

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

**REGULAR MEETING OF THE CITY COUNCIL VIA  
ZOOM CONFERENCE  
Wednesday, May 19, 2021  
6:30 p.m.**

*PURSUANT TO GOVERNOR CUOMO'S EXECUTIVE ORDER No. 202.1, REQUIREMENTS UNDER THE OPEN MEETINGS LAW HAVE BEEN SUSPENDED AND PUBLIC BODIES MAY MEET WITHOUT ALLOWING THE PUBLIC TO BE PHYSICALLY PRESENT. FOR THE HEALTH AND SAFETY OF ALL, CITY HALL WILL REMAIN CLOSED. THE MEETING WILL BE HELD VIA ZOOM VIDEO-CONFERENCING WITH NO IN-PERSON LOCATION AND WILL BE BROADCAST ON THE CITY WEBSITE. A FULL TRANSCRIPT OF THE MEETING WILL BE MADE AVAILABLE AT A FUTURE DATE.*

City of Rye residents may participate in the public meeting via the zoom link below. A resident wishing to speak on a topic should raise his or her hand and, when admitted to speak, should provide name and home address, and limit comment to no more than three minutes.

Please click the link below to join the webinar:

<https://zoom.us/j/97649874601?pwd=N3V5V2Fsd2IzazZCUTNhaFBubGtQdz09>

Or phone: (646) 558-8656 or (301) 715-8592 or (312) 626-6799

Webinar ID: 976 4987 4601

Password: 258424

*[The Council will convene via ZOOM CONFERENCE at 5:15 p.m. and it is expected they will adjourn into a teleconference Executive Session at 5:16 p.m. to discuss attorney-client privileged matters, personnel matters, and/or labor negotiations.]*

1. Roll Call.
2. Draft unapproved minutes of the Regular Meeting of the City Council held May 5, 2021.
3. Purchase Plaza update.
4. Consideration of a proposed addition to the Rules and Regulations of the City of Rye Police Department: General Order #117.10 establishing body camera guidelines.
5. Open a public hearing for May 19, 2021 to amend the Rye City Code Chapter 165 by adding a new section 165-6(F) City flag poles.
6. Consideration of a resolution establishing existing flags on City flag poles.

7. Open a public hearing to add Chapter 166 “Smoking and Vaping” to the City Code.
8. Consideration of a resolution to authorize funding for DPW Building 7.
9. Update on certain Cap Ex projects from Ryan Coyne, Superintendent of DPW.
10. Award bid for the Annual Street Resurfacing contract (Contract #2021-01).
11. Residents may be heard on matters for Council consideration that do not appear on the agenda.
12. Consideration of a request by Rye City Rotary and Rye Arts Center to install a public butterfly sculpture project.
13. Set a public hearing for June 9, 2021 to establish the assessment for the Kirby Lane South Sewer District.
14. Consideration of an application for a T-Mobile cell infrastructure upgrade on 350 Theodore Fremd.
15. Authorization for the Commissioner of Public Safety to sign an updated agreement with the NYS Law Enforcement Support Office (LESO) to set forth the terms and conditions with respect to the transfer of excess personal property from the Department of Defense (DoD) (1033 Program).
16. Consideration of a request by the Police Department to dispose of obsolete and inoperable equipment.
17. Consideration of a request from Hannah Patrick, Dabney Lee store owner, to park a beverage truck either on Purchase Street or Locust Street from 10 am – 6 pm on June 10, 2021 to celebrate the store’s anniversary by providing free non-alcoholic beverages to pedestrians and store guests. The Council will need to waive section 144-8D and G of the City Code.
18. Resolution to waive section 144-8D and G of the City Code to permanently enable Recreation Superintendent to offer food trucks at:
  - private events held from time to time at the park;
  - lower camp, but not more than 1 truck on 2 occasions;
  - upper camp, but not more than 1 truck once per week; and
  - "lunch-or-dinner-in-the-park," but not more than 2 trucks together on one occasion per week.
19. Consideration of a request by the Rye Chamber of Commerce for the use of City streets for the Annual Sidewalk Sale to be held on Thursday, July 29, 2021 through Saturday, July 31, 2021 from 9:00 a.m. to 5:00 p.m.

20. Retroactive consideration of a request from Dr. Eric Byrne to waive parking restrictions at the snow field lot to accommodate District employees being displaced to make room for visitor parking on Tuesday, May 18, 2021 (6 AM - 9 PM) for the school budget vote.
21. Consideration of a resolution to permanently allow requests for parking restriction waivers at the snow field lot to be handled administratively by the City Manager's Office.
22. Old Business/New Business.
23. Adjournment

\* \* \* \* \*

The next regular meeting of the City Council will be held on Wednesday, June 9, 2021 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](http://www.ryeny.gov) under "RyeTV Live".

***UNAPPROVED MINUTES*** of the Regular  
Meeting of the City Council of the City of Rye held via  
Zoom Conference on May 5, 2021, at 6:30 P.M.

**PRESENT:**

JOSH COHN, Mayor  
SARA GODDARD  
CAROLINA JOHNSON  
RICHARD MECCA  
JULIE SOUZA  
BENJAMIN STACKS  
PAMELA TARLOW  
Councilmembers

**ABSENT: NONE**

The Council convened at 5:15 P.M. by videoconference pursuant to Governor Cuomo's Executive Order 202.1 waiving requirements of the Open Meetings Law. Councilwoman Souza made a motion, seconded by Councilman Stacks, to adjourn briefly into executive session to discuss litigation and personnel matters. The Council reconvened in a public videoconference at 6:30 P.M. The meeting was streamed live at [www.ryeny.gov](http://www.ryeny.gov) for public viewing and participation.

1. Roll Call.

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

2. Draft unapproved minutes of the Regular Meeting of the City Council held April 21, 2021.

City Clerk D'Andrea stated there were ministerial changes to the minutes.

Councilwoman Souza made a motion, seconded by Councilwoman Tarlow and unanimously carried, to adopt the minutes of April 21, 2021.

3. Consideration of a resolution declaring June Pride Month in the City of Rye.

Mayor Cohn stated, such as the year prior, the City would like to declare June Pride Month.

Councilwoman Souza made a motion, seconded by Councilwoman Goddard and unanimously carried, to adopt the following resolution:

**WHEREAS**, individuals who are lesbian, gay, bisexual, transgender, and queer ("LGBTQ+") include people of all faiths, races, national origins, ethnicities, socioeconomic statuses, education levels, ages, abilities, and political beliefs; and

**WHEREAS**, throughout much of history, same-sex relationships and transgender people were criminalized, and many LGBTQ+ people were forced to hide their LGBTQ+ identities while living in secrecy and fear; and

**WHEREAS**, LGBTQ+ people face barriers to employment, housing, education, healthcare, and other areas fundamental to the pursuit of happiness; and

**WHEREAS**, LGBTQ+ people labored to achieve significant milestones, to ensure future generations of LGBTQ+ people the enjoyment of a more just and equal society; and

**WHEREAS**, despite these advances, LGBTQ+ people continue to face discrimination, inequality and violence, and LGBTQ+ youth continue to be at increased risk for bullying, violence, substance abuse, depression, homelessness, and suicide; and

**WHEREAS**, this month commemorates the events of June 1969 when an uprising erupted against the harassment of LGBTQ+ individuals in New York City at the Stonewall Inn; and

**WHEREAS**, despite being marginalized and erased, LGBTQ+ people continue to celebrate their identities and contributions in expressions of pride; and

**WHEREAS**, June has become a symbolic month in which LGBTQ+ people have gathered in celebrations of pride to foster inclusion, affirmation and joy; and

**WHEREAS**, the City of Rye has previously resolved to uphold and protect the civil and human rights of all individuals, and to condemn acts of hatred against all people, including the LGBTQ+ community; and

**NOW THEREFORE, BE IT RESOLVED** The City of Rye declares June to be LGBTQ Pride month, this year and every year, to raise a flag to recognize the LGBTQ+ community, to actively promote the principles of equality and inclusion; to celebrate the contributions of the LGBTQ+ community; and to reflect on the struggle for equal rights that the LGBTQ+ community endured and continues to endure.

**ROLL CALL**

AYES: Mayor Cohn, Councilmembers Goddard, Johnson, Mecca, Souza, Stacks, Tarlow  
NAYS: None  
ABSENT: None

4. **Consideration of a resolution to raise a Pride flag in June.**

Mayor Cohn stated that this has been in the works for quite some time and with the proper legal advice sought by first amendment counsel, they are now in a position to vote on raising a flag at two city owned locations.

Councilwoman Goddard stated that she was very proud of the GSA and reiterated that she felt seeking special counsel was not necessary. She made a detailed statement which can be heard [here](#). (Minute 9 and 43 seconds through minute 15 and 54 seconds).

Councilwoman Souza made a motion, seconded by Councilwoman Tarlow and unanimously carried, to adopt the following resolution:

**WHEREAS**, the City Council recognizes that the LGBTQ+ community has been disenfranchised and subjected to discrimination; and

**WHEREAS**, the City Council desires to show its unity and support for the LGBTQ+ community; and

**WHEREAS**, the rainbow-colored "pride flag" expresses a message in unity and support of the LGBTQ+ community; and

**WHEREAS**, the City maintains and controls a flagpole located on City property at City Hall and Rye Recreation,

**IT IS HERBY RESOLVED**, during June this year and every year, the City of Rye shall display the Pride flag on its flagpole over the entrance to Rye City Hall and at a place at Rye Recreation to be determined by City staff other than the existing dedicated flag pole.

5. Consideration of setting a public hearing for May 19, 2021 to amend the Rye City Code Chapter 165 by adding a new section 165-6(F) City flag poles.

Councilman Mecca made a motion, seconded by Councilwoman Souza and unanimously carried, to set a public hearing for May 19, 2021 to amend the Rye City Code Chapter 165 by adding a new section 165-6(F) City flag poles.

Tim Moynihan, 23 Oakwood Ave, spoke in recognition and appreciation of maintaining the sacredness of memorials.

Fiona Degnan, 57 Morehead Drive, member of the Rye High School GSA, appreciated the raising of the flag. She also wanted to clarify that the pride flag was never intended to be placed over a war memorial and was excited for the June ceremony. Councilwoman Johnson asked if the School District raised a Pride Flag. Miss Degnan stated that when they inquired last year, the school district stated it was up to the City. She looks forward to the opportunity for the school to now participate as well.

Odessa Meulbroek, member of the Rye High School GSA, thanked the Council for voting to fly the Pride flag. She felt legal counsel was not necessary and hopes the Council will do more to support the LGBTQ+ community.

Councilwoman Tarlow stated she recognized the sacrifice the youth has made to bravely speak on behalf of the LGBTQ+ community but wanted to clarify that there are real issues that

supported the need for first amendment special counsel. She clarified that there have been multiple first amendment issues over the past year including two parades, blue lives matter flags, and newspaper stands, which could not be handled with confidence due to the lack of reference in the City Code. She added that there was never a doubt that the flag raising wouldn't be approved but it was within various other first amendment issues that the City Council needed legal reassurance. She commended the students for speaking up and stated how impressed she and the rest of the Council are of them.

Esme Lombard, member of the Rye High School GSA, thanked the Council for approving the flag raising but felt it should not have been treated as a political issue that took several meetings to approve.

Amanda Timchak, 61 Osborn Rd., thanked the Council for raising the flag and felt that raising the flag every year, every June, will lead to the betterment of the community.

Cate Margiloff, 63 Island Drive, thanked the Council, especially Councilwoman Goddard and Tarlow, for approving the raising of the flag.

Ms. Meulbroek wanted to thank Councilwoman Tarlow for clarifying the other issues surrounding first amendments as she was unaware of those concerns the City faced. She asked what else the money they approved went towards.

Mayor Cohn stated that with respect to special counsel, there were six items on the legal questionnaire which included demonstrations, signs on public and private property, flags public and private property, protests and congregation.

Miss Meulbroek thanked the Mayor and Council for clarifying and stated the GSA was unaware of the various issues and assumed the full \$10,000 was spent on questions surrounding raising a Pride flag.

Councilwoman Tarlow acknowledged that the Council could have done a better job clarifying all of the concerns and was grateful for the group in speaking up. She reiterated that the resolution states a flag will be raised this year and every year, which is a very big win for the GSA. Councilwoman Souza added it was a big win for the entire community, in which Councilwoman Tarlow agreed.

Councilwoman Goddard agreed that communication could be better and suggested the questionnaire given to special counsel should be made available for the public so they can see exactly what the City Council was obtaining Counsel on.

Miss Margiloff agreed that the LGBTQ+ community did in fact win as they felt they were faced with opposition over the past few meetings.

Ms. Lombard stated this was a big moment but recognizes this will not be the last time the LGBTQ+ youth will have to stand up for themselves and will speak in the future.

6. Purchase Plaza update with consideration to extend the cold weather plan until June 15, 2021.

City Manager, Greg Usry, explained that due to COVID-19, the restaurants and other businesses in Rye cannot open their doors to allow for full capacity of patrons. The Chamber has provided a few ideas to the City for the closure of Purchase Street that they are still evaluating and hopes to have considerations and ideas for the downtown by the next meeting.

City Manager Usry stated that since the current cold weather plan expires on May 15, 2021, and the next City Council meeting is May 19, 2021, the recommendation is to extend the cold weather plan to June 15, 2021.

Councilwoman Johnson asked if Second Street was interested in partaking in a proposed street closure. City Manager Usry clarified that the plan includes the whole downtown, not just Purchase Street.

Councilwoman Souza made a motion, seconded by Councilman Mecca and unanimously carried, to extend the cold weather plan until June 15, 2021.

7. Continue the public hearing to adopt a new local law to implement a six-month moratorium in the City of Rye temporarily prohibiting the review, processing or approval of any new application (after April 7, 2021) related to a subdivision or re-subdivision of property development on steep slopes or the placement of a residential structure with its front not oriented towards a front yard for the duration of this moratorium. All public hearing comments should be emailed to [publichearingcomments@ryeny.gov](mailto:publichearingcomments@ryeny.gov) with “moratorium” as the subject no later than 3:00 pm on the day of the hearing.

Councilwoman Goddard reminded the Council and public she is recusing herself on this matter.

Corporation Counsel Kristen Wilson stated a few modification have been made to the local law as follows:

-section 2B1 now reads: any wetland and water course permit, area variance, design review permit, building permit, tree removal permit, settlement and erosion control permit, blasting permit or rock removal permit, involving any residential building or structure that includes ground or vegetation disturbance within 15 feet (previously 20 feet) of slopes greater than 25% which slope shall be defined as any contiguous land area greater than 1000 square feet (previously 100 square feet) having a topographical gradient of 25% or more, ie ratio of vertical distance to horizontal distance and a minimum horizontal distance of 25 feet.

-Section 3C now reads: In granting a waiver, in whole or in part, the planning commission must find that the waiver will not substantially conflict (previously stated as adversely affect) with the purpose of this local law.

Former City Judge Robert Cypher gave an overview of a proposed city-wide building moratorium in 2003, which did not pass. He suggested that the Council obtain the input from the



Planning Commission, Board of Appeals, and the community with a broad range of expertise, rather than making a decision hastily.

Leo Napior, attorney at Harfenist, Kraut & Perlstein, was concerned about his clients that have started the process of going in front of various boards but are not at the step to apply for a building permit. He suggested creating a sub-committee comprised of various land use boards and professional staff to further evaluate this local law. He added that the waiver process was unclear and would result in somewhat of a circular argument.

Linda Whitehead, partner at McCullough, Goldberger, and Staudt, spoke on behalf of Sam and Leslie Coleman, as well as several other clients that may be affected by the moratorium and are speaking against the proposed moratorium. She added that she supported the recommendation that came from Planning Commission members that front doors facing the side is an issue that should be addressed by the Board of Architectural Review on a case by case basis, because every lot is very different. She added that for every building permit application, such as for a patio or deck addition, property owners will need a topographical survey prepared to determine if they are subject to the moratorium, which is a burden of time and money. Lastly, she felt the waiver process was an impossible standard to meet.

Sam Coleman, 289 Grace Church Street, spoke in opposition of the moratorium stating it will have adverse effects to home owners. He explained he has been in the process of subdividing his property which has been a lengthy, thoughtful and expensive process and was shocked to see this come before the Council.

Kathy Grainger-Hobbins, 75 Oakland Beach Avenue, spoke in support of the moratorium. She stated the Planning Commission and other commissions have asked the Council to review the laws which they consider outdated.

Councilwoman Tarlow made a motion, seconded by Councilman Mecca, to close the public hearing.

Mayor Cohn clarified that language of section 3C and the question of the purpose of this local law. He stated that the purpose of the language was actually to make clearer that the Planning Commission does have liberal waiver authority. He added that the purpose of the law is not simply to stop that activity, it is to avoid the harms that are articulated, in particular, in the whereas clauses and the findings and purpose clause.

Councilwoman Tarlow stated she generally does not support moratoriums but recognized that there is language missing in our existing laws. However, she does not feel it can be amended in 6 months. Additionally, she felt that the blasting and rock chipping is the bigger issue within the community and this moratorium is too large and should be reviewed in smaller sections.

Councilwoman Johnston stated there is never a good time for this action but it is certainly overdue. Mayor Cohn agreed and added that many municipalities have legislation related to steep slopes and many people in the community feel the city is losing the green space.

Councilwoman Tarlow asked how density will be measured without a Master Plan. Mayor Cohn replied that a Master Plan will be done but was put off due to the difficulty of completing a Master Plan during a pandemic. While it is difficult to measure the overall issue of density or neighborhood density, he stated they can look at things such as other towns steep slope regulations, for example, and see what they have done to preserve viewshed and greenery.

Councilman Mecca added that since the issue of subdivisions is being voiced, without a moratorium, there may be an influx of subdivision requests in fear that it will not be possible in the near future. He questioned whether the specific timing is right as dedicating the next six months would take a lot of time from the staff and the various boards and commissions.

Councilwoman Souza echoed the concern of an influx of applications if the moratorium is not approved and recognized that land use boards have voiced their concerns on loopholes. She felt waivers are certainly necessary within this moratorium.

Mayor Cohn made a motion, seconded by Councilwoman Johnson, to adopt a new local law to implement a six-month moratorium in the City of Rye temporarily prohibiting the review, processing or approval of any new application (after April 7, 2021) related to a subdivision or re-subdivision of property development on steep slopes or the placement of a residential structure with its front not oriented towards a front yard for the duration of this moratorium as follows:

## **CITY OF RYE**

### **LOCAL LAW NO. 3 OF 2021**

**A Local Law adopting a six-month moratorium in the City of Rye temporarily prohibiting the review, processing or approval of any new<sup>1</sup> application related to a subdivision or re-subdivision of property, the development on steep slopes or the placement of a residential building with its front not oriented towards a front yard for the duration of this moratorium.**

WHEREAS, in recent years, the City of Rye's land use boards have become increasingly concerned with the configuration of properties proposed within subdivisions; and

WHEREAS, the City Council would like to address the maneuvering of lot lines and the creation of flag lots that may meet the dimensional requirements but not the intent of the City Zoning Code and land use regulations; and

WHEREAS, the City Council would also like to address the impact that development has on property that is environmentally constrained with steep slopes; and

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<sup>1</sup> This moratorium would apply to any application filed after April 7, 2021 that has not been approved.

WHEREAS, the subdivision and re-subdivision of property with minimum street frontage can impact neighborhood character, can result in streetscape and traffic circulation impacts, and can limit flexibility to choose alternative driveway curb-cut locations; and

WHEREAS, the creation of new lots can translate into more density and the removal of open space without careful planning; and

WHEREAS, as a result of this increase in development, the City Council is becoming increasingly concerned about tree loss and destruction occurring prior to any substantive review by the City's land use boards; and

WHEREAS, properties that have remained undeveloped for many years because they are constrained by topographic features, such as the presence of rock outcroppings, steep slopes, wetlands or high groundwater, and that may ease density and provide physical and vegetative buffers, can now be improved because of new technologies (rock removal techniques and sump and sewer pumps); and

WHEREAS, the City Council finds that residential buildings that are not sited on property in proper relationship to an improved right-of-way or street can negatively impact the character and the harmony of a neighborhood; and

WHEREAS, the City Council has determined that it is appropriate to review the City's existing Zoning Code and other land use regulations relating to the above observations to ensure that the character of the neighborhoods are preserved and that any subdivision or re-subdivision of property, development on steep slopes, maneuvering of lot lines or siting of residential buildings on lots is appropriate and addresses any environmental, visual or other relevant considerations; and

WHEREAS, the City expects that it may require up to six months to consider the aforementioned issues and prepare any necessary legislative amendments.

NOW, THEREFORE, Be It Enacted by the City Council of the City of Rye as follows:

**Section 1. Findings and Purpose.**

The City Council wishes to review the existing zoning and land use regulations permitting the subdivision or re-subdivision of property, the development on steep slopes and the siting of residential buildings on lots. The goals of the City Council include, but are not limited to, the overall development of the City, protecting sensitive environmental features of property, ensuring that the appropriate land use mechanisms are in place to allow for flexibility in design and placement of residential buildings, and that the health, welfare and safety of its residents can be maintained while allowing for reasonable and appropriate development.

**Section 2. Enactment of Moratorium. Prohibited Actions.**

For any application received after April 7, 2021 but not yet approved by the appropriate board, commission or City official, the City Council hereby declares a moratorium as follows:

- A. The Planning Commission shall be prohibited from accepting or considering any new applications for subdivision or re-subdivision of residential property in the City of Rye.
- B. The Planning Commission, Board of Architectural Review, Board of Appeals or any other City Department may issue permits and approvals except for the following:
  - 1) Any wetland and watercourse permit, area variance, design review permit, building permit, tree removal permit, sediment and erosion control permit, blasting permit or rock removal permit involving any residential building or structure that includes ground or vegetation disturbance within 15 feet of slopes greater than 25%, which slope shall be defined as any contiguous land area greater than 1,000 (one thousand) square feet having a topographical gradient of 25% or more (i.e. ratio of vertical distance to horizontal distance) and a minimum horizontal distance of 25 feet.
  - 2) any new applications involving a new residential building that does not have its front facing a front yard.
- C. Acceptance or consideration of any new administrative lot line adjustments pursuant to City Code § 170.11.C on which at least one of the parcels contains a residential building.

**Section 3. Appeals/waiver.**

- A. An aggrieved property owner may petition the Planning Commission for a waiver and the Planning Commission shall have the discretion to grant such waiver, or as much relief as said Planning Commission may determine to be necessary and appropriate. In determining the suitability of a waiver under this section, the Planning Commission shall consider the following factors:
  - 1. Unnecessary hardship to the petitioner, which hardship is substantially greater than any harm to the general public welfare that would result from the granting of the waiver. The property owner shall have the burden of demonstrating to the Planning Commission that a waiver is warranted due to substantial hardship and that such substantial hardship was not the result of an act or omission by the applicant or property owner. In considering this factor, the Planning Commission may request information regarding alternatives that the Applicant has considered or whether there are additional long-term plans; and

2. The project's harmony (or lack thereof) with the existing character of the community as a whole and the area of the community in which the property is located; and
3. Whether the application for which the relief is requested is consistent with any recommendations, or conclusions which may be drawn at the time of the public hearing from the aforementioned Planning Commission review and study; and
4. Whether the applicant is in compliance with all other City Code requirements with respect to its City's operations; and
5. Whether the application for which the relief is requested is consistent with any proposed regulations, if and as such may exist at the time of the public hearing.

B. Waiver procedure. Such petition shall be the subject of a public hearing before the Planning Commission. Upon submittal of a written petition to the Building Department by the property owner or applicant seeking a waiver of this moratorium, and supported by such documentation as the applicant deems relevant, the Planning Commission shall, within thirty (30) days of receipt of such petition, conduct a public hearing on said petition upon five (5) days public notification in the official newspaper of the City. The Planning Commission shall, within ten (10) days of the close of the hearing, render its decision in writing, either granting or denying the petition.

C. It shall be within the discretion of the Planning Commission to grant, in whole or in part, grant with conditions, or deny, the petition for relief from the terms of this moratorium. In granting a waiver, in whole or in part, the Planning Commission must find that the waiver will not substantially conflict with the purpose of this Local Law.

D. If the Planning Commission does grant a waiver, in whole or in part, the Applicant must still submit an application for the requested permit to the appropriate board or commission and proceed through the necessary review process set forth in the Rye City Code.

**Section 4. Length of Time. Early Termination or Extension of this Local Law**

This moratorium shall be in effect for six (6) months from the effective date. In the event any new Local Law which addresses the substantive issues set forth herein, should be enacted and adopted by the City Council prior to the date that the moratorium imposed by this Local Law expires, then in that event, the moratorium imposed by this Local Law shall expire on the date such new Local Law takes effect in accordance with § 27 of the Municipal Home Rule Law.

In like manner, if more than six (6) months have passed since the implementation of this Local Law, and it shall be determined by a finding of the City Council that an extension of this moratorium is required, then the City Council by resolution, may extend this moratorium for

such a period of time as it deems necessary in order to further the purposes of this law up to and including an additional 180 days from the date of the original expiration of this Local Law.

**Section 5. Conflicts with State Statutes and Authority to Supersede**

A. To the extent any provisions of this Local Law are in conflict with or are construed as inconsistent with the provisions of New York State Law, this Local Law shall control. The City Council adopts this local law pursuant to authority in the New York State Constitution, Article IX, Section 2; Section 10 of the New York State Municipal Home Rule Law; Section 10 of the Statute of Local Governments; the relevant provisions of the General City Law of the State of New York; and the general police power vested with the City of Rye to promote the health, safety and welfare of all residents and property owners in the City.

B. During the time that this law is in effect, it shall take precedence over and shall be considered controlling over contrary laws, ordinances and provisions. It is the intent of the City Council, pursuant to its authority under section 10, subdivision 1(ii)(d)(3), and section 22 of the Municipal Home Rule Law, to supersede inconsistent provision of the New York State General City Law and the City of Rye Zoning Code.

- a. In particular, it is the intent of the City Council, pursuant to authority under Sections 10 and 22 of the Municipal Home Rule Law, to supersede inconsistent provisions of the New York State General City Law and the City of Rye City Code relating to the time limits in connection with zoning and planning determinations and with respect to the jurisdiction and authority of the Board of Appeals with respect to hearing variances or waivers related to this local law.

**Section 6. Severability**

If any part of this Local Law is deemed by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder of this Local Law.

**Section 7. Effective Date**

This Local Law shall take effect immediately upon filing with the New York Secretary of State.

**ROLL CALL**

AYES: Mayor Cohn, Councilmembers Johnson, Mecca, Souza, Stacks  
NAYS: Councilwoman Tarlow  
ABSENT: None  
ABSTAIN: Councilwoman Goddard

8. Presentation of preliminary 2020 financials summary from City Comptroller, Joe Fazzino.

Deputy Comptroller, Joseph Fazzino, provided a brief financial overview for 2020, specifically as it related to the General Fund. He stated the audit is still in progress but the final financial results should be ready in a few weeks.

Mr. Fazzino spoke about the revenues that were identified as “at risk” over the course of last year. He provided the below summary and reported that the City exceeded the budget in most cases. He reported the 1% tax increase provided favorable results and added that there is still a backlog of vehicle and traffic fines being processed which will roll into 2021.

**2020 ACTUAL REVENUES VERSUS BUDGET**

Category	2020 Budget	2020 Actual vs. Budget
Sales Tax	\$ 3,000,000	\$ 253,287
Hotel Occupancy Tax	160,000	(97,632)
Parking Meter Revenue	436,000	(122,054)
Interest Income	300,000	(88,753)
Building Permit Revenue	1,400,000	(266,820)
Vehicle and Traffic Fines	225,000	(122,555)
Parking Fines	375,000	(27,440)
State Revenue Sharing	1,208,024	(60,401)
Mortgage Tax	1,600,000	139,230

Mr. Fazzino then spoke about identified expenditures in 2020. He stated the outcome of salaries and wages were a direct result of a hiring freeze in late spring. Additionally, less police overtime and less claims attributed to a better than anticipated result.

**2020 ACTUAL EXPENDITURES VERSUS BUDGET**

Category	2020 Budget	Change vs 2020 Budget
Salaries & Wages (Less Fire/Rec)	\$ 11,742,949	\$ (1,060,077)
Fire Salaries & Wages Inc. OT	2,498,266	500,310
Police Overtime (Net Reimbursement)	405,000	(257,987)
Retirement Expense (Less Rec)	2,630,312	(320,218)
FICA Expense (Less Rec)	1,109,884	(142,662)
Workers' Compensation (Less Rec)	1,108,884	(93,422)
Employee Health Insurance (Less Rec)	2,625,419	(527,998)
Retiree Health Insurance (Less Rec)	2,151,950	(225,881)
Recreation Net Cost	1,856,655	(88,316)
COVID 19*	-0-	176,142

He then provided details on how monies in the general fund were allocated for. The below slide does not mean that the money has been spent, but rather apportioned for the particular projects.

2020 CAPITAL INVESTMENTS	
\$1,723,115 – Street Resurfacing	
➤ (\$1.3Million Gen. Revenues, \$373,115 Chips, \$50,000 City Surcharge)	
➤ Amount does not include 2019 balance of \$165,000 rolled forward	
➤ \$770,000 unspent 2020 balance assigned to 2021 resurfacing program	
\$ 450,000 – DPW Vehicles & Equipment	
\$ 350,000 – Sewers & Drains	
\$ 150,000 – City Building Assessment	
\$ 100,000 – Police Vehicles	
\$ 100,000 – Traffic Lights / Pedestrian Safety	
\$ 100,000 – Sidewalks	
\$ 125,000 – City Vehicle Replacement Program	
\$ 50,000 – City Building Improvements	
\$1,945,000 – Transfer to Capital Reserve Fund	



Lastly, he spoke about enterprise fund results. Mr. Fazzino provided the below figures and stated the figures are not finalized but will be close. He stated that additional slip fees, winter storage, and mooring enforcement led to doubling the net income for the Boat Basin Enterprise Fund.

### 2020 ENTERPRISE FUND RESULTS

BOAT BASIN FUND	2020 PRELIMINARY AUDIT RESULTS
Operating Revenues	\$1,022,313
Operating Expenses	530,358
2020 Unrestricted Net Assets	\$2,790,867
GOLF CLUB FUND	2020 UNAUDITED RESULTS
Operating Revenues	\$3,858,399
Operating Expenses	4,348,822
2019 Unrestricted Net Assets	\$3,380,334

9. Presentation of 2021 street resurfacing plan.

Mayor Cohn summarized the street resurfacing plan by stating the following: “When I and my colleagues began on the council in 2018, we found ourselves with a legacy budget of a million dollars for road repair and an accompanying philosophy that, if the city did a million dollars of work each year, we eventually catch up with the dismal condition of our deteriorating roads. Facts on the road, so to speak, seem to conflict with that philosophy. We said about hiring a road consultant to evaluate our roads and how we were proceeding. That led us in our first



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budget year 2019 to dedicate, instead of a million dollars, \$1.8 million to roads. We had the consultant rate our roads, so they could be prioritized for repairs, we set a policy of worst first to effectively take the politics out of paving. COVID dealt our cash flow, the cities cash flow, and our road program a blow. In 2020, rather than spend another 1.8 million we were reduced to spending, as Joe has indicated, approximately 1.1 million. In 2021, we intend to reinvigorate road resurfacing with a \$2.1 million spend. We hope that will produce immediately visible results.”

He reminded the community that County roads, such as Theodore Fremd Ave., are county roads and the county is responsible for their maintenance which we cannot repair. He stated the County has stated Theodore Fremd Ave. should be repaired by late 2021. He also added that pothole repair is separate from road resurfacing and will be repaired as needed.

Ryan Coyne, Superintendent of Public Works, followed with a presentation of proposed streets to be re-paved pending the official bid award which should be presented by next meeting.

Name	From	To	Length (')	PCI	Treatment	Cost
<b>Proposed 2021 Resurfacing Program Street Sections:</b>						
APAWAMIS AV	FOREST AV	MIDLAND AV	1,244	52	Mill & Overlay	\$54,114
CHAMBERLAIN STREET	OAKLAND BEACH	MILDRED AV	1,242	56	Mill & Overlay	\$116,059
CLAREMONT AVENUE	SONN DR	DEAD END	1,449	49	Mill & Overlay w Base Repair	\$119,140
CRESCENT AVENUE	PARKWAY DR	DEAD END	1,525	49	Mill & Overlay w Base Repair	\$125,388
ELDREDGE COURT	EDLREDGE PL	DEAD END	243	56	Mill & Overlay	\$23,490
ELDREDGE PLACE	BOSTON POST ROAD	CUL DE SAC LOOP	566	56	Mill & Overlay	\$54,713
FAIRLAWN STREET	MILTON RD	EVERETT ST	723	54	Mill & Overlay	\$46,593
FAIRWAY AVENUE	GREEN AV	HEWLETT AV	1,008	51	Mill & Overlay	\$68,208
FORDHAM AVENUE	SONN DR	DEAD END	373	51	Mill & Overlay	\$21,634
GARDEN DRIVE	MILTON RD	ORCHARD DR	564	48	Mill & Overlay w Base Repair	\$51,010
GREEN AVENUE	FOREST AV	STUYVESANT AV	950	53	Mill & Overlay	\$61,222
HARDING DRIVE	LASALLE AV	HUGHES AV	543	55	Mill & Overlay	\$50,740
HILL STREET	OAKLAND BEACH	VALE PLACE	777	44	Mill & Overlay w Base Repair	\$92,636
MANURSING AVENUE	MIDLAND AV	DAVIS AV	581	56	Mill & Overlay	\$56,163
MANURSING AVENUE	DAVIS AV	FOREST AV	602	57	Mill & Overlay	\$44,615
MILTON ROAD	STUYVESANT AVE	235' N OF STUYVESANT AVE	235	47	Mill & Overlay w Base Repair	\$26,085
MOHAWK STREET	HIGHLAND RD	MENDOTA AV	552	54	Mill & Overlay	\$48,024
ONEIDA STREET	HIGHLAND RD	MENDOTA AV	554	54	Mill & Overlay	\$49,983
OVERLOOK PLACE	DEARBORN AV	OAKLAND BEACH AVE	530	50	Mill & Overlay w Base Repair	\$43,577
PECK AVENUE	BOSTON POST ROAD	138' N OF STATION PLAZA	463	57	Mill & Overlay	\$68,626
PECK AVENUE	138' N OF STATION PLAZA	369' S OF STATION PLAZA	507	55	Mill & Overlay	\$47,376
PECK AVENUE	369' S OF STATION PLAZA	MIDLAND AV	1,001	56	Mill & Overlay	\$96,763
PECK AVENUE Y INTERSECTION	PECK AVE	BOSTON POST RD	124	52	Mill & Overlay	\$9,189
SCHOOL STREET	SMITH ST	PURDY AV	469	55	Mill & Overlay	\$36,269
SOUNDVIEW AVENUE	BOSTON POST ROAD	DEAD END	2,413	49	Mill & Overlay w Base Repair	\$228,162
VAN WAGNEN AVENUE	STUYVESANT AV	FOREST AV	861	50	Mill & Overlay w Base Repair	\$74,333
WARRISTON LANE	FOREST AV	CUL DE SAC	413	55	Mill & Overlay	\$21,292
<b>Totals</b>			<b>3.9</b>	<b>miles</b>		<b>\$1,735,404</b>

**Potential Additions, if funding allows:**

BYRD STREET	HELEN AV	LINDBERGH AV	548	58	Mill & Overlay	38,847
CLINTON AVENUE	CENTRAL AV	CUL DE SAC LOOP	672	58	Mill & Overlay	64,960
ELIZABETH STREET	PURCHASE ST	EVERGREEN AV	619	58	Mill & Overlay	51,858
ELMWOOD AVENUE	FOREST AV	RYE BEACH AV	1,259	57	Mill & Overlay	105,476
MOREHEAD DRIVE	FULTON AV	CRESCENT AVE	790	57	Mill & Overlay	50,942
			<b>0.7</b>	<b>miles</b>		

Additionally, a proposed amount is \$100,000 would be allocated for a crack sealing plan to address cracks in roads to slow down the deterioration rate of the road.

- Open a public hearing to amend a local law, Chapter 161 “Sewers” of the Rye City Code. All public hearing comments should be emailed to [publichearingcomments@ryeny.gov](mailto:publichearingcomments@ryeny.gov) with “Chapter 161” as the subject no later than 3:00 pm on the day of the hearing.

Councilwoman Souza made a motion, seconded by Councilwoman Tarlow and unanimously carried, to open the public hearing.

Corporation Counsel Wilson explained that this is one of the requirements of the stipulation of settlement from February 24, 2021 with Save the Sound against nine municipalities, including Westchester County. The significant amendments to this chapter include definitions and the requirement of inspections and what has been defined to be a “discharge compliance certificate.” Property owners will need to comply with these regulations prior to the sale of a home (which are already a requirement under state law, but this will codify it locally).

There were no comments from the public.

Mayor Cohn made a motion, seconded by Councilwoman Tarlow and unanimously carried, to close the public hearing.

Councilwoman Souza made a motion, seconded by Councilwoman Tarlow and unanimously carried, to authorize the City Manager to amend a local law, Chapter 161 “Sewers” of the Rye City Code as follows:

## **CITY OF RYE**

### **LOCAL LAW NO. 4 OF 2021**

A local law to amend Chapter 161 “Sewers” of the Code of the City of Rye by renumbering and amending Article I “Use of Public Sewers” to provide for illicit discharge detection and enforcement; and adding Article III “Private Sanitary Sewer Laterals” as follows:

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

**Section 1:** Article I, *Use of Public Sewers*, is hereby amended as follows:

**§ 161-1 Use required; exceptions; inspections.**

Where a public sewer is available and accessible in a street, alley, easement or thoroughfare to a building or premises abutting thereon, the liquid sewage wastes from any plumbing system in said building shall be discharged into the public sewer unless otherwise prohibited, except that where a place of residence is so located that a gravity connection from the plumbing above the first floor thereof to the street sewer is not possible or such place of residence is located more than 150 feet from the nearest public sewer, a separate sewerage system may be maintained which otherwise complies with city, county or state health laws, codes or regulations. Immediately after the construction of a sewer connection every sewage tank, cesspool or privy vault shall be emptied, cleaned, disinfected and filled with clean mineral soil, rock or gravel. Where a public sanitary sewer is not accessible, a building permit shall not be issued without submission of a copy of the written approval of the Westchester County Commissioner of Health, indicating that the premises may be adequately sewered by a separate sewage disposal system. The further approval of the Common Council of the City of Rye is required for such

separate disposal systems. In addition thereto there shall be an annual inspection of all private sewage disposal systems by a contractor duly approved by the Westchester County Commissioner of Health on all properties bordering on all watercourses, including Long Island Sound, Milton Harbor and all tributaries thereto, and wherever else directed by the Sanitation Committee of the Common Council. A written certificate of such inspection shall be submitted to said Committee for such action thereon as it may direct.

**§ 161-2 Duty of owner.**

[Added 12-17-1980 by Ord. No. 6-1980<sup>[1]</sup>]

A. Where an owner of any building is required to discharge sewage or other liquid wastes from any plumbing system into a public sewer as required by § 161-1 of this Code, he shall maintain such plumbing system within the building and from the building to the point of connection with the public sewer main, so as not to expose or discharge the sewage contents or other deleterious liquid or matter therefrom to the atmosphere, except through legally permissible vents, or on the surface of the ground, public or private, or into any storm sewer or drain or into any watercourse or body of water.

B. No property owners shall discharge or cause to be discharged any non-sewage flow into the City's public sewer including, but not limited to, any such flow from: pumped groundwater, foundation or footing drains, crawl space or basement sump pump discharges, rain gutters, and any other potential water source with non-sewage flow. Any such connection for non-sewage flow shall be deemed an unauthorized connection and the property owner shall be obligated to remove such connection at their own expense.

*[1]Editor's Note: This ordinance also renumbered former §§ 161-2 through 161-5 to become §§ 161-5 through 161-8, respectively.*

**§ 161-2.1 Sewer use.**

[Added 11-2-1983 by L.L. No. 11-1983]

A. The City of Rye and all users of the city's sanitary sewer system shall be subject to all applicable rules and regulations contained in the Westchester County Environmental Facilities Sewer Ordinance No. 1, as amended. A copy of Sewer Ordinance No. 1, as last amended, is available for review in the office of the City Clerk of the City of Rye.

B. The City of Rye and its agents may conduct inspections of public sewer connections to identify any unauthorized connections and issue violations to property owners.

**§ 161-3 Performance of work; costs; collection.**

[Added 12-17-1980 by Ord. No. 6-1980<sup>[1]</sup>]

A. If the provisions of the foregoing sections are not complied with, the City Manager or the Building Inspector shall cause written notice to be served personally upon the owner or by mailing the same to the name of the last known owner of the premises where the building is located as the same appears on the assessment roll of the City of Rye for the last calendar year. If the owner fails, neglects or refuses to correct the conditions and remove the violations so as to comply with the provisions of this article within 10 days

after service of such notice, then in that event, the city may cause the plumbing system to be repaired or replaced so as to comply with the provisions of this article, and the cost or expense of doing said work, plus an administrative charge of \$100, shall be ascertained, and a report thereof shall be forthwith filed with the City Comptroller and City Assessor. The total cost of the same shall be paid by the owner to the city within 30 days after demand. The owner shall have the right to a hearing before the City Manager with respect to the total cost of the work as set forth in said report within 10 days after service by mail of a copy of said report.

B. The total cost of said work, as the same shall appear from the report on file with the City Comptroller, may be sued for and recovered from said owner in a civil suit.

C. The total cost of said work shall become and be a lien on the property benefited by the work done on the plumbing system, and, if the owner thereof shall fail to pay the total cost of the work within 30 days after demand, the City Assessor shall, in the preparation of the next assessment roll, assess such amount upon such property, and the same shall be levied, collected and enforced in the same manner as taxes upon said property for city purposes are levied, collected and enforced.

[1]*Editor's Note: This ordinance also renumbered former §§ 161-2 through 161-5 to become §§ 161-5 through 161-8, respectively.*

**§ 161-4 Penalties for offenses.**

[Added 12-17-1980 by Ord. No. 6-1980<sup>[1]</sup>]

A. Any person violating any of the provisions of this article shall, upon conviction thereof, be punished by a fine not exceeding \$500 or by imprisonment not exceeding 15 days, or by both such fine and imprisonment. Each day such violation shall continue shall constitute a separate offense.

B. Where the City Engineer has, upon inspection, identified an unauthorized connection pursuant to 161-2(B), the City Engineer may issue a Notice of Violation and order property owners to remove any such unauthorized connections at the property owner's expense. If property owners do not comply with an order of the City Engineer to remove an unauthorized connection within a timely manner, i.e. within fifteen (15) days, the City, or any of its agents, may take administrative or judicial enforcement action, including impositions of penalties pursuant to 161-4 (A).

[1]*Editor's Note: This ordinance also renumbered former §§ 161-2 through 161-5 to become §§ 161-5 through 161-8, respectively.*

**Section 2.** Article III, *Private Sanitary Sewer Laterals*, is hereby added to Chapter 161 “Sewers” of the Code of the City of Rye as follows:

§ 161-15. Legislative intent.

The purpose of this article is to reduce infiltration and inflow into the sanitary sewer system operated by the City of Rye and exfiltration of sewage into groundwater and waterways by requiring inspection, testing, repair, replacement and ongoing maintenance of private sewer laterals by property owners in the City of Rye.

**§ 161-16. Definitions.**

As used in this article, the following terms are defined as follows:

**DISCHARGE COMPLIANCE CERTIFICATE**

A certificate issued by the Building Inspector based upon a plumber's certification stating that:

- A. All of the connections leading from the structures on the property to the public stormwater sewer lines and the public sanitary sewer lines comply with the requirements of the New York State Building Code, the Westchester County Sewer Act, the Westchester County Sanitary Code and the City Code;
- B. There are no culverts, drains, hoses, leaders, lines, pipes or pumps that discharge liquids into the sanitary sewer; and
- C. The sanitary sewer laterals leading from the structures on the property do not directly or indirectly allow inflow or infiltration into the City's public sanitary sewer lines.

**EXFILTRATION**

Raw sewage that leaks out of laterals into soil, groundwater and waterways.

**INFILTRATION**

Water other than wastewater that enters a sewer system (including sanitary sewer laterals or sewer service connections) from the ground through such means as defective pipes, pipe joints, connections, or manholes. Infiltration does not include, and is distinguished from, inflow.

**INFLOW**

Water other than wastewater that enters a sewer system (including sanitary sewer laterals or sewer service connections) from sources such as, but not limited to, roof leaders, sump pumps, cellar drains, yard drains, area drains, foundation drains, drains from springs and swampy areas, manhole covers, cross-connections between storm sewers and sanitary sewers, catch basins, cooling towers, stormwaters, surface runoff, street washwaters and drainage. Inflow does not include, and is distinguished from, infiltration.

**PLUMBER'S CERTIFICATION**

A certification made to the City by a plumber licensed to do business within the County of Westchester that the plumber:

- A. Has inspected all of the connections leading from the structures on the property to the public stormwater sewer lines and the public sanitary sewer lines and that all such connections comply with the requirements of the New York State Building Code, Westchester County Sewer Act, the Westchester County Sanitary Code and the City Code;
- B. Has inspected the real property and found that there are no culverts, drains, hoses, leaders, lines, pipes or pumps that discharge liquids into the sanitary sewer; and
- C. Has inspected the sanitary sewer laterals leading from the structures on the property and determined that such laterals do not directly or indirectly allow inflow or infiltration therefrom into the City's public sanitary sewer lines, which inspection must include either a video record of a closed-circuit television (CCTV) inspection of the entire sanitary sewer lateral that has been provided to the City, or, in the case of a force or pump system, the results of a pressure test of the system; satisfactory, in either case, to the Building Inspector or his designee.

#### **RENEWAL EVENT**

Either a transfer of title to the real property, other than a transfer between family members in order to create a joint tenancy or tenancy in common, or an application for a building and/or plumbing permits for construction with a value that exceeds 50% of the assessed value of the property, including improvements. Renewal events shall occur provided no inspection has been conducted at the subject property in the five (5) year period prior.

#### **SANITARY SEWER LATERAL or LATERAL**

The sanitary sewer pipe running from the structures on a property conveying wastewater from the structure and connecting to the public sanitary sewer main.

#### **§ 161-17. Standards for maintenance of sanitary sewer laterals.**

- A. It is the sole responsibility of the private property owner to perform all required maintenance, repairs and replacements of sanitary sewer laterals in accordance with the requirements of this article and the requirements of the New York State Building Code, the Westchester County Sewer Act, the Westchester County Sanitary Code and the City Code.
- B. Laterals shall be kept free from roots, grease deposits and other solids which may impede the flow or obstruct the transmission of sewage.
- C. Laterals shall not exhibit any signs of infiltration.
- D. Laterals shall not exhibit any sign of exfiltration or leakage.

- E. Lateral pipe joints shall be tight and all lateral pipes shall be free of any structure defects such as breaks, openings, and voids.

**§ 161-18. Correction or abatement.**

- A. If at any time any sanitary sewer lateral is found by the Building Inspector or City Engineer to not be in compliance with the requirements of § **161-17**, the owner of the property must cause all necessary repairs made to bring the lateral into compliance. Unless the Building Inspector and City Engineer allow additional time for good cause shown, the owner of the property must undertake to complete the required repairs to the satisfaction of the Building Inspector and City Engineer or their designees within 60 days of the sooner of becoming aware of the noncompliance, or receiving notice from the City or otherwise, including an inspection by a plumber done in connection with providing a plumber's certification, that the lateral is not in compliance.
- B. If the owner fails to complete the repairs and bring the lateral into compliance within the time required, the City may enter upon the property and complete the required work, and the cost of doing so will be billed to the owner of the property, and in the event of nonpayment, will be a lien on the property which can be collected and enforced as part of, and in the same manner as City taxes.
- C. Upon completion of the repairs, the owner must provide to the Building Inspector and City Engineer a detailed invoice specifying the repairs made and reflecting payment for the repairs and a plumber's certification, and must obtain from the Building Inspector a discharge compliance certificate.
- D. An owner may choose to correct the noncompliance by replacing the sanitary sewer lateral. Any new sanitary sewer lateral, whether installed to correct a noncompliance or otherwise, must be installed in accordance with all applicable codes and regulations, including this article, and must be inspected by the Building Inspector, who will issue a discharge compliance certificate if the new lateral complies with the requirements of this article.

**§ 161-18.1. Inspection upon renewal event.**

- A. Each property owner must obtain discharge compliance certificate prior to any renewal event as defined in § 161-16. Upon making an application for a discharge compliance certificate, the Building Inspector, City Engineer, or their designees shall have the right to inspect the property. If the plumber's inspection, the video required to be submitted, or the inspection by the Building Inspector or his designee indicates the lateral is not in compliance with the requirements set forth in § 161-16above, the owner shall be required to correct the conditions not meeting the requirements and provide a plumber's certification and video indicating all conditions have been corrected and that the lateral is now in compliance with this article. Upon the Building Inspector and City Engineer determination that the lateral is in compliance, the discharge compliance certificate will be issued.

- B. If at the time of a renewal event or a required inspection the owner can prove that a discharge compliance certificate has been issued within the preceding five (5) years, and there has been no significant change in the condition of the property, the Building Inspector may waive the requirement for a new discharge compliance certificate for that particular renewal event.

**§ 161-18.2. Fees.**

The fee for the issuance of a discharge compliance certificate shall be as set forth in the fee schedule adopted by the City Council.

**§ 161-18.3. Penalties for offenses.**

Any person, firm, association, or corporation which violates any of the provisions of this article or fails to complete remediation as required herein shall be guilty of a violation and, upon conviction, shall be punished by a fine of not more than \$500 or imprisonment for not more than 15 days, or both such fine and imprisonment. Each day the violation exists shall constitute a separate offense.

**Section 3. 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 4. Effective Date.**

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

**ROLL CALL**

AYES: Mayor Cohn, Councilmembers Goddard, Johnson, Mecca, Souza, Stacks, Tarlow  
NAYS: None  
ABSENT: None

11. Open the public hearing to consider an application from Rye Town Park to install a communications facility that will allow for Verizon Wireless and AT&T to co-locate equipment within the same structure located at 95 Dearborn Avenue, Rye, New York. All public hearing comments should be emailed to [publichearingcomments@ryeny.gov](mailto:publichearingcomments@ryeny.gov) with “RTP Wireless” as the subject no later than 3:00 pm on the day of the hearing.

Councilwoman Souza made a motion, seconded by Councilman Mecca and unanimously carried, to open the public hearing.

Town of Rye Supervisor, Gary Zuckerman, provided a summary of the application. He stated the application is to install a co-location cellular facility in the towers at Rye Town Park. The lack of cellular service in and around the park has led to operational problems for the park and for emergency services as 911 cannot function. Additionally, cellular service is needed for



the automated parking system enforcement, point of sale systems for beach entry, mobile parking app, and hand held ticket writing system. The Commission investigated alternative solutions such as a monopole system or trash cans with antennas and neither was as viable the cellular transformers within the towers that would barely be visible. Additionally, each company would pay \$12,000 per year, which would result in a monetary benefit.

Supervisor Zuckerman explained that the application is currently before the Board of Architectural Review. Councilwoman Goddard added that the application is being heard again on May 10, 2021, as the members wanted to do a site visit before voting on the application.

Leslie Snyder and Robert Czarniawski, counsel on behalf of Verizon, and Joseph Dalto and Lucia Chiochio, counsel on behalf of AT&T, were present to answer any questions from the public.

Lisa Tannenbaum, 12 Roosevelt Ave., asked with the installation, if there is a plan to improve cellular service to the surrounding areas that currently is lacking service.

Ms. Snyder, Mr. Czarniawski and Mr. Dalto all agreed that they are consistently looking at the areas that are lacking service and this installation will better identify where further service is needed.

Ms. Tannenbaum suggested they put in a firm date on when service should be extended in and around the surrounding areas that are lacking service within the application.

Corporation Counsel Wilson discussed the applicable waivers within the City Code that were requested pursuant to this application. As Waiver 1, below, did not apply as a public hearing was held on the matter, she recommended granting Waivers 2-11, listed below:

1. Section 196-5I: As indicated above, the RTPC specifically reached out to Verizon Wireless and AT&T for the purpose of installing the Facility. The RTPC has found that wireless service is needed for emergency services (including wireless 911). See email from emergency services administrator, Scott Moore, attached hereto. Reliable wireless service is also needed to implement various other systems critical to the operation of the Park. They include the automated parking system that is patrolled using license plate readers for enforcement purposes. Said license plate readers require the Facility in order to provide a more robust communications signal to transmit data to and from the Park's computer database. In addition, reliable wireless service is needed for the point of sale (POS) daily parking as well as for beach admission at the parking kiosk, the POS system at the beach entry along with the mobile parking app and the hand-held ticket writing system. Other alternatives were considered to service the Park but all of those alternatives would be much more impactful to the Park. These alternatives were discussed at length over the course of several RTPC public meetings. Therefore, we respectfully request a waiver from such requirement.

2. Sections 196-6E.7-8: It would be time-consuming to update the site plans to reflect all residential and habitable structures within 750 feet. The site plans submitted herewith reflect a distance from the Building feet to the nearest residential structure, which is across the street from the Park. Therefore, we respectfully request a waiver from such requirements.
3. Section 196-6E.11: The Facility will be located inside the existing Building and as such, no landscaping as proposed. Therefore, we respectfully request a waiver from such requirement.
4. Section 196-6F.: There are no existing wireless telecommunications facilities upon which the carriers could collocate to remedy the gap in coverage. As noted in Request #1 above, the Facility has been located at the request of the RTPC to provide reliable wireless service to the Park and to implement operations and in furtherance of Park purposes. Therefore, we respectfully request a waiver from such requirement.
5. Sections 196-6I. and J.: A long Environmental Assessment Form (“EAF”), Visual Addendum and Visual Impact Assessment should not be required. First, the Visual Addendum was merged into the NYS Department of Environmental Conservation’s full EAF form in 2013. In connection with RTPC’s negotiations with Verizon Wireless and AT&T, the RTPC, as lead agency, adopted a negative declaration and determined that the Facility will not have a significant adverse environmental impact. This determination was made based upon a review of the Short Environmental Assessment Form, the plans prepared by SCS, the Visual Resources Materials Methodology Letter prepared by KMB, the mockup of the Facility at the Property, the approval from the New York State Historic Preservation Office (SHPO), and the affidavit from Verizon Wireless’ radiofrequency engineer submitted in February 2021. In addition, there will be no adverse visual impact because the Facility will be co-located on the existing Building and there will be no ground disturbance. Therefore, we respectfully request a waiver from such requirements.
6. Section 196-6T.: The provisions of Sections 106-6T.(1)-(7) and (8)(c) are inapplicable to the design of the Facility. Therefore, we respectfully request a waiver from such requirements. We also respectfully request a waiver from Section 196-6T.(8)(d) since no such universal antenna capable of serving multiple carriers exists.
7. Section 196-8: The Facility is the minimum height necessary to provide the required coverage. The Facility will be located within the existing Building’s belfries and as such, the height of the Facility is limited to the height of such belfries. Moreover, as shown on the site plans submitted herewith, the Facility will be at a height of approximately 34’-10”, which is below the 35-foot height maximum for WR zoning districts. Therefore, we respectfully request a waiver from such requirement.
8. Section 196-9: The Facility will not be artificially lighted or marked. Therefore, we respectfully request a waiver from such requirement.

9. Section 196-11: The Facility is not a tower so the requirements of this section are inapplicable. Furthermore, no commercial or retail signage is proposed. Therefore, we respectfully request a waiver from such requirement.
10. Section 196-16: Since the RTPC held numerous public meetings to discuss the proposal, RTPC requests a waiver of the public hearing and referral of the application to the ARB. It should be noted that the New York State Office of Historic Preservation (“SHPO”) granted approval of the Facility due to its deminimus impact.
11. Sections 196-20; 196-23: We respectfully request that the removal bond and insurance certificates not be required until the issuance of a building permit. As such, we respectfully request a temporary waiver from such requirements.

Councilwoman Souza made a motion, seconded by Councilman Mecca and unanimously carried, to close the public hearing.

Councilwoman Stacks made a motion, seconded by Councilwoman Tarlow and unanimously carried, to adopt the following resolution:

**RESOLVED**, that the City Council approve an application from Rye Town Park to install a communications facility that will allow for Verizon Wireless and AT&T to co-locate equipment within the same structure located at 95 Dearborn Avenue, Rye, New York.

**BE IT FURTHER RESOLVED**, that the City Council approve the following waiver requests set forth in the Rye City Code, as submitted by the Rye Town Park Commission set forth in the application and approve the special permit for the communications facility of Verizon Wireless and AT&T as requested :

Sections 196-6E.7-8  
Section 196-6E.11  
Section 196-6F  
Sections 196-6I. and J  
Section 196-6T  
Section 196-8  
Section 196-9  
Section 196-11  
Section 196-16  
Sections 196-20; 196-23

**ROLL CALL**

**AYES:** Mayor Cohn, Councilmembers Goddard, Johnson, Mecca, Souza, Stacks, Tarlow

NAYS: None  
ABSENT: None

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

There was nothing on this agenda item.

13. Consideration to set a public hearing for May 19, 2021 to add Chapter 166 “No Smoking” to the City Code.

Councilwoman Souza stated that due to the recent approved cannabis law in New York State, there has been a recent uptick in smoking, particularly marijuana, in public parks. As a result, the City would like to create regulations to curb smoking and vaping in public parks and public places such as: Damiano Park, Disbrow Park, Gagliardo Park, Nursery Field, Rye Recreation, Rye Nature Center, the Village Green, public cemeteries, public trails, and accessory parking at the High School (the Snow Field lot).

Councilwoman Souza made a motion, seconded by Councilman Mecca and unanimously carried, to set a public hearing for May 19, 2021 to add Chapter 166 “No Smoking” to the City Code.

14. Home Rule Resolution supporting A5370-A /S4368 extension of the City of Rye Hotel Occupancy Tax.

City manager Usry introduced this resolution by explaining that the hotel marginal tax is required to be extended or re-requested every three years. As such, a resolution is needed that will go to the state legislature, for an extension or a continuation of the hotel/motel tax.

Councilwoman Souza made a motion, seconded by Councilman Stacks and unanimously carried, to adopt the following resolution:

**RESOLVED**, that the City Council supports A5370-A /S4368 extension of the City of Rye Hotel Occupancy Tax.

**ROLL CALL**

AYES: Mayor Cohn, Councilmembers Goddard, Johnson, Mecca, Souza, Stacks, Tarlow  
NAYS: None  
ABSENT: None

15. Authorization for the Interim Public Safety Commissioner to sign a Memorandum of Agreement with the Coast Guard concerning the enforcement of maritime safety and security zones.

City Manager Usry stated that there is currently a potential grant application to replace our police boat over the summer. As part of that process, we are asked to execute an MOA with the coast guard which will lead to ongoing protection of our waters.

**UNAPPROVED MINUTES** – Regular Meeting - City Council  
May 5, 2021 - Page 26

Councilman Mecca made a motion, seconded by Councilwoman Tarlow and unanimously carried, to authorize the Interim Public Safety Commissioner to sign a Memorandum of Agreement with the Coast Guard concerning the enforcement of maritime safety and security zones.

**ROLL CALL**

AYES: Mayor Cohn, Councilmembers Goddard, Johnson, Mecca, Souza, Stacks, Tarlow  
NAYS: None  
ABSENT: None

16. Adjourn until June 9, 2021 the public hearing for consideration of a petition from The Miriam Osborn Memorial Home to amend the text of the City of Rye Zoning Code Association to create new use and development standards for “Senior Living Facilities” in the R-2 Zoning District. All public hearing comments should be emailed to [publichearingcomments@ryeny.gov](mailto:publichearingcomments@ryeny.gov) with “Osborn Zoning Change” as the subject no later than 3:00 pm on the day of the hearing.

Mayor Cohn stated the public hearing will be held over until the June 9, 2021 meeting.

17. Old Business/New Business.

There was nothing on this agenda item.

18. Adjournment

There being no further business to discuss, Councilman Stacks made a motion, seconded by Councilwoman Souza and unanimously carried, to adjourn the regular meeting of the City Council at 9:10 P.M.

Respectfully submitted,

Carolyn D’Andrea  
Rye City Clerk



# CITY COUNCIL AGENDA

DEPT.: City Manager

DATE: May 7, 2021

CONTACT: Greg Usry, Interim City Manager

**AGENDA ITEM:** Purchase Plaza update.

**FOR THE MEETING OF:**

May 19, 2021

**RYE CITY CODE,**

CHAPTER

SECTION

**RECOMMENDATION:** That the Council discuss Purchase Plaza.

**IMPACT:** ☐ Environmental ☐ Fiscal ☒ Neighborhood ☐ Other:

## **BACKGROUND:**

Last summer, the City Council closed Purchase street to create a pedestrian mall to attract people to the Central Business District's shops and restaurants. Closing the streets enabled ample outdoor seating at restaurants to accommodate COVID capacity restrictions. Given the lifting of indoor capacity limits, the Council needs to discuss what Purchase Street will look like this season.

See attached memo from the Chamber of Commerce.



5/15/21

Rye City Council Members,

During the weeks of April 12th through April 24th 2021, the Executive Board spoke with at least sixty business owners on Purchase Street. We stopped in stores, restaurants, salons, and spoke with owners and managers. We asked for their views on Purchase Street Plaza for 2021, including these options:

- Do nothing
- Full closure for a set amount of time
- Bump-outs for restaurants
- Create a one-way traffic thoroughway on Purchase Street to allow all stores more space

The results showed that  $\frac{2}{3}$  of the businesses prefer to continue the Plaza in some form during the summer of 2021. On May 3rd, Governor Cuomo eased most COVID-19 restrictions impacting small businesses effective May 19th, 2021, with the exception of social distancing inside restaurants.

The Executive Board had multiple meetings and discussed possible compromises for *all* businesses and presented these ideas to Greg Usry, Christian Miller, and Ryan Coyne. Due to timing, costs, insurance, and safety issues, a one-way with diagonal parking is not possible.

The Chamber of Commerce has taken into consideration all of the businesses downtown, and it's our mission to see all businesses thrive. We recognize the restaurants may still be at a disadvantage with social distancing guidelines in place for this summer. We also recognize that because Covid restrictions have been relaxed, a full closure is not warranted this summer. Therefore, the Board's recommendation to accommodate all businesses, restaurants, retailers, and services is:

- *Bump-outs allowed in front of restaurants from now until the end of October utilizing cement barriers.*
- *Closure of Second Street (time period TBD)*
- *Allow Rafele to utilize 3 parking spots in Car Park 3 for tent*
- *A two week street closure from July 26, 2001 through August 9, 2001 from Locust Street to Purdy Avenue to optimize Sidewalk Sales and summer events the Chamber of Commerce will plan to attract residents to shop downtown.*
- *Allow free parking at Train Station for July 29, 30, 31 (Sidewalk Sale)*

It is not our recommendation to extend Purchase Street Plaza beyond the proposed two week time frame. The bump-outs should not extend past the end of October.

We appreciate everyone's feedback and thank everyone's effort for ensuring a successful summer for all Rye businesses. We leave this in the City Council's hands to make the final decision based on the feedback and recommendations that we have received throughout our polling.

Thank you,

Tony Coash

Liz Woods

Brian Jackson

Sula Pearlman

Lauren Torres

Samantha Benson

Jo Bryan





# CITY COUNCIL AGENDA

DEPT.: Police

DATE: May 10, 2021

CONTACT: Robert Falk, Public Safety Commissioner

**AGENDA ITEM:** Consideration of a proposed addition to the Rules and Regulations of the City of Rye Police Department: General Order #117.10

**FOR THE MEETING OF:**

May 19, 2021

**RYE CITY CODE,**  
CHAPTER  
SECTION

**RECOMMENDATION:** Approval of the new General Order #117.10

**IMPACT:** ☐ Environmental ☐ Fiscal ☐ Neighborhood ☒ Other:  
Improves the operational effectiveness of the Department.

**RESOLVED,** that the City Council of the City of Rye hereby approves the addition to the Rules and Regulations of the City of Rye Police Department as proposed:

General Order #117.1      Body Cameras

**BACKGROUND:** The proposed addition of the following General Order updates the Department's procedures:

General Order #117.09 Establishes guidelines for the recording, use management, storage and retrieval of audio-visual media recorded by officer worn Body Cameras.



# CITY COUNCIL AGENDA

DEPT.: City Manager's Office

DATE: May 10, 2021

CONTACT: Greg Usry, Interim City Manager

**ACTION:** Open a public hearing to amend the Rye City Code Chapter 165 by adding a new section 165-6(F) City flag poles.

**FOR THE MEETING OF:**

May 19, 2021

**RYE CITY CODE,**  
CHAPTER  
SECTION

**RECOMMENDATION:** That the City Council set the public hearing.

**IMPACT:** ☐ Environmental ☐ Fiscal ☒ Neighborhood ☐ Other:

**BACKGROUND:** The City currently does not have a policy in place determining which flags will fly on City flagpoles. Per this amendment to Chapter 165, the City Council shall decide, by resolution which flags, if any, shall fly on City flag poles.

**CITY OF RYE**  
**LOCAL LAW NO. \_\_\_\_ 2021**

A local law to amend Chapter 165 “Signs” by adding a new section 165-6 (F) “City flag poles” regarding the use of City flag poles as follows:

**Section 1**

**Chapter 165 “Signs”**

**§ 165-6. Prohibited signs in all districts.**

F. City flag poles. The City Council shall decide, by resolution which flags, if any, shall fly on City flag poles. In addition, only a City official or employee may raise such flag(s) on the City flag poles in furtherance of the City Council’s action.

**Section 2: Severability.**

If any phrase, sentence, part, section, subsection or other portion of this chapter or any application thereof to any person or circumstance is declared void, unconstitutional or invalid for any reason, then such word, phrase, sentence, part, section, subsection or other portion, or the proscribed application thereof, shall be severable, and the remaining provisions of this chapter, and all applications thereof, not having been declared void, unconstitutional or invalid, shall remain in full force and effect.

**Section 3: Effective date.**

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



# CITY COUNCIL AGENDA

DEPT.: City Manager

DATE: May 9, 2021

CONTACT: Greg Usry, Interim City Manager

**AGENDA ITEM:** Consideration of a resolution establishing existing flags on City flag poles.

**FOR THE MEETING OF:**

May 19, 2021

**RYE CITY CODE,**  
CHAPTER  
SECTION

**RECOMMENDATION:** That the Council adopt the resolution.

**IMPACT:** ☐ Environmental ☐ Fiscal ☒ Neighborhood ☐ Other:

**BACKGROUND:**

See attached resolution.

## **RESOLUTION**

### **Resolution of the City Council reaffirming the City's past practice of existing flags on City flag poles**

WHEREAS, the City has numerous flag poles throughout the City that fly the American Flag; and

WHEREAS, consistent with its prior actions and the intent of the new amendment to Rye City Code § 165-6(F), the City Council desires to reconfirm its recognition of certain flags to continue flying on the City flag poles; and

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the following City flag poles currently fly and will continue to fly the following flags:

- 1) WWI Memorial – American Flag/POW Flag
- 2) City Hall – two flag poles - A. City Hall entrance (American Flag/ Pride Flag during month of June) and B. Korean and Vietnam Memorial - American Flag
- 3) Locust and Milton Fire Houses – American Flags and POW/MIA Flags
- 4) Boat Basin – American Flag
- 5) Grainger Field – American Flag/POW Flag
- 6) Feeley Field (Disbrow Park) – American Flag
- 7) Gagliardo – American Flag
- 8) Rye Rec – American Flag
- 9) Rye Police Department – American Flag and City of Rye Police Department Flag
- 10) Fireman's Circle - American Flag/POW Flag
- 11) New flag pole at Rye Rec – American Flat/Pride Flag for month of June



# CITY COUNCIL AGENDA

DEPT.: City Manager

DATE: May 10, 2021

CONTACT: Greg Usry, Interim City Manager

**AGENDA ITEM:**

Open a public hearing for May 19, 2021 to add Chapter 166 "Smoking and Vaping" to the City Code.

**FOR THE MEETING OF:**

May 5, 2021  
**RYE CITY CODE,**  
CHAPTER  
SECTION

**RECOMMENDATION:** That the Council open the public hearing.

**IMPACT:** ☒ Environmental ☐ Fiscal ☐ Neighborhood ☐ Other:

**BACKGROUND:**

See attached law.

**CITY OF RYE**

**LOCAL LAW NO. \_\_ 2021**

**A local law to add a new Chapter 166 “Smoking and Vaping” of the Code of the City of Rye to create a ban in certain public areas to preserve the health and safety of citizens as follows:**

**Section 1: Chapter 166, SMOKING AND VAPING**

**§ 166-1 Purpose.**

The City Council declares that the intent and purpose of this chapter is to preserve and improve the public’s health by improving the air quality in certain public areas. The City Council hereby finds that the effects of secondary effects of smoking and vaping pose a threat to the health, safety, and well-being of the City’s residents.

**§ 166-2 Definitions.**

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

ELECTRONIC CIGARETTE or E-CIGARETTE means an electronic device that delivers vapor which is inhaled by an individual user and shall include any refill cartridge and any other component of such device.

SMOKING shall mean the inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, or pipe containing tobacco, cannabis or any other matter or substance.

VAPING shall mean the use of an electronic cigarette or e-cigarette containing a cartridge or pod in which a vapor can be inhaled and exhaled.

**§ 166-3 Prohibition of Smoking and Vaping in Outdoor Areas Owned by the City of Rye.**

A. The following City owned or City controlled public places are hereby established as non-smoking and non-vaping areas:

(1) Rye Recreation Facilities, including, but not limited to:

- (a) Damiano Recreation Center;
- (b) Disbrow Park, including Feeley Field, Founders Field, Grainger Field, Sterling Field, and all associated parking facilities;
- (c) Gagliardo Park, including basketball court, baseball field, picnic areas, playground, and all associated parking facilities;
- (d) Rye Nursery Field; including athletic field and all associated parking facilities;
- (e) Rye Recreation Park, including tennis courts, baseball field, basketball court, bocce court, picnic area, skate park, athletic field, softball field, volleyball court, and all associated parking facilities.

- (2) Rye Nature Center;
- (3) Village Green;
- (4) Public cemeteries;
- (5) Public trails; and
- (6) Accessory parking lot across from Rye High School along Boston Post Road (the Snow Field)

B. The sidewalks immediately adjoining but not traversing Rye Recreation Facilities, Rye Nature Center, Village Green, public cemeteries and public trails are excluded from the smoking and vaping prohibition contained herein.

C. The City Council may, upon Resolution, establish a temporary non-smoking and non-vaping area.

D. It shall be unlawful for any person to smoke or vape in any non-smoking and any non-vaping area.

#### **§ 166-4 Penalties for offenses.**

Any person committing an offense against any provision of this chapter shall, upon conviction thereof, be guilty of a violation pursuant to the Penal Law of the State of New York, punishable by a fine not exceeding \$250.

#### **Section 2. Severability**

If any part of this Local Law is deemed by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder of this Local Law.

**Section 3:** This local law will take effect immediately on filing in the office of the Secretary of State.





# CITY COUNCIL AGENDA

DEPT.: City Manager

DATE: May 13, 2021

CONTACT: Greg Usry, Interim City Manager

**AGENDA ITEM:**

Consideration of a resolution to authorize funding for DPW Building 7.

**FOR THE MEETING OF:**

May 19, 2021

**RYE CITY CODE,**  
CHAPTER  
SECTION

**RECOMMENDATION:** That the Council adopt the resolution.

**IMPACT:** ☐ Environmental ☒ Fiscal ☐ Neighborhood ☐ Other:

**BACKGROUND:**

See attached resolution.

## **RESOLUTION**

### **Authorizing the reimbursement of the City's capital expenditure fund out of bond proceeds for the rehabilitation and roof repairs of Building 7 at Disbrow Park**

WHEREAS, the City Council previously authorized the City to use the contract prices procured by the City of White Plains to purchase the necessary materials and to perform the necessary work for the rehabilitation and roof repairs of Building 7 at Disbrow Park; and

WHEREAS, the City may decide to bond for certain capital expenditures; and

WHEREAS, the contract price, including construction inspection costs and oversight, shall not exceed \$400,000; and

BE IT FURTHER RESOLVED, that the City may reimburse cap ex account with bond proceeds for an amount not to exceed \$400,000 for costs associated with the rehabilitation and roof repairs of Building & at Disbrow Park.



# CITY COUNCIL AGENDA

DEPT.: Engineering

DATE: May 19, 2021

CONTACT: Ryan X. Coyne, City Engineer

**ACTION:** Award bid for the Annual Street Resurfacing contract (Contract #2021-01).

**FOR THE MEETING OF:**

May 19, 2021

**RYE CITY CODE,**

CHAPTER

SECTION

**RECOMMENDATION:** That Contract #2021-01 be awarded to the low bidder, ELQ Industries, Inc. is the lowest bidder in the amount of One Million Six Hundred Forty-one Thousand Seven Hundred Eighty Dollars (\$1,641,780) as recommended by the City Engineer.

**RESOLVED,** that Bid #2021-01, for street resurfacing is hereby awarded to ELQ Industries, Inc.

**IMPACT:** Environmental ☒ Fiscal ☐ Neighborhood ☐ Other:

**BACKGROUND:** The Engineering Department has prioritized a list of streets for resurfacing per presentations at a prior City Council Meeting.

The City Engineer provided a letter of recommendation and bid results are attached for your review.

# Annual Street Resurfacing Program - Contract 2021-01 Bid Tabulation



Item Number	Item	Unit	Quantity	1. PCI Industries		2. ELQ Industries		3. Montesano Brothers	
				Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price
502.31010018	Full Depth PCC Lift Out	SY	230	250.00	\$ 57,500.00	\$104.00	\$23,920.00	\$150.00	\$34,500.00
502.36230018	Heavily Reinforced HES PCC Placement for Full Depth Pavement Areas	CY	60	1,834.00	\$ 110,040.00	\$1,320.00	\$79,200.00	\$599.00	\$35,940.00
505	12.5 F3 Top Course HMA, 80 Series	Tons	10	130.00	\$ 1,300.00	\$120.00	\$1,200.00	\$129.00	\$1,290.00
506	9.5 F3 Top Course HMA, 80 Series	Tons	7800	130.00	\$ 1,014,000.00	\$126.00	\$982,800.00	\$139.00	\$1,084,200.00
507	Milling of Asphaltic Concrete Pavement (0 - 4")	SY	66800	7.20	\$ 480,960.00	\$6.50	\$434,200.00	\$7.95	\$531,060.00
507A	Milling of Asphaltic Concrete Pavement (Greater than 4")	SY	10	51.00	\$ 510.00	\$11.00	\$110.00	\$9.25	\$92.50
526	Concrete Curb	LF	10	100.00	\$ 1,000.00	\$75.00	\$750.00	\$89.00	\$890.00
526A	Belgian Block Curb	LF	10	200.00	\$ 2,000.00	\$47.00	\$470.00	\$45.00	\$450.00
528A	Concrete Driveways and Driveway Aprons	EA	10	3,000.00	\$ 30,000.00	\$57.00	\$570.00	\$121.00	\$1,210.00
529	Driveway Restoration	SF	100	44.00	\$ 4,400.00	\$34.00	\$3,400.00	\$15.00	\$1,500.00
545	Asphalt Concrete Truing and Leveling Course	Tons	100	130.00	\$ 13,000.00	\$120.00	\$12,000.00	\$136.00	\$13,600.00
604.07	Remove, Replace and Adjust Manhole Castings for Resurfacing Work	EA	10	1,100.00	\$ 11,000.00	\$1,200.00	\$12,000.00	\$1,740.00	\$17,400.00
619.01	Maintenance and Protection of Traffic	LS	1	42,090.00	\$ 42,090.00	\$55,000.00	\$55,000.00	\$29,500.00	\$29,500.00
685.12	Yellow Epoxy Reflectorized Pavement Stripes, 20 mils	LF	5,200	1.00	\$ 5,200.00	\$0.80	\$4,160.00	\$0.76	\$3,952.00
740SS	Pavement Repair - Asphalt Concrete Pavement	SY	1,000	50.00	\$ 50,000.00	\$28.00	\$28,000.00	\$69.00	\$69,000.00
903	Adjustment of Water Value Boxes and Meter Pits	EA	10	200.00	\$ 2,000.00	\$400.00	\$4,000.00	\$114.00	\$1,140.00
<b>Engineer's Total</b>				<b>\$1,825,000.00</b>		<b>\$1,641,780.00</b>		<b>\$1,825,724.50</b>	
Contractor's Total				\$1,825,000.00		\$1,641,780.00		\$1,825,724.50	

Bid Opening:  
May 12, 2021



To: Ryan Coyne, City Engineer

Date: May 13, 2021  
Project #: 46292.05

## Memorandum

From: Gordon Daring, VHB

Re: Recommendation to Accept Low Bid - Contract 2021-01

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We have reviewed the bids that were received in response to the advertisement for the City of Rye Annual Street Resurfacing Program, Contract 2021-01 from a cost perspective. The apparent low bidder was ELQ Industries, Inc. The unit costs included in the bid were reasonably close to other bids recently received in the Westchester County area. In addition, the total amount bid was within our estimate of probable cost including the additional 5 street sections that were planned to be included in the program if favorable bid prices were received. Based on the above, we recommend that the bid received from ELQ Industries be accepted.

Please note that we are assuming that others will confirm the conformance of the bid with other legal and administrative requirements. Please let me know if there are any questions related to our recommendation.



# CITY COUNCIL AGENDA

DEPT.: City Manager

DATE: April 14, 2021

CONTACT: Greg Usry, Interim City Manager

**AGENDA ITEM:** Consideration of a request by Rye City Rotary and Rye Arts Center to install a public butterfly sculpture project.

**FOR THE MEETING OF:**

May 19, 2021

**RYE CITY CODE,  
CHAPTER  
SECTION**

**RECOMMENDATION:** That the Council approve this request.

RESOLVED, that the City Council approve a request from the Rye City Rotary Club and Rye Arts Center to install their public butterfly sculpture project on the Village Green and other mentioned City property sites throughout the summer of 2021.

**IMPACT:** ☐ Environmental ☐ Fiscal ☒ Neighborhood ☐ Other:

## BACKGROUND:

The Rye Arts Center and The Rotary Club of Rye have partnered to bring Public Art to the City of Rye this summer. The project is titled Rye sAbove because it features thirty-six sculptures of butterflies in varying sizes.

See attached for more details.

**RYE CITY COUNCIL PRESENTATION**  
**PUBLIC SCULPTURE FOR RYE COMMUNITY**

April 21, 2021

**Overview**

The Rye Arts Center and The Rotary Club of Rye have partnered to bring Public Art to the City of Rye this summer. The project is titled *Rye'sAbove* because it features thirty-six sculptures of butterflies in varying sizes. The organizations see the butterfly as symbolic of positive change and transformation, which is important for our community in light of events this past year.

**Program Features**

*Rye'sAbove* will feature thirty-six butterflies painted by artists, many of whom are from the local area. Three large butterflies (45" height and 62" wingspan) and eight medium butterflies (35" height and 45" wingspan) have been made of fabricated aluminum and will be sealed for outdoor display. The sculptures are then mounted on 7' poles for display. The twenty-five Petites (7" height and 9" wingspan) are made of 14 gauge carbon steel plate.

A "Call to Artists" was sent out in February and many artists responded by submitting a drawing and information about their work and interest in the project. A committee from The Rye Arts Center selected the artists, and the sculptures were distributed to the participating artists in April after delivery from Colorado Springs, where the program has thrived under the direction and sponsorship of the local Rotary club. The artists received a stipend and will complete their work by early May at which time the sculptures will be coated with a sealant for outdoor protection.

The plan has been for the butterflies to be displayed in downtown Rye for the summer with the intent of supporting our merchants, restaurants, and service establishments. The installation target date is early June for display through the summer months. The sculptures will then be available for purchase at a fall auction. The dates of the spring Reveal and the fall auction have yet to be determined. The proceeds from the auction will be used for student scholarships and educational programs through both The Rotary Club of Rye and The Rye Arts Center.

**Request for Action**

The Rotary Club of Rye and The Rye Arts Center are hereby requesting City Council approval to display the 11 larger sized sculptures on the Village Green in the area closest to Purchase Street. Members of the organizations have met with the City Manager, City Engineer Ryan Coyne and Noga Ruttenberg regarding (1) installation, (2) Village Green maintenance, and (3) any anticipated issues for City Staff related to this display of

sculptures on the Village Green. (The sculptures are mounted on \_\_\_' foot poles and, therefore, are not an obstruction to visitors on the Green.) In addition, Chris Shoemaker, Director of the Rye Free Reading Room, participated in the meeting and expressed his support of the project and assurance that the display would not interrupt any library summer events. Mayor Cohn has also been kept apprised of the project's progress.

We also discussed with City Engineer Coyne the possibility of moving some of the sculptures to Purchase Street during the summer and respectfully request your approval if that option should become a popular request and advantageous to downtown Rye.

It is currently contemplated that the twenty-five smaller sculptures would be displayed inside in order to keep them secure. We anticipate contacting retailers to see if they are interested in displaying the sculptures in their retail spaces.

Another alternative is to contact the landlords regarding empty storefronts and request display in the respective storefront windows. Although Council has specified that empty storefronts must be covered in brown paper, we would be interested in considering the above.

The Rye Arts Center is also utilizing its classes to interest young participants in butterflies and have them painting large butterfly wings that could be hung in windows or outside in downtown spaces, so residents and visitors could become the butterfly body by standing between the wings and have their picture taken.

In addition, to promote the interest in butterflies, we have approached Rye Town Park regarding participation in the opening of the Pollinator Garden.

We are requesting input and guidance from Council on all of these issues, so we work in partnership with the City to promote our downtown community on behalf of the retailers, restaurants and other lessees.

## **Conclusion**

We believe the butterflies present a unique opportunity to transform the community and *Rye's Above* the trials and tribulations of the past year. We will be able to support our community and, at the same time, support art and education for our young residents.

We need to thank The Rotary Club of Rye and The Rye Arts Center for enriching the community by embracing this project in support of Rye and local artists. In addition, the Rotary has been busy soliciting sponsorships and downtown establishment support for the project. We think that all of Westchester County will want to see and experience this unique flight, and while they are here, shop with our merchants and eat in our wonderful restaurants. This is a win for everyone.

Your approval of the display on the Village Green and other options listed above will bring Public Art to Rye this summer, promote our community and support the businesses that have endured through the pandemic.





# CITY COUNCIL AGENDA

DEPT.: City Manager

DATE: May 9, 2021

CONTACT: Greg Usry, Interim City Manager

**AGENDA ITEM:** Set a public hearing for June 9, 2021 to establish the assessment for the Kirby Lane South Sewer District.

**FOR THE MEETING OF:**

May 19, 2021

**RYE CITY CODE,  
CHAPTER  
SECTION**

**RECOMMENDATION:** That the Council set the public hearing.

RESOLVED, that the Council set the public hearing for June 9, 2021 to establish the assessment for the Kirby Lane South Sewer District.

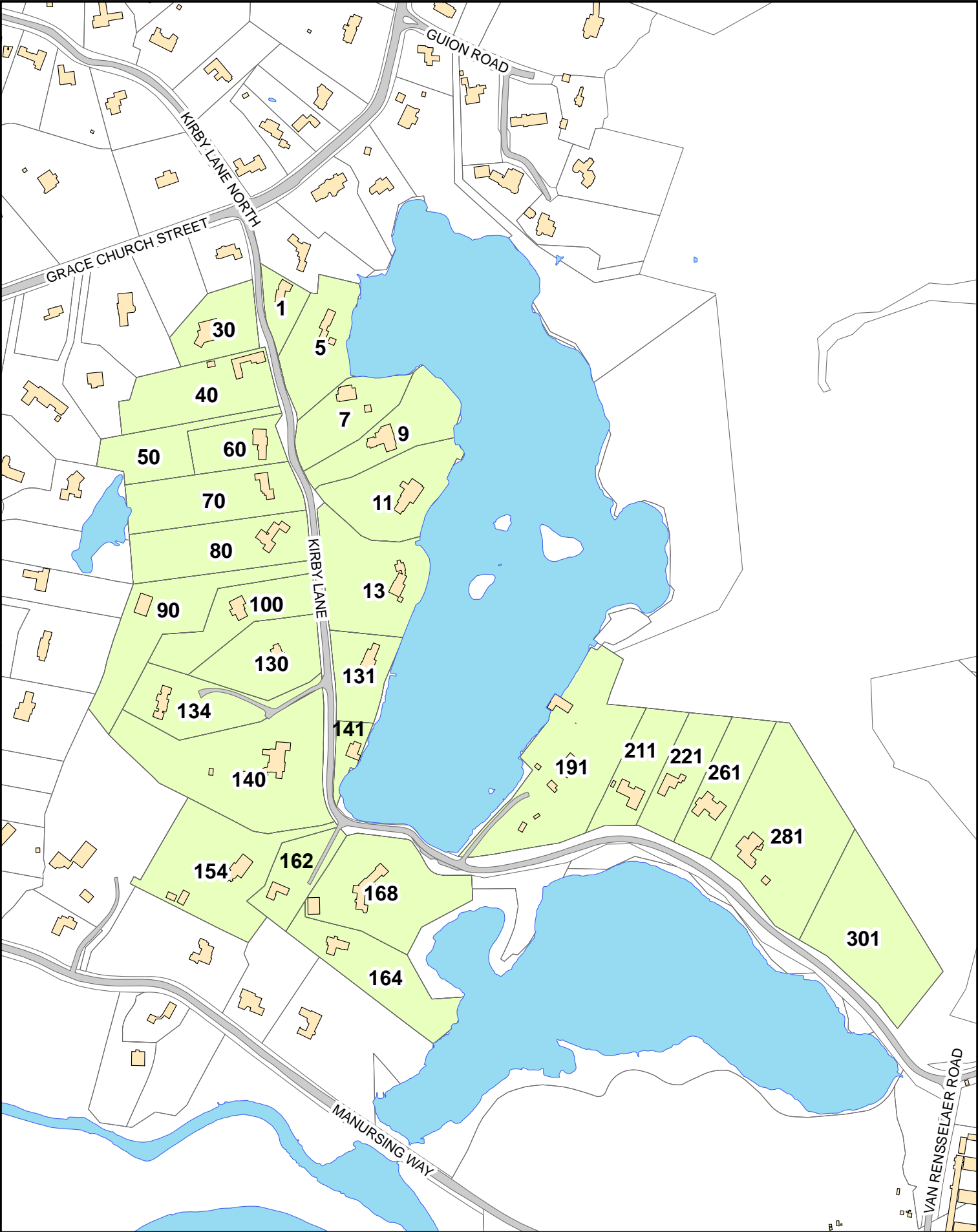
**IMPACT:** ☐ Environmental ☒ Fiscal ☒ Neighborhood ☐ Other:

**BACKGROUND:**

The Kirby Lane South Sewer district was created in March of 2011. At the time, the homes on the street had individual septic systems and wished to be connected to the City's sanitary sewer system. The City paid for the sewer work which was completed in 2012 but the assessment was never adopted. The City is currently carrying an account receivable totaling \$405,555.11, the cost of the project in 2011. Based upon the project total and the 29 parcels on Kirby Lane South, the cost to each property owner will be a lump sum of \$13,984.66 (or 15 annual installments of \$1,177.18 which includes a 3% interest cost if paid annually).

See attached map of affected properties.

# Kirby Lane Extension Sanitary Sewer Special Assessment District





# CITY COUNCIL AGENDA

DEPT.: City Manager

DATE: May 10, 2021

CONTACT: Greg Usry, Interim City Manager

**AGENDA ITEM:** Consideration of an application for a T-Mobile cell infrastructure upgrade on 350 Theodore Fremd.

**FOR THE MEETING OF:**

May 19, 2021

**RYE CITY CODE,  
CHAPTER  
SECTION**

**RECOMMENDATION:** That the Council consider the application.

**IMPACT:** ☐ Environmental ☐ Fiscal ☒ Neighborhood ☐ Other:

**BACKGROUND:**

See attached application.

LAW OFFICES OF  
**SNYDER & SNYDER, LLP**

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REPLY TO:

Tarrytown Office

May 14, 2021

Hon. Mayor Josh Cohn and  
Councilmembers of the City Council  
City of Rye  
1051 Boston Post Road  
Rye, New York 10580

Re: **Eligible Facilities Request**  
T-Mobile Northeast, LLC  
350 Theodore Fremd Ave, City of Rye, New York

Dear Hon. Mayor Cohn and  
City Councilmembers:

We represent T-Mobile Northeast LLC ("T-Mobile") in connection with the Eligible Facilities Request ("EFR") previously filed on February 25, 2021, to modify an existing base station ("Existing Facility") on the rooftop of the existing building ("Existing Building") located at the above referenced property ("Property") that does not substantially change the physical dimensions of such base station pursuant to Section 6409 (codified as 47 U.S.C.S. 1455(a)) of the Middle Class Tax Relief and Job Creation Act of 2012 ("Tax Relief Act"), and its implementing regulation 47 C.F.R. §1.6100 (a copy of which is attached hereto).

Section 6409 of the Tax Relief Act requires the City to grant T-Mobile's request to modify an existing base station so long as T-Mobile's proposed collocation does not substantially change the physical dimensions of such base station. The legislative history for Section 6409 clearly establishes the intent of Congress. "Section 6409. This section streamlines the process for siting of wireless facilities by *preempting the ability of State and local authorities to delay collocation of, removal of, and replacement of wireless equipment* (emphasis added)." 158 Cong. Rec. E237-39 (daily ed. February 24, 2012) (statement of Rep. Fred Upton). On October 17, 2014, the Federal Communications Commission adopted the Acceleration of Broadband Deployment by Improving Wireless Facilities Siting Policies order ("FCC Order") further implementing Section 6409 of the Tax Relief Act. Under the FCC Order, municipalities shall approve an eligible facilities request within 60 days of receiving the application or the request will be deemed granted.

As set forth in the materials submitted herewith, T-Mobile's request involves the collocation and modification of transmission equipment that does not substantially change the

physical dimensions of the existing base station.

Pursuant to federal law, there will be no “substantial change” to the physical dimensions of the base station for the following reasons. **First**, the proposed antennas will not increase the height of the Existing Facility by more than 10 feet in accordance with 47 C.F.R. § 1.6100(b)(7)(i). **Second**, the proposed antennas will not protrude from the edge of the Existing Building by more than 6 feet in accordance with 47 C.F.R. § 1.6100(b)(7)(ii). **Third**, the number of equipment cabinets will not be increased by more than four (4) in accordance with 47 C.F.R. § 1.6100(b)(7)(iii). **Fourth**, the proposed installation will be on the Existing Facility and there will be no excavation or deployment outside of the existing base station’s current site in accordance with 47 C.F.R. § 1.6100(b)(7)(iv). **Fifth**, the proposed work will not defeat any concealment elements of the existing base station in accordance with 47 C.F.R. § 1.6100(b)(7)(v). **Sixth**, the proposed work will not violate any prior conditions of approval for the existing base station in accordance with 47 C.F.R. § 1.6100(b)(7)(vi).

Please note that, in accordance with 47 C.F.R. § 1.6100(c)(1), an EFR application is to only include materials and information reasonably related to determining if the proposed modification meets the requirements contained in the Tax Relief Act’s implementing regulations. See 47 C.F.R. § 1.6100(c)(1). The City’s Code in § 196-5(F)(3) states that an EFR application must include all of the information required in § 196-6(V). Section 196-6(V) of the City’s Code states the following “[t]o the extent applicable, every applicant for an **eligible facility permit** shall comply with § 196A [sic *intended 196-6(A)*] through D, E(1) through (8), (10), (11) through (14), (18) through (21), (24), (25), G through J, N, O, Q, and R.” Therefore, in accordance with 47 C.F.R. § 1.6100(c)(1), T-Mobile respectfully requests a waiver from all application requirements contained in Section 196-6(V) that are not reasonably related to determining if T-Mobile’s modification is an EFR.

More specifically T-Mobile respectfully requests the following waivers from the application requirements contained in § 196-6(V) of the City’s Code:

1. Section 196-6(E)(6): “*Size of the property stated both in square feet and lot line dimensions and a diagram showing the location of all lot lines where the facility is proposed to be located outside of the right-of-way, and within the rights-of-way, the location of the proposed facility in relation to the right-of-way, pedestrian and nonmotorized vehicle pathways and crosswalks, and the location in relation to driveways on the same right-of-way and within 750 feet.*” As this is for a modification of an existing installation on a rooftop, and will not affect any rights-of-way, a waiver is respectfully requested from this code section.
2. Section 196-6(E)(7): “*Location of all residential structures within 750 feet.*” As this application involves the modification of an existing rooftop facility, and that this information is not reasonably related to the review of an EFR application, a waiver is respectfully requested from this code section.
3. Section 196-6(E)(8): “*Location of all habitable structures within 750 feet.*” As this application involves the modification of an existing rooftop facility, and that this

information is not reasonably related to the review of an EFR application, a waiver is respectfully requested from this code section.

4. Section 196-6(E)(11): *"Type, size and location of all proposed and existing landscaping."* As this application involves a modification of an existing rooftop facility, a waiver is respectfully requested from this code section.
5. Section 196-6(E)(19): *"The applicant's proposed wireless telecommunications facility maintenance and inspection procedures and related system of records."* As this is an application that does not involve a tower, and a Compliance Statement regarding maintenance of the Facility will be submitted, a waiver from this code section is respectfully requested. However please note that this Facility will be routinely inspected by an on-site technician on an approximately monthly basis, and the Facility is also remotely monitored at all times.
6. Section 196-6(E)(20): *"A copy of the FCC license applicable for the use of the wireless telecommunications facility, if any, and a copy of any certificate issued by the State of New York for the facility; and proof that applicant and any person who will own facilities associated with the proposed wireless telecommunications facility are authorized to place the facilities at the location proposed."* As this is a modification to an existing facility, and that T-Mobile is a FCC licensed provider of personal wireless services, a waiver from this code section is respectfully requested.
7. Section 196-6(E)(25): *"Information relating to the expected useful life of the proposed wireless telecommunications facility."* As this Facility is part of an ever evolving telecommunications network, it is extremely difficult to provide the information requested. Also as this is a modification to an Existing Facility and this information is not reasonably related to an EFR review, a waiver from this code section is respectfully requested.
8. Section 196-6(I): *"The applicant shall submit a completed long form EAF and a completed visual EAF addendum. The Council may require submission of a more detailed visual analysis based on the results of the visual EAF addendum. Applicants are encouraged to seek preapplication meetings with the City Council to address the scope of the required visual assessment."* As this application meets the EFR requirements and is a modification of a rooftop facility, the proposed modification is a Type II action in accordance with 6 CRR-NY 617.5(c)(19), and does not require SEQRA review. Therefore a waiver from this code section is respectfully requested.
9. Section 196-(6)(J): *"A visual impact assessment shall be provided with each application..."* As this is an EFR application for the modification of an existing rooftop facility, a waiver from this code section is respectfully requested.
10. Section 196-(6)(R): *"If the applicant is proposing the construction of a tower or installation on an existing tower or building, the applicant shall examine the feasibility of designing a multicarrier use to extent practicable...."* The structural report submitted to the City shows that the impact of the telecommunications equipment on the building

is minimal, and should another carrier decide to collocate on the same rooftop, that carrier would have to produce its own structural report at that time. Therefore, a waiver from this code section is respectfully requested.

As §196-22(C)(2) requires post-installation radio frequency exposure testing, and the FCC requires that all facilities be in compliance with the FCC rules and regulations on radio frequency exposure, T-Mobile respectfully requests the waiver of submitting the theoretical radio frequency exposure analysis prior to installation.

Please note that this EFR application was filed with the City on February 25, 2021 and that the 60-day review period has been exceeded. See 47 C.F.R. § 1.6100(c). Nevertheless, in furtherance of the foregoing, and without waiving any rights, please find enclosed herewith 10 copies of the following materials:

1. T-Mobile EFR Letters;
2. Building Permit Application Form;
3. Authorization from Property Owner;
4. Statement of Compliance;
5. Structural Report certifying the Existing Building has sufficient capacity to withstand the proposed modification; and
6. Plans certifying the proposed collocation will not create a substantial change to the Existing Facility.

Thank you for your consideration of this Eligible Facilities Request, we look forward to discussing this matter with the City Council at their next available meeting. Please contact my office when the permit for T-Mobile's EFR application has been approved.

Respectfully submitted,  
SNYDER & SNYDER, LLP

By:   
Robert D. Gaudioso

Enclosures

cc: Applicant

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Code of Federal Regulations

Title 47. Telecommunication

Chapter I. Federal Communications Commission (Refs & Annos)

Subchapter A. General

Part 1. Practice and Procedure (Refs & Annos)

Subpart U. State and Local Government Regulation of the Placement, Construction, and Modification of Personal Wireless Service Facilities (Refs & Annos)

47 C.F.R. § 1.6100

§ 1.6100 Wireless Facility Modifications.

Effective: January 4, 2021

Currentness

(a) [Reserved by 83 FR 51886]

(b) Definitions. Terms used in this section have the following meanings.

(1) Base station. A structure or equipment at a fixed location that enables Commission-licensed or authorized wireless communications between user equipment and a communications network. The term does not encompass a tower as defined in this subpart or any equipment associated with a tower.

(i) The term includes, but is not limited to, equipment associated with wireless communications services such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

(ii) The term includes, but is not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including Distributed Antenna Systems and small-cell networks).

(iii) The term includes any structure other than a tower that, at the time the relevant application is filed with the State or local government under this section, supports or houses equipment described in paragraphs (b)(1)(i) through (ii) of this section that has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support.

(iv) The term does not include any structure that, at the time the relevant application is filed with the State or local government under this section, does not support or house equipment described in paragraphs (b)(1)(i)-(ii) of this section.

(2) Collocation. The mounting or installation of transmission equipment on an eligible support structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes.



(3) Eligible facilities request. Any request for modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station, involving:

(i) Collocation of new transmission equipment;

(ii) Removal of transmission equipment; or

(iii) Replacement of transmission equipment.

(4) Eligible support structure. Any tower or base station as defined in this section, provided that it is existing at the time the relevant application is filed with the State or local government under this section.

(5) Existing. A constructed tower or base station is existing for purposes of this section if it has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review process, provided that a tower that has not been reviewed and approved because it was not in a zoned area when it was built, but was lawfully constructed, is existing for purposes of this definition.

(6) Site. For towers other than towers in the public rights-of-way, the current boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the site, and, for other eligible support structures, further restricted to that area in proximity to the structure and to other transmission equipment already deployed on the ground. The current boundaries of a site are the boundaries that existed as of the date that the original support structure or a modification to that structure was last reviewed and approved by a State or local government, if the approval of the modification occurred prior to the Spectrum Act or otherwise outside of the section 6409(a) process.

(7) Substantial change. A modification substantially changes the physical dimensions of an eligible support structure if it meets any of the following criteria:

(i) For towers other than towers in the public rights-of-way, it increases the height of the tower by more than 10% or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty feet, whichever is greater; for other eligible support structures, it increases the height of the structure by more than 10% or more than ten feet, whichever is greater;

(A) Changes in height should be measured from the original support structure in cases where deployments are or will be separated horizontally, such as on buildings' rooftops; in other circumstances, changes in height should be measured from the dimensions of the tower or base station, inclusive of originally approved appurtenances and any modifications that were approved prior to the passage of the Spectrum Act.

(ii) For towers other than towers in the public rights-of-way, it involves adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than twenty feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater; for other eligible support structures, it involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six feet;

(iii) For any eligible support structure, it involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four cabinets; or, for towers in the public rights-of-way and base stations, it involves installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than 10% larger in height or overall volume than any other ground cabinets associated with the structure;

(iv) It entails any excavation or deployment outside of the current site, except that, for towers other than towers in the public rights-of-way, it entails any excavation or deployment of transmission equipment outside of the current site by more than 30 feet in any direction. The site boundary from which the 30 feet is measured excludes any access or utility easements currently related to the site;

(v) It would defeat the concealment elements of the eligible support structure; or

(vi) It does not comply with conditions associated with the siting approval of the construction or modification of the eligible support structure or base station equipment, provided however that this limitation does not apply to any modification that is non-compliant only in a manner that would not exceed the thresholds identified in § 1.40001(b)(7)(i) through (iv).

(8) Transmission equipment. Equipment that facilitates transmission for any Commission-licensed or authorized wireless communication service, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, and regular and backup power supply. The term includes equipment associated with wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

(9) Tower. Any structure built for the sole or primary purpose of supporting any Commission-licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site.

(c) Review of applications. A State or local government may not deny and shall approve any eligible facilities request for modification of an eligible support structure that does not substantially change the physical dimensions of such structure.

(1) Documentation requirement for review. When an applicant asserts in writing that a request for modification is covered by this section, a State or local government may require the applicant to provide documentation or information only to the extent reasonably related to determining whether the request meets the requirements of this section. A State or local government may not require an applicant to submit any other documentation, including but not limited to documentation intended to illustrate the need for such wireless facilities or to justify the business decision to modify such wireless facilities.

(2) Timeframe for review. Within 60 days of the date on which an applicant submits a request seeking approval under this section, the State or local government shall approve the application unless it determines that the application is not covered by this section.

(3) Tolling of the timeframe for review. The 60-day period begins to run when the application is filed, and may be tolled only by mutual agreement or in cases where the reviewing State or local government determines that the application is incomplete. The timeframe for review is not tolled by a moratorium on the review of applications.

(i) To toll the timeframe for incompleteness, the reviewing State or local government must provide written notice to the applicant within 30 days of receipt of the application, clearly and specifically delineating all missing documents or information. Such delineated information is limited to documents or information meeting the standard under paragraph (c)(1) of this section.

(ii) The timeframe for review begins running again when the applicant makes a supplemental submission in response to the State or local government's notice of incompleteness.

(iii) Following a supplemental submission, the State or local government will have 10 days to notify the applicant that the supplemental submission did not provide the information identified in the original notice delineating missing information. The timeframe is tolled in the case of second or subsequent notices pursuant to the procedures identified in this paragraph (c)(3). Second or subsequent notices of incompleteness may not specify missing documents or information that were not delineated in the original notice of incompleteness.

(4) Failure to act. In the event the reviewing State or local government fails to approve or deny a request seeking approval under this section within the timeframe for review (accounting for any tolling), the request shall be deemed granted. The deemed grant does not become effective until the applicant notifies the applicable reviewing authority in writing after the review period has expired (accounting for any tolling) that the application has been deemed granted.

(5) Remedies. Applicants and reviewing authorities may bring claims related to Section 6409(a) to any court of competent jurisdiction.

#### Credits

[80 FR 28203, May 18, 2015; 83 FR 51886, Oct. 15, 2018; 85 FR 78018, Dec. 3, 2020]

SOURCE: 56 FR 57598, Nov. 13, 1991; 57 FR 187, Jan. 3, 1992; 58 FR 27473, May 10, 1993; 59 FR 22985, May 4, 1994; 61 FR 45618, Aug. 29, 1996; 61 FR 46561, Sept. 4, 1996; 61 FR 52899, Oct. 9, 1996; 62 FR 37422, July 11, 1997; 63 FR 67429, Dec. 7, 1998; 63 FR 71036, Dec. 23, 1998; 64 FR 63251, Nov. 19, 1999; 65 FR 10720, Feb. 29, 2000; 65 FR 19684, April 12, 2000; 65 FR 31281, May 17, 2000; 69 FR 77938, Dec. 29, 2004; 71 FR 26251, May 4, 2006; 74 FR 39227, Aug. 6, 2009; 75 FR 9797, March 4, 2010; 76 FR 43203, July 20, 2011; 77 FR 71137, Nov. 29, 2012; 78 FR 10100, Feb. 13, 2013; 78 FR 15622, March 12, 2013; 78 FR 41321, July 10, 2013; 78 FR 50254, Aug. 16, 2013; 79 FR 48528, Aug. 15, 2014; 80 FR 1268, Jan. 8, 2015; 81 FR 40821, June 23, 2016; 81 FR 52362, Aug. 8, 2016; 81 FR 79930, Nov. 14, 2016; 81 FR 86601, Dec. 1, 2016; 82 FR 8171, Jan. 24, 2017; 82 FR 18581, April 20, 2017; 82 FR 20839, May 4, 2017; 82 FR 24561, May 30, 2017; 82 FR 41103, Aug. 29, 2017; 82 FR 41544, Sept. 1, 2017; 82 FR 55331, Nov. 21, 2017; 82 FR 58758, Dec. 14, 2017; 83 FR 2556, Jan. 18, 2018; 83 FR 4600, Feb. 1, 2018; 83 FR 7401, Feb. 21, 2018; 83 FR 46836, Sept. 14, 2018; 83 FR 47095, Sept. 18, 2018; 83 FR 48963, Sept. 28, 2018; 83 FR 51884, Oct. 15, 2018; 83 FR 61089, Nov. 27, 2018; 83 FR 63095, Dec. 7, 2018; 84 FR 8618, March 11, 2019; 84 FR 50999, Sept. 26, 2019; 84 FR 57363, Oct. 25, 2019; 86 FR 12547, March 4, 2021; 86 FR 15797, March 25, 2021, unless otherwise noted.

AUTHORITY: 47 U.S.C. chs. 2, 5, 9, 13; 28 U.S.C. 2461 note, unless otherwise noted.

Notes of Decisions (5)

Current through March 25, 2021; 86 FR 15799.

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End of Document

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Agent for T-Mobile: Marlin D. Castillo  
Date: February 25, 2021  
Site Address: 350 Theodore Fremd Ave., Rye, NY 10580

To Whom It May Concern:

Re: Eligible Facilities Request to Modify Transmission Equipment at an Existing Base Station located at **350 Theodore Fremd Ave., Rye, NY 10580**.

A. T-Mobile is Filing an Eligible Facilities Request

**Streamline Site Acquisition Services** on behalf of T-Mobile Northeast, LLC is submitting the attached Eligible Facilities Request application to add, remove, modify, or replace Transmission Equipment at an Existing Base Station located at **350 Theodore Fremd Ave., Rye, NY 10580** in **Rye, NY**.

Because this jurisdiction has not yet developed an Eligible Facilities Request permit application form that complies with Section 6409 of the Middle Class Tax Relief and Job Creation Act of 2012, commonly known as the “Spectrum Act” (Pub. Law No. 112-96, 126 Stat 156) (codified at 47 U.S.C. § 1455), this Eligible Facilities Request is attached to the **Zoning Permit Application**, Construction Permit Application, Building Subcode Application, and Electrical Subcode Permit Application forms which was customarily used by this jurisdiction when reviewing requests to collocate or modify wireless telecommunications facilities. Because federal law now preempts many of the permit application requirements that this jurisdiction would previously have required from an applicant, this Eligible Facilities Request application provides only the information that federal law allows this jurisdiction to consider when reviewing an Eligible Facilities Request.

Section 6409(a) of the Spectrum Act mandates that state and local governments “*may not deny, and shall approve, any eligible facilities request for a modification of an existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station.*” Under Section 6409(a)(2)(A)-(C) an Eligible Facilities Request is any request to modify a Tower or Base Station that involves “collocations of new Transmission Equipment,” “removal,” or “replacement” of Transmission Equipment.

B. Why this Eligible Facilities Request Must Be Granted

This Eligible Facilities Request involves an effort to collocate, remove, modify, or replace Transmission Equipment at an existing Base Station operated by an FCC licensed wireless carrier. The FCC has defined Base Station as “the equipment and non-tower supporting structure at a fixed location that enable Commission-licensed or authorized wireless communications between user equipment and a communications network . . . the term includes equipment associated with wireless communications service including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supply, and comparable

equipment.” The term existing base station also includes a structure that currently houses or supports an antenna, transceiver or other associated equipment that constitutes part of a Base Station at the time the application is filed even if the structure was not built solely or primarily to provide such support. The existing Base Station in this application is **45’** high and presently contains wireless facilities. The existing Base Station meets the Federal Communications Commission (“FCC”) definition of a Base Station.

The list of equipment identified in the Eligible Facilities Request application that will be collocated, removed, or replaced at the Base Station also is Transmission Equipment as determined by the FCC. The FCC has defined Transmission Equipment as “any equipment that facilitates transmission for any Commission-licensed or authorized wireless communication, service, including, but not limited to, radio transceivers, antennas and other relevant equipment associated with and necessary to their operation, including coaxial or fiber-optic cable, and regular and back-up power supply. This definition includes equipment used in any technological configuration associated with any Commission-authorized wireless transmission, licensed or unlicensed, terrestrial or satellite, including commercial mobile, private mobile, broadcast and public safety services, as well as fixed wireless services such as microwave backhaul or fixed broadband.”

The FCC, in a Report and Order adopted on October 17, 2014, determined that any modification to an existing telecommunications Base Station that meets the following six criteria does not substantially change the physical dimensions of the existing Base Station and therefore is an Eligible Facilities Request which must be granted:

1. The modifications to the Transmission Equipment do not increase the height of the Base Station by more than 10 percent (10%) or ten (10) feet, whichever is greater.
2. The modifications to the Transmission Equipment do not protrude from the edge of the support structure by more than six (6) feet.
3. The modifications to the Transmission Equipment do not involve the installation of more than the standard number of equipment cabinets for the technology involved, not to exceed four.
4. The modifications to the Transmission Equipment do not entail any excavation or deployment outside of the Base Station site.
5. The modifications to the Transmission Equipment do not defeat any existing concealed or stealth-design.
6. The modifications to the Transmission Equipment comply with prior conditions of approval of the Base Station, unless the non-compliance is due to an increase in height, increase in width, addition of equipment cabinets, or new excavation that does not exceed the corresponding “substantial change” thresholds in numbers 1-4.

There is a certification attached to the accompanying Eligible Facilities Request that identifies how each of the six review criteria identified by the FCC is met. The modifications to the Transmission Equipment at the Base Station located at **350 Theodore Fremd Ave., Rye, NY 10580** contained in this Eligible Facilities Request fully conform to Section 6409(a) as enacted by Congress and as interpreted by the FCC. Accordingly, this Eligible Facilities Request must be approved within 60 days, as required by federal law and FCC implementing regulations.

### C. Notice of Federal Law Expedited Permit Processing and Deemed Granted

Under federal law, an Eligible Facilities Request is deemed granted sixty (60) days after a complete application is filed with a local jurisdiction. If sixty days pass after the submission of T-Mobile's accompanying Eligible Facilities Request and the **City of Rye** has not acted to grant or deny the request, it will be deemed granted. At that time, the applicant may advise the **City of Rye** that the application has been deemed granted. If the **City of Rye** wishes to contest whether the Eligible Facilities Request has been deemed granted, the burden is on the **City of Rye** to file a lawsuit in a court of competent jurisdiction within 30 days after receipt of a written communication notifying it that the Eligible Facilities Request has been deemed granted. Failure to file a lawsuit in a timely manner may forever bar this jurisdiction from contesting that this Eligible Facilities Request has been deemed granted.

T-Mobile is committed to working cooperatively with you, and all jurisdictions around the country, to secure expeditious approval of requests to modify existing personal wireless service facilities. Please do not hesitate to contact me if you have questions.

Sincerely,

Marlín D. Castillo  
Project Manager  
Streamline Acquisition Services, Inc.  
Authorized Representatives for T-Mobile

## **ELIGIBLE FACILITIES REQUEST CERTIFICATION FOR NON-SUBSTANTIAL CHANGES TO AN EXISTING BASE STATION**

“Base Station” means the equipment and non-tower supporting structure at a fixed location that allow Commission-licensed or authorized wireless communications between user equipment and a communications network. The term base station includes any equipment associated with wireless communications services including but not limited to radio transceivers, antennas, coaxial or fiber-optic cables, regular or back up power supply, and comparable equipment. The term existing base station also includes a structure that currently houses or supports an antenna, transceiver or other associated equipment that constitutes part of a base station at the time the application is filed even if the structure was not built solely or primarily to provide such support. “Base Station” includes the relevant equipment in any technological configuration, including small cells and DAS. Remember “Base Station” has two separate meanings: (1) the supporting structure that houses FCC licensed or authorized wireless equipment and (2) the wireless equipment itself. Keep this distinction in mind when calculating a substantial change in physical dimensions.

“Transmission Equipment” means any equipment that facilitates transmission for any FCC licensed or authorized wireless communication service, including but not limited to, radio transceivers, antennas and other relevant equipment associated with and necessary to their operation, including coaxial or fiber-optic cable, and regular and back-up power supply. This definition includes equipment used in any technological configuration associated with any Commission-authorized wireless transmission, licensed or unlicensed, terrestrial or satellite, including commercial mobile, private mobile, broadcast and public safety services, as well as fixed wireless services such as microwave backhaul or fixed broadband.

“Collocation” means the addition, removal or replacement of Transmission Equipment to an existing tower or a base station. This means that the existing support structure, be it a tower or a building or some other structure, must presently support FCC licensed or authorized wireless facilities. The FCC further requires that the site (tower, building, or other structure) was previously approved by the appropriate agency of government to house wireless facilities. Illegal wireless installations cannot be the basis for an eligible facilities request. However, if a communications Tower was erected at a time when it was exempt from zoning, the Tower can be modified through the Eligible Facilities Request process even if the Tower is no longer exempt from zoning.

Site Address: 350 Theodore Fremd Ave., Rye, NY 10580

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### **Existing Facilities**

Identify the FCC licensed or authorized wireless equipment that is already located on the existing Base Station at the time this Eligible Facilities Request is filed. (For example, an existing T-Mobile cell site located on rooftop or Verizon antennas side mounted on building exterior, etc.)



T-Mobiles antennas mounted on existing rooftop.

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**If no FCC licensed or authorized wireless equipment is already located on the existing Base Station, then the facility is not eligible under 6409.**

### **Height of Base Station**

Height above ground level of the tallest point on the existing base station: 47 (feet)

Height above ground level of the tallest point of the existing base station after the installation of the *proposed* equipment: 47 (feet)

- 1) Does the height above ground level of the proposed equipment exceed the height of the tallest point on the existing base station by more than 10 percent (10%) or ten (10) feet, whichever is greater?

☐ Yes ☒ No

### **Width of Base Station**

- 2) Will any of the proposed equipment protrude from the edge of the support structure by more than six (6) feet?

☐ Yes ☒ No

### **Excavation or Equipment Placement**

- 3) Will the proposed changes in Transmission Equipment involve excavation or placement of new equipment outside the existing Base Station site or outside any access or utility easements currently related to the site?

☐ Yes ☒ No

### **Equipment Cabinets**

- 4) Will the proposed modification in Transmission Equipment involve installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four?

☐ Yes ☒ No

### **Concealed or Stealth-Designed Wireless Facilities**

5)

- a) Is the existing wireless facility concealed or stealth- designed?

☐ Yes ☒ No

b) If the answer to 5a) is “Yes,” will the proposed modification in Transmission Equipment defeat the existing concealed or stealth-design?

☐ Yes ☒ No

### Compliance with Preexisting Conditions of Approval for the Base Station

6)

- a) Were there any conditions of approval stated in the original government approval of the Base Station?

☐ Yes ☒ No

- b) Will the proposed modification in Transmission Equipment comply with conditions of approval imposed on the Base Station prior to February 22, 2012?

☒ Yes ☐ No

- c) If the answer to 6b) is "No," is the non-compliance due solely to any of the conditions addressed in Questions 1-5 above?

☐ Yes ☒ No

**If the answers to questions 1-4 are "No," the answer to either 5a) or b) is "No," and the answers to 6a) is "No" or the answers to either 6b) or 6c) are "Yes," then the proposed modifications do not substantially change the physical dimensions of the existing Base Station. Please provide a brief explanation, if necessary, to clarify any answer.**

Explanatory Comments (If Needed):

Question No. \_\_\_\_\_

Comment: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

This certification is dated this 25 day of February, 2021.

\_\_\_\_\_  
Signature

Marlín D. Castillo c/o T-Mobile

Name & Title



# Building Permit Application

**City of Rye, New York Building Department**  
1051 Boston Post Road, Rye, New York 10580  
[Building@ryeny.gov](mailto:Building@ryeny.gov) (914) 967-7372

[www.ryeny.gov](http://www.ryeny.gov)

Permit Type (Check Applicable Box):

<b>One- and Two-Family:</b>	<b>Other:</b>
<input type="checkbox"/> New Construction	<input type="checkbox"/> Interior Building*
<input type="checkbox"/> Addition/Alteration	<input type="checkbox"/> Modification of Approved Permit/Plans
<b>Multi-Family and Commercial:</b>	<input type="checkbox"/> Extension of Approved Building Permit*
<input type="checkbox"/> New Construction	<input type="checkbox"/> Re-roofing**
<input checked="" type="checkbox"/> Addition/Alteration	<b>Value of Improvement:</b>
<input type="checkbox"/> Change of Tenant Occupancy**	\$
<input type="checkbox"/> Temporary Tent**	10,000

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

## A. Property Information:

Street Address: 350 Theodore Fremd Avenue

Property Area (Acres): \_\_\_\_\_

Tax Map Designation: Sheet: \_\_\_\_\_ Block: 1 Lot(s): 62.2

Sheet: \_\_\_\_\_ Block: \_\_\_\_\_ Lot(s): \_\_\_\_\_

Zoning District: \_\_\_\_\_ Select Zoning District: \_\_\_\_\_

Current Use: \_\_\_\_\_

Proposed Use: Existing telecommunications facility.

Flood Insurance Zone: \_\_\_\_\_ Select FEMA Flood Zone: \_\_\_\_\_ Elevation: \_\_\_\_\_ Select FEMA Flood Elevation: \_\_\_\_\_

Prior Bldg. Permit No. \_\_\_\_\_

*Required for Modifications and Extensions only*

## B. Applicant:

Name: T-Mobile USA, Inc. c/o Streamline Site Aquisition

Address: 9 Beech Street

City: Elmwood Park State: NJ Zip: 07407

Phone: (201) 538-4648 Email: mc@streamlinesaq.com

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

## C. Contractor:

Name: Electro Puentes Link Wireless LLC West. Co. Lic. #: WC-33177-H20

Address: 8555 Tonnelle Avenue, Suite 301

City: North Bergen State: NJ Zip: 07047

Phone: (914) 960-8816 Email: cesar.bravo@linkwireless.org

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

Page 2 of 4

### D. Property Owner:

Name\*: Fremd Realty, LLC c/o Joseph Lorono  
Address: 27 Nursery Lane  
City: Rye State: NY Zip: 10580  
Phone: (914) 967-1117 Email: \_\_\_\_\_

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

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

Upgrade existing telecommunications facility. Swap seven (7) existing antennas and install two (2) antennas on existing mounts. Swap three (3) existing RRU's and three (3) existing TMA's on existing building rooftop. Remove one (1) equipment cabinet and install two (2) equipment cabinets.

### 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

Page 3 of 4

### 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](http://www.ryeny.gov) for entire Code.

Select Zoning District: <b>Zoning District:</b>	Allowed/Required <sup>1</sup>	Existing	Proposed <sup>2</sup>
<b>Principal Building(s):</b>			
Lot Area (in square feet)			
<b>Floor Area Ratio<sup>3</sup></b>			
First Floor Area	n/a		
Second Floor Area	n/a		
Attic Floor Area	n/a		
Other Area <sup>4</sup>	n/a		
Total Floor Area			
F.A.R. <sup>5</sup>			
<b>Yard Setbacks</b>			
Front Yard			
Shortest Side Yard			
Total of Two Side Yards			
Rear Yard			
Lot Width			
<b>Height/Stories</b>			
Number of Stories		3.0	
Building Height		3.0	
First Floor Elevation <sup>6</sup>		32.00	
<b>Parking</b>			
Number of Spaces			
Closest Side Yard Setback			
<b>Accessory Building(s):</b>			
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			

<sup>1</sup> Carefully review all sections of Article V of the City Zoning Code **AND** footnotes included in Tables A, B and C.

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

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

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

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

<sup>6</sup> For single-family residential buildings see Section 197-46.1.



## Board of Architectural Review Application

City of Rye, New York Building Department

1051 Boston Post Road, Rye, New York 10580

[Building@ryeny.gov](mailto:Building@ryeny.gov)

(914) 967-7372

[www.ryeny.gov](http://www.ryeny.gov)

**A. Address:** 350 Theodore Fremd Avenue

**B. Applicant:**

Name: T-Mobile USA, Inc. c/o Streamline Site Aquisition

Address: 9 Beech Street

City: Elmwood Park

State: NJ

Zip: 07407

Phone: (201) 538-4648

Email: mc@streamlinesaq.com

**C. Property Owner:**

Name\*: Fremd Realty, LLC c/o Joseph Lorono

Address: 27 Nursery Lane

City: Rye

State: NY

Zip: 10580

Phone: (914) 967-1117

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:	_____	_____
Roof:	_____	_____
Trim:	_____	_____
Shutters:	_____	_____
Chimney:	_____	_____

The following have been provided:

Photographs:

Elevation:

Plot Plan:

	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

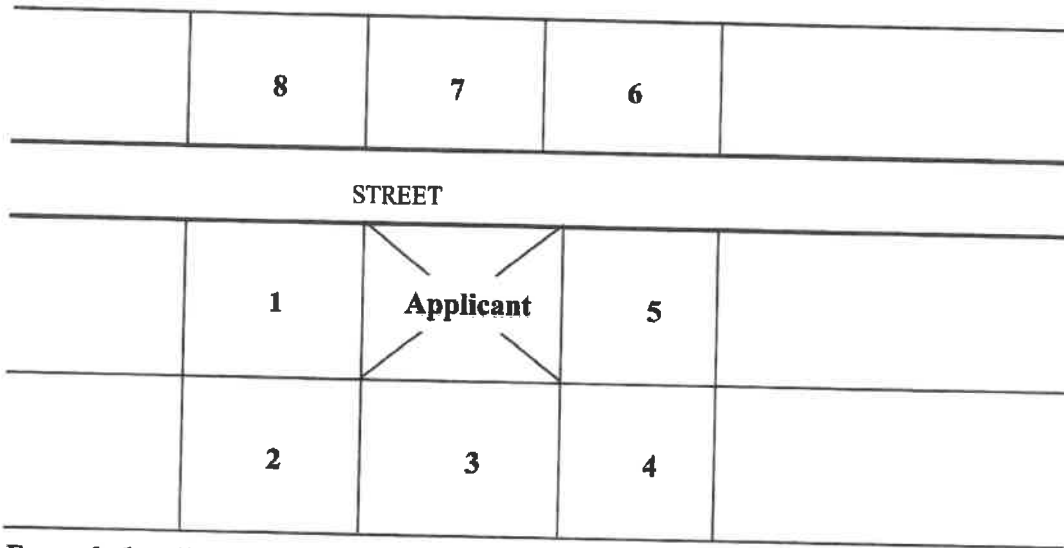
1051 Boston Post Road, Rye, New York 10580

[Building@ryeny.gov](mailto:Building@ryeny.gov)

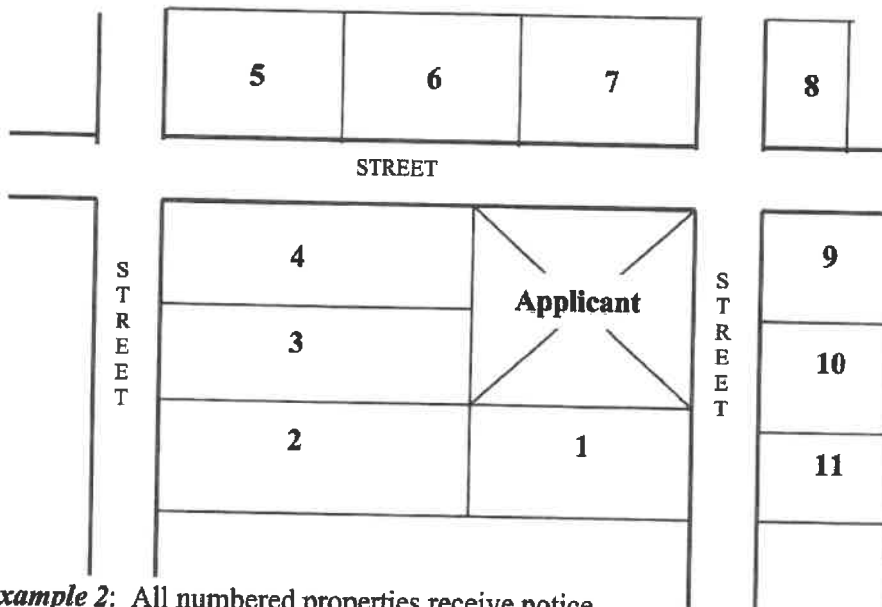
(914) 967-7372

[www.ryeny.gov](http://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](http://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](mailto:Building@ryeny.gov) (914) 967-7372

[www.ryeny.gov](http://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: **350 Theodore Fremd Avenue**

(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](http://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

\_\_\_\_\_  
(please print)

\_\_\_\_\_  
Date



# Building Permit Application

## City of Rye, New York Building Department

Page 4 of 4

### H. Affidavit

State of New York  
County of Westchester

I, **Marlín D. Castillo**

(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.

*Marlin D. Castillo*

Signature of Applicant

SWORN to before me this 06 day of May, 2021.

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.ryenyc.gov/government/building-department](http://www.ryenyc.gov/government/building-department).

**From:** Lorono Construction  
**To:** Marlin Castillo  
**Subject:** FW: T-Mobile Site ID: WE03752B / T-Mobile Site Address: 350 Theodore Fremd Ave., Rye, NY 10580  
**Date:** Wednesday, March 3, 2021 11:54:49 AM

---

Hi Marlin,

Please find Joe's acknowledgement below.

Kind regards,

Kate  
LORONO CONSTRUCTION CORP.  
27 Nursery Lane  
Rye, New York 10580  
Tel: 914-967-1117

---

**From:** Joe Lorono  
**Sent:** Wednesday, March 3, 2021 11:46 AM  
**To:** Lorono Construction  
**Subject:** RE: T-Mobile Site ID: WE03752B / T-Mobile Site Address: 350 Theodore Fremd Ave., Rye, NY 10580

Yes I acknowledge

---

**From:** Lorono Construction  
**Sent:** Wednesday, March 03, 2021 10:20 AM  
**To:** Joe Lorono  
**Subject:** FW: T-Mobile Site ID: WE03752B / T-Mobile Site Address: 350 Theodore Fremd Ave., Rye, NY 10580

Hi Joe,

T-mobile need to update the equipment on the roof at the building. Can you just acknowledge that you received the CDs below? The representative said you don't need to complete the notice, just acknowledge that you received them.

Kind regards,

Kate  
LORONO CONSTRUCTION CORP.  
27 Nursery Lane  
Rye, New York 10580  
Tel: 914-967-1117

---

**From:** Marlin Castillo [mailto:mc@streamlinesaq.com]  
**Sent:** Wednesday, February 24, 2021 10:42 AM

**To:** Lorono Construction

**Subject:** T-Mobile Site ID: WE03752B / T-Mobile Site Address: 350 Theodore Fremd Ave., Rye, NY 10580

Hi – thank you for taking my call yesterday. Attached is the notice and the CD's. If you could please complete the notice by adding the appropriate contact and acknowledge receipt of the CD's by signing the 1<sup>st</sup> page, I would appreciate it.

If you have any questions my full contact information is below.

Thank you.

**Marlín Castillo**

**Mobile: (201) 538-4648**

**Fax: (973) 909-7918**

**E-mail: [mc@streamlinesaq.com](mailto:mc@streamlinesaq.com)**



4 Sylvan Way  
Parsippany, NJ 07054

January 27, 2021

**VIA CERTIFIED U.S. MAIL RETURN RECEIPT REQUESTED**

Theo Fremd Associates, LLC  
84 Calvert Street  
Harrison, New York 10528

**Re:** Rooftop Lease with Option dated March 3, 2004 (this "Agreement") by and between Theo Fremd Associates, LLC, ("Landlord") and T-Mobile Northeast LLC successor in interest to Omnipoint Facilities Network 2, LLC, a Limited Liability Company ("T-Mobile" or "Tenant")

**Site Number:** WE03752B (the "Site")

**Site Address:** 350 Theodore Fremd Ave., Westchester, NY 10580 (the "Property")

Dear Sir and Madam:

T-Mobile is in the process of updating certain equipment that supports its wireless telecommunications network. As part of this effort and as permitted under the Agreement, T-Mobile will need to perform work at the above-referenced Site.

The purpose of this notice letter ("Notice") is to provide Landlord with notice regarding this work, which will include enhancing the existing antennas and related equipment as described and depicted in the attached construction drawings ("CDs"). Please signify your approval by signing and dating the CDs.

All work will be done in accordance with the terms of the Agreement. A T-Mobile representative will contact you in the coming weeks to coordinate access to the Property in order to complete the work.

Kindly scan and return this Notice with the requested information filled out below along with the signed and dated CDs via email to [mc@streamlineacq.com](mailto:mc@streamlineacq.com)

Or alternatively, all hard copies of this Notice with the requested information filled out below along with the CDs duly signed off by Landlord can be returned via USPS using the enclosed Label, to:

T-Mobile  
c/o Marlin D. Castillo  
Streamline Site Acquisition Services  
3 Denise Drive  
Kinnelon, NJ 07405

The signatory of the CDs represents and certifies he/she has full right, power and authority to execute said documents.

Should you have any questions, please contact Marlin D. Castillo at (201) 538-4648 or by email at [mc@streamlinesaq.com](mailto:mc@streamlinesaq.com). Thank you in advance for your cooperation in this matter.

Very truly yours,

*Sabrina Bordin-Lambert*

Sabrina Bordin-Lambert  
Sr. Development Manager, New Jersey Market

Please provide a contact name and telephone number, so T-Mobile can schedule the necessary work.

Contact Name & Number \_\_\_\_\_

CITY OF RYE  
COUNTY OF WESTCHESTER

-----X  
In the matter of the Application of

**T-Mobile Northeast LLC ("T-Mobile")**

**Statement of Compliance**

Premises: 350 Theodore Fremd Avenue  
Rye, New York  
-----X

State of New York                    )  
                                              )ss.:  
County of Westchester            )

, on behalf of T-Mobile, being duly sworn, does depose and say:

1. I am the \_\_\_\_\_ of T-Mobile, the Applicant for an eligible facilities request to modify an existing wireless communications facility at 350 Theodore Fremd Avenue in the City of Rye ("Property").

2. I hereby state, in accordance with Section 196-6(D) of the City Code that the wireless telecommunications facility ("Facility") located at the Property has been, and shall continue to be, maintained in a safe manner, and in compliance with all conditions of the eligible facility permit, without exception, unless specifically granted relief by the Council in writing, as well as all applicable and permissible local codes, ordinances and regulations, including any and all applicable county, state and federal laws, rules and regulations. The construction of the wireless telecommunications facility is legally permissible, including but not limited to the fact that the applicant, T-Mobile, is authorized to do business in New York state.

T-Mobile

By: Maria E. Cracero  
Name: Maria E. Cracero  
Title: NJ Project Manager

Sworn to before me this  
06 day of MAY, 2021

[Signature]  
Notary Public

JUAN M UCETA ESPINAL  
Commission #2430871  
Notary Public, State of New Jersey  
My Commission Expires  
March 07, 2023



Com-Ex Consultants, LLC  
115 Route 46, Suite E39, Mountain Lakes, NJ, 07046  
Office: 862-209-4300 | Fax: 862-209-4301



Grant Engineering Consultants, LLC  
88 Dodd Street, Glen Ridge, NJ 07028  
Office: 862.702.3637 | Fax: 862.702.3655

April 19, 2021

## Structural Certification

**Property Owner of Record:** Fremd Realty, LLC  
**Project Title:** T-Mobile WE03752B – 350 Theodore Fremd  
**Street Address:** 350 Theodore Fremd Ave., Rye, NY 10580 (Westchester County)

I Farid Ghaemi NY reg. no. 081657 being a registered professional engineer hereby certify that I have prepared, or directly supervised the preparation of drawings, computations and specifications concerning the plans prepared by Com-Ex Consultants dated 04/19/2021 for the above project. To the best of my knowledge such drawings, computations and specifications for the proposed modifications to the existing telecommunications facility and existing building will meet all applicable provisions of New York state building codes, all acceptable engineering practices and all county, state and federal structural requirements for loads, including wind and ice loads.



Farid Ghaemi, PE

NY PE License No. 081657

Com-Ex Project No. 20013-STR

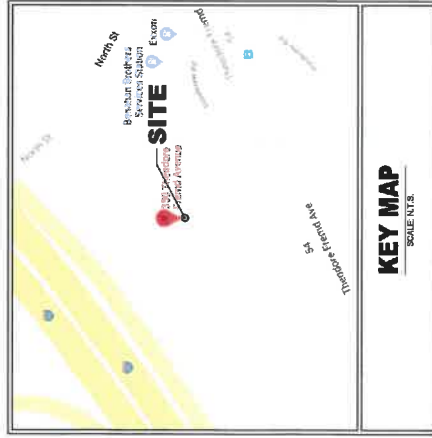


# T-Mobile®

## T-MOBILE NORTHEAST LLC

### Anchor

**SITE #: WE03752B**  
**SITE NAME: 350 THEODORE FREMD**  
**350 THEODORE FREMD AVE**  
**RYE, NY 10580**  
**WESTCHESTER COUNTY**  
**BLOCK 1 LOT 62.2**



SITE LOCATION INFORMATION	
SITE ID NUMBER:	WE03752B
SITE ADDRESS:	350 THEODORE FREMD AVE RYE, NY 10580
JURISDICTION:	CITY OF RYE
COUNTY:	WESTCHESTER COUNTY
BLOCK:	1
LOT:	62.2
PROPERTY/TOWER OWNER:	FREMD REALTY, LLC 27 MURSEY LN RYE, NY 10580
APPLICANT:	T-MOBILE NORTHEAST LLC 4 SYLVAN WAY PARSIPPANY, N.J. 07054

SITE CHARACTERISTICS	
LATITUDE:	40.877900000
LONGITUDE:	-73.696800000
STRUCTURE TYPE:	BUILDING
LOCATION OF PROPOSED EQUIPMENT:	EXISTING T-MOBILE EQUIPMENT PAD
STRUCTURE HEIGHT:	342'-0" AGL
ANTENNA (RAD CENTER):	PROPOSED ALPHA - 340'-0" AGL PROPOSED BETA - 348'-0" AGL PROPOSED GAMMA - 340'-0" AGL

**CONSTRUCTION DRAWINGS**  
 ALL SCALES RELATIVE TO SHEET PAGE SIZE

**COM-EX**  
 CONSULTANTS  
 350 THEODORE FREMD AVE  
 RYE, NY 10580  
 TEL: 914.336.1000  
 FAX: 914.336.1001

**T-Mobile**  
 T-MOBILE NORTHEAST LLC  
 4 SYLVAN WAY  
 PARSEPPANY, NJ 07054  
 TEL: 973.262.4000  
 FAX: 973.262.4001

Comments received by Com-Ex Consultants, including the documents, are to be used only for the purpose of the project and are not to be distributed to any other party without the expressed written consent of Com-Ex Consultants. The use of these documents for any other purpose is strictly prohibited and is the responsibility of the user. Com-Ex Consultants, including its employees, agents, and subcontractors, shall not be held liable for any errors or omissions in these documents.

SCHEDULE OF REVISIONS	
1	04/19/21 REVISED PER SA
2	04/19/21 REVISED PER COMMENTS
3	05/03/21 REVISED PER SA
4	05/03/21 REVISED PER COMMENTS
5	05/03/21 REVISED PER SA
6	05/03/21 REVISED PER COMMENTS
7	05/03/21 REVISED PER SA
8	05/03/21 REVISED PER COMMENTS
9	05/03/21 REVISED PER SA
10	05/03/21 REVISED PER COMMENTS
11	05/03/21 REVISED PER SA
12	05/03/21 REVISED PER COMMENTS
13	05/03/21 REVISED PER SA
14	05/03/21 REVISED PER COMMENTS
15	05/03/21 REVISED PER SA
16	05/03/21 REVISED PER COMMENTS
17	05/03/21 REVISED PER SA
18	05/03/21 REVISED PER COMMENTS
19	05/03/21 REVISED PER SA
20	05/03/21 REVISED PER COMMENTS

DESIGNED BY:	MD
CHECKED BY:	RF
SCALE:	AS NOTED
DATE:	2021-05-18

**GEO**  
 GRANT ENGINEERING  
 CONSULTANTS, LLC  
 350 THEODORE FREMD AVE  
 RYE, NY 10580  
 TEL: 914.336.1000  
 FAX: 914.336.1001



**SITE #1 WE03752B**  
**SITE NAME 350 THEODORE FREMD**  
**350 THEODORE FREMD AVE**  
**RYE, NY 10580**  
**WESTCHESTER COUNTY**

**TITLE SHEET**  
 DRAWING SHEET: 1 OF 7  
**T-1**

**COM-EX**  
Consultants  
115 ROUTE 46  
SUITE E26  
MOUNTAIN LAKES, NJ 07048  
PHONE: 602.209.4300  
FAX: 602.209.4301

**T-Mobile**  
T-MOBILE NORTHEAST LLC  
4 SYLVAN WAY  
PARLIN, NJ 07654  
OFFICE: (732) 387-4390  
FAX: (732) 353-0152

documents prepared by ComEx Consultants, including this document, are to be used only for the specific project and specific use for which they were intended. Any extension of which to any other projects, by owner or by any other party, without the expressed written consent of ComEx Consultants, is done individually and at the users own risk. If used in any way other than that specifically intended, user holds ComEx Consultants harmless from

[illegible]

**GEO**  
GRANT ENGINEERING  
CONSULTANTS, LLC  
1400 WEST STREET  
SUITE 200  
TAMPA, FL 33607  
TEL: 813.281.1917 FAX: 813.281.1966  
www.grantengineers.com



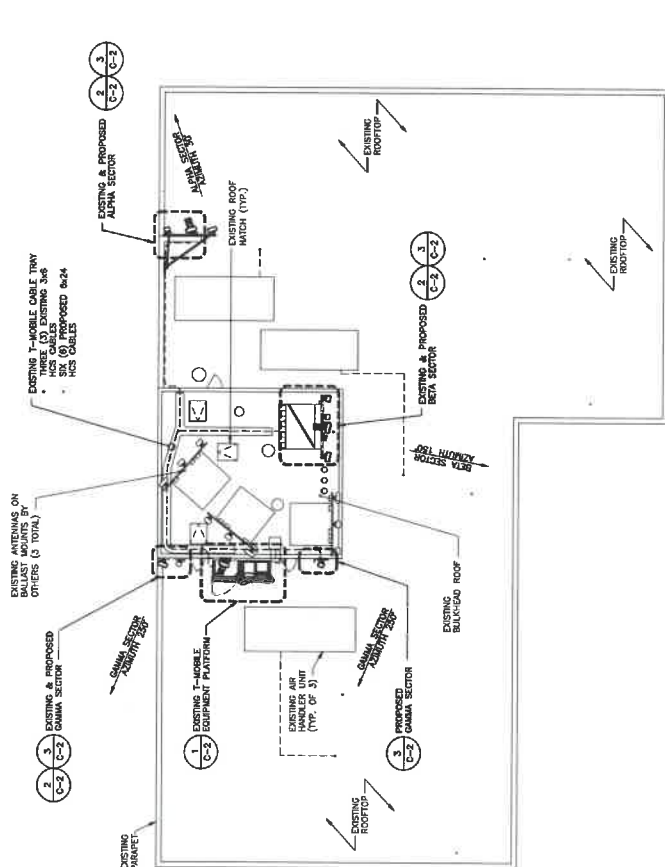
**SITE #: WE03752B**  
**TE NAME: 350 THEODORE FREND**  
**0 THEODORE FREND AVE**  
**RYE, NY 10580**  
**WESTCHESTER COUNTY**

## ROOF PLAN & NOTES

5

**GENERAL NOTES:**

1. SUBJECT PROPERTY IS KNOWN AS BLOCK 1, LOT 62-2, IN THE CITY OF ROC, NY AS SHOWN ON AN OFFICIAL TOWN TAX MAP.
2. THE APPLICANT PROPOSES TO INSTALL THREE (3) ANTENNAS AND TWO (2) BIRDS PER SECTOR AND REMOVE TWO (2) ANTENNAS IN ALPHA AND GAMMA SECTORS. INSTALL THREE (3) ANTENNAS IN DELTA, Epsilon AND ZETA SECTORS. REMOVE TWO (2) ANTENNAS FROM DELTA SECTOR ON THE EXISTING BUILDING ROOFTOP ALONG WITH REMOVING ONE (1) EQUIPMENT CABINET AND INSTALLING TWO (2) EQUIPMENT CABINETS. THE USE IS A MOBILE COMMUNICATIONS SERVICE PROVIDER. THE CONTRACTOR SHALL BE RESPONSIBLE FOR ALL NECESSARY TELEPHONE DITCHING AND IT IS NOT INTENDED FOR PERMANENT EMPLOYEE OCCUPANCY.
3. CONTRACTOR SHALL NOT CUMBER ANY WORK UNTIL HE OBTAINS, AT HIS OWN EXPENSE, ALL INSURANCE REQUIRED BY T-MOBILE, THE PROPERTY OWNER AND/OR PROPERTY MANAGEMENT COMPANY.
4. THIS SET OF PLANS HAS BEEN PREPARED FOR THE PURPOSES OF MUNICIPAL AND AGENCY DOCUMENTS UNTIL ALL CONDITIONS OF APPROVAL HAVE BEEN SATISFIED AND EACH OF THE DRAWINGS HAVE BEEN REVISED TO INCLUDE "ISSUED FOR PERMIT".
5. INFORMATION SHOWN ON THIS SET OF PLANS TAKEN FROM A SITE VISIT BY CIVIL-EX ENGINEER, DESIGNER OF RECORD, TO VERIFY THE EXISTING CONDITIONS. THE DESIGN ENGINEER OF ANY DISCREPANCIES PRIOR TO COMPLETION OF CONSTRUCTION.
6. THIS PLAN IS SUBJECT TO ALL ORDINANCES AND RESTRICTIONS OF RECORD.
7. THE CONTRACTOR SHALL COMPLY WITH ALL APPLICABLE CODES, ORDINANCES, LAWS AND REGULATIONS OF ALL JURISDICTIONS, UTILITIES OR OTHER PUBLIC AUTHORITIES.
8. THAT MAY BE REQUIRED BY ANY FEDERAL, STATE, COUNTY OR MUNICIPAL AUTHORITY.
9. THE CONTRACTOR SHALL NOTIFY THE CITY OF ROC OF ANY VIOLATION OF ANY CODES, ORDINANCES OR LAWS PRIOR TO THE SUBMISSION OF BID OR PERFORMANCE OF ANY WORK. MINOR OMISSIONS OR ERRORS IN THE BID DOCUMENTS SHALL NOT EXCUSE SAID CONTRACTOR FROM CORRECTING THEM PRIOR TO THE START OF CONSTRUCTION.
10. BY LETTING THIS PROJECT IN ACCORDANCE WITH THE GENERAL TERMS OF THESE DRAWINGS, THE CONTRACTOR SHALL BE RESPONSIBLE FOR PROTECTING ALL EXISTING SITE IMPROVEMENTS PRIOR TO COMMENCING CONSTRUCTION. THE CONTRACTOR SHALL REPAIR ANY DAMAGE CAUSED AS A RESULT OF CONSTRUCTION OF THIS FACILITY.
11. THE SCOPE OF WORK FOR THIS PROJECT SHALL INCLUDE PROVIDING ALL MATERIALS, LABOR AND SERVICES NEEDED TO COMPLETE THE PROJECT. THE CONTRACTOR SHALL BE INSTALLED IN ACCORDANCE WITH THE MANUFACTURERS' RECOMMENDATIONS.
12. THE CONTRACTOR SHALL VISIT THE PROJECT SITE PRIOR TO SUBMITTING A BID TO VERIFY THAT THE PROJECT CAN BE CONSTRUCTED IN ACCORDANCE WITH THE CONTRACT DOCUMENTS.
13. POWER TO THE FACILITY IS MONITORED BY AN EXISTING METEER.
14. ALL STRUCTURAL ELEMENTS SHALL BE NOT DIPPED GALVANIZED STEEL.
15. CONTRACTOR SHALL MAKE A UTILITY "ONE CALL" TO LOCATE ALL UTILITIES PRIOR TO EXCAVATING.
16. IF ANYTHING EXISTS BENEATH THE SITE AREA, CONTRACTOR MUST LOCATE IT AND CONTACT THE APPROPRIATE AGENCIES.
17. THE CONTRACTOR SHALL BE SOLELY RESPONSIBLE FOR DETERMINING ALL CONSTRUCTION METHODS AND MEASURES. THE CONSTRUCTION CONTRACTOR IS ALSO RESPONSIBLE FOR ALL JOB SITE SAFETY.
18. CONTRACTOR SHALL FIELD VERIFY ALL DIMENSIONS, ELEVATIONS, ANGLES AND EXISTING CONDITIONS AT THE SITE PRIOR TO FABRICATION AND/OR INSTALLATION OF ANY WORK IN THE CONTRACT AREA AND NOTIFY THE ARCHITECT IMMEDIATELY OF ANY DISCREPANCIES FROM THE DRAWINGS.
19. CONTRACTOR IS TO REVIEW ALL DRAWINGS AND SPECIFICATIONS IN THE CONTRACT DOCUMENTS AND NOTIFY THE ARCHITECT IMMEDIATELY OF ANY DISCREPANCIES FROM THE DRAWINGS. THE CONTRACTOR SHALL PROVIDE A COMPLETE SET OF DRAWINGS TO ALL TRADES AND SUBCONTRACTORS PRIOR TO THE START OF CONSTRUCTION. THE CONTRACTOR SHALL PROVIDE AND MAINTAIN ALL INFORMATION THAT PERTAINS TO THE PROJECT. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE INFORMATION THAT PERTAINS TO THE PROJECT. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE INFORMATION THAT PERTAINS TO THE PROJECT.
20. DETAILS ARE INTENDED TO SHOW END RESULT OF DESIGN. MAJOR MODIFICATIONS MAY BE REQUIRED TO SUIT JOB DIMENSIONS OR CONDITIONS, AND SUCH MODIFICATIONS SHALL BE INCLUDED AS PART OF THE WORK.
21. ALL MATERIAL PROVIDED BY T-MOBILE IS TO BE REVIEWED BY THE CONTRACTOR AND ALL MATERIALS SHALL BE SUBJECT TO THE CONSTRUCTION MANAGER'S ATTENTION INDUSTRY. MATERIALS SHALL BE SUBJECT TO THE CONSTRUCTION MANAGER'S ATTENTION INDUSTRY. MATERIALS SHALL BE SUBJECT TO THE CONSTRUCTION MANAGER'S ATTENTION INDUSTRY.
22. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND SUBSTITUTIONS ARE ALLOWED.
23. THE CONTRACTOR SHALL RESOLVE CLARIFICATION AND AMBIGUITY IN WRITING TO PROCEED BEFORE STARTING WORK ON ANY ITEMS NOT CLEARLY DEFINED OR IDENTIFIED BY THE CONSTRUCTION DOCUMENTS.
24. THE CONTRACTOR SHALL NOTIFY THE CONSTRUCTION MANAGER OF ALL PRODUCTS OR ITEMS AS NOTED AS "EXISTING" WHICH ARE NOT FOUND TO BE IN THE FIELD.
25. ERECTION SHALL BE DONE IN A WORKMANLIKE MANNER BY COMPETENT EXPERIENCED PERSONNEL WHO WILL BE AVAILABLE TO THE CONSTRUCTION MANAGER AT ALL TIMES. PRACTICE, ALL ERECTIONS SHALL BE DONE IN A WORKMANLIKE MANNER BY COMPETENT EXPERIENCED PERSONNEL WHO WILL BE AVAILABLE TO THE CONSTRUCTION MANAGER AT ALL TIMES.
26. THE CONTRACTOR SHALL COOPERATIVE HIS WORK AND SCHEDULE HIS ACTIVITIES AND WORKING HOURS IN ACCORDANCE WITH THE REQUIREMENTS OF THE PROPERTY OWNER AND/OR PROPERTY MANAGEMENT COMPANY.
27. THE CONTRACTOR SHALL BE RESPONSIBLE FOR COORDINATING HIS WORK WITH THE WORK OF THE OTHER CONTRACTORS ON THE SITE.
28. THE CONTRACTOR SHALL INSTALL ALL EQUIPMENT AND MATERIALS IN ACCORDANCE WITH THE MANUFACTURER'S RECOMMENDATIONS UNLESS SPECIFICALLY INDICATED OR WHERE LOCAL CODES OR REGULATIONS MAY VARY PRECEDENCE.
29. THE CONTRACTOR SHALL REPAIR ALL EXISTING SURFACES DAMAGED DURING CONSTRUCTION SUCH THAT THEY MATCH AND BLEND WITH ADJACENT SURFACES.
30. THE CONTRACTOR SHALL KEEP CONTRACT AREA CLEAN, HAZARD FREE AND DISPOSAL OF ALL DEBRIS AND WASTE MATERIALS IN ACCORDANCE WITH ALL APPLICABLE LAWS AND REGULATIONS. ALL MATERIALS SHALL BE REMOVED, LEAVE PLACES IN CLEAN CONDITION AND FREE FROM PAINT, STAIN, MARKS, OR OTHER DEFECTS. THE CONTRACTOR SHALL BE RESPONSIBLE FOR MAINTAINING ALL ITEMS USED IN THE PROJECT IN GOOD CONDITION THROUGHOUT CONSTRUCTION.
31. BEFORE FINAL ACCEPTANCE OF THE WORK, THE CONTRACTOR SHALL REMOVE ALL EQUIPMENT, TEMPORARY WORKS, UNUSED AND USELESS MATERIALS, TOOLS AND TEMPORARY STRUCTURES.
32. CONSTRUCTION SHALL BE IN ACCORDANCE WITH INTERNATIONAL BUILDING CODE 2015 WITH ALL CODE AMENDMENTS AND THE TAYLOR-222-C STRUCTURAL STANDARD FOR ANTENNA



THEODORE FREMD AVENUE

1 ROOF PLAN  
C-1 SCALE: 1/16"=1'-0"







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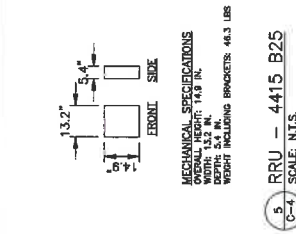
SCHEDULE OF REVISIONS	
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100	REVISED PER DA



**SITE #:** WE037528  
**SITE NAME:** 300 THEODORE FREED  
350 THEODORE FREED AVE  
RYE, NY 10580  
WESTCHESTER COUNTY

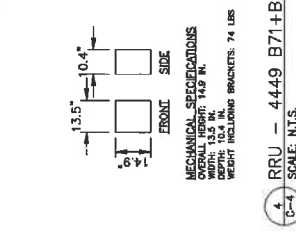
**DETAILS**

**C-4**



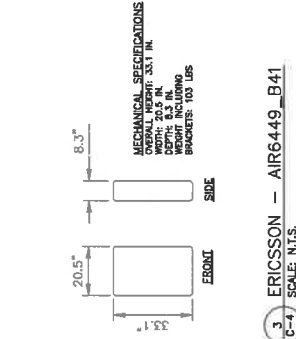
**MECHANICAL SPECIFICATIONS**  
MANUFACTURER: ERICSSON  
MODEL #: 4415 B25  
OVERALL HEIGHT: 14.9 IN.  
WIDTH: 13.2 IN.  
DEPTH: 13.2 IN.  
WEIGHT INCLUDING BRACKETS: 48.3 LBS

**3** RRU - 4415 B25  
C-4 SCALE: N.T.S.



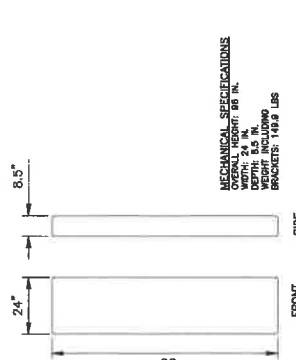
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MANUFACTURER: ERICSSON  
MODEL #: 4449 B71+B85  
OVERALL HEIGHT: 14.9 IN.  
WIDTH: 13.5 IN.  
DEPTH: 13.5 IN.  
WEIGHT INCLUDING BRACKETS: 74 LBS

**4** RRU - 4449 B71+B85  
C-4 SCALE: N.T.S.



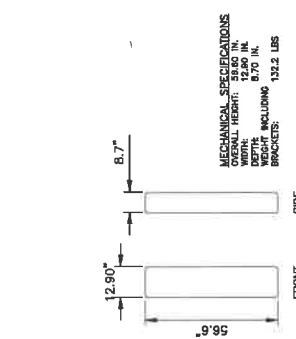
**MECHANICAL SPECIFICATIONS**  
MANUFACTURER: ERICSSON  
MODEL #: AIR6449 B41  
OVERALL HEIGHT: 33.1 IN.  
WIDTH: 20.5 IN.  
DEPTH: 10.4 IN.  
WEIGHT INCLUDING BRACKETS: 103 LBS

**3** ERICSSON - AIR6449 B41  
C-4 SCALE: N.T.S.



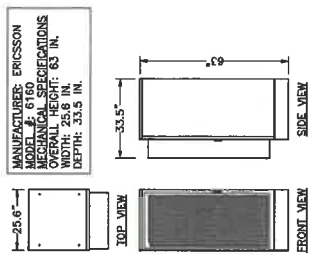
**MECHANICAL SPECIFICATIONS**  
MANUFACTURER: RFS  
MODEL #: APXVALL24\_43-U-NA20  
OVERALL HEIGHT: 88 IN.  
WIDTH: 24 IN.  
DEPTH: 9.5 IN.  
WEIGHT INCLUDING BRACKETS: 149.8 LBS

**2** RFS - APXVALL24\_43-U-NA20  
C-4 SCALE: N.T.S.



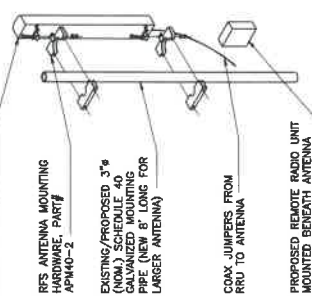
**MECHANICAL SPECIFICATIONS**  
MANUFACTURER: ERICSSON  
MODEL #: AIR32 B66A-B2A  
OVERALL HEIGHT: 12.90 IN.  
WIDTH: 12.90 IN.  
DEPTH: 8.70 IN.  
WEIGHT INCLUDING BRACKETS: 132.2 LBS

**1** ERICSSON - AIR32 B66A-B2A  
C-4 SCALE: N.T.S.



**MECHANICAL SPECIFICATIONS**  
MANUFACTURER: ERICSSON  
MODEL #: 6160  
OVERALL HEIGHT: 63 IN.  
WIDTH: 25.0 IN.  
DEPTH: 23.5 IN.

**9** 6160 CABINET DETAIL  
C-4 SCALE: N.T.S.



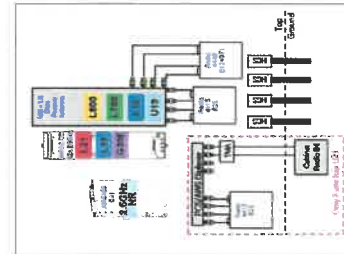
**1** TYPICAL ANTENNA  
C-4 NOT TO SCALE

**9** 6160 CABINET DETAIL  
C-4 SCALE: N.T.S.

**8** TYPICAL ANTENNA  
C-4 NOT TO SCALE

NOT USED

**7** NOT USED  
C-4 SCALE: N.T.S.



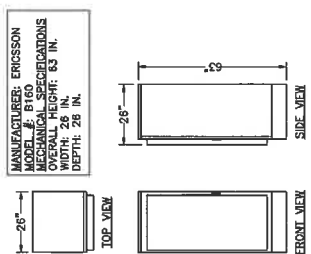
**SITE CONFIGURATION**  
**RAN: 67D5A997DB Outdoor**  
**A&L: 67D5997DB 2xAIR+10P**

**11** ANTENNA & COAX  
CABLE SCHEMATIC  
C-4 SCALE: N.T.S.



**MECHANICAL SPECIFICATIONS**  
MANUFACTURER: ERICSSON  
MODEL #: 6160  
OVERALL HEIGHT: 63 IN.  
WIDTH: 25 IN.  
DEPTH: 23.5 IN.

**6** TYPICAL ANTENNA  
C-4 NOT TO SCALE



**MECHANICAL SPECIFICATIONS**  
MANUFACTURER: ERICSSON  
MODEL #: 6160  
OVERALL HEIGHT: 63 IN.  
WIDTH: 26 IN.  
DEPTH: 28 IN.

**10** B160 CABINET DETAIL  
C-4 SCALE: N.T.S.

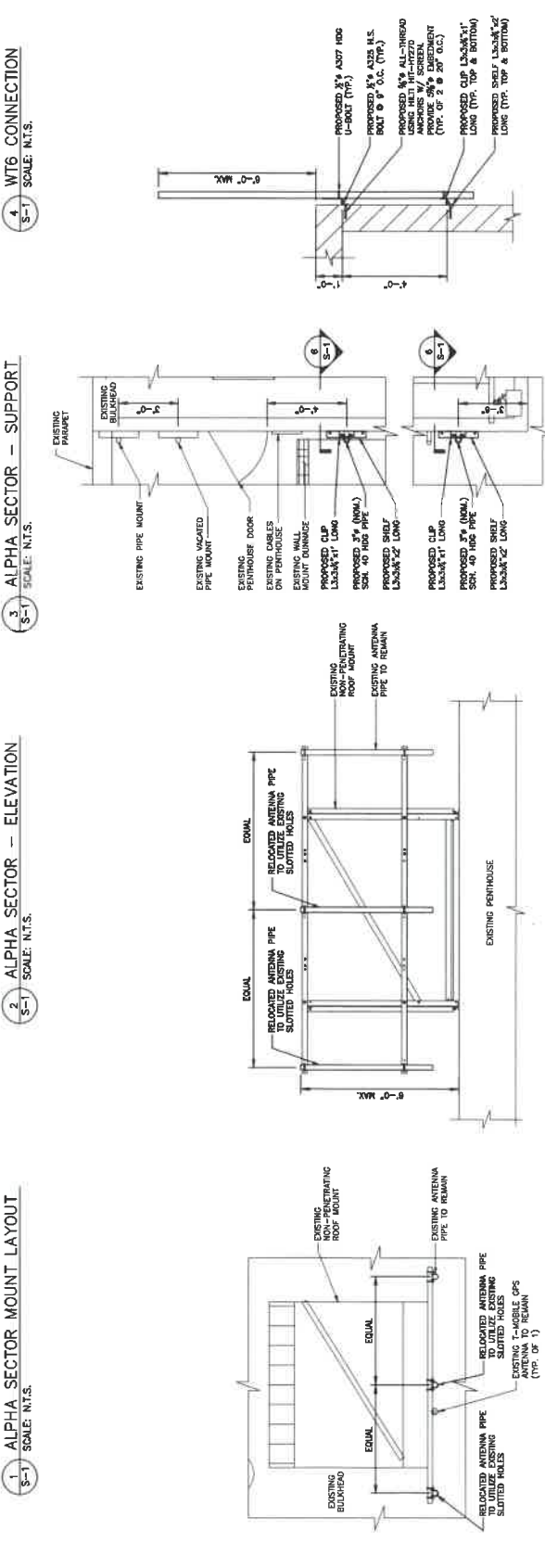
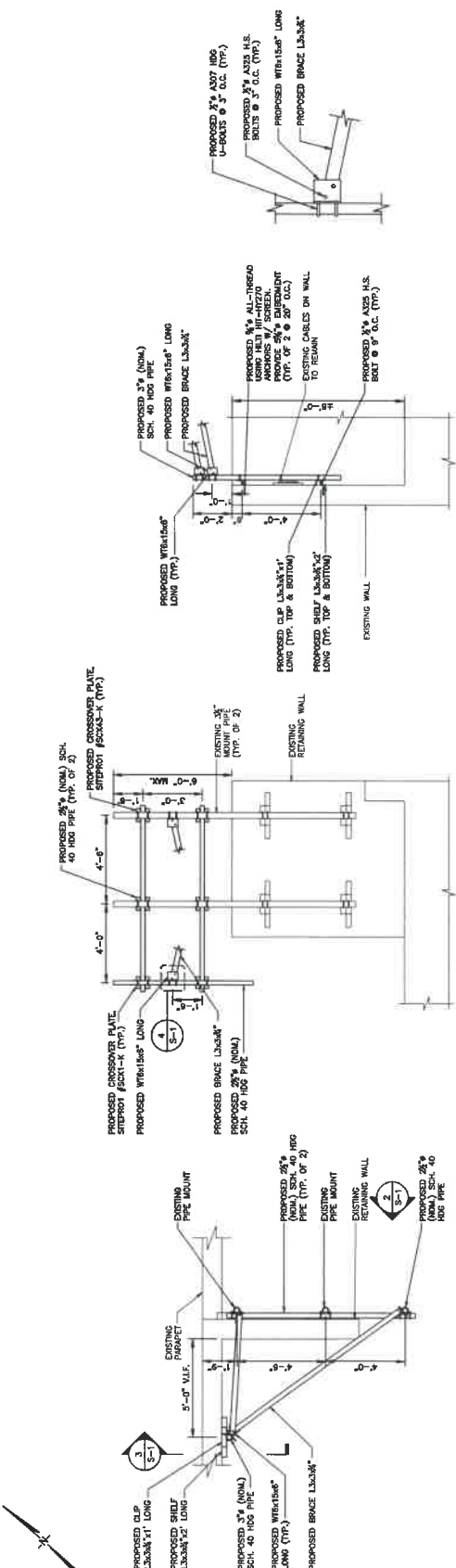
SCHEDULE OF REVISIONS		REVISED BY	DATE	REASON FOR CHANGE
1	04/16/21	REVISED PER SA		
2	04/23/21	REVISED PER COMMENTS		
3	05/20/21	REVISED PER SA		
4	06/06/21	REVISED PER HDS		
5	07/12/21	REVISED PER AMA		
6	12/04/21	REVISED PER CLIENT COMMENTS		
7	12/04/20	INITIAL SUBMISSION		
8	04/16/20	REPRODUCTION OF CHANGES		
9	04/16/20	REPRODUCTION BY	MD	
10		REVISED BY	PR	AT NOTED
11		SCALE		DO NOT SCALE
12		FOR NOTES		



**SITE #1: WE03752B**  
**SITE NAME: 350 THEODORE FREND**  
**350 THEODORE FREND AVE**  
**RYE, NY 10580**  
**WESTCHESTER COUNTY**

## STRUCTURAL DETAILS

**§-1**



**NOTE:**  
PROVIDE NON-SHINK GROUT @ INTERFACE  
OF WALL & MOUNT  
NOT SLIDE EXISTING CABINET AS REQUIRED





# CITY COUNCIL AGENDA

DEPT.: Commissioner of Public Safety

DATE: May 7, 2021

CONTACT: Rob Falk, Commissioner of Public Safety

**AGENDA ITEM:**

Authorization for the Commissioner of Public Safety to sign an updated agreement with the NYS Law Enforcement Support Office (LESO) to set forth the terms and conditions with respect to the transfer of excess personal property from the Department of Defense (DoD) (1033 Program).

**FOR THE MEETING OF:**

May 19, 2021

**RYE CITY CODE,**  
CHAPTER  
SECTION

**RECOMMENDATION:** That the Council authorize the Commissioner of Public Safety to sign the agreement.

**IMPACT:** ☐ Environmental ☐ Fiscal ☐ Neighborhood ☒ Other:

**BACKGROUND:**

See attached agreement.



# State Plan of Operation (SPO) Interagency Agreement between:

**State of New York  
and the**  
*(State/United States Territory)*

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*Law Enforcement Agency (LEA)*

**1) PURPOSE** This State Plan of Operation (SPO) Interagency Agreement, hereinafter referred to as “AGREEMENT” is entered into between the State/United States (U.S.) Territory and Law Enforcement Agency (as identified above), to set forth the terms and conditions which will be binding on the parties with respect to Department of Defense (DoD) excess personal property conditionally transferred pursuant to 10 USC § 2576a, in order to promote the efficient, expeditious transfer of property and to ensure accountability of the same.

**2) AUTHORITY** The Secretary of Defense (SECDEF) is authorized by 10 USC § 2576a to transfer to Federal and State Law Enforcement Agencies (LEAs), personal property that is excess to the needs of the DoD, including small arms and ammunition, that the Secretary determines is suitable to be used by such agencies in law enforcement activities, with preferences for counter-drug/counter-terrorism, disaster-related emergency preparedness or border security activities, under such terms prescribed by the Secretary. The SECDEF has delegated program management authority to the DLA. The DLA Disp Svcs LESO administers the program in accordance with (IAW) 10 USC § 2576a, 10 USC § 280, DoDM 4160.21 and DLAI 4140.11. The DLA defines “law enforcement activities” as activities performed by governmental agencies whose primary function is the enforcement of applicable federal, State, and local laws and whose compensated law enforcement officers have powers of arrest and apprehension.

**3) GENERAL TERMS AND CONDITIONS** “DoD excess personal property” also known as “items”, “equipment”, “program property”, or “property”. “DLA Disposition Services Law Enforcement Support Office” also known as “1033 Program”, “LESO Program”, “the program”, or “LESO”. “State or U.S. Territory” also known as “the State”, “State Coordinator (SC)”, “State Point of Contact (SPOC)”, or “SC/SPOC”. “Law Enforcement Activities” also known as “agencies in law enforcement activities”, “Law Enforcement Agency (LEA)”, “program participant”, or “State/LEA”.

a) Property made available under this agreement is not for personal use and is for the use of authorized program participants only. All requests for property shall be based on bona fide law enforcement requirements. Authorized participants who receive property from the program will not loan, donate, or otherwise provide property to other groups or entities (i.e., public works, county garage, schools, etc.) that are not otherwise authorized to participate in the program. Property will not be obtained by program participants for the purpose of sale, lease, loan, personal use, rent, exchange, barter, transfer, or to secure a loan. To receive such property, on an annual basis the LEA shall certify that they have:

- i) Obtained authorization of the relevant local governing body authority (i.e., city council, mayor, etc.).
- ii) Adopted publicly available protocols for the appropriate use of controlled property, the supervision, and the evaluation of the effectiveness of such use, including auditing and accountability policies.
- iii) Annual training in place and provides it to relevant personnel on the maintenance, sustainment, and appropriate use of controlled property, including respect for the rights of citizens under the Constitution of the U.S. and de-escalation of force.

b) All costs associated with the transportation, turn-in, transfer, repair, maintenance, insurance, disposal, repossession or other expenses related to property are the sole responsibility of the State/LEA. The State/LEA shall also be responsible to reimburse the U.S Government (USG) for costs incurred in retrieving and/or

repossessing property impermissibly transferred by the State/LEA to unauthorized participants.

- c) The State/LEA will maintain and enforce regulations designed to impose adequate security and accountability measures for controlled property to mitigate the risk of loss or theft of property. Program participants shall implement controls to ensure property made available under this agreement is used for official law enforcement use only. The State/LEA shall take appropriate administrative and/or disciplinary action against individuals that violate provisions of the Memorandum of Agreement (MOA) between the Federal Government and the State/U.S. Territory and/or this AGREEMENT, including unauthorized use of property.
  - d) All property transferred to the State/LEA via the program is on an as-is, where-is basis.
  - e) LESO reserves the right to recall property issued to a State/LEA at any time.
  - f) General use of definitions/terms:
    - i) Demilitarization (DEMIL code)-a code assigned to DoD property that indicates the degree of required physical destruction, identifies items requiring specialized capabilities or procedures, and identifies items which do not require DEMIL but may require Trade Security Controls (TSC). Program participants are not authorized to conduct physical demilitarization of property.
    - ii) “Controlled property”-items with a DEMIL code of B, C, D, E, F, G, and Q (with an Integrity Code of “3”. Title and ownership of controlled property remains with the DoD in perpetuity and will not be relinquished to the State/LEA. When a State/LEA no longer has a legitimate law enforcement use for controlled property, they shall notify the LESO and the property will be transferred to another program participating State/LEA (via standard transfer process) or returned to DLA Disp Svcs for disposition.
    - iii) “Non-controlled” property”-items with a DEMIL code of A or Q (with an Integrity Code of “6”). These items are conditionally transferred to the State/LEA and will remain on State/LEA accountable inventory for one year from the ship date. However, after one year from the ship date, DLA will relinquish ownership and title for the property to the State/LEA without issuance of further documentation. During this one year period, the State/LEA remains responsible for the accountability and physical control of the property and the LESO retains the right to recall the property. Participants should return any property in this one year period that becomes excess to their needs or they otherwise determine is not serviceable.
- (1) The LEA receives title and ownership of DEMIL “A” and “Q6” property as governmental entities. Title and ownership of this property does not pass from DoD to any private individual or State/LEA official in their private capacity. Such property shall be maintained and ultimately disposed of IAW provisions in State and local laws that govern public property.
    - (a) Prior to disposing of any DEMIL “A” and “Q6” property, LEAs must contact the New York State Coordinator’s Office to confirm property is in “Closed” status and no longer subject to annual inventory requirements and to get approval to dispose of the property.
    - (b) All proceeds for the sale of DEMIL “A” and “Q6” property owned by the LEA and obtained through the program must go back to the LEA.
  - (2) Sales/gifting of DEMIL “A” and “Q6” property after one year from the ship date inconsistent with State/local law may constitute grounds to deny future participation in the program.
  - (3) After one year from ship date, DEMIL “A” and “Q6” property may be transferred, cannibalized for usable parts, sold, donated, or scrapped.
  - (4) Once the property is no longer on the LEA accountable inventory, the property is no longer

subject to the annual physical inventory requirements and will not be inventoried during a LESO Program Compliance Review (PCR).

g) All physical transfers of property require LESO approval. Program participants will not physically transfer property until the LESO approval process is complete. Program participants may request their SC/SPOC approval to temporarily conditionally loan property to another program participant (if mission requires). If the SC/SPOC approves the temporary conditional loan, it shall be done using an acceptable Equipment Custody Receipt (ECR). At the end of the temporary conditional loan, the item (s) shall be returned to the original LEA for accountability. All requests for conditional loans will be based on bona fide law enforcement requirements.

h) The program may authorize digital signatures on required program documentation.

i) The State/LEA is not required to maintain insurance on controlled property, aircraft or other property with special handling requirements that remain titled to DoD. However, the State/LEA will be advised that if they elect to carry insurance and the insured property is on the program inventory at the time of loss or damage, the recipient will submit a check made payable to DLA for insurance proceeds received in excess of their actual costs of acquiring and rehabilitating the property prior to its loss, damage, or destruction.

#### **4) STATE PLAN OF OPERATION** The State shall:

a) Assist in training LEAs with enrollment, property requests, transfers, turn-ins, and disposal procedures.

b) Adhere to the requirements outlined in the MOA between the Federal Government and the State/U.S. Territory and ensure MOA amendments or modifications are incorporated into this AGREEMENT and program participants are notified and acknowledge responsibility to comply with changes.

c) Submit a SPO AGREEMENT to LESO that shall address procedures for determining LEA eligibility, allocation, equitable distribution of property, accountability, inventory, training, and education, State-level internal PCRs, export control requirements, procedures for turn-in, transfer, and disposal and other responsibilities concerning property.

d) Enter into written agreement with each LEA, via the LESO-approved SPO, to ensure program participants acknowledge the terms, conditions, and limitations applicable to property. This AGREEMENT must be signed by the current Chief Law Enforcement Official (CLEO) (or designee) and the current SC/SPOC.

e) Provide program participants the following information:

i) The LESO Program State POCs:

State Coordinator (SC): [Charles.Tyree@dcjs.ny.gov](mailto:Charles.Tyree@dcjs.ny.gov), (518) 485-7623

State Point of Contact (SPOC): [Francis.Wade@dcjs.ny.gov](mailto:Francis.Wade@dcjs.ny.gov), (518) 485-1415

State Point of Contact (SPOC): [John.Gezzo@dcjs.ny.gov](mailto:John.Gezzo@dcjs.ny.gov), (518) 457-0433

State Point of Contact (SPOC): [Joseph.DAlessandri@dcjs.ny.gov](mailto:Joseph.DAlessandri@dcjs.ny.gov), (518) 485-6256

ii) SC/SPOC Facility Information:

Physical Mailing Address: NY State Division of Criminal Justice Services  
Office of Public Safety  
Attention: 1033 Program  
Alfred E. Smith Office Building  
80 South Swan Street, Albany, NY 12210

Email: DCJS1033FedProgram@dcjs.ny.gov

Phone Number: (518) 485-1415

Website: https://www.criminaljustice.ny.gov

Hours of Operation: 8:00 AM – 4:00 PM

iii) Funding to administer the LESO Program at the State-level is provided via: General Fund

**5) PROPERTY ACCOUNTING SYSTEM** The State will maintain access to Federal Excess Property Management Information System (FEPMIS) (or current property accounting system), to ensure LEAs maintain property books, to include, but not limited to, transfers, turn-ins, and disposal requests from an LEA or to generate these requests at the State-level and forward all approvals to the LESO for action. The State will:

- a) Conduct quarterly reconciliations of State property records.
- b) Ensure at least one person per LEA maintains access to the property accounting system. Users may be “active” or “inactive” in the system, so long as they are registered.
- c) Ensure registered users are employees of the State/LEA.
- d) Ensure LEAs receive and account for property in the property accounting system within 30 days.

**6) LESO WEBSITE** The State shall access the LESO website for timely and accurate guidance, information, and links concerning the program and ensure that all relevant information is passed to the program participants.

**7) ANNUAL TRAINING** 10 USC § 280 provides that the SECDEF, in cooperation with the U.S. Attorney General, shall conduct an annual briefing of law enforcement personnel of each State (including law enforcement personnel of the political subdivisions of each State). Individuals who wish to attend are responsible for funding their own travel expenses. The briefing will include information on training, technical support, equipment, and facilities that are available to civilian law enforcement personnel from the DoD. The state shall provide program participants training material as discussed during the annual LESO training which includes information on property management best practices to include (but not limited to) searching for property, accounting for property on inventory, transfer and turn-in of property when it is no longer needed or serviceable.

**8) ENROLLMENT** The LESO shall establish and implement program eligibility criteria IAW 10 USC § 2576a, DLA Instructions and Manuals and this SPO and retains final approval/disapproval authority for application packages forwarded by the State. Non-governmental law enforcement entities such as private railroad police, private security, private academies, correctional departments, prisons, or security police at private schools/colleges are not eligible to participate. Fire departments (by definition) are not eligible to participate and should be referred to the DLA Fire Fighter program administered by USDA. Law enforcement agencies requesting program participation shall have at least one full-time law enforcement officer. Program property may only be issued to full-time/part-time law enforcement officers. Non-compensated reserve officers are not authorized to receive property. State law enforcement training facilities/ academies may be authorized to participate in the program given their primary function is the training of bona fide State/local law enforcement officers. Law enforcement training facilities/academies will be reviewed on a case-by-case basis. The State shall:

- a) Validate the authenticity of state/LEAs that are applying for program participation. Only submit to the LESO those application packages that the SC/SPOC recommends/certifies are government agencies whose primary function is the enforcement of applicable federal, State, and local laws and whose compensated officers have the powers of arrest and apprehension. If the State forwards an unauthorized participant application package, this may result in a formal suspension of the State.

b) Have sole discretion to disapprove state/LEA application packages in their State. The SC/SPOC should provide notification to the LESO when application packages are disapproved at the State-level.

i) Based on the aforementioned eligibility criteria provided by the LESO; the NYS 1033 Program will review, approve and forward to the LESO participation applications from NYS LEAs that meet all the following criteria:

- (1) Must be listed as an employer of Police Officers on the NYS Central Registry of Peace and Police Officers.
- (2) Officers employed by the LEA must meet the definition of a “Police Officer” as defined by NYS Criminal Procedure Law (CPL) 1.20 (34.).
- (3) Requires its sworn police officers, as a condition of employment, to receive a certificate of completion for the Basic Course for Police Officers.
- (4) Employs at least one (1) full-time Officer (compensated with power of arrest and apprehension).
- (5) Has a primary function to enforce applicable Federal, State, and local laws.
- (6) Must have a primary responsibility to provide a routine road patrol function (Exception allowed for Sheriffs Offices).
- (7) Must be based in, and jurisdiction must not extend outside of New York State.
- (8) Must have a CLEO that is permanently approved, appointed, or elected. LEAs with interim/acting CLEO’s may enroll with written approval from their Civilian Governing body.
- (9) Must be in good standing with and have no outstanding issues with the DCJS OPS Regulatory Compliance Unit.
- (10) Must be in full compliance with EO 203 New York State Police Reform and Reinvention Collaborative.

LEAs must meet all the above eligibility requirements to participate in the NYS 1033 Program.

c) Ensure that screeners listed in the application package are employees of the LEA. A screener may only screen property for two LEAs. Contractors may not conduct screening on behalf of a LEA.

i) New York’s 1033 Program requires all screeners to be sworn police officers with one exception; a civilian employee of the LEA designated on the application as the Aircraft Point of Contact (APOC) may also serve as a screener.

d) Make recommendation on what constitutes a “full-time” or “part-time” law enforcement officer.

e) Ensure LEAs update their account information annually, or as needed. This may require the LEA to submit an updated application package. An updated application package shall be submitted for (but is not limited to) the following: a change in CLEO, the addition or removal of a screener, a change in the LEA physical address or contact information, etc.

f) Provide the LEA a comprehensive program overview once approved by the LESO for enrollment. The overview will be done within 90-days of a LEA being approved to participate.

## 9) PROPERTY ALLOCATION

### a) The LESO shall:

i) Upon receipt of a SC/SPOC validated request for property through the RTD website, will review and give preference to requisitions indicating that the requested property will be used in the counter-drug, counter-terrorism, disaster-related emergency preparedness, or border security activities of the requesting LEA. Program participants that request vehicles used for disaster-related emergency preparedness, such as high-water rescue vehicles, should receive the highest preference.

ii) Require additional justification for small arms, aircraft, ammunition, and vehicles and to the greatest extent possible, ensure fair and equitable distribution of property based on current LEA inventory and justification for property.

iii) Reserve the right to determine and/or adjust allocation limits, to include the type, quantity and location of property allocated to the State/LEA. Generally, no more than one item (per part-time/full-time officer) will be allocated. Quantity exceptions may be granted by the LESO on a case-by-case basis based on the justification provided by the LEA. Currently, the following allocation limits apply:

(1) Robots: one (of each type) for every ten officers (full-time/part-time).

(2) High Mobility Multipurpose Wheeled Vehicle (HMMWV)/Up-Armored HMMWV (UAH): LESO Policy is one vehicle for every three officers (full-time/part-time). The NY State Coordinator policy is to approve HMMWVs/Up-Armored HMMWVs based on operational needs and an agency's ability maintain and support these vehicles. The State Coordinator will consider additional allocations upon request

(3) Mine Resistant Ambush Protected (MRAP) / Armored Vehicles: LESO Policy is two vehicles per LEA. The NY State Coordinator policy is to approve MRAPs/Armored Vehicles based on operational needs and an agency's ability maintain and support these vehicles. The State Coordinator will consider additional allocations upon request.

(4) Small arms: LESO Policy is one (of each type) per officer (full-time/part-time). The NY State Coordinator policy is to approve small arms equal to 20% of total full time and part time sworn police officers. The State Coordinator will consider additional allocations upon request.

(a) LESO may authorize over allocations of small arms in preparation for inevitable scenarios, i.e. training, equipment downtime (damage, routine maintenance, inspections) or other law enforcement needs. The chart below is the standard for small arms acceptable over-allocations:

<b>Small Arms Acceptable Over-Allocations</b>	
<b># of Officers</b>	<b># by type</b>
1-10	2 or less
11-25	3 or less
26-100	5 or less
101-299	8 or less
300 or more	10 or less

(b) In instances where small arm allocation amounts exceed the "acceptable over-allocation" levels, the LESO will coordinate with States to verify accuracy of the officer count. If small arm allocation is still beyond acceptable levels, LESO may authorize one of the following:

1) an exception to policy, 2) a transfer, or 3) a turn-in.

b) The State shall:

i) Assist the LEA in the use of electronic screening of property via the RTD website and shall access the RTD website a minimum of once daily (Monday-Friday) to review and process LEA requests for property. Property justifications shall be validated to ensure they meet the intent of 10 USC § 2576a as suitable for use by agencies in law enforcement activities. Prior to approving a request or transfer, review the LEAs property allocation report to prevent over allocation.

ii) Upon receipt of a valid LEA request for property, provide a recommendation to the LESO on the preference to be given to those requisitions for property that will be used in counter-drug, counter-terrorism, disaster-related emergency preparedness or border security activities of the recipient agency. Requests for vehicles used for disaster-related emergency preparedness, such as high-water rescue vehicles, should receive the highest preference. The State shall consider the fair and equitable distribution of property based on current LEA inventory and LEA justifications for property. The State shall ensure the type and quantity of property being requested by LEAs is reasonable and justifiable given the number of officers (full-time/part-time) and prior requisitions for similar items they have received (both controlled and non-controlled property). Generally, no more than one of any item per officer (full-time/part-time) will be allocated.

**10) PROPERTY MANAGEMENT** Certain controlled equipment shall have a documented chain of custody (i.e. an acceptable ECR), including a signature of the recipient. Controlled property requiring an ECR: small arms (including parts and accessories), aircraft, vehicles, optics, and robots. It is encouraged to utilize ECRs for all controlled property. LEAs may request cannibalization on aircraft or vehicles. Cannibalization requests shall be submitted to the State for review. Cannibalization must be approved by the LESO prior to any cannibalization actions. The cannibalized end item shall be returned to DLA Disp Svcs within the timeframes determined by the LESO.

a) Aircraft-Aircraft will not be obtained by LEAs for the purpose of sale, lease, loan, personal use, rent, exchange, barter, transfer, or to secure a loan and shall be reported to the LESO at the end of their useful life. All aircraft are considered controlled property, regardless of DEMIL code. Aircraft that are no longer needed or serviceable shall be reported to the General Services Administration (GSA) for final disposition by the LESO Program Aircraft Specialist.

b) Vehicles-Program participants that request vehicles used for disaster-related emergency preparedness, such as high-water rescue vehicles, should receive the highest preference. Vehicles will not be obtained by LEAs for the purpose of sale, lease, loan, personal use, rent, exchange, barter, transfer, or to secure a loan and vehicles that are considered controlled property will be returned to DLA Disp Svcs at the end of their useful life. DLA Disp Svcs Field Activity/Site will identify qualifying DEMIL A or Q6 vehicles and may issue (upon LEA request) a Standard Form (SF) SF-97 to the LEA upon physical transfer of the vehicle. The LEA may modify the vehicle during the one-year conditional transfer period.

c) Ammunition-LESO will support the U.S. Army (USA), in allocating ammunition to program participants. Ammunition obtained via the program will be for training use only. At the time of request, the LEA will certify in writing that the ammunition will be used for training use/purposes only. The USA will issue approved transfers directly to the State/LEA. The State/LEA is responsible for funding all packing, crating, handling, and shipping costs for ammunition. The LEA will make reimbursements directly to the USA. Ammunition will not be obtained by LEAs for the purpose of sale, lease, loan, personal use, rent, exchange, barter, transfer, or to secure a loan. Ammunition obtained via the program shall not be sold. Ammunition will be treated as a consumable item and not tracked in any DLA inventory system or inspected during PCRs. LESO shall track and maintain necessary records of ammunition that has been transferred to LEAs and will post all requests, approvals, and denials on the LESO public website.

d) Small arms:

i) Small arms will not be obtained by LEAs for the purpose of sale, lease, loan, personal use, rent, exchange, barter, transfer, or to secure a loan and shall be returned to DLA Disp Svcs at the end of their useful life. Cannibalization of small arms is not authorized.

ii) Temporary modifications to small arms are authorized; permanent modifications to small arms are not authorized (i.e. drilling holes in the lower receiver of a small arm). In cases of temporary modifications, all parts are to be retained and accounted for in a secured location under the original serial number for the small arm until final disposition is determined. If the modified small arm is transferred to another LEA, all parts will accompany the small arm to the receiving LEA.

iii) Small arms will be issued utilizing an acceptable ECR which obtains certain information about the property being issued to include (but is not limited to) the signature of the law enforcement officer who is accepting responsibility for the small arm(s), the serial number of the small arm, the date in which the law enforcement officer took possession of the small arm, etc.

iv) Small arms that are not carried on an officer's person or in the officer's immediate physical vicinity will be secured using "two levels of physical security". Two levels of physical security meaning two distinct lockable barriers, each specifically designed to render a small arm inaccessible and unusable to unauthorized persons. Lockable barriers meeting this description may be either manual or electronic.

(1) LEAs in the New York State 1033 Program possessing small arms agree to the following additional security measures;

(a) In Station – small arms will be secured by (1) a locked door and restricted access heavy duty security steel container or another locked storage area with restricted access.

(b) Manned Vehicles – during an active patrol shift requires a locked vehicle and heavy duty steel locking clamp style firearm holder designed for the specific rifle to be stored, or heavy duty locking cable attached to vehicle frame or steel structure, or heavy duty steel security container attached to vehicle frame or vehicle steel structure. ***We strongly encourage the use of steel locking clamp style firearm holders designed for the specific firearm in lieu of locking cables.***

(c) Off-Shift Patrol Vehicles – small arms storage in a vehicle NOT being utilized during the current patrol shift is prohibited without prior written approval from the State Coordinator.

(d) Small Arms will not be in the possession of an off-duty officer and will be returned to station and placed in a minimum two levels of physical protection when officer's duty shift ends.

(e) 1033 pistols are not authorized to be stored in a patrol vehicle or in an officer's residence, under any circumstances.

v) Program participants no longer requiring program small arm(s) shall request authorization to transfer the small arm to another participating LEA or request authorization to turn-in/return the small arm. Transfers and turn-in requests shall receive final approval from the LESO; small arms will not physically move until the LESO provides official notification that the approval process is complete. When turning-in small arms to Anniston Army Depot, the LEA shall follow LESO turn-in guidance.



vi) Local destruction (DEMIL) of small arms is not authorized.

vii) Lost, Stolen or Destroyed (LSD) small arms:

(1) Program participants with multiple instances of LSD small arms in a five-year window will be assessed by DLA Disp Svcs to determine if a systemic problem exists IAW DLAI 4140.11.

(2) DLA OIG investigations may be initiated if small arms are improperly disposed of or become LSD while in program inventory. The State/LEA may be required to reimburse DLA the fair market value of the small arms when negligence, willful misconduct, or a violation of the MOA between the Federal Government and the State/U.S. Territory and/or this SPO is confirmed at the conclusion of the Financial Liability Investigation of Property Loss (FLIPL).

(a) Reimbursement will be within 60-days of the completion of the FLIPL.

(b) Title will never transfer to the recipient regardless of the status of the small arm.

(c) Payments due to DLA Disp Svcs, based upon the findings of the FLIPL, may be paid by one of three methods: 1) credit card via pay.gov, 2) cashier/ business check, or 3) wire transfer.

(3) In instances of LSD small arm recovery, DoD retains title in perpetuity and the small arm shall be immediately relinquished/surrendered back to the program.

## **11) PROGRAM COMPLIANCE REVIEWS (PCR)**

a) The LESO shall:

i) Conduct PCRs to ensure that the SC/SPOC, and all LEAs within a State are compliant with the terms and conditions of the program as required by 10 USC § 2576a, the MOA between the Federal Government and the State/U.S. Territory and/or this AGREEMENT and any DLA Instructions and manuals regarding the program. PCRs are conducted to ensure property accountability, program compliance, and program eligibility.

ii) Conduct PCRs for participating States every 2 years, providing training to the State/LEA as needed.

iii) Reserve the right to conduct no notice PCRs, or require an annual review, or similar inspection, on a more frequent basis for any State/LEA.

iv) Intend to physically inventory 100% of property selected for review at each LEA during a PCR. The use of ECRs in lieu of physical inspection is discouraged during PCRs. Extensive use of the ECR (without prior coordination with LESO) may result in a non-compliance finding during the PCR.

v) Intend to review as much property as possible during a PCR.

(1) The goal is to review 20% of a State's overall small arms inventory.

(2) The goal for inventory selections (at LEAs selected for review) is 15% of an LEAs general property to include non-controlled property (DEMIL code A and Q6).

vi) Select LEAs not visited during the last three regularly scheduled PCR cycles (as applicable).

vii) Recommend corrective actions (which may include suspending a State/LEA from program participation) for findings of non-compliance identified during a PCR.

(1) The LESO shall issue corrective actions (with suspense dates) to the State, which will identify what is needed to rectify the identified deficiencies within the State/LEA.

(2) If the State/LEA fails to correct identified deficiencies within the LESO suspense dates, the LESO may move to restrict, suspend, or terminate the State/LEA from program participation.

(3) States found non-compliant for a PCR will be suspended for a minimum of 60-days and will not be reinstated until the State successfully passes a LESO-conducted PCR.

viii) Ensure the State/LEA understand that property shall be transferred to a participating agency with SC/SPOC and LESO approval or returned to DLA Disp Svcs when no longer needed or serviceable.

b) The State shall:

i) Assist the LESO as required, prior to, during and upon completion of the PCR.

ii) Assist in the coordination of the PCR daily schedule of events and forward the schedule to LEAs that have been selected for review.

iii) Contact LEAs that have been selected for the PCR via phone, email or in person to ensure they are aware of the schedule and are prepared for the PCR.

iv) Receive inventory selections from the LESO and forward them to the selected LEAs. The State shall ensure the LEA physically gathers the selected property in a central location (to the greatest extent possible) which will allow the LESO to physically inventory the property efficiently during the PCR.

v) Coordinate the use of any ECR with the LESO prior to the PCR.

vi) Ensure LEAs understand property shall be transferred to a participating agency with SC and LESO approval or returned to DLA Disp Svcs when deemed no longer needed or serviceable.

vii) Conduct State-level (internal) PCRs of participating LEAs to ensure property accountability, program compliance and program eligibility utilizing a PCR checklist provided by the LESO, or equivalent (for uniformity purposes).

(1) Ensure a State-level (internal) PCR of at least 8% of LEAs with program inventory is completed annually (3% of which will be focused on program participants with no controlled property). Results of the State-level (internal) PCR will be kept on-file with the State. Documentation shall be provided to the LESO for each LEA that received a State-level PCR.

(2) The State-level (internal) PCR will include, at minimum:

(a) A review of the dually-signed SPO AGREEMENT, ensuring it is uploaded to the property accounting system.

(b) A review of the LEA application package to confirm authenticity and eligibility of the LEA.

(c) An inventory of property selected for review at each LEA.

(d) A review of each selected LEA files for any of the following which may include turn-in/transfer DD Form 1348-1A, ECR, small arm documentation, FLIPL documents, exception to policy letters, approved cannibalization requests, or other pertinent documentation as required.

(3) Request that the LESO restrict, suspend or terminate an LEA based on findings during State-level internal PCR or due to non-compliance with terms of the MOA between the Federal Government and the State/U.S. Territory and/or this SPO, DLA Instruction/Manual or any statute or regulation regarding the program.

(4) Notify the LESO and initiate an investigation into any questionable activity or action involving property issued to a LEA that comes to the attention of the State and is otherwise within the authority of the Governor/State to investigate. Upon conclusion of any such investigation, take appropriate action and/or make appropriate recommendations on restriction, suspension, or termination of the State/LEA to the LESO. The SC may suspend or terminate a State/LEA participation in the program at any time for non-compliance.

**12) ANNUAL PHYSICAL INVENTORY** Each State/LEA is required to conduct an annual physical inventory of all property on the active property book and provide certification in the property accounting system. DEMIL “A” and “Q6” property records will not be closed during the annual physical inventory period.

In the State of New York, the annual physical inventory and certification in the property accounting system process starts on July 1<sup>st</sup> and must be completed by July 31st. The State shall:

a) Provide training to LEAs to properly conduct the annual physical inventory and complete the certification of property in the property accounting system.

b) Ensure an approved and current SPO AGREEMENT is uploaded in the property accounting system for each LEA.

c) Validate the annual physical inventory certifications submitted by LEAs.

d) Adhere to annual physical inventory certification requirements as identified by the LESO. Physical inventories and certification statements will be maintained on file IAW the DLA records schedule.

e) Annually certify property is utilized and is within allocation limits IAW the MOA between the Federal Government and the State/U.S. Territory and this SPO.

f) Recommend suspension of program participants who fail to complete or submit the certified annual physical inventory.

g) On August 1 of each year, reserve the right to cease approving property requests from all NY LEAs, until every participating NY LEA submits a certified annual inventory.

**13) REPORTING LOST, STOLEN, OR DESTROYED (LSD) PROPERTY** Any property identified as LSD on a LEA current inventory, shall be reported to the State/LESO. A FLIPL (aka the DD Form 200) shall be submitted to the State/LESO for LSD property. Program participants agree to cooperate with investigations into LSD property by any federal, state, or local investigative body and, when requested, assist with recovery of LSD property.

a) LSD controlled property shall be reported to the State/LESO within 24-hours. Program participants may be required to provide their SC/SPOC additional documentation which may include (but is not limited to): 1) Comprehensive police report, 2) NCIC report/entry, and 3) Contact information for the Civilian Governing Body (CGB) over the LEA involved, to include: Title, Name, Email, and mailing address.

b) LSD property with a DEMIL code of “A” and “Q6” shall be reported to the State/LESO within 7-days.

**14) RESTRICTION, SUSPENSION OR TERMINATION** Program participants are required to abide by the terms and conditions of the MOA between the Federal Government and the State/U.S. Territory and this SPO in order to maintain active program participation status. If a State/LEA fails to comply with any term or condition

of the MOA, SPO, DLA Instruction or Manual, federal statute or regulation, the State/LEA may be suspended, terminated, or placed on restricted status. Restriction, suspension, or termination notifications will be in writing and will identify remedial measures required for reinstatement (if applicable). Suspension-A specified period in which an entire State/LEA is prohibited from requesting or receiving additional property through the program. Additional requirements may be implemented, to include the State/LEA requirement to return specifically identified controlled property. Suspensions will be for a minimum of 60-days. Termination-The removal of a State/LEA from program participation. The terminated State/LEA shall transfer or turn-in all controlled property previously received through the program at the expense of the State/LEA involved. Restricted Status-A specified period in which a State/LEA is restricted from receiving an item or commodity due to isolated issues with the identified item or commodity. Restricted status may also include restricting a State/LEA from all controlled property.

- a) State termination-The SC/SPOC will coordinate with LESO to identify a realistic timeframe to complete the transfer or turn-in of all property. The LESO retains final authority to determine timeframe requirements.
- b) LEA termination-The SC/SPOC will coordinate with LESO to identify a realistic timeframe to complete the transfer or turn-in of all property. The LESO retains final authority to determine timeframe requirements.
- c) In the event of a termination, the State/LEA will make every attempt to transfer the property of the terminated State/LEA to an authorized State/LEA, as applicable, prior to requesting a turn-in of the property to DLA Disp Svcs. In cases that require a repossession or turn-in of property, the State/LEA will bear all expenses related to the repossession, turn-in or transfer of property to DLA Disp Svcs.

d) The State shall:

- i) Suspend LEAs for a minimum of 60-days in all situations relating to the suspected or actual abuse of property or requirements and/or repeated non-compliance related to the terms and conditions of this SPO AGREEMENT. Suspension may lead to termination. The State shall also issue corrective action guidance to the LEA with suspense dates to rectify issues and/or discrepancies that caused the restriction, suspension, or termination. The State shall require the LEA to submit results on completed police investigations and/or reports on LSD property to include the LEA CAP. The LESO retains final discretion on reinstatement requests. Reinstatement to full participation from a restriction, suspension or termination is not automatic.
- ii) Initiate corrective action to rectify suspensions or terminations of the LEA for non-compliance to the terms and conditions of the program. The State shall also make contact (until resolved) with suspended LEAs to ensure corrective actions are rectified within required timeframes provided by the LESO.
- iii) Require the LEA to complete and submit results on completed police investigations or reports regarding LSD property. The State will submit all documentation to LESO upon receipt.
- iv) Provide documentation to LESO when actionable items are rectified for the State/LEA.
- v) Request that the LESO suspend or terminate an LEA based upon their findings during State-level internal PCR or due to non-compliance with any term of this SPO AGREEMENT, DLA Instruction/Manual or any statute or regulation regarding the program.
- vi) Notify the LESO and initiate an investigation into any questionable activity or action involving property issued to an LEA that comes to the attention of the State and is otherwise within the authority of the Governor/State to investigate. Upon conclusion of any such investigation, take appropriate action and/or make appropriate recommendations on restriction, suspension, or termination of the LEA to the LESO. The SC may revoke or terminate concurrence for LEA participation in the program at any time.
- vii) Provide written request to the LESO for reinstatement of an LEA for full participation status at the

conclusion of a restriction or suspension period. Written verification shall be provided that the SC/SPOC has validated the LEA CAP.

**15) RECORDS MANAGEMENT** The LESO, SC/SPOC, and LEAs participating in the program will maintain program records IAW the DLA records schedule. Records for property acquired through the program have retention controls based on the DEMIL code. Property records will be filed, retained, and destroyed IAW DLA records schedule. Records may include but are not limited to: DD Form 1348-1A for transfers, turn-ins, requisitions, Bureau of Alcohol, Tobacco, Firearms and Explosives (BATFE) Forms 5 and 10.

**16) TRADE SECURITY CONTROL (TSC) and COMPLIANCE WITH EXPORT CONTROL REGULATIONS** Items transferred to program participants, including DEMIL A and Q (with an Integrity Code of 6) property, may be subject to export control restrictions. Program participants shall comply with U.S. export control laws and regulations if they contemplate further transfers of any property. Once title transfers, LEAs should consult with the Department of State (DoS) and Department of Commerce (DoC) export control regulators about the type of export controls that may apply to items, regardless of DEMIL code. Program participants may request a formal Commodity Classification from the DoC, Bureau of Industry and Security (BIS), or submit a general correspondence request to the DoS, Directorate of Defense Trade Controls. Information on managing exports of CCL items can be found at the U.S. DoC Bureau of Industry and Security website. Program participants shall notify all subsequent purchasers or transferees, in writing, of their responsibility to comply with U.S. export control laws and regulations.

**17) NOTICES** Any notices, communications, or correspondence related to this SPO AGREEMENT shall be provided by email, the U.S. Postal Service (USPS), express service, or facsimile to the State Coordinators office or LEA's office, main contact listed herein, and, appropriate DLA office. The LESO may (from time to time) make unilateral modifications or amendments to the provisions of the MOA between the Federal Government and the State/U.S. Territory and/or this SPO AGREEMENT. Notice of these changes will be provided to the State in writing. Unless the State takes immediate action to terminate the MOA between the Federal Government and the State/U.S. Territory and/or this SPO AGREEMENT, such modifications or amendments will become binding. In such cases, reasonable opportunity will (insofar as practicable) be afforded the State/LEA to conform to changes affecting their operations.

a) All notices of Parties hereunder must be in writing and shall be mailed to the other party as follows:

New York State:

Charles P. Tyree, Supervisor of Public Safety Programs  
State Coordinator, 1033 Federal Excess Property Program  
NYS Division of Criminal Justice Services, Office of Public Safety  
Alfred E. Smith State Office Building, 3rd Floor  
80 South Swan Street, Albany, NY 12210

Copy to:

Michael J Flaherty, Esq.  
Assistant Counsel  
NYS Division of Criminal Justice Services  
Alfred E. Smith Office Building, 8th Floor 80  
South Swan Street, Albany, NY 12210

Law Enforcement Agency:

**18) ANTI-DISCRIMINATION** By signing or accepting property, the State/LEA pledges agreement to comply with provisions of the national policies prohibiting discrimination: 1) On the basis of race, color, or national origin, in Title VI of the Civil Rights Act of 1964 (42 USC 2000d et seq.) as implemented by DoD regulations 32 CR Part 195, 2) On the basis of age, in the Age Discrimination Act of 1975 (42 USC 6101, et seq) as implemented by Department of Health and Human Services regulations in 45 CFR Part 90 and 3) On the basis of handicap, in Section 504 of the Rehabilitation Act of 1973, P.L. 93-112, as amended by the Rehabilitation Act Amendments of 1974, P.L. 93-516 (29 USC 794), as implemented by Department of Justice (DoJ) regulations in 28 CFR Part 41 and DoD regulations at 32 CFR Part 56. These elements are the minimum essential ingredients for establishment of a satisfactory business agreement between the State and the DoD.

**19) INDEMNIFICATION CLAUSE** The State/LEA is required to maintain adequate liability insurance to cover damages or injuries to persons or property relating to the use of property issued under the program. Self-insurance by the State/LEA is considered acceptable. The USG assumes no liability for damages or injuries to any person(s) or property arising from the use of property issued under the program. It is recognized that State and local law generally limit or preclude the State/LEA from agreeing to open ended indemnity provisions. However, to the extent permitted by State and local laws, the State/LEA shall indemnify and hold the USG harmless from any and all actions, claims, debts, demands, judgments, liabilities, cost, and attorney's fees arising out of, claimed on account of, or in any manner predicated upon loss of, or damage to property and injuries, illness or disabilities to, or death of any and all persons whatsoever, including members of the general public, or to the property of any legal or political entity including States, local and interstate bodies, in any manner caused by or contributed to by the State/LEA, its agents, servants, employees, or any person subject to its control while the property is in the possession of, used by, or subject to the control of the State/LEA, its agents, servants, or employees after the property has been removed from USG control.

**20) TERMINATION** This SPO AGREEMENT may be terminated by either party, provided the other party receives a thirty (30) day notice (in writing) or as otherwise stipulated by Public Law. The undersigned SC hereby agrees to comply with all provisions set forth herein and acknowledges that any violation of the terms and conditions of this AGREEMENT may be grounds for immediate termination and possible legal consequences, to include pursuit of criminal prosecution if so warranted.

**21) AGREEMENT OF PARTIES** The parties below agree to enter this agreement as of the last date below:

Governor-appointed SC/SPOC, State of: New York

Full Name (Print): Charles P. Tyree

Signature (Sign):  Date (MM/DD/YYYY): 4/6/2021

Law Enforcement Agency (LEA): \_\_\_\_\_

Title (Print): \_\_\_\_\_

Full Name (Print): \_\_\_\_\_

Signature (Sign): \_\_\_\_\_ Date (MM/DD/YYYY): \_\_\_\_\_



# CITY COUNCIL AGENDA

DEPT.: Police Department

DATE: May 13, 2021

CONTACT: Rob Falk, Commissioner of Public Safety

**AGENDA ITEM:** Consideration of request by the Police Department to dispose of obsolete and inoperable equipment purchased through the 1033 Program.

**FOR THE MEETING OF:**

May 19, 2021

**RYE CITY CODE,**

CHAPTER  
SECTION

**RECOMMENDATION:** That the City Council adopt the following resolution:

WHEREAS, the City has been provided with a list of Police equipment, acquired through the NYS LESO 1033 program, identified as being obsolete or will become obsolete during 2021, and,

WHEREAS, the Police Department has recommended that said equipment be declared surplus and they have been cleared by NYS LESO to be disposed of, now, therefore, be it

RESOLVED, that said equipment is declared surplus, and, be it further

RESOLVED, that authorization is given to the City Comptroller to sell or dispose of said equipment and that the revenue be deposited to the Fund Balance Reserve for Law Enforcement.

**IMPACT:** ☐ Environmental ☒ Fiscal ☐ Neighborhood ☐ Other

**BACKGROUND:** Attached is a listing of equipment acquired through the NYS LESO 1033 program in the possession of the Police Department that is either currently obsolete or inoperable and has been removed from service. The Police Department requests authorization to remove the equipment from its inventory and commence the sale of these items on the 1033 auction website.

See attached.



## POLICE DEPARTMENT

City Of Rye, New York

21 McCullough Place

Rye, N. Y. 10580

Phone: (914) 967-1234

FAX: (914) 967-8341



Lt. Robert J. Falk

*Commissioner of Public Safety*

TO: Greg Usry, Interim Rye City Manager  
FROM: Lt. Robert J. Falk, Interim Commissioner of Public Safety  
SUBJECT: 1033 Surplus  
DATE: May 13, 2021

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### MEMORANDUM

Attached is a spreadsheet of equipment that the Rye PD has purchased through the 1033 program. At this time, the Rye PD has determined that the PD is no longer in need of this equipment and that we would like to commence the sale of these items on the 1033 auction website per the directives of the 1033 program. All proceeds received through the on-line auction or otherwise are required to be credited back to the 1033 program for future use. In addition, there are some pieces of 1033 equipment that no longer have a useful life and will be appropriately discarded in accordance with the City of Rye's surplus policy.

A handwritten signature in black ink, appearing to read "Robert J. Falk".

Lt. Robert J. Falk

Commissioner of Public Safety



1	(#1) 2000 Chevy Tahoe SUV/Police Vehicle
2	(#2) Polaris Ranger Crew 800 EFI Utility Vehicle
3	(#3) Bobcat Toolcat 5600 4 x 4 Utility Vehicle
4	(#4) 1994 Trak International 6000M Rough Terrain Lift Truck
5	(#5) John Deere Utility Vehicle
6	(#6) John Deere Utility Vehicle
7	(#7) John Deere 6' ATV Snow Plow
0007A	(#7A) 1993 4 Drawer Safe
8	(#8) John Deere 6' ATV Snow Plow
9	(#9) Drash M Series Shelter
0009A	(#9A) Empty Military Shipping Containers
10	(#10) HP EliteDesk 705 G1 MT w/ Keyboards, New/Old Stock
11	(#11) Bosch VG4-323-CCS AutoDome PTZ Camera System New/Old Stock
12	(#12) Wyse C Class Thin Clients, Model Cx0, New/Old Stock
13	(#13) Dell AS501 Sound Bar Speaker for Ultrasharp LCD Monitors, New/Old Stock
14	(#14) MOLLE II Large Equipment Pack, Desert Camo, New/Old Stock
15	(#15) Men's and Women's Light Duty Military Leather Gloves, New/Old Stock
16	(#16) Military 1ST Aid Kits, New/Old Stock
17	(#17) HP Keyboards, New/Old Stock
18	(#18) Medical Pouches, New/Old Stock
19	(#19) IBIS TEK 45" HID Light Bars with IR Lighting System
20	(#20) Storage Racks for Guns
21	(#21) Light Extensions, New/Old Stock
22	(#22) AMSAFE Military X-Net Remote Deployment Device, New / Old Stock
23	(#22) AMSAFE Military X-Net Remote Deployment Device, New / Old Stock
24	(#22) AMSAFE Military X-Net Remote Deployment Device, New / Old Stock
25	(#22) AMSAFE Military X-Net Remote Deployment Device, New / Old Stock
26	(#22) AMSAFE Military X-Net Remote Deployment Device, New / Old Stock
27	(#22) AMSAFE Military X-Net Remote Deployment Device, New / Old Stock
28	(#28) Loose Leaf Binders, New/Old Stock
29	(#29) Budgit 2 Ton Electric Hoist, New/Old Stock
30	16' Diamond Back Air Boat & Trailer
31	(#2) Large Military Pop-up Tent
32	(#3) 15/16" Reels of Twisted Nylon Rope, New/Old Stock
33	(#4) Fort Knox Safe
34	(#5) Hamilton Weapons Safe
35	Blue Pickup Truck



# CITY COUNCIL AGENDA

DEPT.: City Manager

DATE: May 9, 2021

CONTACT: Greg Usry, Interim City Manager

**AGENDA ITEM:** Consideration of a request from Hannah Patrick, Dabney Lee store owner, to park a beverage truck either on Purchase Street or Locust Street from 10 am - 6 pm on June 10, 2021 to celebrate the store's anniversary by providing free non-alcoholic beverages to pedestrians and store guests.

**FOR THE MEETING OF:**

May 19, 2021

**RYE CITY CODE,  
CHAPTER  
SECTION**

**RECOMMENDATION:** That the Council consider the request.

RESOLVED, that the City Council waives § 144-8D and G of the City Code and authorizes a beverage truck to be parked from 10 am - 6 pm at the designated City parking spots on June 10, 2021.

**IMPACT:** ☐ Environmental ☒ Fiscal ☒ Neighborhood ☐ Other:

Waive § 144-8D and G of the City Code.

**BACKGROUND:**

The Council will have to grant her authority to waive § 144-8D and G which states;

§144-8 Restrictions states that licensed hawker, peddler or solicitor shall:

D. Not stand nor permit the vehicle used by him or her to stand in one place in any public place or street for more than 10 minutes or in front of any premises for any time if the owner or lessee of the ground floor thereof objects.

G. Not create or maintain any booth or stand, or place any barrels, boxes, crates or other obstructions, upon any street or public place for the purpose of selling or exposing for sale any goods, wares or merchandise.

See attached request.



Dear Sir or Madam,

Per my discussion with Noga Ruttenburg, I respectfully am submitting a formal request for permission to participate in Dabney Lee's anniversary event on Thursday, June 10, 2021 located at 31 Purchase Street.

In order to participate with the caravan, we would require space to accommodate the caravan outside the store. We are requesting permission to park in the available parallel parking outside the store, on Purchase street. Or permission to park on Locust Street, also outside the store. The trailer is approximately 16' L x 5' W. We would need 2 parking spots, or the equal amount of space. However, cars should be able to flow freely and allow for traffic to continue. We are also requesting for permission to park all day on 6/10.

Dabney, owner of Dabney Lee will be hiring Blank Caravan to serve free beverages to her event guests and the general public. Non-alcoholic drinks will be served. These will also be free of charge. General liability will be in place for service. Blank Caravan never serves or prepares food, as it is not a food service vehicle.

I thank you in advance for your consideration. Please feel free to contact myself directly, if any questions should arise. I look forward to hearing back from you.

Kind Regards,  
Hannah Patrick  
Owner & Operator  
Blank Caravan

1004 NUTMEG DRIVE  
CARMEL NY, 10512

845.667.9710  
HANNAH@BLANKCARAVAN.COM  
WWW.BLANKCARAVAN.COM  
@BLANKCARAVAN



# CITY COUNCIL AGENDA

DEPT.: City Manager's Office

DATE: May 11, 2021

CONTACT: Greg Usry, Interim City Manager

**AGENDA ITEM:** Resolution to waive section 144-8D and G of the City Code to enable Recreation Superintendent to have food trucks during the 2021 season at:

- private events held from time to time at the park;
- lower camp, but not more than 1 truck on 2 occasions;
- upper camp, but not more than 1 truck once per week; and
- "lunch-or-dinner-in-the-park," but not more than 2 trucks together on one occasion per week.

**FOR THE MEETING OF:**

May 19, 2021

**RECOMMENDATION:** That the City Council approve the request.

RESOLVED, that the City Council waives section 144-8D and G of the City Code to enable Recreation Superintendent, to have food trucks during the 2021 season.

**IMPACT:** ☐ Environmental ☐ Fiscal ☐ Neighborhood ☐ Other:

Waive § 144-8D and G of the City Code.

**BACKGROUND:** The City Manager's Office would like to allow the Rye Recreation Superintendent to have the authority to grant permission for Food Truck requests for the 2021 season. The Council will have to grant her authority to waive § 144-8D and G at her discretion which states;

§144-8 Restrictions states that licensed hawker, peddler or solicitor shall:

D. Not stand nor permit the vehicle used by him or her to stand in one place in any public place or street for more than 10 minutes or in front of any premises for any time if the owner or lessee of the ground floor thereof objects.

G. Not create or maintain any booth or stand, or place any barrels, boxes, crates or other obstructions, upon any street or public place for the purpose of selling or exposing for sale any goods, wares or merchandise.

See attached.

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INTEROFFICE MEMORANDUM

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**TO:** GREG USRY, INTERIM CITY MANAGER  
**FROM:** SALLY ROGOL, SUPERINTENDENT  
**SUBJECT:** RECREATION FOOD TRUCKS  
**DATE:** MAY 17, 2021  
**CC:** NOGA RUTTENBERG, ERIN MANTZ

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To efficiently operate, I am asking the Council to allow the Superintendent/Assistant Superintendent to have the permission to approve or deny applications from residents, user groups or others to have Food Trucks at events in lieu of having these requests come before Council each time a request is made. This includes, but is not limited to, Picnics, Sport Activities, Camp, Food Truck Festival or other requests/needs.

It is understood that the Rye City Code § 144-8 “Restrictions” states that a licensed hawker, peddler or solicitor shall:

D. Not stand nor permit the vehicle used by him or her to stand in one place in any public place or street for more than 10 minutes or in front of any premises for any time if the owner or lessee of the ground floor thereof objects.

G. Not create or maintain any booth or stand, or place any barrels, boxes, crates or other obstructions, upon any street or public place for the purpose of selling or exposing for sale any goods, wares or merchandise.

Both of these restrictions would need to be waived for an event to have a food truck. In addition, the permit fee typically required for a peddler or hawker would be waived. I would make sure that all necessary permits and/or licenses are in place

Typical types of requests:

Picnics/Event parties – request food trucks for their events in lieu of a traditional caterer. Past requests have been up to 6 per year/no more than 2 trucks permitted at any one event.

Camp – Food Trucks provide special event opportunities during the camp exclusively for camp. These events could be held at Recreation Park or Resurrection/RHS depending on camp locations. Past requests have been 1 truck per week per camp site.

Sport User Groups – Food Trucks may be requested from time to time as an enhancement to their program at their home playing field (Disbrow Park, Gagliardo, Recreation Park, and Nursery Field). If a truck is requested at a School Facility, Recreation would coordinate permissions with the Superintendent of Schools. Past requests are 1-3 per season.

Recreation Events – Events could include Food Truck Festival, Food Trucks for senior events or other planned Recreation activity. Past requests have been for Food Truck Festival (1-day event); new events are currently being planned and would be limited to 1-2 trucks per occasion. Examples would be for a food truck to be on-site for Adult Cornhole/Softball event; lunch or dinner in the park.

All vendors will be required to submit to the City a Certificate of Insurance, their Westchester County or CT food permit and any other necessary licenses.

Please let me know if you need any additional information.



# CITY COUNCIL AGENDA

DEPT.: City Manager

DATE: May 7, 2021

CONTACT: Greg Usry, Interim City Manager

**AGENDA ITEM:** Consideration of a request by the Rye Chamber of Commerce for the use of City streets for the Annual Sidewalk Sale to be held on Thursday, July 29, 2021 through Saturday, July 31, 2021 from 9:00 a.m. to 5:00 p.m.

**FOR THE MEETING OF:**

May 19, 2021

**RYE CITY CODE,  
CHAPTER  
SECTION**

**RECOMMENDATION:** That the Council approve the request.

RESOLVED, that the Council approves use of City streets for the Annual Sidewalk Sale to be held on Thursday, July 29, 2021 through Saturday, July 31, 2021 from 9:00 a.m. to 5:00 p.m.

**IMPACT:** ☐ Environmental ☐ Fiscal ☐ Neighborhood ☒ Other:

**BACKGROUND:**

The Rye Chamber of Commerce is requesting that the Council authorize the use of City streets for the Annual Sidewalk Sale to be held on Thursday, July 29, 2021 through Saturday, July 31, 2021 from 9:00 a.m. to 5:00 p.m.

See attached request.



April 29, 2021

Ms. Noga Ruttenberg  
Secretary to City Manager  
City Clerk  
City of Rye  
1051 Boston Post Road  
Rye, New York 10580

Re: Rye Chamber of Commerce Sidewalk Sale

Dear Ms. Noga Ruttenberg

On behalf of the Rye Chamber of Commerce, I am writing to request permission from the City for use of city streets on **July 29, 30 & 31, 2021** for our annual Sidewalk Sales.

Our members will be setting out their own tables and tents with a mindful eye to keep an area clear for pedestrian right of way.

I will contact the Commissioner of the Rye City Police Department to make sure the village officer has extra help to cover the extra traffic and shoppers. An insurance certificate will be provided upon approval.

Thank you in advance for your consideration.

Very truly yours,

Tony Coash & Liz Woods  
Co-Presidents,  
Rye Chamber of Commerce





# CITY COUNCIL AGENDA

DEPT.: City Manager's Office

DATE: May 17, 2021

CONTACT: Greg Usry, Interim City Manager

**AGENDA ITEM:** Retroactive consideration of a request from Dr. Eric Byrne to waive parking restrictions at the snow field lot to accommodate District employees being displaced to make room for visitor parking on Tuesday, May 18, 2021 (6 AM - 9 PM) for the school budget vote.

**FOR THE MEETING OF:**

May 19, 2021

**RECOMMENDATION:** That the City Council approve the request.

**IMPACT:** ☐ Environmental ☐ Fiscal ☐ Neighborhood ☐ Other:

**BACKGROUND:** Budget voting is set to take place on Tuesday, May 18, 2021 at the Rye Middle School. Dr. Eric Byrne requests to waive parking restrictions at the snow field lot to accommodate extra parking.



# CITY COUNCIL AGENDA

DEPT.: City Manager's Office

DATE: May 17, 2021

CONTACT: Greg Usry, Interim City Manager

**AGENDA ITEM:** Consideration of a resolution to permanently allow requests for parking restriction waivers at the snow field lot to be handled administratively by the City Manager's Office.

**FOR THE MEETING OF:**

May 19, 2021

**RECOMMENDATION:** That the City Council adopt the resolution.

RESOLVED, that the City Council permanently allows requests for restriction waivers at the snow field lot to be handled administratively by the City Manager's Office.

**IMPACT:** ☐ Environmental ☐ Fiscal ☐ Neighborhood ☐ Other:

**BACKGROUND:** The School District has several annual and special events for which they request a waiver of parking restrictions at the snow field lot. This resolution would eliminate the need to bring each request before the Council.