. The notice of violation shall contain:
 - (1) The name and address of the landowner;

- (2) The name and address of the Food Establishment;
 - (3) A statement specifying the nature of the violation;
 - (4) A description of the remedial measures necessary to bring the Food Establishment into compliance; and
 - (5) A statement of the penalty or penalties that shall or may be assessed against the person whom the Notice of Violation is directed.
- B. The Building Inspector, Fire Inspector, or his or her duly authorized designee, may issue a stop-work order, if, in the judgment of the Building Inspector or Fire Inspector, the operations on-site are not being performed in a safe and sanitary manner, are not in compliance with all approved plans, or are not otherwise in conformance with the requirements of this chapter.
- C. Recovery of damages. When the discharge from a Food Establishment causes an obstruction, damage, or any other impairment to the sanitary sewer system, or causes any expense, fine, penalty, or damage of whatever character or nature to the City, the City shall invoice the owner for same incurred by the City. All costs or expenses incurred by the City in connection with any such obstruction, damage, or any other impairment to the sanitary sewer system shall be assessed against the property on which the work was required to be done and shall be a lien against such property until paid, the same as any tax which the City is authorized to impose on properties within the City.
- D. Penalties. In addition to or as an alternative to any penalty provided herein or by law, any person committing an offense against the provisions of this chapter shall be guilty of a violation punishable by a fine not exceeding \$1,000. Each day's continued violation shall constitute a separate violation.

Section 3. Amend Chapter 52, *Appearance Tickets*, §52-2.A, §52-2.B, and §52-2.F Enforcement Responsibilities, as follows:

- A. Building Inspector and Assistant Building Inspector: Chapters 53, 68, 71, 72, 81, **89**, 93, 98, 100, 108, 117, 121, 133, 153, 161, 157, 166A, 170, 194, 195, 196 and 197 and the New York State Uniform Fire Prevention and Building Code.
- B. City Engineer and Assistant City Engineer: Chapters 71, **89**, 161, 167, 170, 173, 187, 194 and 196
- F. Fire Inspector: Chapters 71, **89**, and 98 and the New York State Uniform Fire Prevention and Building Code.

Section 4. Severability

The invalidity of any word, section, clause, paragraph, sentence, part or provision of this Local Law shall not affect the validity of any other part of this Local Law that can be given effect without such invalid part or parts.

Section 5. Effective Date.

This Local Law shall take effect on January 1, 2023.

ROLL CALL

Ayes: Mayor Cohn, Councilmembers Henderson, Hurd, Johnson, Nathan, Souza, Stacks

Nays: None

Absent: None

15. Refer to the BAR and set a public hearing for November 30, 2022, to consider an application from Airosmith Development engaged with AT&T to modify an existing facility located at 66 Milton Rd that does not substantially change the physical dimensions of the current facility.

Mayor Cohn clarified that the only thing the City Council was asked to do presently was refer the matter to the BAR and set a public hearing for November 30, 2022.

Martin McGee, representing Airosmith Development, explained the application was for upgrading current antennas at 66 Milton to provide 5G service to AT&T customers. Two of three AT&T antennas on each sector of the tower would be replaced and affixed to the existing pipe mount. The mayor conveyed the Council's priority of having well-matched, quality antenna covers, and Mr. McGee agreed it was a priority.

Mayor Cohn asked Mr. McGee why the old antennas were still required. Mr. McGee replied that some of the antennas provided older but still-needed services like LTE; two-thirds will be 5G antennas. Councilman Nathan asked if the BAR was requiring all the new antennas from various companies to have matching covers, and the Council disagreed whether the BAR was actively prioritizing the matter. The mayor agreed there should be a process to make the coverings uniform.

Councilwoman Souza made the motion, seconded by Councilman Nathan, to refer to the BAR and set a public hearing on November 30th for Airosmith Development's application to modify AT&T equipment at 66 Milton place.

16. Consideration of an application from T-Mobile Northeast, LLC to modify an existing facility located at 66 Milton Rd that does not substantially change the physical dimensions of the current facility.

David Kenney, representing T-Mobile, told the Council that the concealment film was made by 3M and designed by Obscure Tech, but each mobile carrier had contracts with different

companies. The film was designed to hide the antenna but not block the signal. This application was for installation of one new antenna in four sectors, and to replace faded concealment film on existing antennas. The new film to be installed had a 10-year lifespan, while antennas are usually swapped due to technology upgrades every three or four years. He said T-Mobile was willing to replace concealment films whenever the City thought it was necessary. Mr. Kenney said the new antennas were smaller and weighed less than the existing antennas.

Councilwoman Hurd confirmed for Mayor Cohn that BAR approved the application. Ms. Wilson said the shot clock had run out, and given the informal extension granted, she advised the City Council take action.

Councilman Nathan made the motion, seconded by Councilwoman Johnson, to approve T-Mobile's application to modify the existing equipment at 66 Milton Road. The Council unanimously agreed.

17. **CONSENT AGENDA**

- a. Consideration of a request by the Midland Elementary School PTO to approve a parade to precede the Midland Elementary School Fair on Saturday, April 30, 2022, from 12:00 p.m. to 4:00 p.m.
- b. Consideration of a request by the Midland Elementary School PTO to allow two to three food trucks as part of the Midland Fair on Saturday, April 30, 2022, from 11:00 a.m. to 5:00 p.m. The City Council will have to waive § 144-8D and G of the City Code.

Councilwoman Souza made the motion, seconded by Councilwoman Hurd, to approve both Consent Agenda items. The Council unanimously agreed.

18. Old Business/New Business.

Mayor Cohn announced the City of Rye was inviting applications for a part-time judgeship requiring about two days' attention per week. The decision should be made in early December, and the City was grateful for any résumés received.

19. Adjournment.

Councilwoman Souza made the motion, seconded by Councilwoman Johnson, to adjourn the City Council meeting. The Council was in favor and the meeting was adjourned at 9:12 P.M.

Respectfully submitted,

Carolyn D'Andrea
City Clerk



CITY COUNCIL AGENDA

DEPT.: City Manager

DATE: October 26, 2022

CONTACT: Greg Usry, City Manager

AGENDA ITEM: Flooding Update.

FOR THE MEETING OF:

November 30, 2022

RECOMMENDATION: That the City Council hear the update.

IMPACT: Environmental Fiscal Neighborhood Other:

BACKGROUND:



CITY COUNCIL AGENDA

DEPT.: City Manager

DATE: October 26, 2022

CONTACT: Greg Usry, City Manager

AGENDA ITEM: 2023 Proposed Budget Discussion.

FOR THE MEETING OF:

November 30, 2022

RECOMMENDATION: That the City Council discuss the 2023 City Budget.

IMPACT: Environmental Fiscal Neighborhood Other:

BACKGROUND:



CITY COUNCIL AGENDA

DEPT.: City Council

DATE: November 21, 2022

CONTACT: Mayor Josh Cohn

AGENDA ITEM: Resolution to name the newly erected lower pavilion at Rye Recreation after retired Rye Recreation Superintendent and 37-year City of Rye employee, Sally Rogol.

FOR THE MEETING OF:

November 30, 2022

RECOMMENDATION: That the Council adopt the resolution.

IMPACT: Environmental Fiscal Neighborhood Other:

BACKGROUND: See attached resolution.

RESOLUTION

Naming the newly erected lower pavilion at Rye Recreation after retired Rye Recreation Superintendent and 37-year City of Rye employee, Sally Rogol.

WHEREAS, Sally came to work in Rye as a Recreation Leader in 1985; and

WHEREAS, Sally continued her career in the Rye Recreation Department for 37 years;
and

WHEREAS, during Sally's tenure, Rye Recreation has provided innovative and valuable programs for young and old; and

WHEREAS, Sally, in addition to her responsibilities at Rye Recreation, has been a full participant in the community, generously sharing her time with many volunteer and community organizations; and

WHEREAS, Sally has distinguished herself among recreation department leaders, including as President of the Westchester Recreation and Park Society and recipient of many awards; and

WHEREAS, throughout Sally has shared her good and caring nature, her wit and her intelligence with one and all; and

WHEREAS, Sally has played an essential role in the Rye Recreation improvements of the last 24 months, including the new outdoor pavilions; and

WHEREAS, Sally is now retired as Superintendent;

NOW, THEREFORE, BE IT RESOLVED, that the City Council has decided to name the outdoor lower pavilion, the Sally Rogol Pavilion.



CITY COUNCIL AGENDA

DEPT.: City Manager

DATE: November 9, 2022

CONTACT: Greg Usry, City Manager

AGENDA ITEM: Continue the public hearing to create a new local law, Chapter 122, "Leaf Blower Regulations".

FOR THE MEETING OF:
November 30, 2022

RECOMMENDATION: That the Council continue the public hearing.

IMPACT: Environmental Fiscal Neighborhood Other:

BACKGROUND: See attached law and summary of changes.

Summary of Differences – Leaf Blower Law

	Previous Law	Proposed Changes
Permissible Dates to Operate Leaf Blowers and Other Motorized Lawn Equipment	October 1 and April 30 Weekdays 8 am – 8 pm Weekends 10 am – 6 pm	Electric Leaf Blowers may be used year-round Gas Leaf Blowers: October 1 to December 15 AND March 1 to April 30. Weekdays 8 am – 6 pm Weekends 10 am – 4 pm
Holiday Exemptions	Motorized lawn equipment not prohibited on specific holidays	All motorized equipment prohibited on certain holidays (see draft law for specifics).
Storm Exemption	Rye Department of Public Works may permit the use of leaf blowers from May 1 to September 30 for a period of time not to exceed seven days after significant storm events or during other emergency situations circumstances.	Rye Department of Public Works may permit the expand the use of gas leaf blowers for a period of time not to exceed fourteen days after significant storm events or during other emergency situations circumstances.
Penalties	Owner of the property OR the person performing such violation shall be notified to suspend all work and be subject to a fine of not more than \$250 or imprisonment for a term of not more than 15 days, or both.	Adjusting PD policy so that the party operating the leaf blower AND the party who employed the operator of the leaf blower at the time of violation AND the party who owns, rents or otherwise controls the property where the violation occurs will be subject to a fine of \$250 for the first offense, a fine not to exceed the sum of \$350 for the second offense and a fine of up to \$1,500 for the third offense.

Notes:

1. A Commercial Landscaper must have a valid Westchester County license.
2. Continues the exemption for municipal, schools, religious institutions, membership clubs, golf courses, hospital and retirement communities, cemeteries, and driveway / road paving and sealing activities.
3. Promotes the use of quieter electric powered leaf blowers by allowing use year-round

CITY OF RYE

LOCAL LAW NO. __ 2022

A local law to add a new Chapter 122 “Leaf Blower Regulations” of the Code of the City of Rye to regulate the use of gas-powered leaf blowers as follows:

Section 1: Chapter 122, Leaf Blower Regulations

§ 122-1 Purpose.

The City Council finds that motorized landscaping activities generate noise, and more specifically the use of gas-powered leaf blowers can significantly increase the level of noise, particularly in the higher density neighborhoods of Rye. Gas-powered leaf blowers also create pollution and contribute to global warming through the release of carbon emissions. Accordingly, it is the intent and purpose of this chapter to place limits on the use of gas-powered leaf blowers, while promoting the use of quieter electric-powered leaf blowers, with the ultimate objective of eliminating the use of gas-powered leaf blowers at the time when a more suitable and quieter technology becomes available.

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§ 122-2 Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

LANDSCAPER – Any person, corporation, partnership, or business entity of any form who tends, plants, installs, maintains, or repairs lawns, or performs general yard maintenance work or leaf collection of any kind on real property which such person does not own or at which s/he does not reside.

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ELECTRIC LEAF BLOWER – a moveable, portable, handheld, backpack-style, tow-behind or other device or unit powered by electricity or battery and used for the purpose of blowing, moving, removing, dispersing, vacuuming, or redistributing leaves, dust, dirt, grass clippings, cuttings, and trimmings from trees and shrubs or any other type of litter or debris.

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GAS LEAF BLOWER – a moveable, portable, handheld, backpack-style, tow-behind or other device or unit powered by an internal combustion engine using gasoline or other hydro-carbon fuel and used for the purpose of blowing, moving, removing, dispersing, vacuuming, or redistributing leaves, dust, dirt, grass clippings, cuttings, and trimmings from trees and shrubs or any other type of litter or debris.

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MOTORIZED LANDSCAPING EQUIPMENT – Electric, battery or internal combustion engine powered equipment commonly used for general yard maintenance work including cutting grass, aerating and seeding lawns, planting, digging holes, trimming hedges and shrubs, collecting and removing leaves and other common yard maintenance activities.

Section 122-3 Use of Electric Leaf Blowers.

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Effective January 1, 2023, Electric Leaf Blowers may be used for landscaping activities on a year-round basis.

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§ 122-4 Use of Gas Leaf Blowers.

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Effective January 1, 2023, Gas Leaf Blowers may only be used during the Fall and Spring Cleanup Seasons defined as from October 1 to December 15 and from March 1 to April 30. At all other times of the calendar year, the use of Gas Leaf Blowers is prohibited. Except in R-1 Residence Districts, and on lots greater than one (1) acre in size, only one (1) Gas Leaf Blower may be utilized per lot during the Fall and Spring Cleanup Seasons as defined above.

§ 122-5 Hours of operation of Motorized Landscaping Equipment including leaf blowers.

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A. The use of Motorized Landscaping Equipment, including lawn mowers, leaf blowers and other outdoor machine-powered equipment is permitted only between 8:00 a.m. and 6:00 p.m. on weekdays and 10:00 a.m. and 4:00 p.m. on weekends. The permitted hours described in this subsection will apply to the use of Gas Leaf Blowers during the Fall and Spring Cleanup seasons when the use of Gas Leaf Blowers is permitted.

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B. The use of Motorized Landscaping Equipment, including lawn mowers, leaf blowers and other outdoor machine-powered equipment is not permitted on the following holidays: New Year's Day, Birthday of Martin Luther King, Jr., Washington's Birthday, Easter, Memorial Day, Independence Day, Labor Day, Rosh Hashanah, Columbus Day, Veterans Day, Yom Kippur, Thanksgiving Day, and Christmas Day.

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C. The head of the Rye Department of Public Works may permit the expanded use of Gas Leaf Blowers, or use of Motorized Landscaping Equipment on holidays, for a period not to exceed fourteen (14) days after significant storm events or during other emergency situations.

D. The restrictions regarding the use of Motorized Landscaping Equipment, including Gas Leaf Blowers, and other outdoor machine-powered equipment in this Chapter shall not apply to the following entities and activities: municipal, schools, religious institutions, membership clubs, golf courses, hospital and retirement communities, cemeteries, and driveway/road paving and sealing activities.

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E. The above-restrictions shall not apply to snow-blowers or use of motorized equipment for the purposes of snow or ice removal.

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F. Moving leaves or yard debris to City streets, public property, storm drains or abutting lots is prohibited at all times.

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§ 122-6 Enforcement.

The provisions of this chapter shall be enforced by the City of Rye Police Department, the Rye Building Department or any other city employee designated by the City Manager.

§ 122-7 Penalties for offenses.

A. **Gas Leaf Blowers** - The following parties shall have committed a violation of this law if it is not complied with:

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- (1) The party(ies) operating the Gas Leaf Blower(s); and
- (2) The party who employed the person(s) who operated the Gas Leaf Blower(s) at the time of violation; and
- (3) The party who owns, rents or otherwise controls the property where the violation occurs.

B. **Conducting Motorized Landscaping Work outside of Permitted Hours or on Restricted Holidays** - The following parties shall have committed a violation of this law if it is not complied with:

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- (1) The party(ies) operating the motorized landscaping equipment; and
- (2) The party who employed the person(s) who operating the motorized landscaping equipment at the time of violation; and
- (3) The party who owns, rents or otherwise controls the property where the violation occurs.

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C. **Failure of Commercial Landscapers to comply with the provisions of Westchester County Law §§ 863.312-330 - Commercial Landscapers who fail to comply with WCC §§ 863.312 through 863.330, including working without a valid Westchester County license or failure to display license decals and required identification information on its vehicles, shall also be in violation of this law.**

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D. Any person violating any of the provisions of this chapter shall be guilty of a civil violation and, upon conviction thereof, shall be punished by a fine not to exceed the sum of \$250 for the first offense. A second violation shall be punishable by a fine not to exceed the sum of \$350 and a third violation shall result in a fine not to exceed the sum of \$1,500.

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Section 2. Severability.

The invalidity of any word, section, clause, paragraph, sentence, part, or provision of this Local Law shall not affect the validity of any other part of this Local Law that can be given effect without such invalid part or parts.

Section 3: Effective Date.

This local law will take effect on January 1, 2023.



POLICE DEPARTMENT

City of Rye, New York
21 McCullough Place
Rye, N. Y. 10580
Phone: (914) 967-1234
FAX: (914) 967-8341



Michael A. Kopy
Public Safety

Commissioner

December 8, 2021

To: Greg Usry, City Manager
From: Michael A. Kopy, Public Safety Commissioner
Subject: Leaf Blower Violations

During the month of November 2021, the Police Department responded to or observed 70 possible violations of Section 133-7 of the city code. These responses resulted in 36 summons being issued. No summons were issued for the remaining calls due to a variety of factors including:

- 1) the violators may have been gone prior to the arrival of the patrol, or
- 2) that a violation of the code ceased prior to the arrival of the patrol.

During the month of November 2020, there were 14 calls for potential violations of Section 133-7 with one summons issued.

I expect that enforcement levels will drop significantly during the month of December as the fall leaf clean up season ends.



CITY COUNCIL AGENDA

DEPT.: Planning/Building/Law/Manager

DATE: November 23, 2022

CONTACT: Christian Miller, City Planner

AGENDA ITEM: Set a public hearing for December 7, 2022 to adopt a new local law, Chapter 88 “Explosives, Blasting and Mechanical Rock Excavation”, Repeal Chapter 98, *Fire Prevention*, Article VII, *Explosives* and Amend Sections 133-8, 133-9 and 133-10 of the Code of the City of Rye, New York

FOR THE MEETING OF:

November 30, 2022

RYE CITY CODE,
CHAPTER 89 (New)
SECTION

RECOMMENDATION: That the City Council review the attached draft local law and environmental assessment form (EAF) with narrative and consider setting a public hearing on the draft local law.

IMPACT: Environmental Fiscal Neighborhood Other:

BACKGROUND:

The proposed action involves the adoption of a new local law to implement new and updated regulations and requirements for the use, storage and transportation of explosives and blasting in the City of Rye. The proposed local law repeals the City's existing blasting law in Chapter 98, Article VII, *Explosives*, which has become outdated and not reflective of current blasting standards and the actual administrative practices and blasting permit conditions required by the City. The proposed local law also incorporates the City's rock chipping requirements into the new Chapter 88, *Explosives, Blasting and Mechanical Rock Excavation*, and removes the existing rock chipping requirements from Chapter 133, *Noise*, of the City Code. There are number of substantive changes proposed to the current rock chipping and drilling regulations. Finally, the proposed local law changes permitted hours of weekday construction work. A more detailed description of the local law is found in the attachment to the Environmental Assessment Form (EAF).

LOCAL LAW

CITY OF RYE NO. _____ -2022

A local law to add a new Chapter 88 “Explosives, Blasting and Mechanical Rock Excavation”, Repeal Chapter 98, *Fire Prevention*, Article VII, *Explosives* and Amend Sections 133-8, 133-9 and 133-10 of the Code of the City of Rye, New York

Section 1. Chapter 98, *Fire Prevention*, Article VII, *Explosives* is hereby repealed

Section 2. The following new Chapter 88, titled “Explosives, Blasting and Mechanical Rock Excavation” is hereby added to the Rye City Code:

CHAPTER 88

EXPLOSIVES, BLASTING AND MECHANICAL ROCK EXCAVATION

Article I, Explosives and Blasting

§ 88-1. Purpose

The purpose of this chapter is to establish minimum safeguards to protect human health, safety and welfare, as well as property, by establishing reasonable regulations governing the possession and use of explosive materials and the removal of rock through chipping, drilling and other mechanical means. To ensure that the possession and use of explosive materials does not result in physical injury or property damage and to establish a balance between the noise and other quality of life issues and adverse impacts of mechanical rock excavation, the City Council hereby asserts its right to designate acceptable hours for blasting and mechanical rock excavation operations, set levels for the ignition and discharge of explosive materials, limit the number of mechanical rock hammers on a property, limit the number of blasting and mechanical rock excavation permits issued in a geographical area in a specific amount of time, and establish acceptable standards governing consequential vibrations resulting from all blasting conducted within the City.

§ 88-2. Applicability; technical standards

A. This article shall apply to each and every person, corporation and business engaged in the manufacture, sale, transportation, storage, handling or use of explosives in the City. This chapter sets forth procedures for the issuance of permits, payment of fees, recordkeeping, reporting and monitoring compliance. In addition, this chapter establishes penalties for the failure to comply with these requirements.

- B. The technical standards set forth in this chapter are based upon generally recognized criteria and accepted industry standards. See New York State Labor Law, Article 16; 12 NYCRR Part 39; NFPA No. 495-1973; 27 CFR 55; 49 CFR 171 through 178; and 49 CFR 390 through 397; Fire Code of NYS, Chapter 56 Explosives and Fireworks for other additional standards that may be applicable.

§ 88-3. Exceptions; application for exemption; notification.

- A. The provisions of this chapter shall not apply to the following:
- (1) The military forces of the United States or its allies, the duly authorized militia of any State or any Police or Fire Department, provided that the same is acting in its official capacity and in the performance of its public duties.
 - (2) The transportation of explosives in interstate or intrastate commerce regulated by the United States Department of Transportation or the New York State Department of Labor.
 - (3) Model rocketry.
 - (4) Employee safety regulated under the Occupational Safety and Health Act, 29 U.S.C. § 651 et seq.
 - (5) Fireworks subject to regulation under any applicable local, state or federal rule, regulation or law.
 - (6) Small arms ammunition, including smokeless or black powder when possessed for noncommercial purposes in quantities of five pounds or less.
 - (7) An explosive in a form prescribed by the official United States Pharmacopeia.
- B. Where an individual makes a written application to the Approving Authority for an exemption, the Approving Authority may grant an exemption where it is evident that compliance would cause an undue hardship and that public safety would not be compromised by granting relief. Any exemption granted under this section must be as limited in scope and duration as possible, balancing the hardship caused by compliance

versus the potential danger and threat to public safety and tranquility of granting relief. If the Approving Authority grants an exemption under this section, the Approving Authority shall immediately notify the Public Safety Commissioner of the Approving Authority's decision and within five business days notify the City Manager stating the facts, the nature of the exemption and the underlying rationale.

§ 88-4. Definitions.

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

AIR BLAST

The airborne shock wave or acoustic transient generated by an explosion.

APPROVED

Acceptable to the Approving Authority.

APPROVING AUTHORITY

Persons designated by the City Manager, including, the Public Safety Commissioner, Fire Inspector, Building Inspector or their designees or any representative thereof, which shall be responsible for the processing, administration, review, permitting and enforcement of Blasting Permits.

BLACK POWDER

A deflagrating or low explosive compound composed of an intimate mixture of sulfur, charcoal and an earth nitrate, usually potassium nitrate or sodium nitrate.

BLASTER

A person who holds a valid permit to perform blasting operations.

BLASTING

The fracture of any heavy mass by detonation of explosive materials.

BLASTING AGENT

Any material or mixture consisting of a fuel and oxidizer, intended for blasting, not otherwise classified as an explosive, provided that the finished product, as mixed and packaged for use or shipment, cannot be detonated by means of a No. 8 test blasting cap when unconfined.

BLASTING CAP

A detonator.

BLASTING LICENSE

A license issued by the New York State Department of Labor pursuant to Article 16 of the Labor Law of New York State, as well as the Industrial Code Rules contained in Title 12, Part 39 of the New York Codes, Rules and Regulations.

BLASTING MACHINE

An electrical or electromechanical device capable of providing electrical energy for the purpose of energizing electric blasting caps.

BLASTING MAT

A mat of woven steel wire, tires or other suitable material or construction to cover blast holes for the purpose of preventing fly rock missiles.

BLASTING PERMIT

A permit issued by the Approving Authority for blasting activities at a single blasting site.

BLAST ZONE

The area surrounding a blast site subject to the influence of flying debris generated by the detonation of an explosive charge.

BUILDING

Includes, but is not limited to, any structure or assembly used for occupancy or storage and subject to the jurisdiction of the Building Department.

BURDEN

That dimension of a medium to be blasted measured from the borehole to the face at right angles to the spacing. It means also the total amount of material to be blasted by a given hole, usually measured in cubic yards or in tons.

CERTIFICATE OF COMPETENCY

Any authorization to keep, store, transport, manufacture or use explosives issued under New York State Labor Law, Article 16.

CFR

The Code of Federal Regulations in effect on the date this chapter was last amended.

CLASS A EXPLOSIVE

An explosive possessing detonating or maximum hazard and means an explosive which is described in 49 CFR 173.53.

CLASS B EXPLOSIVE

An explosive possessing flammable hazard such as propellant explosives and photographic flash powders and means an explosive described in 49 CFR 173.88.

CLASS C EXPLOSIVE

Certain types of manufactured articles which contain Class A or Class B explosives, or both, as components but in restricted quantities, and certain types of fireworks and means an explosive described in 49 CFR 173.100.

COMMERCIAL EXPLOSIVE

Any explosive except a propellant and nitrocarbonitrate, including but not limited to dynamite, black blasting powder, pellet powder, initiating explosive, blasting cap, electric

blasting cap, safety fuse, fuse igniter, fuse lighter, squib, cordeau detonant fuse, instantaneous fuse, igniter cord and igniter.

COMPETENT PERSON

A person with the requisite experience, training and education necessary to perform the duty assigned or assumed.

DELAY INTERVAL

The time interval in milliseconds between successive detonations of the delay devices used.

DETONATOR

Any device containing a detonating charge that is used for initiating detonation in an explosive. The term includes, but is not limited to, electric blasting caps of instantaneous and delay types, blasting caps for use with safety fuses, detonating-cord delay connectors and nonelectric instantaneous or delay blasting caps.

ELECTRIC BLASTING CAP

A blasting cap designed for, and capable of, initiation by means of an electric current.

EXPLOSIVE

- A. Any chemical compound or mixture that is commonly used or intended for the purpose of producing an explosion that contains any oxidizing and combustible materials or other ingredients, in such proportions, quantities or packing that an ignition by fire, by friction, by concussion or by detonation of any part of the compound or mixture may cause such a sudden generation of highly heated gases that the resultant gaseous pressure is capable of producing destructive effects on contiguous objects.
- B. The term "explosive" includes, but is not limited to:
 - (1) A commercial explosive, propellant or nitrocarbonitrate.
 - (2) A high explosive or a low explosive.
 - (3) An explosive material, blasting agent, water gel or detonator.
- C. The term "explosive," except as specifically stated herein, does not include:
 - (1) Small arms ammunition, including smokeless or black powder when possessed for noncommercial purposes in quantities of five pounds or less.
 - (2) An explosive in a form prescribed by the United States Pharmacopeia.
 - (3) Fireworks subject to regulation under any applicable local, state or federal rule, regulation or law.

FIREWORKS

Any combustible or explosive composition or any substance or combination of substances or articles prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration or detonation.

FLY ROCK

Rock propelled from the blast area by the forces of an explosion.

FUEL

A substance that may react with the oxygen in the air or with the oxygen or other oxidizing material yielded by an oxidizer to produce combustion.

HERTZ

Cycles per second.

HIGH EXPLOSIVE

Any explosive material which can be caused to detonate by means of a blasting cap when unconfined, as, for example, dynamite.

HIGHWAY

Any public street, road, highway, alley or part of a navigable stream which is used as a highway of commerce.

INHABITED BUILDING

A building regularly occupied in whole or in part as a habitation for human beings, or any church, schoolhouse, railroad station, store or other structure occupied in connection with the manufacture, transportation, storage or use of explosives.

INITIATING PRIMER

An explosive cartridge with a detonator or initiating agent inserted therein.

LOW EXPLOSIVE

An explosive material which can be caused to deflagrate when confined, as for example, black powder.

MAGAZINE

Any building, structure or other enclosure or container, other than an explosive manufacturing building, used for the storage of explosives.

MISFIRE

An explosive material charge that fails to detonate after an attempt at initiation.

MOTOR VEHICLE

Any self-propelled vehicle, truck, tractor, semitrailer or truck full trailer used for the transportation of explosives.

NFPA

National Fire Protection Association.

NITROCARBONITRATE

An explosive classified as a blasting agent.

NO. 8 TEST BLASTING CAP

A cap containing two grams of a mixture of 80% mercury fulminate and 20% potassium chlorate or a cap of equivalent strength.

OVERBURDEN

All soil and ancillary material above the bedrock horizon in a given area.

OXIDIZER

A substance such as a nitrate that yields oxygen or other oxidizing substance readily to stimulate the combustion of organic matter or other fuel.

OXIDIZING MATERIAL

An oxidizer.

PEAK PARTICLE VELOCITY

The peak particle velocity recorded on any one of the three mutually perpendicular components of blasting vibrations in the vertical and horizontal directions.

PERMIT

Written authorization issued by the City or other appropriate governmental agency to manufacture, sell, possess, store or use explosives.

PERSON

Any natural person, partnership, firm, association or corporation.

PROPELLANT

Any solid chemical or solid chemical mixture which functions by rapid combustion of successive layers and includes, but is not limited to, smokeless powder for small arms, smokeless powder for cannons, smokeless powder or solid propellant for rockets, jet thrust units or other devices.

ROCK CHIPPING

The mechanized hammering or cutting of bedrock or other similar hardened natural materials for a constant duration for the purposes of removal or reuse on a site.

SEISMOGRAPH

An instrument which records ground vibration by measuring and recording particle velocity, displacement or acceleration in three mutually perpendicular directions.

SEMICONDUCTIVE HOSE

A hose with an electrical resistance high enough to limit flow of stray electric currents to safe levels, yet not so high as to prevent drainage of static electric charges to ground such as those of not more than two megohms resistance over its entire length and not less than 5,000 ohms per foot.

SENSITIVITY

A physical characteristic of an explosive classifying its ability to detonate upon receiving an external impulse such as impact, shock, flame or other influence which can cause explosive decomposition.

SINGLE DELAY

A delay in time of nine milliseconds or more.

SMALL ARMS AMMUNITION

A cartridge for a shotgun, rifle, pistol or revolver and a cartridge for propellant-actuated power devices and industrial guns. Military-type ammunition containing explosive bursting charges or any incendiary, tracer, spotting or pyrotechnic projectile is excluded from this definition.

SMOKELESS PROPELLANT

A solid propellant, commonly called "smokeless powder" in the trade, used in small arms ammunition, cannon, rockets or propellant-actuated power devices.

STEMMING

An inert material placed in a bore hole after the explosive for the purpose of confining explosive materials or to separate charges of explosive material in the same bore hole.

STRAY CURRENT

A flow of electricity outside the conductor which normally carries it.

TESTING DAYS

A day when a school is administering a state or federally mandated test or a day when the school is administering an advanced placement test, PSAT, SAT, ACT, final examinations or other similar tests, as long as the school or district posts on their web site at the beginning of each school year such dates and provides such information at the beginning of the school year to the Building Department.

U.S.C.

United States Code.

USDOT

United States Department of Transportation.

VIBRATION

The energy from a blast that manifests itself in earthborne vibrations which are transmitted through the earth away from the immediate blast area.

WATER GEL

Any of a wide variety of materials used for blasting that contain substantial proportions of water and high proportions of ammonium nitrate, some of which is in solution in the water. Two broad classes of water gels are those which are sensitized by a material classed as an explosive, such as TNT or smokeless powder, and those which contain no ingredient classified as an explosive; these are sensitized with metals such as aluminum or with other fuels. Water gels may be classified as Class A explosives, Class B explosives or blasting agents.

§ 88-5. Permit requirements

- A. No person shall manufacture, sell, possess, store, use or detonate explosives within the City unless a permit has been issued by the Approving Authority.

- B. Permit to manufacture, sell, possess or store. An application for a permit to manufacture, sell, possess or store explosives shall be issued by the Fire Inspector and shall contain the following information, as well as any other information the Fire Inspector deems necessary to ensure public health and safety:
- (1) The applicant's full name, address and telephone number. If the applicant is a corporation, partnership or other business entity, the name of each officer shall be separately stated. If the applicant is an out-of-state corporation, partnership or other business entity, the applicant must submit proof of filing with the New York State Secretary of State to do business in New York. No permit may be issued unless the applicant is authorized to do business in New York.
 - (2) The location where applicant proposes to manufacture, sell, possess or store explosives.
 - (3) A statement as to the purpose and need to manufacture, sell, possess or store explosives.
 - (4) Where the manufacture, sale, possession or storage of explosives is subject to state or federal regulation and licensing, a copy of any state or federal license or permit shall be provided, together with the application for a local permit, unless the use is specifically exempted by §88-3.A, above.
 - (5) The quantity of explosives to be manufactured, sold, possessed or stored.
- C. The application for a permit shall be signed by the applicant. In addition, the applicant shall sign an acknowledgment, under the penalties of perjury, stating that all information provided in the application or in support of the application is true and accurate.
- D. Permit to use or detonate. An application for a permit to use or detonate explosives shall require the following information, as well as any other information the Approving Authority deems necessary to insure public health and safety:
- (1) The applicant's full name and address. If the applicant is a corporation, partnership or other business entity, the name of each officer shall be separately stated. If the applicant is an out-of-state corporation, partnership or other business entity, the applicant must submit proof of filing with the New York State Secretary of State to

do business in New York. No permit may be issued unless the applicant is authorized to do business in New York.

- (2) The name and contact information of a designated, on-site representative who will be present at the location during all blasting and authorized to act on behalf of the applicant for all administrative purposes.
- (3) The name, address and telephone number of the person who will be conducting the blasting, and a copy of the blaster's license to purchase, own, possess, transport and use explosives and a certificate of competence.
- (4) An estimate of how much blasting is anticipated and the type and amount of material to be ignited or discharged. Where more than one blast is anticipated, the applicant shall estimate how many separate blasts are expected and the approximate duration blasting activity will continue. The time, date and location blasting is scheduled to begin..
- (5) The applicant shall provide the City with a plan and location of seismographs. Such plan shall include a minimum of two (2) seismograph.
- (6) A list of all landowners, including name and address, within a seven hundred and fifty (750)-foot radius of the proposed blast site.
- (7) A pre-blast survey of the site, where one inch equals 30 feet in scale, showing all structures within a seven hundred and fifty (750)-foot radius of the proposed blast site, together with a description of each structure within such radius. The applicant shall offer the property owner a video showing each building and structure and any particular features. The Approving Authority may, in the Approving Authority's sole discretion, waive all or any portion of the pre-blast survey depending on the particular characteristics of the site, the surrounding area and the type of blasting proposed. The applicant shall make a copy of the pre-blast survey available to the property owner. Where a pre-blast survey indicates electric transmission lines within seven hundred and fifty (750) feet of a proposed blast site, the Approving Authority or the Approving Authority's representative may require testing to determine the presence and level of errant electrical current in the area. If testing indicates the presence of errant electrical current in the vicinity where explosives are to be detonated at a level sufficient to pose a potential threat to public safety, the Approving Authority may require that any blasting be conducted solely by use of nonelectrical detonation.

- (8) A United States Geologic Survey (USGS) bedrock geology map of the site indicating the anticipated type of bedrock and depth to bedrock.
- E. Based on the application and the pre-blast survey, if any, the Approving Authority shall estimate the cost of monitoring compliance with this chapter and furnish such estimate, together with a basis for Approving Authority's calculation, to the applicant. Before any permit is issued, the estimated cost of inspection services shall be deposited with the City, held in escrow, and applied to reimburse the City for costs and expenses actually incurred in connection with administering compliance with this chapter. Where the estimated amount deposited is insufficient to cover the City's costs, the property owner shall be responsible for any balance due. Where the estimated amount deposited with the City exceeds the costs incurred, the balance shall be refunded.
- F. The application for a permit to use explosives shall be signed by both the applicant and the blaster. In addition, the applicant shall sign an acknowledgment stating, under the penalties of perjury, that all information provided in the application or in support of the application is true and accurate. The blaster shall also sign an acknowledgment stating that the blaster has read the entire application, that in the blaster's opinion blasting at the particular location can be conducted safely, without unreasonable risk, and that, under the penalties of perjury, the blaster's state license is valid, that the blaster is fully authorized to conduct the type of activity set forth in the application and that the blaster agrees to abide by all state and federal safety standards.
- G. A permit to conduct and complete blasting activities shall be effective for a specific project and specific period of time, not to exceed four (4) months. The Approving Authority shall have sole discretion to extend the expiration of the approved permit by not more than four (4) months from the originally approved expiration dated.
- H. Expiration, revocation or cancellation of the blaster's state license shall automatically void any permit issued under this chapter.
- I. No blast shall be initiated at any location within the City unless a written permit to conduct blasting has first been obtained and signed by the City Engineer and Approving Authority authorizing blasting at the specific location.
- J. The Approving Authority may add to any permit issued under this chapter whatever terms and conditions deemed necessary to protect public health, safety and welfare.

- K. No permit holder shall transfer or assign a permit issued under this chapter.
- L. The failure of an applicant to provide any information requested by the Approving Authority in support of an application for a permit shall be grounds to deny an application or revoke a permit.
- M. Each applicant must furnish proof of insurance as set forth in §88-6 herein.
- N. Fees. Notwithstanding any of the provisions of the Fire Code of New York State and the Building Code of New York State, the fee for permits issued under this chapter shall be set by the Approving Authority, subject to approval by City Council resolution. All fees shall be paid at the time of filing an application and prior to any permit being issued.
- O. The Approving Authority may also request the applicant to supply any additional information that may be deemed necessary to protect the health and safety of the public or to prevent damage to property.

§ 88-6. Insurance; statement of indemnification; issuance.

- A. Before any permit is issued pursuant to this chapter, the applicant shall submit proof of insurance by supplying a certificate of insurance, issued by an insurance company authorized to do business in the State of New York, stating that the applicant has insurance coverage in effect for workers' compensation, liability and property damage occurring onsite or to nearby properties, and a specific endorsement stating that coverage includes liability arising from handling or using explosive materials and conducting blasting activity. Insurance coverage shall be not less than \$3,000,000 for general liability, including bodily injury to any one person and, subject to the same limit for each person, not less than \$10,000,000 for any occurrence, plus insurance for property damage occurring onsite or to nearby properties of not less than \$2,000,000. The insurance certificate shall name the City and any of its Agents, Designees and/or Representatives as an additional insured. In addition, the certificate shall contain a statement that the policy or policies covering the insured will not be canceled, terminated or modified by the insurance company unless 30 calendar days' notice is given to the City and such change or modification is mutually agreed to.
- B. The applicant shall also furnish a notarized statement agreeing to indemnify and hold the City and any of its Agents, Designees and/or Representatives harmless from any and all claims, actions and proceedings brought by any person, firm or corporation for any injury to any persons or property resulting, directly or indirectly, from the applicant using, storing,

handling, transporting or manufacturing explosive material or conducting blasting activity and, moreover, stating the applicant will defend and indemnify the City against any action brought by any third parties as a result of operating under a City permit issued under this chapter.

- C. No permit shall be issued unless and until the applicant has complied with these insurance requirements and provided an agreement indemnifying and holding the City harmless for any and all damage and injury.

§ 88-7. Inspection and revocation

- A. Inspection. Because of the compelling and overriding public safety issues involved in the handling and use of explosives, the Approving Authority may inspect any vehicle, structure, dwelling, construction site, workplace or other area where explosives are manufactured, sold, possessed, stored or used within the City for the limited purpose of ascertaining and verifying compliance with this chapter.
- B. Permit revocation. The Approving Authority may, at his sole discretion, revoke or modify a permit issued pursuant to this chapter where it appears the permit holder has violated any local, state or federal rule or regulation, including but not limited to a false statement or representation on the application for a Blasting Permit or violation of any applicable safety standard or where the Approving Authority determines that public safety has been compromised. The Approving Authority may modify or revoke a permit by notifying the permit holder or the Approving Authority's representative, orally or in writing, that the permit has been modified or revoked. Where a permit has been revoked, the Approving Authority shall send a written notice of revocation to the permit holder by first class mail without unnecessary delay, but not later than five business days after revocation, setting forth the reasons the permit was revoked. Where a permit is modified, the Approving Authority shall give the permit holder written notice of the modifications.

§ 88-8. Blasting operations.

- A. No blast shall be initiated at any location within the City limits unless a written permit has first been obtained from the Approving Authority authorizing blasting at the specific location.
- B. Blasting conducted within the City must comply with the terms of the permit and, in addition, all applicable state and federal health and safety standards.

- C. At least five business days prior to the scheduled start of blasting, the permit holder shall request a pre-blast meeting with the Approving Authority to review and finalize the proposed blasting plan. No blasting shall be conducted unless a pre-blast meeting has been held with the Approving Authority and the Approving Authority has approved the proposed blasting plan.
- D. Each Blasting Permit holder shall establish and delineate a blast zone prior to detonating a blast. The blast zone must be clearly marked and adequate precautions implemented to prevent unauthorized entry into the area.
- E. Prior to each blast, the blaster or the blaster's designee shall be responsible for notifying all persons in the general area that blasting operations are scheduled to begin within a specified period of time. In addition, the blaster shall sound a recognized whistle, siren or horn loud enough to be heard throughout the designated blast zone approximately three minutes prior to blasting and again 30 seconds prior to blasting, warning all persons that blasting is imminent.
- F. The Approving Authority shall be permitted access to observe all aspects of the blasting operation, including but not limited to observation of all pre-blast preparatory site work, the explosion/detonation and access to the post-blast site. The property owner shall reimburse the City for the cost of all inspection services, including the cost of retaining an on-site inspector to monitor all aspects of blasting, where the Approving Authority deems such services necessary, by depositing the estimated cost of inspection services in a designated account to be held in escrow by the City and applied to reimburse the City for costs incurred in administering compliance with this chapter. The permit holder and the blaster shall, upon request, make available to the Approving Authority a copy of all seismic readings and any and all other documentation and data collected regarding any blast.
- G. The Blasting Permit holder shall notify the Approving Authority and the Police and Fire Departments of an impending blast at least two hours, but not more than 12 hours, prior to the time each blast is scheduled.
- H. The applicant shall be responsible for any costs incurred by the City in providing police, emergency services or any other personnel deemed necessary to ensure public safety.
- I. Notwithstanding any other regulations, no blasting shall be performed in such manner or under such circumstances as to eject debris into the air so as to constitute a hazard or danger or cause harm to persons or property. Before firing any blast which could cause injury to persons or damage property from fly rock, the material to be blasted shall be properly

covered or screened by a buffer of sufficient mass and strength to prevent, with a margin of safety, the ejection of any material capable of causing any injury or damage.

- J. No person shall use a quantity of explosives greater than necessary to break or move the target material or use an amount of explosives that poses a risk of injury to persons or property.
- K. Unless otherwise permitted by the Approving Authority, all holes drilled or otherwise excavated for holding an explosive charge shall be at least six feet deep. If, however, the permit holder/blaster can demonstrate a need to use a hole less than six feet deep and that such a cavity will not endanger public safety, the Approving Authority or the Approving Authority's designated representative may, in the Approving Authority's discretion, authorize the use of blast holes less than six feet deep.
- L. The blaster shall plan each blast and take every precaution in loading, delaying, initiation, confinement and stemming to control the throw of rock fragments and debris and limit ground vibrations and the effect of air concussions to the greatest extent possible. When blasting is to be conducted within 50 feet or less of a property line and the adjacent property owner is not a party to the blasting operation, the blaster shall take all precautions practicable, utilizing any combination of recognized methods, to control blasting effects to the greatest degree possible.
- M. A record of each blast shall be kept by the blaster on a form approved by the Approving Authority. All such records shall be retained by the permit holder and blaster as prescribed by state law and made available for inspection as a matter of public record.
 - (1) The permit holder shall record the following information for each blast and provide the Approving Authority with a duplicate copy at the end of each day:
 - (a) The name and license number of the blaster.
 - (b) The location of the blast.
 - (c) The date and time of each blast.
 - (d) The number of blasts.
 - (e) The number, diameter and depth of each hole and distance between holes.
 - (f) The burden depth.
 - (g) The stemming length.
 - (h) The make and type of explosives.
 - (i) The delay make, number and period.
 - (j) The weather conditions, including temperature, wind direction and speed.

(2) In addition, the following seismograph information must be recorded for each blast with a duplicate copy provided to the Approving Authority:

- (a) The seismograph serial number.
- (b) The range/gain setting.
- (c) The date of last shake table calibration and microphone calibration.
- (d) The air channel low frequency limit.
- (e) The exact seismograph location and location in relation to the blast.
- (f) The peak over pressure readout.
- (g) The peak particle velocity readout.
- (h) The name of the operator.

N. Where an accident involves personal injury resulting from a blast, the permit holder shall immediately notify the Approving Authority that an accident has occurred, and no further blasting shall be conducted until the Approving Authority has had an opportunity to review the accident report and the permit. Any injury, accident or misfire involving explosives shall be recorded, and a full written report shall be attached to the blast report filed with the Approving Authority, including the names of all participants and witnesses and remedial actions taken. The Approving Authority may require such additional, specific information from the blaster as the Approving Authority deems necessary and appropriate to assure the public health and safety. Following an accident involving personal injury, the Approving Authority may amend the permit by adding whatever additional restrictions are deemed necessary to assure public health and safety is maintained and another similar accident does not reoccur.

O. At no time shall a single blast greater than 2,500 pounds of total explosives or a charge exceeding 50 pounds per delay period or interval be detonated within the City of Rye.

P. No new/additional Blasting Permit shall be issued for the same subject property for 18 months from the date of any previously issued permit.

§ 88-9. Vibration and concussion standards

A. The maximum allowable concussion or air blast resulting from blast operations shall not exceed 130 decibels peak, measured at a flat frequency response (PMS two decibels) over the range of at least six to 200 hertz.

B. When blasting is of a continuing nature, 124 to 130 decibels shall be the acceptable range.

- C. The US Bureau of Mines Safe Vibration Criteria, with an upper allowable limit of 1.25PPV will be the governing standard. Charts plotting both the Peak Particle Velocity (in/s) and Peak Frequency (Hz) must be provided after each and every blast. The Approving Authority shall have the authority to set an upper allowable limit less than the governing standard if it is determined that nearby structures or natural features could be compromised at the governing standard. An upper allowable limit of 0.5PPV could be expected within residential areas.
- D. The permit holder shall report each blast exceeding acceptable parameters to the Approving Authority within 24 hours. Following a blast exceeding acceptable parameters, the Approving Authority shall have the authority to order blasting operations to be suspended, altered or stopped.

88-10. Hours blasting is allowed and Permit Conditions.

- A. No person shall engage in blasting operations within the City of Rye after the hour of 3:30 p.m. or before 9:00 a.m. on weekdays or at any time on Saturday and Sunday; or on any of the following holidays and time periods: New Year's Day, Presidents' Day, Martin Luther King Jr. Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Yom Kippur, Thanksgiving Day through Thanksgiving weekend and Christmas Day through New Year's Day except under authority of a special permit issued by the City Manager. In addition, blasting will be prohibited within seven hundred and fifty (750) feet of a school on testing days.
- B. Except as provided by § 88-17, no Rock Excavation Permit or new/additional Blasting Permit shall be issued for the same subject property for eighteen (18) months as measured from the expiration date any previously issued Blasting Permit.
- C. Except as provided by § 88-17, no Rock Excavation Permit or Blasting Permit shall be issued for a property that is located within a seven hundred and fifty (750)foot radius of another property that has received a Rock Excavation Permit or Blasting Permit for such activities for at least sixty (60) days as measured from the last day of the other property's permitted blasting or mechanical rock removal.

§ 88-11. Notice of intent to blast; posting.

- A. Any individual who intends to engage in blasting on any property in the City of Rye shall submit its application for a Blasting Permit to the Approving Authority at least twenty-one (21) calendar days prior to the commencement of such blasting. Upon approval of the Blasting Permit the Approving Authority shall post the following information on the City's website at least seven (7) calendar days prior to the commencement of any blasting: 1) the property address; 2) earliest commencement date; and 3) the four (4) month expiration date of the Blasting Permit.
- (1) In addition to notifying the City as required above, the individual must also notify the neighbors in writing of the intent to blast. The applicant shall prepare a notification list, using the most current City of Rye Tax Maps and Tax Assessment Roll, showing the Tax Map sheet, block and lot number, the owner's name and owner's mailing address for each property located wholly or partially within seven-hundred and fifty (750) feet of the subject property. If a property on the public notification list is also listed as a cooperative or an apartment, the notice shall only be mailed to the property owner of record. These mailing requirements must be performed in accordance with the following requirements:
- (a) The notice shall be mailed to all property owners by regular United States mail at a post office or official depository of the Postal Service at least twenty-eight (28) calendar days prior to the commencement of mechanical rock excavation.
- (b) The individual must provide a copy of the certificate of mailing to the Approving Authority prior to the commencement of any mechanical rock excavation.
- B. The Approving Authority may also require that the notice of intent to blast be posted on each building or dwelling in a conspicuous place where it is reasonable to believe that persons entering or leaving the premises will see such notification.
- C. In the case of multi-occupancy structures, residential and commercial, located within seven hundred and fifty (750) feet of the blast site, the notice of intent to blast shall be conspicuously and continuously posted at all commonly used entrances to the structure at least twenty-eight (28) calendar days prior to blasting. It shall be the blaster's responsibility to ensure that notice is unobstructed and remains posted at the structure.

§ 88-12. Application responsible for costs

Any person applying to use explosives to demolish any structure must agree to assume the cost of any engineering analysis, public safety survey, environmental review or other technical study deemed necessary by the Approving Authority to determine if and how blasting or rock chipping can be conducted safely.

§ 88-13. Rules and regulations.

The Approving Authority may supplement this chapter by promulgating whatever additional rules and regulations are deemed necessary or desirable to protect the public health, safety and welfare. A copy of all supplemental rules and regulations promulgated under this section are to be provided with each application for a permit and posted on the City's Web site.

§ 88-14. Penalties for offenses; enforcement.

- A. Any person, including any owner or agent or corporation, who shall violate any of the provisions of this chapter or fail to comply with any provision shall, following conviction, be guilty of a misdemeanor.
- B. The first violation shall be punishable by a fine not to exceed \$5,000 and subject to a period of incarceration not to exceed 20 days.
- C. A second and each subsequent offense shall be punishable by a fine not to exceed \$10,000 and subject to a period of incarceration not to exceed 40 days.
- D. Any person, including any owner or agent or corporation, who supplies false information to the Approving Authority in support of a Blasting Permit shall, upon conviction, be guilty of a misdemeanor and subject to a fine not to exceed \$5,000 and subject to a period of incarceration not to exceed 20 days.
- E. The provisions of this chapter may be enforced by either the Approving Authority or the City Police.

Article II, *Mechanical Rock Excavation*

§ 88-15. Definitions for Mechanical Rock Excavation

Whenever used in this Article, the following terms shall have the meanings indicated:

BLASTING PERMIT

A permit issued by the Approving Authority for blasting activities at a single blasting site.

MECHANICAL ROCK EXCAVATION

The removal of rock with the use of a mechanical hammer or other mechanical device, including but not limited to such activities as rock chipping, drilling or boring holes in rock, the use of expansive grout to break up rock, hydraulic rock splitting or similar activity utilizing machinery for the purposes of extracting rock from land.

ROCK EXCAVATION PERMIT

A permit issued for rock excavation on a subject property by the Building Department.

SUBJECT PROPERTY

The lot for which a mechanical rock excavation permit is issued.

TESTING DAYS

A day when a school is administering a state or federally mandated test or a day when the school is administering an advanced placement test, PSAT, SAT, ACT, final examinations or other similar tests, as long as the school or district posts on their web site at the beginning of each school year such dates and provides such information at the beginning of the school year to the Building Department.

UNEXPECTED CIRCUMSTANCES

Circumstances unforeseen by the property owner including significant and documented mechanical failure of a machine, severe inclement weather, such as a hurricane or earthquake, global pandemic (except for pre-existing governmental regulations and restrictions relating to a pre-existing pandemic), act of God, act of war, terrorism, riot or other civil disorders.

§ 88-16. Mechanical Rock Excavation Permit

- A. No mechanical rock excavation may take place unless a Rock Excavation Permit is obtained. All permits shall identify the purpose for which the rock excavation permit is being issued, the owner of the subject property, including any partners of any limited liability company, and the permitted duration of the rock excavation. The application for a rock excavation permit shall include a certification by the property owner that the property owner has determined that any mechanical rock excavation can be completed within the period in Subsection A(1) below.

- (1) Mechanical rock excavation shall be restricted to fifteen (15) consecutive calendar days.
 - (2) No new/additional Rock Excavation Permit or Blasting Permit shall be issued for the same subject property for eighteen (18) months as measured from the date any previously issued Rock Excavation or Blasting Permit expires.
 - (3) No Rock Excavation Permit or Blasting Permit shall be issued for a property that is located within a seven hundred and fifty (750)-foot radius of another property that has received a permit for such activities for at least sixty (60) days as measured from the last day of the other property's permitted mechanical rock removal or expiration of permitted blasting activities.
- B. No Rock Excavation Permit shall be issued unless the applicant has a dust mitigation plan approved by the Building Department. Such dust mitigation plan shall incorporate the best dust control practices including, but not limited to, a water spray system (air suppression or surface wetting). All dust mitigation plans shall include measures to control water runoff as a result of any water spray or wetting program.
- (1) Trucks and other vehicles used to transport particulate matter shall be covered and any particulate matter kept on site shall be sufficiently wetted or stored to prevent particulate matter from becoming airborne.
 - (2) Portable hand water sprinklers or hose sprinklers are acceptable means of wetting for dust control. The water sprays or jets shall be designed to break the water stream into small droplets or otherwise to provide effective wetting.
 - (3) Suitable drainage means shall be provided for the removal of water and sludge which drains from the operation.
 - (4) Soil or debris piles shall be moistened if dust is being emitted from the piles due to prevailing winds and not from a momentary gust. Adequately secured tarps, plastic or other material may be required by the Building Department to further reduce dust emissions.
- C. Any individual who intends to engage in mechanical rock excavation on any property in the City of Rye shall submit its application for a Rock Excavation Permit to the City Building Department at least twenty-one (21) calendar days prior to the commencement of

mechanical rock excavation. Upon approval of the Rock Excavation Permit the City Building Department shall post the following information on the City's website at least seven (7) calendar days prior to the commencement of any mechanical rock removal: 1) the property address; 2) earliest commencement date; and 3) when the fifteen (15) consecutive day period ceases.

(1) In addition to notifying the City as required above, the individual must also notify the neighbors by sending out a public notification prepared by the Building Department. The applicant shall prepare a notification list, using the most current City of Rye Tax Maps and Tax Assessment Roll, showing the Tax Map sheet, block and lot number, the owner's name and owner's mailing address for each property located wholly or partially within seven-hundred and fifty (750) feet of the subject property. If a property on the public notification list is also listed as a cooperative or an apartment, the notice shall only be mailed to the property owner of record. These mailing requirements must be performed in accordance with the following requirements:

(a) The mailing shall be limited solely to the public notice provided by the City Building Department.

(b) The notice shall be mailed to all property owners by regular United States mail at a post office or official depository of the Postal Service at least twenty-eight (28) calendar days prior to the commencement of mechanical rock excavation.

(c) The individual must provide a copy of the certificate of mailing to the City Building Department prior to the commencement of any mechanical rock excavation.

D. No person shall engage in mechanical rock excavation, as defined in §88-15 within the City of Rye before the hour of 9:00 a.m. or after 3:30 p.m. on weekdays or at any time on Saturday and Sunday; or on any of the following holidays and time periods: New Year's Day, Presidents' Day, Martin Luther King Jr. Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Yom Kippur, Thanksgiving Day through Thanksgiving weekend and Christmas Day through New Year's Day except under authority of a special permit issued by the City Manager. In addition, mechanical rock removal, including mechanical rock excavation will be prohibited within seven hundred and fifty (750) feet of a school on testing days.

- E. No person performing mechanical rock excavation shall have more than two (2) mechanical hammers operating on the subject property at the same time. Rock crushing shall not be permitted on the subject property.

- F. A property owner who has properly applied for and received a Rock Excavation Permit and has otherwise complied with the provisions of this chapter, may apply to the City Manager for an additional, one-time three (3)-consecutive-calendar-day waiver in addition to the fifteen (15) days above, subject to all the other restrictions contained herein. The property owner shall have the burden of demonstrating to the City Manager that a waiver is warranted due to Unexpected Circumstances as defined in § 88-17. The City Manager, at his/her sole discretion, may grant or deny the waiver. In making his/her determination, the City Manager may request documentation supporting Unexpected Circumstances, including a certification that the Unexpected Circumstances prevented the completion of mechanical rock excavation during this period. If the waiver is granted the period will be listed on the City website. No waiver shall be granted if the property owner has been found in violation of any provision of this Chapter.

§ 88-17 Penalties for offenses.

In the event an activity is not being performed in accordance with this article, the owner of the property or the owner's agent or the person performing such violation shall be notified to suspend all work, and any such persons shall forthwith stop such work and suspend all activities. Any person who violates any provision of this article shall be guilty of an offense and shall, upon conviction thereof, be subject to a fine of not more than \$1,000, an order to suspend mechanical rock excavation on the site for a period of not more than 72 hours, or by imprisonment not exceeding 15 days, or any combination of such fine, suspension, and imprisonment, and each day that such violation shall continue shall be construed as a separate offense. Upon any subsequent conviction for the same offense such person shall be subject to a fine of not more than \$2,000, or an order to suspend mechanical rock excavation on the site for a period of not more than 72 hours, or by imprisonment not exceeding 15 days, or any combination of such fine, suspension and imprisonment. The imposition of one penalty for any violation shall not excuse or remedy such violations.

§ 88-18 Exempted Acts.

The following activities and agencies are exempt from the requirements of this article and shall be exempt from § 88-16(A) and C above:

- A. The actions of, or at the direction of, governmental agencies, including the Rye City School District and the Rye Neck Union Free School District, shall be specifically exempt from the requirements of this chapter.
- B. Removal of rock for the sole purpose of the installation of gas or electrical service, and the installation of water or sewer service, Any property owner seeking to utilize this exemption must certify in writing that the rock removal is solely for this purpose, and must provide at least 24 hours' notice to the City of same.- Removal of rock for these purposes must be accomplished in no more than two (2) – three (3) consecutive calendar day periods (a total of 6 days). Upon such notice(s), the activity will be listed on the City website.
- C Removal of rock for the sole purpose of stormwater drainage provided that the subject property has not received a rock excavation permit or Blasting Permit within the last 18 months. Any property owner seeking to utilize this exemption for stormwater drainage must certify in writing that the rock removal is solely for this purpose and that the subject property has not received a Rock Excavation Permit within the last 18 months and must provide at least 24 hours' notice to the City of same.- Removal of rock for the purpose of stormwater drainage shall be accomplished in no more than two (2) – three (3) consecutive calendar day periods (a total of 6 days). Upon such notice(s), the activity will be listed on the City website.
- D. Blasting and drilling activities related to permitted blasting activities. Those activities shall be regulated by Article I of this Chapter.
- E. The actions of utility providers, State, County or City governments or their contractors.
- F. Drilling activities in connection with the installation of geothermal systems.
- G. Drilling or boring for no more than 2 consecutive calendar days for the purposes of conducting geotechnical investigations or other similar exploratory sub-surface testing in connection with a potential application for a Rock Excavation Permit.
- H. Hammering or drilling activities solely to accomplish removal of man-made structures such as concrete structures, roadways, driveways, or buildings.
- I. Hammering, rock chipping or drilling activities within eighteen (18) months of a previously issued Blasting Permit shall be permitted for not more than three (3) consecutive calendar days. Any property owner seeking to utilize this exemption must notify the City in advance so that at least 24 hours of notice of the activity can be listed on the City website.

Section 3. Section 133-8, “Permit required; construction work, mechanical rock removal and blasting restrictions”, shall be repealed and replaced with the following section:

§ 133-8. Construction work prohibited at certain hours and on certain days.

- A. No person shall engage in construction work earlier than 8:00 a.m. or later than 6:00 p.m. on weekdays; earlier than 10:00 a.m. or later than 5:00 p.m., prevailing time, on Saturdays; or at any hour on Sundays or any of the following holidays: New Year's Day, Presidents' Day, Martin Luther King Jr. Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Yom Kippur, Thanksgiving Day, Christmas Day and New Year's Day.
- B. Notwithstanding any provision of § 133-8.A to the contrary, an individual may perform construction work him/herself on property on which such individual then resides as follows:
 - (1) Weekdays, between 7:30 a.m. and 8:00 p.m.
 - (2) Saturdays and Sundays (including holidays), between the hours of 10:00 a.m. and 8:00 p.m.
- C. Blasting and rock chipping activities shall be restricted pursuant to Chapter 88, *Explosives, Blasting and Mechanical Rock Excavation* and shall not be subject to the provisions of Chapter 133, *Noise*.

Section 4. Section 133-9, Penalties for offenses, shall be amended as follows:

§ 133-9. Penalties for offenses.

In the event an activity is not being performed in accordance with this chapter, the owner of the property or the owner's agent or the person performing such violation shall be notified to suspend all work, and any such persons shall forthwith stop such work and suspend all activities. Any person who violates any provision of this chapter shall be guilty of an offense and shall, upon conviction thereof, be subject to a fine of not more than \$250 or imprisonment for a term of not more than 15 days, or both, except that violations under § 133-8, Construction work prohibited at certain hours and on certain days, shall be treated as individual violations and for each and every such violation and noncompliance, respectively, thereof, shall be punished upon such first conviction by a fine of not more than \$1,000, an order to suspend mechanical rock excavation on the site for a period of not more than 72 hours, or by imprisonment not exceeding 15 days, or any combination of such fine, suspension, and imprisonment, and each day that such violation shall

continue shall be construed as a separate offense. Upon any subsequent conviction for the same offense such person shall be subject to a fine of not more than \$2,000, or an order to suspend mechanical rock excavation on the site for a period of not more than 72 hours, or by imprisonment not exceeding 15 days, or any combination of such fine, suspension and imprisonment. The imposition of one penalty for any violation shall not excuse or remedy such violations.

Section 5. Section 133-10, Exempt acts, paragraph B is hereby repealed

Section 6. Severability

The invalidity of any word, section, clause, paragraph, sentence, part or provision of this Local Law shall not affect the validity of any other part of this Local Law that can be given effect without such invalid part or parts.

Section 7. Effective Date

This Local Law shall take effect immediately upon its adoption and filing with the Secretary of State.

Short Environmental Assessment Form

Part 1 - Project Information

Instructions for Completing

Part 1 – Project Information. The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

Part 1 – Project and Sponsor Information				
Name of Action or Project: Adoption of a Local Law Regarding Explosives, Blasting and Mechanical Rock Excavation				
Project Location (describe, and attach a location map): City of Rye, New York				
Brief Description of Proposed Action: The proposed action involves the adoption of a new local law that modifies and codifies existing requirements for explosives, blasting and mechanical rock removal in the City. Please see the attached narrative for a more detailed description.				
Name of Applicant or Sponsor: Rye City Council		Telephone: 914-967-7404 E-Mail: manager@ryeny.gov		
Address: 1051 Boston Post Road				
City/PO: Rye		State: NY	Zip Code: 10580	
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.			NO <input type="checkbox"/>	YES <input checked="" type="checkbox"/>
2. Does the proposed action require a permit, approval or funding from any other government Agency? If Yes, list agency(s) name and permit or approval:			NO <input type="checkbox"/>	YES <input type="checkbox"/>
3. a. Total acreage of the site of the proposed action? _____ acres b. Total acreage to be physically disturbed? _____ acres c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? _____ acres				
4. Check all land uses that occur on, are adjoining or near the proposed action: <input type="checkbox"/> Urban <input type="checkbox"/> Rural (non-agriculture) <input type="checkbox"/> Industrial <input type="checkbox"/> Commercial <input type="checkbox"/> Residential (suburban) <input type="checkbox"/> Forest <input type="checkbox"/> Agriculture <input type="checkbox"/> Aquatic <input type="checkbox"/> Other(Specify): <input type="checkbox"/> Parkland				

5. Is the proposed action,	NO	YES	N/A
a. A permitted use under the zoning regulations?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Consistent with the adopted comprehensive plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?	NO <input type="checkbox"/>	YES <input type="checkbox"/>	
7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area? If Yes, identify: _____	NO <input type="checkbox"/>	YES <input type="checkbox"/>	
8. a. Will the proposed action result in a substantial increase in traffic above present levels? b. Are public transportation services available at or near the site of the proposed action? c. Are any pedestrian accommodations or bicycle routes available on or near the site of the proposed action?	NO <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	YES <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	
9. Does the proposed action meet or exceed the state energy code requirements? If the proposed action will exceed requirements, describe design features and technologies: _____ _____	NO <input type="checkbox"/>	YES <input type="checkbox"/>	
10. Will the proposed action connect to an existing public/private water supply? If No, describe method for providing potable water: _____ _____	NO <input type="checkbox"/>	YES <input type="checkbox"/>	
11. Will the proposed action connect to existing wastewater utilities? If No, describe method for providing wastewater treatment: _____ _____	NO <input type="checkbox"/>	YES <input type="checkbox"/>	
12. a. Does the project site contain, or is it substantially contiguous to, a building, archaeological site, or district which is listed on the National or State Register of Historic Places, or that has been determined by the Commissioner of the NYS Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places? b. Is the project site, or any portion of it, located in or adjacent to an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory?	NO <input type="checkbox"/> <input type="checkbox"/>	YES <input type="checkbox"/> <input type="checkbox"/>	
13. a. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, state or local agency? b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody? If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: _____ _____ _____	NO <input type="checkbox"/> <input type="checkbox"/>	YES <input type="checkbox"/> <input type="checkbox"/>	

14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply: <input type="checkbox"/> Shoreline <input type="checkbox"/> Forest <input type="checkbox"/> Agricultural/grasslands <input type="checkbox"/> Early mid-successional <input type="checkbox"/> Wetland <input type="checkbox"/> Urban <input type="checkbox"/> Suburban		
15. Does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered?	NO	YES
	<input type="checkbox"/>	<input type="checkbox"/>
16. Is the project site located in the 100-year flood plan?	NO	YES
	<input type="checkbox"/>	<input type="checkbox"/>
17. Will the proposed action create storm water discharge, either from point or non-point sources? If Yes, a. Will storm water discharges flow to adjacent properties? b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)? If Yes, briefly describe: _____ _____	NO	YES
	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>
18. Does the proposed action include construction or other activities that would result in the impoundment of water or other liquids (e.g., retention pond, waste lagoon, dam)? If Yes, explain the purpose and size of the impoundment: _____ _____	NO	YES
	<input type="checkbox"/>	<input type="checkbox"/>
19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility? If Yes, describe: _____ _____	NO	YES
	<input type="checkbox"/>	<input type="checkbox"/>
20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste? If Yes, describe: _____ _____	NO	YES
	<input type="checkbox"/>	<input type="checkbox"/>
I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE Applicant/sponsor/name: <u>Christian K. Miller</u> Date: <u>November 21, 2022</u> Signature: _____ Title: <u>City Planner</u>		

Project:

Date:

Short Environmental Assessment Form

Part 2 - Impact Assessment

Part 2 is to be completed by the Lead Agency.

Answer all of the following questions in Part 2 using the information contained in Part 1 and other materials submitted by the project sponsor or otherwise available to the reviewer. When answering the questions the reviewer should be guided by the concept “Have my responses been reasonable considering the scale and context of the proposed action?”

	No, or small impact may occur	Moderate to large impact may occur
1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2. Will the proposed action result in a change in the use or intensity of use of land?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3. Will the proposed action impair the character or quality of the existing community?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
7. Will the proposed action impact existing:		
a. public / private water supplies?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. public / private wastewater treatment utilities?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
11. Will the proposed action create a hazard to environmental resources or human health?	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Project:

Date:

Short Environmental Assessment Form Part 3 Determination of Significance

For every question in Part 2 that was answered “moderate to large impact may occur”, or if there is a need to explain why a particular element of the proposed action may or will not result in a significant adverse environmental impact, please complete Part 3. Part 3 should, in sufficient detail, identify the impact, including any measures or design elements that have been included by the project sponsor to avoid or reduce impacts. Part 3 should also explain how the lead agency determined that the impact may or will not be significant. Each potential impact should be assessed considering its setting, probability of occurring, duration, irreversibility, geographic scope and magnitude. Also consider the potential for short-term, long-term and cumulative impacts.

<input type="checkbox"/> Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action may result in one or more potentially large or significant adverse impacts and an environmental impact statement is required.	
<input checked="" type="checkbox"/> Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action will not result in any significant adverse environmental impacts.	
Rye City Council	November 21, 2022
Name of Lead Agency	Date
Josh Cohn	Mayor
Print or Type Name of Responsible Officer in Lead Agency	Title of Responsible Officer
Signature of Responsible Officer in Lead Agency	Signature of Preparer (if different from Responsible Officer)

ATTACHMENT

Short Environmental Assessment Form Part 2 - Narrative

Description of Proposed Changes to City of Rye Blasting, Rock Removal and Construction Hour Laws

The proposed action involves the adoption of a new local law to implement new and updated regulations and requirements for the use, storage and transportation of explosives and blasting in the City of Rye. The proposed local law repeals the City's existing blasting law in Chapter 98, Article VII, *Explosives*, which has become outdated and not reflective of current blasting standards and the actual administrative practices and blasting permit conditions required by the City. More specifically, the proposed local law provides new technical definitions, codifies current administrative requirements for pre-blast surveys, increases insurance coverage requirements for blasters, codifies current administrative requirements for blasting operations, establishes maximum blasting decibel limits, codifies and lowers current administrative requirements for maximum peak particle velocity, codifies blasting notice requirements and codifies enforcement provisions and increases fines and penalties.

The proposed local law also incorporates the City's rock chipping requirements into the new Chapter 88, *Explosives, Blasting and Mechanical Rock Excavation*, and removes the existing rock chipping requirements from Chapter 133, *Noise*, of the City Code. There are number of substantive changes proposed to the rock chipping and drilling regulations including new or modified restrictions on the maximum permitted number of chipping days, types of exempted rock excavation activities, changes in the notice requirements, restrictions on rock removal activities within proximity of other permitted rock removal activities and modification of the definition of "unexpected circumstances".

Finally, the proposed local law reduces the permitted weekday construction hours from 7:30 AM to 6:30 PM to 8:00 AM to 6:00 PM.

The following provides a more detailed description of substantive changes to existing laws:

Blasting

- Existing law regarding Explosives (Chapter 98) is repealed and a new law is proposed largely consistent with City's non-codified practices and procedures.
- Blasting is currently administered by the Building Department with sign-offs other Departments. Current law has the City Manager and Fire Inspector responsible for issuing blasting permits. The proposed local law authorizes the City Manager to designate the Building Inspector, Fire Inspector and/or Public Safety Commissioner as the approval, administration and/or enforcement authority for the issuance of blasting permits.

- Blasting is not subject to the noise provisions of Chapter 133, though the new blasting law has a maximum decibel standard.
- In order to prevent potentially risky or aggressive blasting practices, blasting is no longer subject to a limit 38-day limit. Under the proposed law a blasting permit must be completed within four months of issuance. A one, four-month extension is permitted.
- Notification distances from a property seeking a Blasting Permit are increased from 500 feet to 750 feet. Notice of rock blasting must be sent to neighbors 28 days in advance of a permit issuance and must be noticed on the City website at least 7 days before blasting can begin.
- Restrictions on permitted blasting times of day, days of week, holidays and school testing days remain unchanged, except that the restricted area for school testing days has increased from 500 to 750 feet.
- No new Blasting or Rock Excavation Permit can be issued on a property within 18 months of the expiration of a previously issued permit.
- No Rock Excavation Permit or Blasting Permit shall be issued for a property that is located within a seven hundred and fifty 750-foot radius of another property that has received a mechanical rock removal permit or blasting permit for such activities for at least sixty (60) days as measured from the last day of the other property's permitted blasting or mechanical rock removal.
- Insurance requirements have been increased from existing practice and codified, where no such requirements currently exist in the City Code.
- Maximum limits on peak particle velocity (i.e. measurement of vibration) have been codified and lowered from City's prior practice. No such limits currently exist in the City Code.
- Maximum blasting decibel limits have been codified, where no such standard currently exist in the City Code.
- Penalties for offenses and enforcement provisions have been codified, where none currently exist in the City Code.

Mechanical Rock Removal

- The definition of "mechanical rock excavation" is modified to include all forms of rock excavation activities including rock hammering, drilling, boring, expansive grout,

hydraulic rock splitting or other similar machinery. Under the current law drilling, expansive grout and hydraulic rock splitting are exempt from the rock removal law.

- The definition of “Unexpected Circumstances” is modified to specify the types of inclement weather or events that constitute an unexpected circumstance. The revised definition also requires that mechanical failure must be documented.
- The maximum permitted period of mechanical rock excavation is reduced from 38 consecutive calendar days to 15 consecutive calendar days.
- Restrictions on permitted rock removal times of day, days of week, holidays and school testing days remain unchanged, except that the restricted area for school testing days has increased from 500 to 750 feet.
- No Rock Excavation Permit or Blasting Permit shall be issued for a property that is located within a seven hundred and fifty 750-foot radius of another property that has received a Rock Excavation Permit or Blasting Permit for such activities for at least sixty (60) days as measured from the last day of the other property’s permitted blasting or rock removal.
- Notification distances from a property seeking a Rock Excavation Permit are increased from 500 feet to 750 feet. Notice of rock excavation must be sent to neighbors 28 days in advance of a permit issuance and must be noticed on the City website at least 7 days before blasting can begin.
- Unlimited rock removal activities related to required stormwater measures or utility connections has been eliminated. Under the proposed law stormwater measures are required to be completed as part of a 15-day rock removal permit or blasting permit.
- Modified the current regulations to limit chipping activities for utility connections to two, three consecutive calendar day periods. Currently, chipping for utilities has no limitation on the number of days.
- Modified the exempted activities to include utility providers, State, County or City governments or their contractors.
- Added a regulation that drilling activities in connection with the installation of geothermal systems are exempt from the rock removal requirements.
- Added a regulation that drilling or boring for the purposes of conducting geotechnical investigations are exempt from the rock removal requirements, but shall be limited to not more than two consecutive days.
- Added regulation that the installation of stormwater measures where no prior rock removal permit has been issued for a property in the last 18 months are exempt from the rock removal requirements, but are limited to two, three consecutive calendar day periods.

- Added a regulation that hammering, chipping or drilling within 18 months of a previously issued blasting permit is permitted, but shall be limited to not more than three consecutive calendar days.

Construction Hours

- Weekday construction hours are reduced by one hour. Current permitted weekday construction hours are changed from 7:30 AM to 6:30 PM to 8:00 AM to 6:00 PM.



CITY COUNCIL AGENDA

DEPT.: City Council

DATE: November 21, 2022

CONTACT: Mayor Josh Cohn

AGENDA ITEM: Appointment of Judge Valerie A. Livingston to City Court Judge (full-time), by the Mayor with Council approval, for a ten-year term expiring January 1, 2033 upon the retirement of City Court Judge Joseph Latwin on December 31, 2022.

FOR THE MEETING OF:

November 30, 2022

RECOMMENDATION: that the following resolution be adopted:

RESOLVED, that Judge Valerie A. Livingston be appointed a Rye City Court Judge (Full Time) for a ten-year term commencing January 1, 2023 and expiring January 1, 2033.

IMPACT: Environmental Fiscal Neighborhood Other:

BACKGROUND:



CITY COUNCIL AGENDA

DEPT.: City Manager

DATE: September 30, 2022

CONTACT: Greg Usry, City Manager

AGENDA ITEM: Open a public hearing to consider an application from Airosmith Development, engaged by AT&T to modify an existing facility located at 66 Milton Rd. that does not substantially change the physical dimensions of the current facility.

FOR THE MEETING OF:

November 30, 2022

RECOMMENDATION: That the Council open the public hearing.

IMPACT: Environmental Fiscal Neighborhood Other:

BACKGROUND:

All wireless telecommunications facilities within the City must comply with Chapter 196 "Wireless Telecommunications Facilities" of the City Code and all other applicable law and regulations. All wireless telecommunications facilities (including modifications), or construction, modification or replacement of support structures in connection with the installation of wireless telecommunications facilities must be permitted by a special use permit, special exception permit or eligible facility permit. Before the Council considers this application, the Council shall refer it to the Board of Architectural Review for and advisory opinion.

See attached and with further application details here: <https://ryeny.sharefile.com/>



BY FEDEX

September 21, 2022

City of Rye
1051 Boston Post Rd
Rye, NY 10580

Re: Telecommunications Special Permit Application/Building Permit Application – Modification of Existing Wireless Facility
AT&T Cell Site – FA # 10105111
Site Address: 66 Milton Rd, Rye, NY 10580

To Sir or Madam,

Airosmith Development is engaged by AT&T to assist in the planned minor modification of the existing wireless facility (“Facility”) at 66 Milton Rd, Rye, NY 10580 (the “Site”). AT&T is submitting a building permit application as an eligible facility under Section 6409(a) of the federal Middle Class Tax Relief and Job Creation Act of 2012 for modifications of the Site.

AT&T’s modifications to this existing telecommunications facility are necessary to provide enhanced services to this area of the City of Rye and meet the increased demand for reliable high-speed data in this area.

The Federal Communications Commission (“FCC”), which has interpretative authority in this field of federal law, adopted rules to clarify and implement the requirements of Section 6409(a) (the “2014 FCC Order”). As established by the FCC, an eligible facility that does not cause a substantial change to the physical dimensions of the existing facility requires a shortened review period, in this case 45 days, and applications not processed in this timeframe are automatically deemed granted.

AT&T’s proposal constitutes “collocation” as it involves the replacement of existing equipment on an existing structure that currently supports the existing facilities of AT&T. Similarly, this proposal does not increase the height of the facility in any way, does not protrude from the building (base station) structure by more than six (6) feet, and does not conflict with any approval conditions or compromise any concealment elements of the existing wireless facility. As such, the proposed upgrades are not a substantial change, and are in compliance with the requirements of 6409(a)

In support of this request, please find the following:

1. Completed Telecommunications Special Permit Application.
2. Completed Building Permit Application
3. Five (5) sets of Drawings prepared by Airosmith Engineering dated September 01, 2022
4. Five (5) Mount Analysis reports prepared by Airosmith Engineering dated September 01, 2022
5. Check for \$5,000.00
6. Check for \$3,000.00
7. Check for \$200.00

32 Clinton Street, Saratoga Springs, NY 12866
Office 518-306-1733 – Fax 518-306-1711
www.airosmithdevelopment.com





8. Lease agreement
9. AT&T LOA
10. Previous Building Permit (permit # P0512521)
11. COI
12. Short Environmental Form

We request the enclosed building permit application be reviewed and approved for the proposed minor modifications to the existing AT&T Site.

Once approved, please me with the Permit fee amount, so I can have a check issued for the same. If you require anything further, please do not hesitate to contact me at (732) 503-0869.

Thank you for your consideration of the enclosed materials.

Sincerely,

Michelle Curry
Site Acquisition Specialist II
Airosmith Development
318 West Ave.
Saratoga Springs, NY 12866
(732) 503-0869 Cell
mcurry@airosmithdevelopment.com



LETTER OF AUTHORIZATION

Date: July 10, 2018

RE: New Cingular Wireless PCS, LLC ("AT&T Mobility")
Letter of Agency
Airosmith Development

To Whom It May Concern:

On behalf of AT&T Mobility, this Letter of Agency provides written approval that Airosmith Development, its agents, employees and contractors are authorized to work on behalf of AT&T. Such work may include but is not limited to, negotiating leases with potential site owners and applying for all necessary permits or any other approvals, including, but not limited to the filing of building permit applications which are necessary for the erection of a wireless telecommunications facility.

Thank you,

Signed

Robert Minnick

Robert Minnick
Construction & Engineering
AT&T Mobility UNY

cc: Jon Terry – Airosmith Development



Building Permit Application

City of Rye, New York Building Department

1051 Boston Post Road, Rye, New York 10580

Building@ryeny.gov

(914) 967-7372

www.ryeny.gov

Permit Type (Check Applicable Box):

One- and Two-Family:		Other:	
<input type="checkbox"/>	New Construction	<input type="checkbox"/>	Interior Building*
<input type="checkbox"/>	Addition/Alteration	<input type="checkbox"/>	Modification of Approved Permit/Plans
Multi-Family and Commercial:		<input type="checkbox"/>	Extension of Approved Building Permit*
<input type="checkbox"/>	New Construction	<input type="checkbox"/>	Re-roofing**
<input type="checkbox"/>	Addition/Alteration	Value of Improvement:	
<input type="checkbox"/>	Change of Tenant Occupancy**	\$	20,000
<input type="checkbox"/>	Temporary Tent**		

* Complete Sections A thru H only., **Complete Sections A, B, C, D, E and H only

A. Property Information:

Street Address: 66 Milton Rd

Property Area (Acres): _____

Tax Map Designation: Sheet: _____ Block: 1 Lot(s): 73

Sheet: _____ Block: _____ Lot(s): _____

Zoning District: RA-3

Current Use: _____

Proposed Use: _____

Flood Insurance Zone: Select FEMA Flood Zone: _____ Elevation: Select FEMA Flood Elevation: _____

Prior Bldg. Permit No. PO512521 *Required for Modifications and Extensions only*

B. Architect/Engineer/Applicant Representative:

Name: New Cingular Wireless PCS, LLC (AT&T)

Address: 340 Mt Kemble Ave

City: Morristown State: NJ Zip: 07960

Phone: 201-571-0638 Email: _____

C. Contractor:

Name: Levest West. Co. Lic. #: 036669

Address: 325 W 37th St

City: New York State: NY Zip: 10018

Phone: 212-563-0742 Email: Jeremy.Doodnauth@LevestEl

NOTE: Please attach hereto, contractors insurance, (naming the City of Rye as certificate holder and additionally insured) including liability and Form NYS C105 workers compensation (NYS 105) (or a signed New York State compensation waiver).

For Building Department Use Only:

Application Receipt Date:



Building Permit Application

City of Rye, New York Building Department

D. Property Owner/Applicant:

Name*: Blind Brook Lodge Owners
Address: 76 S Lexington Ave
City: White Plains State: NY Zip: 10606
Phone: _____ Email: _____

* If owner or applicant is an LLC, please provide name of principal and contact information.

E. Project Description: (Please describe the proposed project).

Remove (3) Existing Panel Antennas
Install (9) New Panel Antennas
Install (3) New RRH's
Ground:
Install (7) Rectifiers

F. Regulatory Compliance:

1. Is the project located in a flood zone or floodway?
(If yes, [Chapter 100, Floodplain Management](#), may apply) Yes No
2. Is the project a Protected Structure or within a Preservation District?
(If yes, [Chapter 117, Landmarks Preservation](#), may apply) Yes No
3. Is a fence or wall proposed as part of the application?
(If yes, [Chapter 90, Fences and Walls](#), may apply) Yes No
4. Is the property located within a designated coastal area boundary?
(If yes, [Chapter 73, Coastal Zone Management](#), may apply) Yes No
5. Is the property located within 100 feet of a wetland?
(If yes, [Chapter 195, Wetlands and Watercourses](#), may apply) Yes No
6. Is any land disturbing activity proposed greater than 300 square feet?
(If yes, Please complete an Engineering Review Form as required by [Chapter 174, Stormwater Management](#), of the Rye City Code) Yes No
7. Is any tree removal proposed?
(If yes, [Chapter 187, Trees](#) may apply) Yes No
8. Is any signage proposed?
(If yes, [Chapter 165, Signs](#) may apply) Yes No
9. Would the project change the exterior appearance of the structure?
(If yes, [Chapter 153, Architectural Review](#) applies. Please complete the Board of Architectural Review Application attached hereto.) Yes No



Building Permit Application

City of Rye, New York Building Department

G. Zoning Compliance:

Applicants are responsible for their applications to be compliant with all requirements of [Chapter 197, Zoning](#), of the Rye City Code. To assist the City in assessing compliance, please complete the table below and include on the first page of the plan submission. This table includes many, but not all of the bulk and dimensional requirements of the City Zoning Code. Please visit www.ryeny.gov for entire Code.

RA-3 Zoning District:	Allowed/Required ¹	Existing	Proposed ²
Principal Building(s):			
Lot Area (in square feet)	2,500.0	2.7	0.0
Floor Area Ratio³			
First Floor Area	n/a		0.0
Second Floor Area	n/a		0.0
Attic Floor Area	n/a		0.0
Other Area ⁴	n/a		0.0
Total Floor Area			0.0
F.A.R. ⁵			0.000
Yard Setbacks			
Front Yard	25.0		0.0
Shortest Side Yard	20.0		0.0
Total of Two Side Yards			0.0
Rear Yard	40.0		0.0
Lot Width	40.0	117.0	0.0
Height/Stories			
Number of Stories			
Building Height			
First Floor Elevation ⁶			
Parking			
Number of Spaces			
Closest Side Yard Setback			
Accessory Building(s):			
Floor Area			
Front Yard Setback			
Closest Side Yard Setback			
Rear Yard Setback			
Max. Rear Yard Coverage	0.0%	0.0%	0.0%
Number of Stories			
Building Height			

¹ Carefully review all sections of [Article V of the City Zoning Code](#) **AND** footnotes included in Tables [A](#), [B](#) and [C](#).

² Provide copies, if any, of all variances issued for the property regardless of whether they are related to the project.

³ Floor area diagram of every floor (and accessory building(s)) is required for all new construction and additions.

⁴ Shall include other floors (if applicable) and all existing and proposed accessory building(s) on the property.

⁵ F.A.R. shall be rounded to not more than three (3) decimal places (e.g. 0.256)

⁶ For single-family residential buildings see Section [197-46.1](#).



Building Permit Application

City of Rye, New York Building Department

H. Affidavit

State of New York
County of Westchester

I, Michelle Curry (please print), being duly sworn, depose and say that I am the owner (lessee, engineer, surveyor, architect, builder, or agent of the owner) in fee of the premises to which this application applies; that I (the applicant) is duly authorized to make this application and that the statements contained in the papers submitted herein are true to the best of his knowledge and belief, and that the work will be performed in the manner of set forth in the application and in the plans and specification filed therewith, and in accordance with State Uniform Building Code and all other applicable laws, ordinances and regulations of the municipality.

The signature of the applicant also grants consent to having relevant City Staff or City Board or Commission members responsible for of the review or approval of this application(s) to enter the property of the subject application.

Signature of Applicant

SWORN to before me this _____ day of _____, 20 _____.

Notary Public

Note: For additional information and a complete description of the Department's building permit process and submission requirements please visit the Building Department page of the City's website at www.ryeny.gov/government/building-department.



Board of Architectural Review Application

City of Rye, New York Building Department

1051 Boston Post Road, Rye, New York 10580

Building@ryeny.gov

(914) 967-7372

www.ryeny.gov

A. Address: 66 Milton Rd

B. Architect/Engineer/Applicant Representative:

Name: New Cingular Wireless PCS, LLC (AT&T)

Address: 340 Mt Kemble Ave

City: Morristown State: NJ Zip: 07960

Phone: 201-571-0638

Email: _____

C. Property Owner:

Name*: Blind Brook Lodge Owners

Address: 76 S Lexington Ave

City: White Plains State: NY Zip: 10606

Phone: _____

Email: _____

** If owner is an LLC, please provide name of principal and contact information.*

D. Project Description (please specify the following):

	Material	Color
Exterior Walls:	<u>Brick</u>	<u>Red</u>
Roof:	<u>Slate/Membrane</u>	<u>Grey</u>
Trim:	<u>Wood</u>	<u>Brown</u>
Shutters:	<u>n/a</u>	<u>n/a</u>
Chimney:	<u>Brick</u>	<u>Red</u>

The following have been provided:

	Yes	No
Photographs:	<input type="checkbox"/>	<input type="checkbox"/>
Elevation:	<input type="checkbox"/>	<input type="checkbox"/>
Plot Plan:	<input type="checkbox"/>	<input type="checkbox"/>



Board of Architectural Review Application

City of Rye, New York Building Department

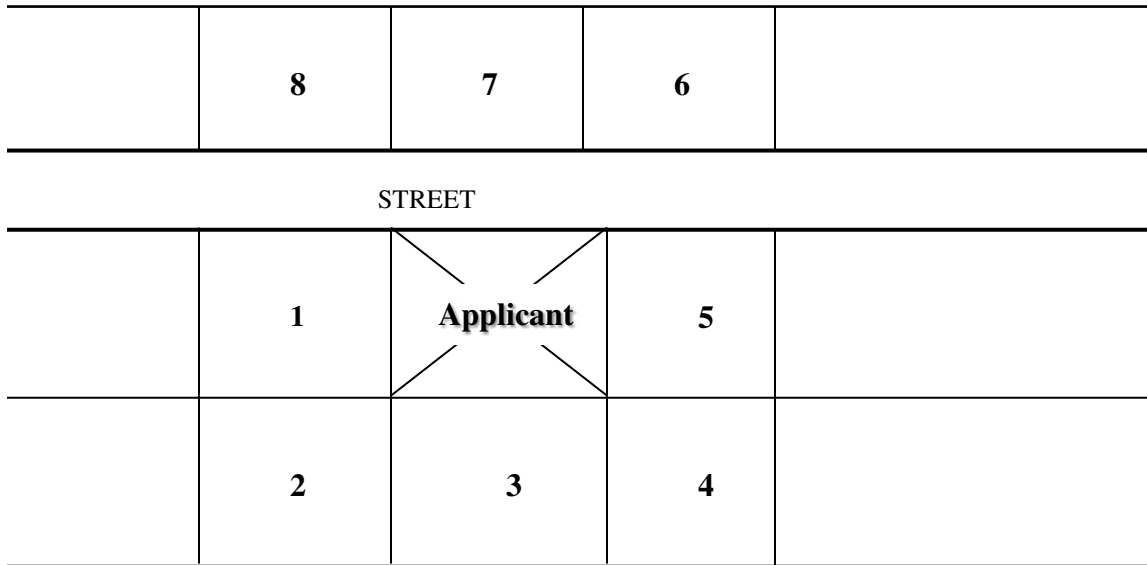
1051 Boston Post Road, Rye, New York 10580

Building@ryeny.gov

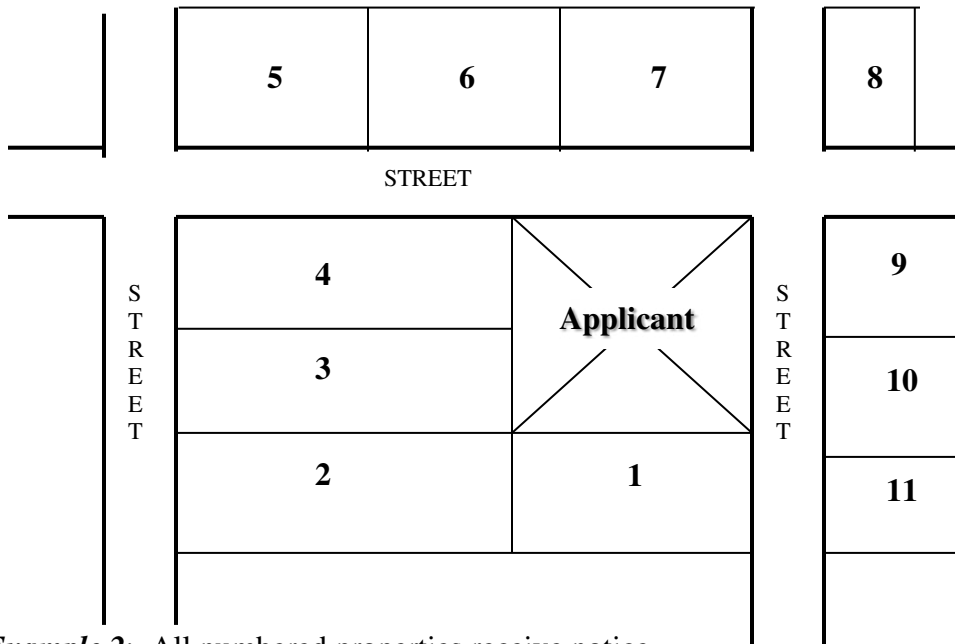
(914) 967-7372

www.ryeny.gov

At least **fourteen (14) days** prior to the Board of Architectural Review meeting date, the applicant must circulate the public notice to all property owners *abutting and located across the street* from the subject property. Notice shall be sent via certified mail (no return receipt). A copy of the certificate of mailing shall be included with the submission of a building permit to the City Building Department. Names and addresses of neighbors can be found by using the “abutters” tab from the mapping section of the City’s website at www.ryeny.gov.



Example 1: All numbered properties receive notice.



Example 2: All numbered properties receive notice.



Board of Architectural Review Application

City of Rye, New York Building Department

1051 Boston Post Road, Rye, New York 10580

Building@ryeny.gov

(914) 967-7372

www.ryeny.gov

NOTICE

An application is being made for a building permit to the City of Rye, New York Building Department for the following:

- Addition
- Alteration
- New structure

For a property located at: 66 Milton Rd

(Check only one of the following paragraphs)

This application will be referred to the Board of Architectural Review for aesthetic consideration pursuant to Chapter 53 of the Rye City Code, and will be reviewed by the Board at a future public meeting. To determine when this application will be reviewed, please visit the City of Rye website at www.ryeny.gov and click on *Board of Architectural Review Agenda*.

This application is being submitted for a Building Permit as a "Small Project" pursuant to Section 53-1 (B) of the Rye City Code. "Small Projects" are exempt from review by the Board of Architectural Review unless referred by the Building Inspector upon finding that the project may have a substantial aesthetic impact upon immediate neighboring properties. The Board of Architectural Review has prepared guidelines for such referral of "Small Projects", including the receipt of comments from neighbors regarding aesthetic impact. **If you wish to review and comment on this application, you must contact the Building Department within fourteen (14) days of the date indicated on this form.**

This notice is being submitted to you by

Michelle Curry

(please print)

09/1/22

Date



Telecommunications Facility Special Permit Application City of Rye, New York

1051 Boston Post Road, Rye, New York 10580
Phone: (914) 967-7167 Fax: (914) 967-4641 www.ci.rye.ny.us

This application should be completed and signed according to Chapter 196 of the Code of the City of Rye, accompanied by any necessary drawings, and submitted to the City Clerk with appropriate fees.

PART I – General Information:

A. Application Name:

B. Applicant: (If Applicant is not owner, attach document confirming interest in property).

Name: New Cingular Wireless PCS, LLC (AT&T)
 Address: 340 Mt Kemble Ave
 City: Morristown State: NJ Zip: 07960
 Phone: 201-571-0638 Fax: _____ Email: _____

C. Property Owner:

Name: Blind Brook Lodge Owners
 Address: 76 S Lexington Ave
 City: White Plains State: NY Zip: 10606
 Phone: _____ Fax: _____ Email: _____

D. Applicant Representative:

Name: Michelle Curry
 Firm: Airosmith Development
 Address: 318 West Ave
 City: Saratoga Springs State: NY Zip: 12866
 Phone: 732-503-0869 Fax: _____ Email: mcurry@airosmithdevelopment.com

For Internal Use Only:

Application Receipt Date:

--

Application No.: TC
 Fee Check No.: _____
 Fee Check No.: _____
 Prior Approvals: _____



Telecommunications Facility Special Permit Application City of Rye, New York

PART II – Project Information:

A. Property Information:

Street Address:	66 Milton Rd	TaxID:146-11-1-73
City:	Rye	State: NY Zip: 10580
Property Area (Acres):	2.7	
Tax Map Designation:	Sheet: Sec: 146.11	Block: 1 Lot(s): 73
	Sheet:	Block: Lot(s):
	Sheet:	Block: Lot(s):
Zoning District:	RA-3	
Flood Insurance Zone:	n/a	

B. Project Description:

In the space below, briefly describe the proposed project. A report detailing the specifications of this proposal, pursuant to the requirements set forth in section 196-5 (E) of the Code of the City of Rye, must be attached.

Remove (3) Existing Panel Antennas
 Install (9) New Panel Antennas
 Install (3) New RRH's
 Ground:
 Install (7) Rectifiers

C. Regulatory Compliance

1. Will the proposed project place any fill or a structure within a Flood Zone? Yes No
(If yes, Chapter 100, Floodplain Management, may apply)
2. Is the proposed activity located within a designated preservation area? Yes No
(If yes, Chapter 117, Landmarks Preservation, may apply)
3. Is a fence or wall proposed as part of the application? Yes No
(If yes, Chapter 90, Fences and Walls, may apply)
4. Is the property located within a designated coastal area boundary? Yes No
(If yes, Chapter 73, Coastal Zone Management, may apply)
5. Is the property located within 100 feet of a wetland? Yes No
(If yes, Chapter 195, Wetlands and Watercourses, may apply)



Telecommunications Facility Special Permit Application City of Rye, New York

PART V – State Environmental Quality Review (SEQRA)

Does the application exceed any Type I threshold under SEQRA (see 6 NYCRR, Part 617.4)*?

- No** – please complete Short (or Full, if desired) Environmental Assessment Form and attach hereto.*
- Yes** – please complete Full Environmental Assessment Form and attach hereto.*

* Please refer to State Environmental Quality Review Act (SEQRA) online at <http://www.dec.state.ny.us/website/regs/617.htm>. Environmental Assessment Forms available from Rye City Planning Department or online at <http://www.dec.state.ny.us/website/dcs/seqr/seqrldd.html>

PART VI – Signatures

In signing this application, I acknowledge that I have read the Chapter 196 of the Rye City Code, and that the proposed use, to the best of my knowledge, will conform to those provisions. Further, I understand that a written request for re-certification, pursuant to Chapter 196-17 of the Code of the City of Rye, must be submitted prior to each fifth anniversary of the effective date of this application.

	09/1/2022
Applicant Signature	Date

I, the owner of the property described herein, consent to the filing of this application.

See cover and signature pages of Lease Agreement annexed in Exhibit B	09/1/2022
Property Owner Signature(s)	Date

Short Environmental Assessment Form

Part 1 - Project Information

Instructions for Completing

Part 1 – Project Information. The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

Part 1 – Project and Sponsor Information			
Name of Action or Project: Playland - 5g NE 152 (Panel)			
Project Location (describe, and attach a location map): Ldc Milton RD RYE NY 10580			
Brief Description of Proposed Action: Remove (3) existing Panel Antennas Install (9) New Panel Antennas Install (3) New RRH's Install (7) Rectifiers			
Name of Applicant or Sponsor: ATT (New Cellular Wireless PCS)		Telephone: 201-571-0638	
		E-Mail:	
Address: 340 Mt Kemble Ave			
City/PO: Morrisville NY		State: NJ	Zip Code: 07960
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.			NO <input type="checkbox"/>
			YES <input type="checkbox"/>
2. Does the proposed action require a permit, approval or funding from any other government Agency? If Yes, list agency(s) name and permit or approval:			NO <input type="checkbox"/>
			YES <input type="checkbox"/>
3. a. Total acreage of the site of the proposed action?		<u>2.7</u> acres	
b. Total acreage to be physically disturbed?		<u>0</u> acres	
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor?		<u>22</u> acres	
4. Check all land uses that occur on, are adjoining [and] or near the proposed action.			
<input type="checkbox"/> Urban <input type="checkbox"/> Rural (non-agriculture) <input type="checkbox"/> Industrial <input type="checkbox"/> Commercial <input checked="" type="checkbox"/> Residential (suburban)			
<input type="checkbox"/> Forest <input type="checkbox"/> Agriculture <input type="checkbox"/> Aquatic <input type="checkbox"/> Other (specify): _____			
<input type="checkbox"/> Parkland			

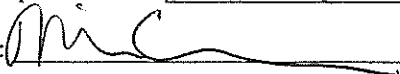
5. Is the proposed action,	NO	YES	N/A
a. A permitted use under the zoning regulations?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Consistent with the adopted comprehensive plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?	NO	YES	
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area? If Yes, identify: _____	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
8. a. Will the proposed action result in a substantial increase in traffic above present levels? b. Are public transportation service[s] available at or near the site of the proposed action? c. Are any pedestrian accommodations or bicycle routes available on or near <u>the</u> site of the proposed action?	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
9. Does the proposed action meet or exceed the state energy code requirements? If the proposed action will exceed requirements, describe design features and technologies: _____ _____	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
10. Will the proposed action connect to an existing public/private water supply? If No, describe method for providing potable water: _____ _____	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
11. Will the proposed action connect to existing wastewater utilities? If No, describe method for providing wastewater treatment: _____ _____	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
12. a. Does the <u>project site contain, or is it substantially contiguous to, a building, archeological site, or district that [a structure that] is listed on [either] the National Register of Historic Places or the State Register of Historic Places or that has been determined by the Commissioner of the NYS Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places?</u> b. Is the [proposed action] <u>project site, or any portion of it, located in or adjacent to an area designated as [archaeologically] sensitive [area] for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory?</u>	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
13. A. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, state or local agency? b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody? If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: _____ _____ _____	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	

14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply:		
<input type="checkbox"/> Shoreline <input type="checkbox"/> Forest <input type="checkbox"/> Agricultural/grasslands <input type="checkbox"/> Early mid-successional <input type="checkbox"/> Wetland <input type="checkbox"/> Urban <input checked="" type="checkbox"/> Suburban		
15. Does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered?	NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>
16. Is the project site located in the 100-year flood plan?	NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>
17. Will the proposed action create storm water discharge, either from point or non-point sources? If Yes,	NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>
a. Will storm water discharges flow to adjacent properties?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)? If Yes, briefly describe:	<input checked="" type="checkbox"/>	<input type="checkbox"/>

18. Does the proposed action include construction or other activities that <u>would</u> result in the impoundment of water or other liquids (e.g., retention pond, waste lagoon, dam)? If Yes, explain the purpose and size of the impoundment:	NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>

19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility? If Yes, describe:	NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>

20. Has the site of the proposed action or an adjoining property been <u>the</u> subject of remediation (ongoing or completed) for hazardous waste? If Yes, describe:	NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>

I [AFFIRM] CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE		
Applicant/sponsor name: <u>Michelle Curry - Agent on behalf of VTA</u> Date: <u>9/21/22</u>		
Signature: <u></u> Title: <u>SAD</u>		

Site Map: 66 MILTON ROAD

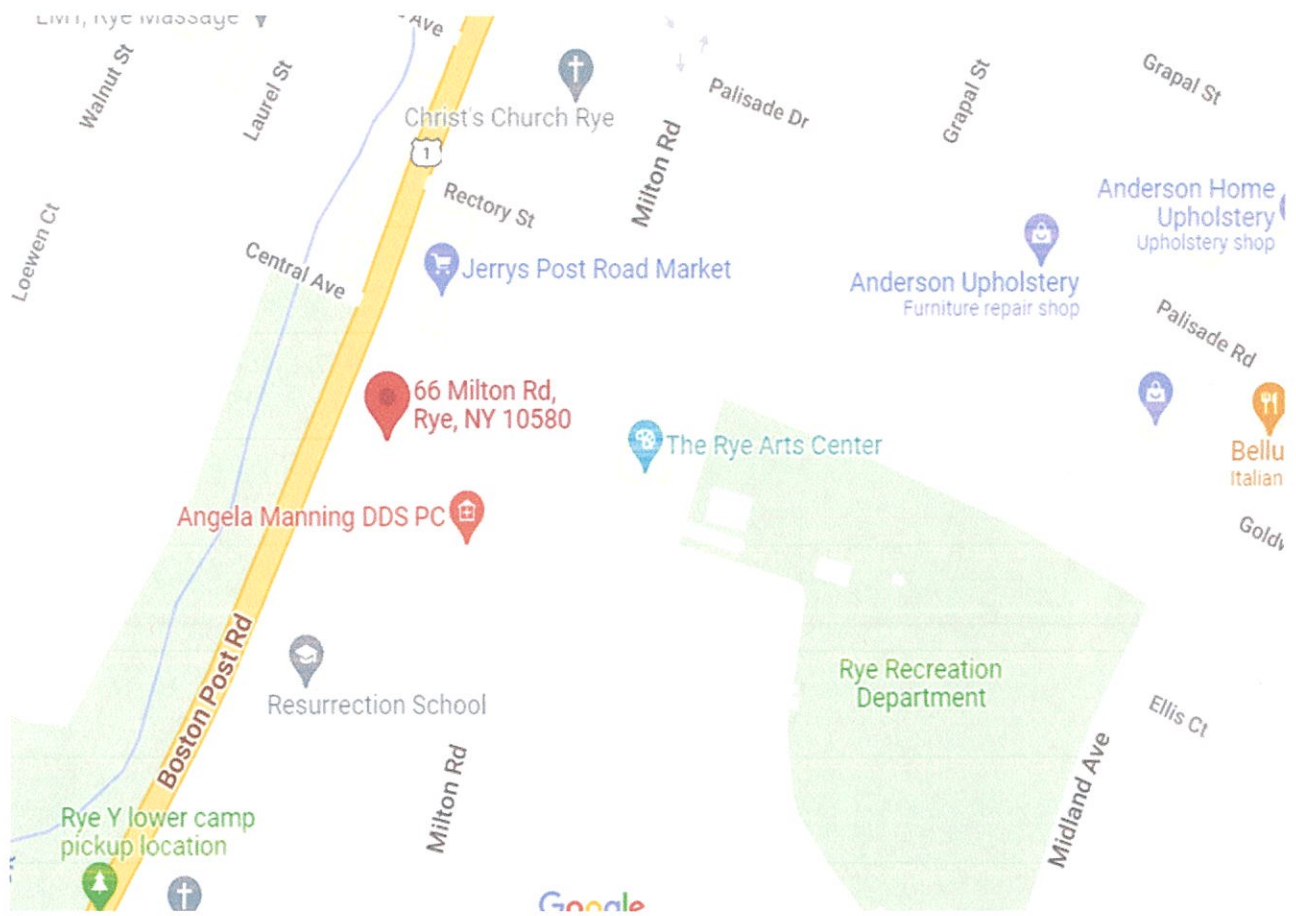


PHOTO LOCATION MAP
Site Number: NWL00373
66 MILTON ROAD
RYE, NEW YORK, 10580

Package Date: September 15, 2022

Site Map: 66 MILTON ROAD

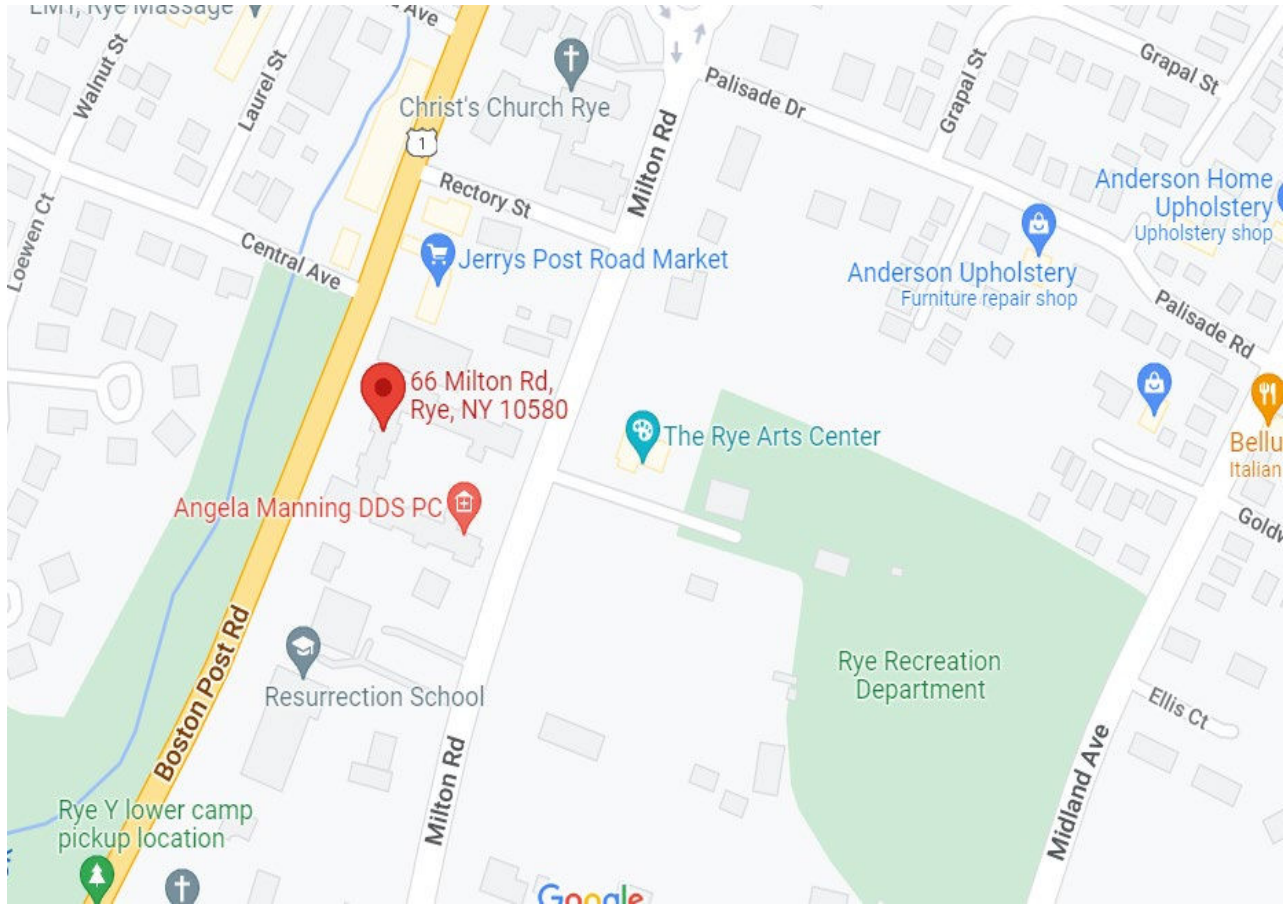


PHOTO LOCATION MAP
Site Number: NWL00373
66 MILTON ROAD
RYE, NEW YORK, 10580

Package Date: September 15, 2022



Telecommunications Facility Special Permit Application City of Rye, New York

1051 Boston Post Road, Rye, New York 10580
Phone: (914) 967-7167 Fax: (914) 967-4641 www.ci.rye.ny.us

This application should be completed and signed according to Chapter 196 of the Code of the City of Rye, accompanied by any necessary drawings, and submitted to the City Clerk with appropriate fees.

PART I – General Information:

A. Application Name:

B. Applicant: (If Applicant is not owner, attach document confirming interest in property).

Name: New Cingular Wireless PCS, LLC (AT&T)
 Address: 340 Mt Kemble Ave
 City: Morristown State: NJ Zip: 07960
 Phone: 201-571-0638 Fax: _____ Email: _____

C. Property Owner:

Name: Blind Brook Lodge Owners
 Address: 76 S Lexington Ave
 City: White Plains State: NY Zip: 10606
 Phone: _____ Fax: _____ Email: _____

D. Applicant Representative:

Name: Michelle Curry
 Firm: Airosmith Development
 Address: 318 West Ave
 City: Saratoga Springs State: NY Zip: 12866
 Phone: 732-503-0869 Fax: _____ Email: mcurry@airosmithdevelopment.com

For Internal Use Only:

Application Receipt Date:

--

Application No.: TC
 Fee Check No.: _____
 Fee Check No.: _____
 Prior Approvals: _____



Telecommunications Facility Special Permit Application City of Rye, New York

PART II – Project Information:

A. Property Information:

Street Address:	66 Milton Rd	TaxID:146-11-1-73
City:	Rye	State: NY Zip: 10580
Property Area (Acres):	2.7	
Tax Map Designation:	Sheet: Sec: 146.11	Block: 1 Lot(s): 73
	Sheet:	Block: Lot(s):
	Sheet:	Block: Lot(s):
Zoning District:	RA-3	
Flood Insurance Zone:	n/a	

B. Project Description:

In the space below, briefly describe the proposed project. A report detailing the specifications of this proposal, pursuant to the requirements set forth in section 196-5 (E) of the Code of the City of Rye, must be attached.

Remove (3) Existing Panel Antennas
 Install (9) New Panel Antennas
 Install (3) New RRH's
 Ground:
 Install (7) Rectifiers

C. Regulatory Compliance

1. Will the proposed project place any fill or a structure within a Flood Zone? Yes No
(If yes, Chapter 100, Floodplain Management, may apply)
2. Is the proposed activity located within a designated preservation area? Yes No
(If yes, Chapter 117, Landmarks Preservation, may apply)
3. Is a fence or wall proposed as part of the application? Yes No
(If yes, Chapter 90, Fences and Walls, may apply)
4. Is the property located within a designated coastal area boundary? Yes No
(If yes, Chapter 73, Coastal Zone Management, may apply)
5. Is the property located within 100 feet of a wetland? Yes No
(If yes, Chapter 195, Wetlands and Watercourses, may apply)



Telecommunications Facility Special Permit Application City of Rye, New York

PART V – State Environmental Quality Review (SEQRA)

Does the application exceed any Type I threshold under SEQRA (see 6 NYCRR, Part 617.4)*?

- No** – please complete Short (or Full, if desired) Environmental Assessment Form and attach hereto.*
- Yes** – please complete Full Environmental Assessment Form and attach hereto.*

* Please refer to State Environmental Quality Review Act (SEQRA) online at <http://www.dec.state.ny.us/website/regs/617.htm>. Environmental Assessment Forms available from Rye City Planning Department or online at <http://www.dec.state.ny.us/website/dcs/seqr/seqrldd.html>

PART VI – Signatures

In signing this application, I acknowledge that I have read the Chapter 196 of the Rye City Code, and that the proposed use, to the best of my knowledge, will conform to those provisions. Further, I understand that a written request for re-certification, pursuant to Chapter 196-17 of the Code of the City of Rye, must be submitted prior to each fifth anniversary of the effective date of this application.

	09/1/2022
Applicant Signature	Date

I, the owner of the property described herein, consent to the filing of this application.

See cover and signature pages of Lease Agreement annexed in Exhibit B	09/1/2022
Property Owner Signature(s)	Date



CITY COUNCIL AGENDA

DEPT.: City Council

DATE: November 21, 2022

CONTACT: Mayor Josh Cohn

AGENDA ITEM: Resolution to approve a new retainer agreement with the Corporation Counsel.

FOR THE MEETING OF:
November 30, 2022

RECOMMENDATION: That the City Council adopt the following resolution:

WHEREAS, Kristen K. Wilson was appointed the Corporation Counsel of the City of Rye effective January, 2010, and;

WHEREAS, the City Council is supportive of her role and performance and has considered an updated retainer agreement with Ms. Wilson, and;

RESOLVED, that the City Council of the City of Rye hereby authorizes the Mayor to sign an employment agreement for the Corporation Counsel retroactively effective August 1, 2022.

IMPACT: Environmental Fiscal Neighborhood Other:

BACKGROUND:

See attached retainer agreement.

MARKSDIPALERMO PLLC

245 MAIN STREET
SUITE 410
WHITE PLAINS, NEW YORK 10601

KRISTEN KELLEY WILSON
PARTNER
DIRECT: (914) 844-1909
KWILSON@RYENY.GOV

November 30, 2022

Honorable Josh Cohn
Mayor
City of Rye
1051 Boston Post Road
Rye, New York, 10580

**Re: Proposal for Legal Services – Corporation Counsel
Kristen Kelley Wilson/ MarksDiPalermo, PLLC**

Dear Mayor Cohn:

This letter will memorialize the proposed terms of my and my firm MarksDiPalermo, PLLC (collectively “MarksDiPalermo”)’s legal representation of the City of Rye (the “City”) as Corporation Counsel on an independent contractor basis, including the scope of services and the agreed upon fee and billing arrangement.

Scope of Engagement

MarksDiPalermo’s annual retainer will be \$280,000. Ed Dunphy, Esq. and Kevin Schultz, Esq., and I will provide most of the general legal services to the City including, but not limited to:

- (1) attending all City Council Meetings and special meetings;
- (2) attending other meetings as needed (such as Planning Commission/Board of Appeals/Board of Architectural Review/Boat Basin/Rye Golf Commission/Landmarks);
- (3) rendering legal opinions and advice as needed for the City Council and all City Commissions/Boards;
- (4) preparing and assisting in the preparation of resolutions, local laws, contracts, MOUs and IMAs, as needed;
- (5) assisting the Records Access Officer and Appeals Officer in responding to Freedom of Information Law (“FOIL”) requests;
- (6) assist the City Manager’s office in rendering decisions on administrative matters;
- (7) monitor and provide pertinent updates on all matters handled by outside insurance counsel; and

- (8) being available to the City staff for legal consultation on pertinent issues. I propose to have office hours at City Hall and be available to City staff on all issues.

To the extent necessary I will also receive assistance from other attorneys at MarksDiPalermo, such as Adam Love,, Esq. and Jennifer Kendall, Esq.

City Invoices

The \$280,000 retainer will be paid over the year broken down into twelve (12) equal monthly payments. MarksDiPalermo will invoice the City \$23,333.33 monthly, and provide detailed time records concerning all work performed by its attorneys, pursuant to the retainer.

Matters that will be exempted from the annual retainer include:

- (1) those matters listed below;
- (2) matters for which insurance provides counsel;
- (3) matters involving municipal finance and labor issues; and
- (4) such other matters, as we may mutually agree.

Excluded from the annual retainer will be the following which will be billed directly by MarksDiPalermo to the City at an hourly rate of \$250 an hour for each senior counsel or partner and at a rate of \$215/hour for any associate and a rate of \$100/hour for any law clerk/paralegal: (1) any active litigation, including Article 78 proceedings, trials and appeals of tax certiorari matters; (2) disciplinary or other similar hearings before the City or any other administrative agency and appeals of same, including City Court, New York State and Federal Court; and (3) extraordinary projects requiring extensive research and investigation as mutually agreed to by the City and MarksDiPalermo. All out of pocket expenses for excluded matters shall be reimbursed through my law firm MarksDiPalermo. Prior to working on any matters outside of the annual retainer, I will discuss with the City Council and City Manager the anticipated time and cost necessary to defend (or commence) a particular action. Bills for separately billable matters will be submitted with individual timekeeper records indicating matters, time and tasks satisfactory to the City. MarksDiPalermo and City will work to develop retainer billing detail satisfactory to the City.

Other Charges

In addition to our fees for rendering professional services, our billing statements will include separate charges for out-of-pocket costs such as photocopying, delivery charges, facsimile transmissions, specialized computer applications, travel, and other expenses and services incurred incidentally to the performance of our legal services.

Effective Date

The effective date of this agreement is August 1, 2022.

Billing Cycle

Fees for legal services and other charges are billed monthly and are payable within thirty (30) days of receipt.

Termination of Engagement

No termination will relieve the City of the obligation to pay the legal fees owed to me or MarksDiPalermo for services performed and other charges owed to us through the date of termination. After the completion of our services on the City's behalf, changes may occur in applicable laws or regulations that could have an impact upon the City's future rights and liabilities.

Conclusion of Representation; Disposition of Client Documents

The City shall provide me and MarksDiPalermo with at least ninety (90) days written notice if it wishes to terminate this agreement. Similarly, I and MarksDiPalermo will provide the City with at least ninety (90) days written notice if we wish to terminate this agreement. Our representation of the City will terminate upon our sending you our final statement for services rendered. Following such termination, any otherwise nonpublic information you have supplied to us that is retained by us will be kept confidential in accordance with applicable rules of professional conduct. At your request, we will return your papers and property promptly after receipt of payment for any outstanding fees and costs. Our own files pertaining to the matter will be retained by the firm. These firm files include, for example, firm administrative records; internal lawyers' work product such as drafts, notes, internal memoranda; and legal and factual research, including investigative reports, prepared by or for the internal use of lawyers. We will retain all remaining documents for a certain period of time, but reserve the right for various reasons including the minimization of unnecessary storage expenses, to destroy or otherwise dispose of them within a reasonable time after the termination of the engagement.

Client Responsibilities

You agree to cooperate fully with us and to provide promptly all information known or available to you relevant to our representation. You also agree to pay in a timely manner our statements for services and expenses as provided above.

I look forward to working with you, the City Council and City staff to protect the interests of the City. I appreciate the continued opportunity to represent the City of Rye. If this proposal is acceptable, please so indicate by returning an executed copy of this letter.

City of Rye
November 30, 2022
Page 4

MarksDiPalermo PLLC

Very truly yours,

Kristen Kelley Wilson

ACKNOWLEDGED & AGREED

Josh Cohn
Mayor, City of Rye



CITY COUNCIL AGENDA

DEPT.: City Council

DATE: November 21, 2022

CONTACT: Mayor Josh Cohn

AGENDA ITEM: Resolution to waive parking restrictions and parking fees in all downtown parking lots and Purchase Street starting December 17 and through December 26, 2022.

FOR THE MEETING OF:
November 30, 2022

RECOMMENDATION: That the City Council adopt the following resolution:

WHEREAS, the City Council seeks to support the Central Business District local businesses during the 2022 Holiday Season, and;

WHEREAS, the City Council encourages residents to shop and dine downtown during the holiday season as buying locally helps all of us while strengthening our local economy, and;

RESOLVED, the City Council will provide free parking for the period starting December 17 and through December 26, 2022 by waiving parking restrictions and parking fees in all downtown lots (Car Parks 1-5) and Purchase Street at the City's expense.

IMPACT: Environmental Fiscal Neighborhood Other:

BACKGROUND: In December of 2017, the City Council began waiving parking restrictions for approximately one week leading up to Christmas in an effort to support the Central Business District. The Council hopes to encourage residents to shop and dine downtown during the holiday season since buying locally helps the community and strengthens our local economy.

For 2023, the Council resolution reflects waiving fees for the shopping period which includes Hanukkah, Christmas and Kwanzaa. Based upon prior years' revenues the City projects these suspensions will cost \$18,000-23,000.



CITY COUNCIL AGENDA

DEPT.: City Manager's Office

DATE: November 30, 2022

CONTACT: Greg Usry, City Manager

AGENDA ITEM: Resolution designating the days and time of regular meetings of the City Council for 2023 setting January 4, 2023 as the first regular meeting.

FOR THE MEETING OF:

November 30, 2022

RECOMMENDATION: That the Mayor and City Council schedule the first regular meeting date of the City Council for January 4, 2023.

IMPACT: Environmental Fiscal Neighborhood Other:

BACKGROUND: The Rye City Charter stipulates that the City Council meet within the first two weeks of January in each year and shall hold stated meetings at least twice a month, except for the months of June through September when only one stated meeting per month need be held.

See attached calendar

2023 City Council Meetings Calendar

January 2023						
Su	Mo	Tu	We	Th	Fr	Sa
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

February 2023						
Su	Mo	Tu	We	Th	Fr	Sa
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28				

March 2023						
Su	Mo	Tu	We	Th	Fr	Sa
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

April 2023						
Su	Mo	Tu	We	Th	Fr	Sa
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30						

May 2023						
Su	Mo	Tu	We	Th	Fr	Sa
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

June 2023						
Su	Mo	Tu	We	Th	Fr	Sa
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	

July 2023						
Su	Mo	Tu	We	Th	Fr	Sa
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

August 2023						
Su	Mo	Tu	We	Th	Fr	Sa
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

September 2023						
Su	Mo	Tu	We	Th	Fr	Sa
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30

October 2023						
Su	Mo	Tu	We	Th	Fr	Sa
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

November 2023						
Su	Mo	Tu	We	Th	Fr	Sa
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30		

December 2023						
Su	Mo	Tu	We	Th	Fr	Sa
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

- Council Meeting Dates
- Budget Workshops
- Joint City Council/School Board Meeting
- Council Inauguration

February 20-24 School Mid-Winter Recess
 April 3-7 School Spring Break
 November 7 Election Day



CITY COUNCIL AGENDA

DEPT.: City Manager

DATE: November 21, 2022

CONTACT: Greg Usry, City Manager

AGENDA ITEM: Consideration of a request by the Rye Little League to approve a parade to kickoff Opening Day of the Little League Season on Saturday, April 22, 2023 beginning at 11:00 a.m.

FOR THE MEETING OF:

November 30, 2022

RECOMMENDATION: That the Council consider granting the request.

IMPACT: Environmental Fiscal Neighborhood Other:

BACKGROUND:

The Rye Little League is requesting the City Council approve a parade to kickoff Opening Day of the Little League Season on Saturday, April 22, 2023 beginning at 11:00 a.m. with a rain date of Sunday, April 23, 2023.

Ruttenberg, Noga P.

From: Ben Bubeck
Sent: Monday, November 14, 2022 9:20 AM
To: Ruttenberg, Noga P.
Cc: Jason Yacavone; Kopy, Michael A.; Hein, Albert P.
Subject: Re: Rye Little League Parade and Opening Day Ceremony in 2023

Thanks Noga. Just to confirm, we would be shifting to April 22nd from April 15th.

Ben

On Nov 14, 2022, at 9:11 AM, Ruttenberg, Noga P. <nruttenberg@ryeny.gov> wrote:

Thanks for letting me know, Ben. I will adjust the calendar to April 22nd.

Thanks,



Noga Ruttenberg

Assistant to the City Manager

Phone: 914-967-7404

Email: nruttenberg@ryeny.gov

City Hall
1051 Boston Post Road
Rye, NY 10580

www.ryeny.gov



From: Ben Bubeck
Sent: Saturday, November 12, 2022 11:00 AM
To: Jason Yacavone
Cc: Kopy, Michael A. <mkopy@ryeny.gov>; Ruttenberg, Noga P. <nruttenberg@ryeny.gov>; Hein, Albert P. <ahein@ryepd.ryeny.gov>
Subject: Re: Rye Little League Parade and Opening Day Ceremony in 2023

Hi everyone. I heard from Genevieve Weber at Rye Girls Softball yesterday. She seems to have a conflict on April 15th now. Can we plan for Saturday, April 22nd instead? Sorry about the quick change.

Ben



CITY COUNCIL AGENDA

DEPT.: City Manager's Office

DATE: November 21, 2022

CONTACT: Greg Usry, City Manager

AGENDA ITEM: Consideration of a request by Christ's Church to add a rain date of 12/4/22 for its Annual Christmas Tree Sale from 8:00am-5:00pm (for the associated road closure). The event has already been approved for 12/3/22.

FOR THE MEETING OF:

November 30, 2022

RECOMMENDATION: That the City Council approve the request from Christ's Church.

IMPACT: Environmental Fiscal Neighborhood Other:

BACKGROUND: Christ's Church needs to add a rain date to its Annual Christmas Tree Sale for Sunday, 12/4/22 from 8:00am-5:00pm

Ruttenberg, Noga P.

From: Jannine Moran <jmoran@ccrye.org>
Sent: Tuesday, November 15, 2022 1:50 PM
To: Ruttenberg, Noga P.
Subject: Re: Christ's Church Rye - Date change for street closure

Hi Noga,

The city council had approved the closure of Rectory Street for our Annual Christ's Church Christmas Tree Sale on Saturday, 12/3 from 8:00am-5:00pm. We would also like to request street closure on Sunday, 12/4 from 8:00am-5:00pm as our rain date. Please let us know if this is possible. Thank you!

*Best,
Jannine Moran
Parish Administrator
Christ's Church Rye
914-967-1749 ext. 228*