

CITY OF RYE

NOTICE

There will be a regular meeting of the City Council of the City of Rye on Wednesday, March 12, 2014, at 7:30 p.m. in Council Chambers at City Hall. *The Council will convene at 6:30 p.m. and it is expected they will adjourn into Executive Session at 6:31 p.m. to discuss labor relations. The Council will adjourn into Executive Session at the end of the meeting to discuss personnel.*

AGENDA

1. Pledge of Allegiance.
2. Roll Call.
3. General Announcements.
4. Draft unapproved minutes of the regular meeting of the City Council held February 26, 2014.
5. Issues Update/Old Business.
 - Update on the City of Rye General Code revision project
6. Continuation of the Public Hearing to change the zoning designation of County-owned property located on Theodore Avenue and North Street to the RA-5 District to provide for the construction of affordable senior housing.
7. Presentation by the Sustainability Committee regarding the City of Rye participating in a local environmental consortium.
8. Residents may be heard on matters for Council consideration that do not appear on the agenda.
9. Authorization for City Manager to enter into an Intermunicipal Agreement with the Village of Port Chester to remove an historic mile marker located in Port Chester along Boston Post Road.
10. Resolution to authorize expenditure of Police donation funds for the purchase of Storm Tech outwear jackets with the PBA logo.
Roll Call.
11. One appointment to the Landmarks Advisory Committee for a three-year term, by the Mayor with Council approval.
12. One appointment to the Rye Town Park Advisory Committee for a three-year term, by the Mayor with Council approval.
13. Consideration of a request by the Milton Elementary School PTO to approve a parade to precede the Milton Elementary School Fair on Saturday, March 15, 2014 from 9:00 a.m. to 10:15 a.m.

14. Resolution to declare certain City of Rye equipment as surplus.
Roll Call.
15. Miscellaneous communications and reports.
16. New Business.
17. The Council will convene into Executive Session to discuss personnel.
18. Adjournment.

* * * * *

The next regular meeting of the City Council will be held on Wednesday, March 26, 2014 at 7:30 p.m.

** City Council meetings are available live on Cablevision Channel 75, Verizon Channel 39, and on the City Website, indexed by Agenda item, at www.ryeny.gov under "RyeTV Live".

* Office Hours of the Mayor by appointment by emailing jsack@ryeny.gov or contacting the City Manager's Office at (914) 967-7404.



CITY COUNCIL AGENDA

NO. 4

DEPT.: City Clerk

DATE: March 12, 2014

CONTACT: Dawn Nodarse

AGENDA ITEM Draft unapproved minutes of the Regular Meeting of the City Council held February 26, 2014, as attached.

FOR THE MEETING OF:

March 12, 2014

RYE CITY CODE,
CHAPTER
SECTION

RECOMMENDATION: That the Council approve the draft minutes.

IMPACT: ☐ Environmental ☐ Fiscal ☐ Neighborhood ☒ Other:

BACKGROUND: Approve the minutes of the Regular Meeting of the City Council held February 26, 2014, as attached.

DRAFT UNAPPROVED MINUTES of the
Regular Meeting of the City Council of the City of
Rye held in City Hall on February 26, 2014 at 7:30
P.M.

PRESENT:

JOSEPH A. SACK Mayor
LAURA BRETT
KIRSTIN BUCCI
JULIE KILLIAN
TERRENCE McCARTNEY
RICHARD MECCA
RICHARD SLACK
Councilmembers

ABSENT: None

1. Pledge of Allegiance

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

2. Roll Call

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

3. Appointment of City Court Judge (part-time), by the Mayor with Council approval, for a six-year term expiring January 31, 2020

Prior to making the appointment, Mayor Sack provided a brief summary of the background and qualifications of Robert Cypher, the nominee for the position of City Court Judge (Part-Time).

Mayor Sack made a motion, seconded by Councilman Mecca, to adopt the following Resolution:

RESOLVED, that Robert S. Cypher
be appointed Rye City Court Judge Part-
Time for a six-year term commencing
February 1, 2014 and expiring on January
31, 2020.

ROLL CALL:

AYES: Mayor Sack, Councilmembers Brett, Bucci, Killian, McCartney,
Mecca and Slack
NAYS: None
ABSENT: None

The Resolution was adopted by a 7-0 vote.

After the Council vote, newly appointed City Court Judge (Part-Time) Cypher was sworn in by City Court Judge (Full-Time) Joseph Latwin. Members of the Council offered comments and congratulations. Judge Cypher offered his thanks and promised to treat people that come before him as Judge with respect and fairness.

4. General Announcements by the Council

Mayor Sack and the Members of the Council commented on the Information Meeting that had been held the previous evening at City Hall in connection with the Playland Improvement Plan (PIP) and Environmental Resolution that are currently before the Westchester County Board of Legislators. Additionally announcements were made about upcoming events in the community.

5. Draft unapproved minutes of the regular meeting of the City Council held February 5, 2014

Councilman Mecca made a motion, seconded by Councilwoman Bucci and unanimously carried, to approve the minutes of the regular meeting of the City Council held on February 5, 2014, as amended.

6. Issues Update/Old Business

- Update on the \$3 million flood relief funding for Rye through the New York Rising Community Reconstruction Program

City Manager Pickup said that the City will be meeting with the Program Administrator of the New York Rising Program in March. It is an eight month planning process to qualify for this funding. The City is in line for \$3 million. This will come back to the Council to appoint a group of individuals to work on a committee to conduct a series of meetings on, strategies, community risk assessments and needs.

- Update on the City of Rye General Code revision project

This discussion of this item was deferred.

- Update on the selection of and transition to CODE RED

City Manager Pickup said that previously there were two systems – the Reverse 911 and Nixle. The Reverse 911 was the telephone notification system which did not have the necessary capacity for

notifications in major storms. The new system has a greater calling capacity. There was also an issue with Nixle. Therefore, both have been put under Code Red because it can do both the mass calling and online and email notifications. Mayor Sack urged people to go to the City website to sign up for Code Red.

- Update on the request for extended hours for the Rye Marine Patrol

City Manager Pickup said that additional information has been gathered based on the request submitted by the coach of the High School Crew Team. The direct costs involved in getting an officer on the water for an additional ten-week period are about \$30,000. This does not include any overtime costs that the Police Department may incur. There was a brief discussion of a fire boat being utilized instead of a police boat.

- FOIL Appeals

Mayor Sack inquired about FOIL appeals that he had received inquiries about from Timothy Chittenden. Two were dealt with at the January 29th Council meeting and Corporation Counsel Wilson said she was still reviewing an additional one to determine if it was responded to or if it was a valid appeal.

- Taping of Golf Commission Meetings

City Manager Pickup reported that meetings are being videotaped. If the City loses access to the areas that are currently being used for meetings, the new meeting area will be in a smaller space and it will become more difficult to tape the meetings. The Commission is discussing moving their meetings to City Hall.

- City Ownership of Route 1

The City Manager was asked to provide the Council with information on why the City owns Route 1 and the pros and cons of keeping it or giving it back to the State.

7. Public Hearing to change the zoning designation of County-owned property located on Theodore Avenue and North Street to the RA-5 District to provide for the construction of affordable senior housing

Councilwoman Brett summarized the Planning Commission recommendation for the proposed zoning change, including the reservations raised regarding environmental issues on the site.

John Colangelo, the attorney representing Lass Development the potential developer of the site, provided an overview of the construction proposal and their request to the Council to rezone the property. He said his clients would appreciate the opportunity to proceed with site plan review before the Planning Commission while the City Council considers the proposed zoning change.

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

Norma Drummond, Deputy Commissioner of the County Department of Planning, said the County supports the use of the property as a Senior Affordable Housing Development and is anxious for the project to go forward because there is limit to the number of Senior Housing Units that are allowed to be counted toward the Federal Housing Decision. There have been meetings with the City to discuss environmental issues and sewer issues related to the property.

Members of the public who commented on the proposed zoning change included: *John Shoemaker, 255 Theodore Fremd Ave.; Greg Wilson and Dawn Wilson, 11 Hammond Road; Walter Saurack, 10 Hammond Road; Douglas Mackaury, 60 North Street; Joe Murphy, 57 Franklin Avenue; Jim Amico, 350 Midland Avenue; and Bob Zahm, 9 Ridgewood Drive.* They raised concerns regarding environmental issues related to the property; any additional proposed zoning changes in the area; traffic issues; age restrictions; the number of units being proposed; the economic viability of the proposed construction project; flooding; and, how potential residents would be selected.

City Planner Miller pointed out that it is the responsibility of the applicant to address the issues raised and provide the information to the City during the review process. Ms. Drummond addressed issues related to age restrictions, how residents would be selected and environmental clean up. The 55 and older age restriction is legal and the County would request a Waiver from the State Human Rights Commission to prohibit children under the age of 18 prior to turning the property over to the developer. The County would monitor the restricted use. There can be no local preference given to the selection of tenants. After the deadline date, applications will be considered for a lottery. When an application is pulled it will be evaluated under an income eligibility process. Last year at the request of the City Council the County Health Department asked the NYS Department of Environmental Conservation (DEC) to do another round of environmental testing on the property and they refused because they have deemed the site cleaned. The County Health Department then did another round of testing and provided the City with the results.

Staff was asked to look into the possibility of commercial development on the site and if this would be a more preferable tax base for the City than affordable senior housing. A report on the sewer issues was also requested.

Mayor Sack noted that on Saturday, March 8th at 10:00 a.m., the public will be allowed onto the property and the developer will host a tour of the property. The public hearing was kept open until the March 12th meeting.

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

Robert Zahm, 8 Ridgewood Drive, spoke about street problems due to street openings not be repaired properly and ice mounds blocking bus stops.

Mike Visci, 38 Redfield Street, questioned whether the indoor fields included in the PIP for Playland were necessary.

Jim Amico, 350 Midland Avenue, spoke about snow piles near a residence on Goldwin Street and asked the City to do something.

Agenda Items 9 and 9A were taken after Agenda Item 17.

9. Authorization for the City Manager to engage an attorney to represent the City in the legal proceedings *Rvin Reyes, et al v. City of Rye*
Roll Call.

Mayor Sack made a motion, seconded by Councilwoman Brett, to adopt the following Resolution:

RESOLVED, that the City Council of the City of Rye hereby authorizes the City Manager to engage Harris Beach PLLC to represent the City of Rye and the Rye Golf Club in the legal proceedings *Rvin Reyes, et al v. City of Rye, et al* at the rate of \$215.00 per hour.

ROLL CALL:

AYES:	Mayor Sack, Councilmembers Brett, Bucci, Killian, McCartney, Mecca and Slack
NAYS:	None
ABSENT:	None

The Resolution was adopted by a 7-0 vote.

- 9A. Authorization for the City Manager to engage an attorney to assist the City in outside legal matters
Roll Call.

Mayor Sack made a motion, seconded by Councilman Mecca, to adopt the following Resolution:

RESOLVED, that the City Council of the City of Rye hereby authorizes the City Manager to engage Arnold & Porter for an amount up to \$10,000.00 to assist the City in outside legal matters.

ROLL CALL:

AYES: Mayor Sack, Councilmembers Brett, Bucci, Killian, McCartney,
Mecca and Slack
NAYS: None
ABSENT: None

The Resolution was adopted by a 7-0 vote.

10. Resolution to appropriate \$100,000 from the General Fund, Fund Balance to the Street Resurfacing Project for additional road improvements and road repairs/paving
Roll Call.

Councilman McCartney made a motion, seconded by Councilwoman Killian, to adopt the following Resolution:

WHEREAS, City staff has determined that the amounts required for the cost to add additional road improvements and road repairs and paving to the 2014 Street Resurfacing Budget were not anticipated due to damage from the winter storms and were not provided for in the adopted 2014 budget by \$100,000, and;

WHEREAS, the General Fund, Fund Balance has enough funds to be appropriated for the project, now, therefore, be it;

RESOLVED, that the City Comptroller is authorized to transfer \$100,000 from the General Fund, Fund Balance to the 2014 Street Resurfacing Budget for additional road improvements and road repairs and paving.

ROLL CALL:

AYES: Mayor Sack, Councilmembers Brett, Bucci, Killian, McCartney,
Mecca and Slack
NAYS: None
ABSENT: None

The Resolution was adopted by a 7-0 vote.

11. Resolution to appropriate \$590,000 from the Building and Vehicle Fund, Fund Balance to fund the following: \$190,000 to purchase vehicles for the Fire Department, Public Works Department, and the Recreation Department; and \$400,000 for the addition of a new salt shed at the Public Works Department
Roll Call.

There was a discussion among the Council as to why these items were not included in the 2014 Budget when it was adopted in December and if they should be held over for consideration in the 2015 Budget discussions. This agenda item was deferred to allow City Engineer Coyne to come to a meeting and answer Council questions regarding the requests.

12. Consideration to set a Public Hearing for March 26, 2014 to revise the Mission Statement for the Rye Senior Advocacy Committee

Joseph Murphy, Chair of the Rye Senior Advocacy Committee, said that the proposed revision of the Mission Statement will not change the work of the Committee but will allow for additional initiatives related to helping seniors.

Councilman McCartney made a motion, seconded by Councilwoman Brett and unanimously carried, to adopt the following Resolution:

WHEREAS, the Rye Senior Advocacy Committee wishes to revise its Mission Statement, and

WHEREAS, such revision requires amending the Code of the City of Rye; and

WHEREAS, it is now desired to call a public hearing on such proposed revision to the Mission Statement of the Rye Senior Advocacy Committee by amending Chapter 10 Committees, Article II, Rye Senior Advocacy Committee, §10-4 Legislative Intent, of the Rye City Code, now, therefore, be it

RESOLVED, by the Council of the City of Rye as follows:

Section 1. Pursuant to Section 20 of the Municipal Home Rule Law and the Charter of the City of Rye, New York, a public hearing will be held by the Council of said City on March 26, 2014 at 7:30 P.M. at City Hall, Boston Post Road, in said City, for the purpose of affording interested persons an opportunity to be heard concerning such proposed change to Chapter 10, Article II, § 10-4 of the Rye City Code.

Section 2. Such notice of public hearing shall be in substantially the following form:

PUBLIC NOTICE
CITY OF RYE

**A Local Law to amend Chapter 10, Committees, Article II,
Rye Senior Advocacy Committee, of the Code of the City of Rye
by amending § 10-4 Legislative Intent in order to revise
the mission statement of the Committee**

Notice is hereby given that a public hearing will be held by the City Council of the City of Rye on the 26th day of March 2014 at 7:30 P.M. at City Hall, Boston Post Road, in said City, at which interested persons will be afforded an opportunity to be heard concerning a proposal local law to amend Chapter 10, Committees, Article II, Rye Senior Advocacy Committee, of the Code of the City of Rye by amending § 10-4 Legislative Intent in order to revise the mission statement of the Committee.

Copies of said proposed local law may be obtained from the office of the City Clerk.

Dawn F. Nodarse
City Clerk
Dated: March 14, 2014

13. Resolution to authorize expenditure of Police donation funds for the purchase of Storm Tech outdoor jackets with the PBA logo
Roll Call.

Members of the Council questioned why the logo on the jackets would be the Rye Police Association and not the City of Rye. This item was deferred to await a response.

14. Appointments to Boards and Commissions, by the Mayor with Council approval
A) One appointment to the Finance Committee for a three-year term.

Mayor Sack made a motion, unanimously approved by the Council to appoint Tiffany O'Toole Flanerty to the Finance Committee for a three-year term expiring on January 1, 2017.

- B) One appointment to the Flood Advisory Committee for a three-year term.

Mayor Sack made a motion, unanimously approved by the Council to appoint Allyson Martin to the Rye Flood Advisory Committee for a three-year term expiring on January 1, 2017.

- C) Two appointments to the Landmarks Advisory Committee for a three-year term.

Mayor Sack made a motion, unanimously approved by the Council to appoint Vicky Farrington and Peter Rolland to the Landmarks Advisory Committee for three-year terms expiring on January 1, 2017.

- D) Two appointments to the Conservation Commission/Advisory Council for three-year terms.

Mayor Sack made a motion, unanimously approved by the Council to appoint Annalise Stack and Mark Hutson to the Conservation Commission/Advisory Council for three-year terms expiring on January 1, 2017.

15. Miscellaneous Communications and Reports

There was nothing discussed under this agenda item.

16. New Business

There was nothing discussed under this agenda item.

17. The Council will convene into Executive Session to discuss labor relations and litigation

Councilwoman Brett made a motion, seconded by Councilman Sack and unanimously carried, to adjourn into executive session to discuss labor relations and litigation at 11:15 p.m. Councilwoman Brett made a motion, seconded by Councilman Mecca and unanimously carried, to adjourn the executive session at 12:25 a.m. The regular meeting reconvened at 12:28 a.m.

Agenda Items 9 and 9A were taken at this time.

18. Adjournment

There being no further business to discuss Councilman Mecca made a motion, seconded by Councilman McCartney and unanimously carried, to adjourn the meeting at 12:30 a.m.

Respectfully submitted,

Dawn F. Nodarse
City Clerk



CITY COUNCIL AGENDA

NO. 5

DEPT.: City Council

DATE: February 26, 2014

CONTACT: Mayor Joseph Sack

AGENDA ITEM: Issues Update/Old Business

FOR THE MEETING OF:

February 26, 2014

RYE CITY CODE,

CHAPTER

SECTION

RECOMMENDATION: That an update be provided on outstanding issues or Old Business.

IMPACT: ☐ Environmental ☐ Fiscal ☐ Neighborhood ☐ Other:

BACKGROUND:

- Update on the City of Rye General Code revision project

See attached information.

- Update on the City of Rye General Code revision project

The City Code revision project was undertaken as the City has not updated the Code since 1994. The City Clerk is in charge of the project with assistance from the Corporation Counsel and City staff. General Code provided the staff with an Editorial Analysis as a starting point for necessary updates to the existing Code. The Editorial Analysis provided an overview of the recodification project and guidance in reviewing the existing Code to determine whether revisions should be made to legislation which appears in the Code. The Editorial Analysis was prepared on the basis of a review of the City Code, including, as much as possible, a comparison with statutory provisions and similar legislation from other municipalities, to identify conflicts and ambiguities in order to bring consistency and order to the general body of the City's law. Once staff has completed its review of the Code and Editorial Analysis, General Code will schedule preparation of the Draft of the new City Code. The Draft will come before the Council for final review and acceptance.

Project Timeline:

04/27/2011 – Presentation was made to the Council on the Code Revision project
07/11/2012 – Resolution to transfer 25,000 from the General Fund Contingent Account to Code Maintenance Services Account for General Code update project
02/27/2013 – Editorial Analysis was received from General Code (see attached)
07/01/2013 – Project extended to 09/09/2013
09/05/2013 – Project extended to 10/15/2013
12/04/2013 – Update provided to City Council on the project
01/15/2014 – General Code notified of new Council; project extended

Editorial Analysis

Return to General Code by July 31, 2013

City of Rye, New York

Project Editor: Deb Tuszynski
dtuszynski@generalcode.com

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City of Rye, NY

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INTRODUCTION

Purpose

The purpose of the Editorial Analysis is to give City officials an overview of the recodification project and to guide them in reviewing the existing Code and making decisions as to whether revisions should be made to legislation which appears in the Code.

The Editorial Analysis has been prepared on the basis of a review of the City Code as last updated in December 2012 (Supplement No. 184), including, as much as possible, a comparison with statutory provisions and similar legislation from other municipalities, to identify conflicts and ambiguities in order to bring consistency and order to the general body of the City's law.

Legal Advice

Please note that it is not the intent of General Code to give legal advice or opinions by way of the Editorial Analysis but rather to provide as much information as possible to enable municipal officials to make necessary decisions. Any questions as to validity or legal sufficiency of legislation, or as to interpretation of cases and statutes, will properly remain the responsibility of the Corporation Counsel.

Review by City

The Editorial Analysis is set up as a workbook. Where the phrase "satisfactory as written" is used, the editor has found that subject to be generally suitable as written. However, those comments do not preclude revisions to any chapter based on the experiences of the City. We encourage the City officials to review all chapters of the Code, using the Editorial Analysis as a guide, paying particular attention to the following:

- ◆ Are certain provisions no longer enforced?
- ◆ Is the legislation the appropriate regulation of the subject matter or would such provisions be enforced under another law or statute?
- ◆ Are the procedures described accurate or should they be changed to reflect current practices? Are there obsolete procedures that can be deleted?
- ◆ Have problems in enforcement of particular provisions arisen in the past? Could the provisions be made more specific?
- ◆ Are the titles of officials and departments up-to-date? Are there other administrative terms that should be changed?
- ◆ Are the amounts of fees and bonds adequate? Will they cover the City's cost in administering the legislation?

City of Rye, NY

Our experience indicates that the City may find it helpful to designate one person or a small committee to perform the detailed review work and to report back to the governing body with specific recommendations and any questions needing some type of policy decision. All decisions and proposed revisions to the Code should also be reviewed by the Corporation Counsel. As the governing body will adopt the new Code following final publication, we recommend that the governing body be kept informed regarding the project and also review all proposed changes before they are sent to General Code.

Time Frame

The review and revision phase of the project usually requires the most intensive work on the part of the municipal officials. The City has 110 business days (by July 31, 2013) to return this completed Editorial Analysis and provide any other revisions to the Code. If more time is needed please contact the project editor.

Extent of Decisions

It is not necessary for the City to answer every single question in the Editorial Analysis. There may be some subjects that require further time for review and revision. You have the option of printing existing legislation as is and revising it in the future. The aim should be to answer as many questions as possible within the time frame.

If the City wishes to use this approach with certain chapters, either mark the checkbox option indicating "make no change" and/or make a notation of **LEAVE AS IS** at a chapter title in the Editorial Analysis.

Next Steps

After the City has completed its review of the Code and Editorial Analysis, General Code will schedule preparation of the Draft of the new City Code. The Draft will be submitted within 120 business days of receipt of the completed Editorial Analysis, and the City will have 30 business days to review the Draft. Following the City's approval of the Draft we will proceed with final publication of the new Code. Deliverables under the terms of the contract are 15 Code volumes and eCode360[®] (the City's Code on the Internet). We will also provide a draft local law for adoption of the new Code.

GENERAL COMMENTS

Binders

The new City Code will be a single volume, 8 ½ x 11 inches in size.

- A. Binder colors. Please choose binder and lettering colors for your new books. Binder color options may be reviewed on the binder order form included with the Editorial Analysis or on our website at <http://www.generalcode.com/codification/binder-colors>

Binder Color		Lettering
<input type="checkbox"/> Blue	<input type="checkbox"/> Brown	<input type="checkbox"/> White
<input type="checkbox"/> Green	<input type="checkbox"/> Burgundy	<input type="checkbox"/> Gold
<input type="checkbox"/> Gray	<input type="checkbox"/> Black	<input type="checkbox"/> Silver

- B. Seal or logo. If the City can provide us with a clear, crisp, black-and-white copy of the City Seal, or the current logo, we will include it on the Code binders.

Decision:

- ☐ Clear, crisp, black-and-white copy of the Seal or logo is attached.
- ☐ Electronic image of Seal or logo (in .tiff or .jpeg format) has been e-mailed to ezsupp@generalcode.com.
- ☐ Seal or logo is not available for reproduction on binders.

Style Update

Some of our standard features and style conventions have changed since the City Code was first published in 1978. The new Code will reflect our current style, as follows:

- "Reserved" chapters will not be listed on the Table of Contents.
- The term "City" will be capitalized when referring to the City of Rye.
- References to "this ordinance" and "this local law" will be updated to read "this chapter" or "this article," as appropriate.
- Numbers from one to nine will be spelled out; numbers from 10 up will be in numerical form only; and decimals, fractions, percentages and monetary amounts will be in numerical form only.

City of Rye, NY

Section Numbering

Over time, sections have been removed from the Code, leaving blank "Reserved" sections. Sections have also been added between existing sections, designated as point sections. See for example § 161-2.1, which was added in 1983 between § 161-2 and § 161-3. It is our standard practice with this type of project, when the entire Code is being republished, to delete reserved sections and eliminate point sections by renumbering the sections in the chapter. For example, in Chapter 167, Streets and Sidewalks, §§ 167-15 through 167-47 at the end of Article II are all blank (reserved). These sections will be deleted and the remaining sections will be renumbered accordingly. We would like to confirm that the elimination of reserved and point sections and renumbering is acceptable to the City.

Decision:

- ☐ Elimination of reserved and point sections is acceptable
X Retain reserved and point sections

Nomenclature

- A. Section 1 of Local Law No. 5-1981 provided for all chapters of the Code to be amended by replacing "Chief of Police" with "Commissioner of Police." During the preparation of the new Code we will ensure that any remaining references to the Chief of Police are updated to the Commissioner of Police.
- B. Several chapters in the Code refer to the Soil Conservation Service of the United States Department of Agriculture. The name of this agency was changed in 1994 to the Natural Resources Conservation Service. We will update these references accordingly.
- C. The City might want to take this opportunity to standardize the following:
- (1) The titles "Common Council" and "City Council" are both used.

Decision:

X Use "City Council"

- ☐ Use "Common Council"
☐ Retain both titles

- (2) There are references to the "Board of Appeals" and "Zoning Board of Appeals."
What is the correct title?

Decision:

- ☐ Use "Board of Appeals"
X Use "Zoning Board of Appeals"
☐ Retain both titles

- (3) The titles "Chairman," "Chairperson" and "Chair" are all used.

Decision:

X Use "Chairperson"

☐ Use "Chair"☐ Retain all 3 titles

Penalties

The codification project provides the City with an opportunity to review all of the penalties in the Code for possible updating. In regards to penalty provisions, the City would seem to be limited only by the Municipal Home Rule Law, which authorizes legislative bodies of local governments to prescribe that offenses constitute misdemeanors, violations or traffic infractions.

Except where statutory provisions exist for certain types of regulations, the penalty provisions could be standardized to designate offenses as violations, punishable by a maximum fine of \$250 or by imprisonment for not more than 15 days, or both. Many of the penalty sections in the Code are already set at this level. If a penalty at the misdemeanor level is desired for certain offenses, those provisions could be punishable by a maximum fine of \$1,000 or by imprisonment for not more than one year, or both. See Penal Law §§ 55.10 and 80.05. All penalty sections in the Code are noted in the specific comments below for each chapter.

Fees

This project also provides a good opportunity for the City to review fees for licenses, permits, inspections, hearings, etc., as to possible updating. All fees should be reviewed to ensure that they adequately reflect the current administrative and enforcement costs to the City. We have addressed statutory fees and occurrences of specific fees in the chapter-by-chapter review below. Many sections in the Code have been amended in recent years to remove fees and provide that fees are set annually by the Council by resolution. A similar revision could be made to the remaining sections which still contain fees.

Sample Legislation; Required Legislation

In some cases in this Editorial Analysis we have suggested sample language or provided sample legislation for review. It is important to note that sample legislation is unlikely to meet the City's requirements without some sort of revision. The purpose of sample legislation is to give officials an opportunity to see what other municipalities have enacted on certain subject matters and to provide a basis for legislation that the governing body may wish to adopt. Sample legislation should be thoroughly reviewed and revisions made to bring the samples in line with your community's needs before adoption.

City of Rye, NY

Sample legislation adopted by other municipalities is always available for review and comparison purposes upon request. Simply contact the project editor, e-mail our Sample Department at samples@generalcode.com or call toll-free at 1-800-836-8834.

We note that the City Code does not currently include legislation on the following topics. These items do not need to be included in the Code but the City may want to confirm that current policies are in place. Sample legislation can be provided on request.

- Investment policy, required by General Municipal Law § 39
- Procurement policy, required by General Municipal Law § 104-b
- Public access to records, regulations required by Public Officers Law Article 6 (Freedom of Information Law)
- Notification of information security breaches, required by State Technology Law § 208 if the City owns, licenses or maintains computerized data that includes private information

Decision:

☐ Provide samples on the following topics:

X Samples are not needed

THE CHARTER

Charter

L.L. No. 4-1964

If revisions to the Charter are to be made as part of the codification project, a separate local law to amend the Charter will need to be prepared and adopted in accordance with the City's standard procedures for amending the Charter. This local law will be separate from the local law to adopt the new Code. We can assist the City in the preparation of a local law to amend the Charter if needed. We note the following with respect to the Charter:

- A. Section C4-4A provides for a four-year term of office for the Mayor, Council members, City Judge and Acting City Judge.
 - (1) Section 2 of the General City Law provides as follows: "The term of office of each supervisor hereafter elected in a city shall, notwithstanding the provisions of such city charter, be two years, and a supervisor shall only be elected in such city each second year thereafter, except to fill vacancies."

Decision:

- ☐ Revise as follows:
- ☒ Make no change

- (2) According to § 2104 of the Uniform City Court Act, the City of Rye has one full-time Judge appointed for a term of 10 years and one part-time judge appointed for a term of six years.

Decision:

- ☒ Revise as follows: Use language above
- ☐ Make no change

- B. Article 6, Council, includes the following penalty provisions:

City of Rye, NY

- (1) Section C6-2E provides for a fine not exceeding \$100 for the refusal of a City officer or employee to obey an order of the Council. Is this penalty still satisfactory?

Decision:

☐ Revise as follows:

X Make no change

- (2) Section C6-3, Investigations, provides that any person who fails to comply with an order of the Council in the conduct of an investigation shall be guilty of an offense and subject to a fine of not more than \$100 or imprisonment for not more than 30 days, or both. Is this penalty still satisfactory?

Decision:

☐ Revise as follows:

X Make no change

- C. Sections C8-2B and C23-3 refer to the "City Marshal." There are no other references in the Charter or Code to this position.

Decision:

☐ Delete "City Marshal" from these sections

☐ Revise as follows:

X Make no change

- D. Section C12-1D provides that the Mayor and City Manager are ex officio members of the police force and have all the powers conferred upon policemen. Does this section reflect current practice? We note that § 209-q of the General Municipal Law requires police officers to be certified by the Executive Director of the Municipal Police Training Council as having completed an approved municipal police basic training program. Subdivision 2 of § 209-q does exclude from the term "police officer" any person "serving as such solely by virtue of his occupying any other office or position." See also Criminal Procedure Law § 2.10, Persons designated as peace officers.

Decision:

X Revise as follows: – delete section to be in compliance with the GML

☐ Make no change

- E. Section C14-2, regarding the powers and duties of the Department of Public Works, refers to the "city incinerator and city dump" in Subsection A. Are these facilities still in use?

Decision:

X Revise as follows: - Delete reference

☐ Make no change

- F. Section C22-3B refers to § 1412 of the Real Property Tax Law. That section was repealed in 1974 (L. 1974, c. 177). This reference apparently should be updated to § 553, Correction of final assessment rolls, of the Real Property Tax Law.

Decision:

X Revise as indicated

☐ Revise as follows:

- G. References to "Councilman" and "Councilmen" could be updated to "Council member" and "Council members."

Decision:

X Revise as follows: – Council member and Council members

☐ Make no change

- H. The terms "Chairman," "Chairperson" and "Chair" are all used in the Charter. These references could be made consistent.

Decision:

X Update all to "Chairperson"

☐ Update all to "Chair"

☐ Make no change

- I. Minor corrections. The following are minor errors in grammar and wording that could be corrected at this time:

City of Rye, NY

- (1) In § C7-1D the wording "any member of a board commission" apparently should read "any member of a board or commission."

Decision:

X Add "or" as indicated

- ☐ Revise as follows:
☐ Make no change

- (2) In § C12-1C the reference to "this chapter" at the end of the subsection apparently should read "this Charter."

Decision:

X Revise as indicated

- ☐ Revise as follows:
☐ Make no change

- (3) In § C13-3B is the wording "recommendations with employment of such persons" supposed to read "recommendations for employment of such persons"?

Decision:

X Revise to read "recommendations for employment"

- ☐ Revise as follows:
☐ Make no change

- (4) In § C20A-2 the wording "not less than seven nor more than 11 members" should read "not fewer than seven nor more than 11 members" and the wording "In their work the Committee may utilize" should read "In its work the Committee may utilize."

Decision:

X Revise as indicated

- ☐ Make no change

- (5) In § C20A-3A(1) the word "and" should be included as follows: "including but not limited to vehicular and pedestrian traffic safety and flows, parking and mass transportation."

Decision:

X Revise as indicated

- ☐ Revise as follows:
☐ Make no change

- (6) The following corrections could be made in § C21-9D:

...or capital improvements or equipment to be constructed or acquired which ~~have~~ has been determined by resolution of the Council to be required to implement a federal, state or County of Westchester mandate, failure ~~of which~~ which to comply with which could, in the judgment of the Council expressed in a resolution, result in the imposition of a fine or penalty...

Decision:

X Revise as indicated

- ☐ Revise as follows:
☐ Make no change

- (7) In § C23-8 the wording "If any provisions...is held invalid" should read "If any provision...is held invalid."

Decision:

X Revise as indicated

- ☐ Revise to read "If any provisions...are held invalid"
☐ Make no change

City of Rye, NY

- J. There are also some minor punctuation errors in the Charter. For example, the comma in § C13-3A before the verb ("shall have control") is incorrect and should be removed; the semicolons in § C10-2D and E should be commas; and the comma at the end of § C20A-3A(1) should be a period. Is it acceptable for us to correct such punctuation errors?

Decision:

X Correction of punctuation errors is acceptable

☐ Do not make any changes to punctuation

- K. The presentation of numbers in the Charter is inconsistent. In some cases a number is written out, in some cases it is in numerical form, and in some cases it is both written out and in numerical form [e.g., "the first two (2) weeks in January"]. It is our standard practice to spell out numbers from zero through nine and to include numbers from 10 up and any decimals, percentages or monetary amounts in numerical form only. Would standardizing the presentation of numbers in the Charter in accordance with our standard style be acceptable?

Decision:

X Standardization of numbers is acceptable

☐ Do not make any changes to numbers

- L. It would also now be our standard practice to capitalize the term "City" when it refers to the City of Rye and titles and proper nouns. For example, in § C9-1D we would capitalize "comptroller."

Decision:

X Standard capitalization of terms is acceptable

☐ Do not change capitalization

PART I, ADMINISTRATIVE LEGISLATION

Ch. 1, General Provisions

Art. I, Adoption of Code

L.L. No. 1-1979

- A. In conjunction with the delivery of the new City Code we will provide a local law to adopt the new Code. That local law will supersede and replace this article and §§ 1-16 and 1-17 of Article II of this chapter. Note that the local law to adopt the Code will have no effect on the Charter. Any changes to the Charter will need to be adopted by separate local law.
- B. The Code adoption local law will contain blanket severability provisions for the Code, similar to those found in § 1-6 of this article. It is our standard practice to omit standard severability sections from the other chapters in the Code as covered by this blanket section. For example, § 73-9, Severability, and § 100-3D, Severability, would be deleted. Is the removal of severability sections acceptable?

Decision:

X Removal of severability sections is acceptable

☐ Do not remove these sections

Art. II, Definitions and Enforcement

L.L. No. 1-1979

- A. The definition of "fire limits" in § 1-12 contains a cross-reference to a section of the Code (§ 68-10) that no longer exists. Chapter 68 was amended in its entirety in 2009 and no longer mentions fire limits. The term "fire limits" does not appear anywhere else in the Code.

Decision:

X Delete definition of "fire limits"

☐ Revise as follows:

- B. The City might want to consider adding a section to this article providing for the construction of the Code. Following is sample wording:

Whenever any words in any section of this Code import the plural number, the singular number shall be deemed to be included, and whenever the singular number shall be used, it shall be deemed to include the plural. Any word of masculine gender includes the feminine and the neuter and may refer to a corporation or to a board or other body or assemblage of

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persons, and when the sense so indicates, words of the neuter gender may refer to any gender. Words used in the present tense include the future.

Decision:

X Add sample wording to this article

- ☐ Add wording as shown on enclosed copy
☐ Do not add wording

- C. Section 1-15 establishes a general penalty for violations of the Code, where no other penalty is provided, of not more than \$250 or imprisonment for not more than 15 days, or both. Is this penalty still satisfactory?

Decision:

- ☐ Revise as follows:

X Make no change

Ch. 9, Continuity of Government

L.L. No. 2-1963

- A. Section 9-1 refers to § 60 of the General Municipal Law, which section was repealed in 1978 (L. 1978, c. 640). See now Executive Law § 27, Continuity of local governments.

Decision:

X Update reference to Executive Law § 27

- ☐ Revise as follows:
☐ Make no change

- B. Section 9-3A, Elective officers, refers to the "Mayor and Supervisor." The term "Supervisor" is not used anywhere else in the Code.

Decision:

X Revise to "Council members"

- ☐ Revise as follows:
☐ Make no change

- C. This chapter has not been revised since its adoption in 1963. Are there any other changes needed to bring this chapter in line with current procedures?

Decision:

- ☐ See revisions on enclosed copy
X No other changes will be made at this time

Ch. 10, Committees

L.L. No. 4-2006

- A. This chapter is out of alphabetical order. It could be renumbered as Chapter 7 so that it precedes Chapter 9, Continuity of Government.

Decision:

- X Renumber as Chapter 7
☐ Do not renumber

- B. In the first sentence of § 10-2 "City of Rye" is included twice. Perhaps the following revision could be made: "There shall be a permanent City of Rye Playland Advisory Committee ~~for the City of Rye~~ to consist of nine members..."

Decision:

- ☐ Revise as indicated
X Revise as follows: - Take out first "City of" not the second
☐ Make no change

Ch. 12, Early Retirement Incentive

L.L. No. 7-2002

We do not typically see this type of local law included in the Code as it is essentially a temporary measure. The open period for retirement under this law was 90 days commencing on September 1,

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2002. As we are now over 10 years past this date, could this law be removed from the Code?

Decision:

X Delete this chapter

☐ Retain this chapter

Ch. 15, Ethics, Code of

L.L. No. 1-1966

This chapter has not been amended since 1984 and should be reviewed as to whether it reflects current standards. We note the following:

- A. Section 15-5 prohibits the acceptance of any gift having a value of \$25 or more. Section 805-a of the General Municipal Law has been amended to raise this limit from \$25 to \$75.

Changed to \$50 by LL No. 2 – 2013

Decision:

☐ Change \$25 to \$75

☐ Revise as follows:

☐ Make no change

- B. We believe the following correction should be made in § 15-10A:

No officer or employee of the city shall use or attempt to use his official position to secure unwarranted privileges or exemptions for himself or others ~~to~~ or grant any special consideration, treatment or advantage to any citizens beyond that which is available to every other citizen.

Decision:

X Revise as indicated

☐ Revise as follows:

☐ Make no change

- C. A provision requiring compliance with the Code of Ethics despite the failure to distribute or receive it could be added to this chapter pursuant to General Municipal Law § 806, Subdivision 2. The following sentence could be added to § 15-14: "Failure to distribute any

such copy or failure of any officer or employee to receive such copy shall have no effect on the duty of compliance with such code, nor the enforcement of provisions thereof."

Decision:

☒ Add sentence as indicated

☐ Revise as follows:

☐ Make no change

- D. The term "interest" is used in this chapter but is not defined. The City may want to add a definitions section to this chapter which includes the definitions of "interest" and "contract" pursuant to § 800 of the General Municipal Law, as follows:

CONTRACT -- Any claim, account or demand against or agreement with the City, express or implied, and shall include the designation of a depository of public funds and the designation of a newspaper, including but not limited to an official newspaper, for the publication of any notice, resolution, ordinance, or other proceeding where such publication is required or authorized by law.

INTEREST -- A direct or indirect pecuniary or material benefit accruing to a City officer or employee as the result of a contract with the City. For the purposes of this chapter, a City officer or employee shall be deemed to have an interest in the contract of his spouse, minor children and dependents, except a contract of employment with the City; a firm, partnership or association of which such officer or employee is a member or employee; a corporation of which such officer or employee is an officer, director or employee; and a corporation any stock of which is owned or controlled directly or indirectly by such officer or employee.

Decision:

☒ Add definitions as indicated

☐ Add "Except as otherwise provided, the terms used in this chapter shall be defined as provided in § 800 of the General Municipal Law"

☐ Make no change

Ch. 22, Human Rights, Commission on

L.L. No. 8-1988

- A. The references to the State Commission for Human Rights in § 22-4 should be updated to refer to the State Division of Human Rights. See § 239-r of the General Municipal Law. We will make this correction.

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- B. In § 22-4B the word "and" apparently should be deleted as follows: "in the interest of ~~and~~ the constructive resolution" See Subdivision (b) of § 239-r of the General Municipal Law. We will make this correction.

Ch. 31, Police Pension Fund

L.L. No. 15-1942

- A. Section 31-1B refers to § 70-a of the Retirement and Social Security Law "as last amended by Chapter 339 of the Laws of 1960." Said § 70-a has been amended a number of times since 1960. Should this reference to Chapter 339 of the Laws of 1960 be updated or perhaps simply deleted?

Decision:

X Change "as last amended by Chapter 339 of the Laws of 1960" to "as amended"

- ☐ Revise as follows:
☐ Make no change

- B. The last sentence in § 31-5A refers to § 135 of the old City Charter. It appears the correct current reference would be § C6-4, Independent audit.

Decision:

X Update Charter reference to § C6-4

- ☐ Revise as follows:

- C. In § 31-7A(2) the inclusion of both "per year" and "per annum" in the following phrase seems redundant: "a sum of \$2,841 plus the cost-of-living adjustment per year, beginning in the year 2012, per annum."

Decision:

X Delete "per annum"

- ☐ Revise as follows:
☐ Make no change

- D. In § 31-9 should "this local chapter" read simply "this chapter"? (Original reference was probably to "this local law.")

Decision:

X Revise to "this chapter"

☐ Revise as follows:

☐ Make no change

- E. Section 31-11 provides for a forfeiture of not more than \$250 for false claims. Is this amount still satisfactory?

Decision:

☐ Revise as follows:

X Make no change

- F. This chapter was originally adopted in 1942 and, with the exception of § 31-7A(2), has not been amended since 1960. Are any other revisions needed to reflect the current administration of the Police Pension Fund?

Decision:

☐ See revisions on enclosed copy

X No changes are needed at this time

Ch. 34, Sale of City Property

L.L. No. 2-1981

Does this chapter reflect current procedures?

Decision:

☐ See revisions on enclosed copy

X No changes are needed at this time

City of Rye, NY

Ch. 35, Traffic Violations Bureau

L.L. No. 3-1992

In § 35-5, Form of waiver and power of attorney, we will remove "19" from the designation of the year. Is this chapter otherwise up-to-date?

Decision:

☐ See revisions on enclosed copy

X Make no change

Ch. 36, Travel and Convention Expenses

Art. I, Conventions, Conferences and Schools*L.L. No. 2-1962*

This article appears satisfactory as written, provided that it reflects current practice.

Decision:

☐ See revisions on enclosed copy

X Make no change

Art. II, Applicants for City Positions*L.L. No. 1-1968*

This article appears satisfactory as written, provided that it reflects current practice.

Decision:

☐ See revisions on enclosed copy

X Make no change

PART II, GENERAL LEGISLATION

Ch. 45, Air Pollution

L.L. No. 9-1992

This chapter restricts the idling of motor vehicle engines and appears satisfactory. Should a penalty section be added?

Decision:

X Add reference to the penalty in § 1-15

☐ Add the following penalty:

☐ Make no change

Ch. 46, Alarm Systems

L.L. No. 4-1977

- A. Alarm businesses are now licensed by the state in accordance with Article 6-D, Business of Installing Security or Fire Alarm Systems, of the General Business Law, added in 1991 (L. 1991, c. 734). The City can no longer require alarm businesses to obtain a City license as described in this chapter. See General Business Law § 69-z, Subdivision 2.

Suggested revision to entire Chapter is attached.

Decision:

☐ See revisions on enclosed copy

☐ Make no change

- B. Section 46-5D establishes a fee of \$15 for each signal directly connected to the Police or Fire Department, to be paid by the "business licensee." If this fee is still charged:

(1) Is the fee amount up-to-date?

Decision:

☐ Revise to state that fee is set by Council resolution

☐ Revise as follows:

☐ Make no change

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- (2) Does the reference to the "business licensee" require revision?

Decision:

- ☐ Revise as follows:
☐ Make no change

- C. Section 46-5E establishes a fee of \$30 per calendar year for maintaining a burglar or fire alarm in the City. This subsection was last amended in 2000. Is this amount still satisfactory?

Decision:

- ☐ Revise to state that fee is set by Council resolution
☐ Revise as follows:
☐ Make no change

- D. Section 46-8C(1) sets the charges for false emergency alarms at \$100 for the third or fourth alarm and \$200 for each subsequent alarm. Are these amounts up-to-date?

Decision:

- ☐ Revise to state that charges are set by Council resolution
☐ Revise as follows:
☐ Make no change

- E. Section 46-10 sets the penalty for violations of this chapter at a fine not exceeding \$250. Is any revision desired?

Decision:

- ☐ Revise as follows:
☐ Make no change

Ch. 47, Alcoholic Beverages

L.L. No. 8-1992

This chapter appears satisfactory as written, provided that the penalty in § 47-6 (not more than \$250) is still acceptable.

Decision:

X Revise as follows: - nor more than \$250 and/or community service hours

☐ Make no change

Ch. 50, Amusements and Exhibitions

Ord. No. 4-1962

- A. Section 50-7 requires a premises licensed under this chapter to close from 3:00 a.m. to 8:00 a.m. If a cabaret or other establishment licensed under this chapter is also licensed to sell alcoholic beverages, do these hours still apply? If not, should wording to that effect be added? The state liquor law authorizes sale of alcohol until 4:00 a.m. and consumption on the premises until 4:30 a.m. See § 106, Subdivision 5, of the Alcoholic Beverage Control Law and the following case and decision:

Provision of New York City "cabaret law" requiring licensed cabarets to close at 4:00 a.m. conflicted with, and thus was preempted by, state liquor law prohibiting sale of alcohol after 4:00 a.m. but permitting patrons to continue to consume alcoholic beverages upon premises until 4:30 a.m.; even if cabaret law was statute of general application, it directly conflicted with state law, and thus was preempted. *Lansdown Entertainment Corp. v. New York City Dept. of Consumer Affairs*, 1989, 74 N.Y.2d 761, 545 N.Y.S.2d 82, 543 N.E.2d 725.

Decision:

X Revise as follows: change to be in compliance with NYS liquor law

☐ Make no change

- B. Should a penalty section be added to this chapter?

Decision:

X Add reference to the penalty in § 1-15

☐ Revise as follows:

☐ Make no change

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Ch. 52, Appearance Tickets

L.L. No. 27-1991

This chapter designates City officials who are authorized to issue appearance tickets. It should be reviewed to ensure it reflects current practice. The following officials listed in this chapter are not mentioned anywhere else in the Code: Sanitation Foreman and General Foreman.

Decision:

X Revise as follows: – remove Sanitation Foreman and Tree Foreman

☐ Make no change

Ch. 53, Architectural Review

L.L. No. 8-1987

- A. Section 53-1B defines the terms "erected," "reconstructed," "altered" and "ordinary maintenance and repair" by reference to the definitions of these terms in Chapter 68, Building Construction. Chapter 68 was amended in 2009 and no longer specifically defines these terms.

Decision:

☐ Revise as follows:

☐ Make no change

- B. Section 53-4A includes a cross-reference to former Chapter A201, Rules Adopted by the Building Inspector with the Consent of Council, which was repealed by Local Law No. 1-2009.

Decision:

X Delete reference to Chapter A201

☐ Revise as follows:

- C. Section 53-4A also contains an outdated reference to § 68-5F. Chapter 68 was replaced in 2009. Is the intent to reference § 68-8F, Expedited issuance?

Decision:

☐ Update reference to § 68-8F

☐ Revise as follows:

- D. Section 53-5D(2) and (4) refer to the "fence height regulations of this chapter." Section 53-5D(6)(a) refers to the "minimum property line setbacks required by this chapter." We

question whether "this chapter" in these references should be changed to "Chapter 197, Zoning." Specific setback and height requirements are not prescribed in this chapter.

Decision:

☐ Revise as indicated

X Revise as follows: 53-5 D (2) and (4) should refer to Chapter 90, Fences
53-5D(6)(a) should refer to Chapter 197, Zoning

☐ Make no change

E. In § 53-7 we will update the reference to § 197-9D to § 197-9A(4). Section 197-9 was amended in 1997.

F. Section 53-8 includes the following: "the Landmarks Advisory Committee (NOTE: or Landmarks Preservation Commission, if so changed by City Council)." Could this note be deleted? Chapter 117, as last amended in 2005, still provides for the Landmarks Advisory Committee.

Decision:

X Delete note from § 53-8

☐ Revise as follows:

☐ Make no change

Ch. 56, Auctioneers

2-4-1942

This chapter appears generally satisfactory. Should a penalty section be added?

Decision:

X Add reference to the penalty in § 1-15

☐ Revise as follows:

☐ Make no change

Ch. 64, Boats and Harbors

L.L. No. 4-1983

This chapter appears generally satisfactory, provided that it reflects current regulations. Section 64-16 sets the penalty for violations of Article II, Harbors, at a fine not exceeding \$100 or imprisonment not exceeding 15 days, or both. Is any revision desired?

City of Rye, NY**Decision:**

X Revise as follows: – 64-10 F – delete “Durland Scout Center” reference;
64-14 – change Recreation Commission to Boat Basin Commission;

☐ Make no change

Ch. 68, Building Construction

L.L. No. 1-2009

- A. A model local law for the enforcement of the state codes has been promulgated by the Department of State and can be accessed at the website below. The City might want to review the model law as to whether any of its provisions should be incorporated into this chapter.

http://www.dos.ny.gov/DCEA/part_1203_Locallaw.html

- B. The definition of "small projects" could be deleted from § 68-1 as this term is never used in this chapter. This term is used in Chapter 53, Architectural Review, and this definition is included in § 53-1B.

Decision:

☐ Delete definition of "small projects"

☐ Revise as follows:

☐ Make no change

- C. Section 68-8C(4) refers to the seal of a licensed architect or a licensed professional engineer where required by § 7302 of the Education Law. That section applies to architects only. Should a reference to § 7202 of the Education Law, which deals with professional engineers, be added?

Decision:

☐ Add reference to § 7202 of the Education Law

☐ Revise as follows:

☐ Make no change

- D. Section 68-8D(11) contains an outdated reference to 9 NYCRR 701. The State Uniform Fire Prevention and Building Code is now contained in Title 19, Chapter XXXIII, Subchapter A, Parts 1219 to 1228. We were unable to determine exactly how the reference to 9 NYCRR 701 and the list of building occupancy classifications should be updated.

Decision:

- ☐ Revise as follows:
- ☐ Make no change

- E. Section 68-11A, regarding connections to sewers or drains, refers to Chapter 162 of the Code, which deals with storm sewer systems. Should a reference also be made to Chapter 161, which deals with sanitary sewers?

Decision:

- ☐ Revise to read "without a permit being issued in accordance with Chapter 161 or Chapter 162 of the City Code"
- ☐ Revise as follows:
- ☐ Make no change

- F. Section 68-12A begins "No such permit shall be issued." The City might want to clarify which permit is meant. Based on the section title, the following revision could be made: "No permit for oil or gas heating equipment shall be issued."

Decision:

- ☐ Revise as indicated
- ☐ Revise as follows:
- ☐ Make no change

- G. Section 68-13B provides for a fee schedule to be established by resolution of the Council, but Subsection D of this section still includes the following specific fee: \$1,000 when

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construction is commenced before the issuance of the building permit or construction work is not consistent with the permit. Is any revision needed?

Decision:

- ☐ Remove amount; revise to read "an additional application fee established by resolution of the City Council"
- ☐ Revise as follows:
- ☐ Make no change

- H. Section 68-16B provides for inspections of multiple dwellings every 36 months, areas of public assembly every 12 months and other buildings every 24 months. Does this subsection reflect current practice? We note that 19 NYCRR 1202.4(b) provides that "Buildings shall be subject to periodic inspections for compliance with the Uniform Code on a yearly basis."

Decision:

- ☐ Revise as follows:
- ☐ Make no change

- I. In § 68-16B(5) the wording "inspection of the...property maintenance inspections" does not make sense. If the intent of this subsection is to provide for inspections and enforcement by the Fire Inspector, perhaps the following revisions could be made:

~~Enforcement/inspection of the~~ Fire prevention and property maintenance inspections and enforcement shall be performed by the Fire Inspector.

Decision:

- ☐ Revise as indicated
- ☐ Revise as follows:

- J. Section 68-18, Penalties for offenses.

- (1) Subsection B provides for a fine of not more than \$250 or imprisonment for not more than 15 days, or both, for violations of this chapter. Is any revision desired?

Decision:

- ☐ Revise as follows:
- ☐ Make no change

- (2) In Subsection C we will update the reference to § 385 of the Executive Law (repealed in 1981) to § 382 of the Executive Law.

Ch. 69, Buildings, Numbering of

L.L. No. 3-1987

- A. Section 69-3 requires house numbers to have a minimum height of two inches. The State Uniform Code now requires four-inch numbers. Section 501.2, Address numbers, of the State Building Code provides as follows:

Buildings shall have approved address numbers, building numbers or approved building identification placed in a position that is plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Address numbers shall be Arabic numerals or alphabetical letters. Numbers shall be a minimum of 4 inches (102 mm) high with a minimum stroke width of 0.5 inch (12.7 mm).

Decision:

X Change 2 inches to 4 inches

- ☐ Revise as follows:
☐ Make no change

- B. Section 69-5 provides for assessment of costs to the property owner if the City has to carry out the provisions of this chapter upon failure of the property owner to comply, with a minimum charge of \$20. Is this amount still satisfactory?

Decision:

X Revise as follows: – minimum charge of \$100

- ☐ Make no change

Ch. 71, Buildings, Unsafe

Ord. No. 2-1967

We note that the Property Maintenance Code of New York State regulates unsafe structures and equipment and provides for emergency measures in Sections 107 and 108, respectively. The City might want to add a new section to this chapter as follows: "The provisions of this chapter shall be in addition to, and in furtherance of, the New York State Uniform Fire Prevention and Building Code,

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including but not limited to Sections 107 and 108 of the Property Maintenance Code of New York State."

Decision:

- ☒ X Add indicated wording
- ☐ Revise as follows:
- ☐ Make no change

Ch. 72, Buildings, Vacant

Art. I, Vacant Stores

L.L. No. 5-1990

- A. Section 72-2 contains an outdated reference to § 772.2 of the old Uniform Code. This reference should be updated to the appropriate section of the new State Fire Code.

Decision:

- ☐ Revise as follows:
- ☐ Make no change
- B. Section 72-4 sets the penalty for violations of this article at a fine not exceeding \$200 or imprisonment for not more than 15 days, or both. Is any revision desired?

Decision:

- ☒ X Revise as follows: refer to 1-15
- ☐ Make no change

Ch. 73, Coastal Zone Management Waterfront Consistency Review

L.L. No. 12-1991

- A. In the definition of "actions" in § 73-3 we will update the reference to 6 NYCRR 617.2 to 6 NYCRR 617.4.

- B. Section 73-4B(1) includes a reference to Chapter 87, Environmental Quality Review, of the City Code. That chapter was repealed by Local Law No. 7-2010.

Decision:

X Delete reference to Chapter 87

☐ Revise as follows:

- C. In § 73-6, Fees and consultants, Subsection B, which deals with consultant fees, has expired. Subsection B(7) provides as follows: "This Subsection B shall expire two years after the date of its adoption, unless specifically reenacted by the City Council." These provisions now appear to be covered by Chapter 87, Escrow Provisions, adopted in 2010.

Decision:

X Replace Subsection B with: "Applications under this chapter shall be subject to Chapter 87, Escrow Provisions, of this Code."

☐ Delete Subsection B

☐ Other:

- D. Section 73-8 sets the penalty for violations of this chapter at a fine not exceeding \$500 for a first offense and a fine of \$1,000 for a second or subsequent offense. Are these penalties still satisfactory?

Decision:

☐ Revise as follows:

X Make no change

Ch. 76, Dogs

L.L. No. 10-2010

- A. Section 76-3 contains conflicting provisions with respect to the enumeration fee as follows:

- (1) The last sentence of the opening paragraph states that "All dog licenses shall carry with them an additional fee of \$10 as authorized by § 110-4(a) of the New York State Agriculture and Markets Law." Subsection 4(a) of § 110 of the Agriculture and Markets Law is the statute that authorizes the enumeration fee.
- (2) Subsection B(1) and (2) both state that the license fee shall include "additional funds for enumeration as provided for by § 110-4(a)" of the Agriculture and Markets Law.

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- (3) Subsection B(3) then indicates that the enumeration fee will be imposed only if the Council determines the need for a dog enumeration and provides for the fee to be set by resolution.

Decision:

☐ Delete Subsection B(3)

X Delete the last sentence of the opening paragraph; revise Subsection B(1) and (2) to read "and may include additional funds for enumeration" – Please check subsection reference it should be C(1) not B(1)

☐ Other:

- B. Section 76-3C(6) requires notification of change in dog ownership or that a dog has been lost or stolen to be given within 30 days. In § 112 of the Agriculture and Markets Law this requirement is 10 days:

1. In the event of a change in the ownership of any dog which has been licensed pursuant to this article or in the address of the owner of record of any such dog, the owner of record shall, within ten days of such change, file with the municipality in which the dog is licensed a written report of such change.

2. If any dog which has been licensed pursuant to this article is lost or stolen, the owner of record shall, within ten days of the discovery of such loss or theft file with the municipality in which the dog is licensed a written report of such loss or theft.

Decision:

X Change 30 days to 10 days

☐ Revise as follows:

☐ Make no change

- C. Section 76-4, Redemption of dogs seized.

- (1) This section gives an owner up to five business days to redeem an impounded dog. The City might want to review the impoundment periods prescribed in Agriculture and Markets Law § 117, Subdivisions 4 (dog not identified), 6 (identified dog) and 8. Subdivision 8 requires a minimum impoundment of seven days if notice is given to the owner by mail:

The redemption periods set forth above in this section notwithstanding, any municipality may establish the duration of such periods by local law or ordinance,

provided that no such period shall be less than three days, except that where notice to the owner is given by mail, no such period shall be less than seven days.

Decision:

☐ Revise as follows:

X Make no change

- (2) This section refers to the Fee Schedule adopted by the Council. If this schedule is adopted by resolution, the Corporation Counsel should be consulted as to whether impoundment fees can be included in the Fee Schedule. Section 117, Subdivision 4, of the Agriculture and Markets Law provides as follows (emphasis added): "The impoundment fees set forth in paragraphs (a), (b) and (c) of this subdivision notwithstanding, any municipality may set **by local law or ordinance** such fees in any amount."

Decision:

☐ Revise as follows:

X Make no change

- D. The civil penalties in § 76-8 should be reviewed to ensure they are still satisfactory. We typically see civil penalties which parallel § 118, Subdivision 2(b), of the Agriculture and Markets Law, which provides as follows:

where prosecuted as an action to recover a civil penalty, by a civil penalty of not less than twenty-five dollars, except that (i) when the person was found to have violated this section or this article within the preceding five years, the civil penalty may be not less than fifty dollars, and (ii) where the person was found to have committed two or more such violations within the preceding five years, the civil penalty may be not less than one hundred dollars.

Decision:

X Revise as follows: – revise with language suggested above.

☐ Make no change

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Ch. 81, Electrical Standards

6-5-1963

- A. In § 81-3 should the reference to the "State Building Construction Code" be updated to the "State Building Code"?

Decision:

- ☐ Revise to "State Building Code"
X Revise to "State Uniform Fire Prevention and Building Code"
☐ Make no change

- B. Section 81-4 refers to the standard of the National Board of Fire Underwriters known as the "National Electrical Code." The National Electrical Code is promulgated by the National Fire Protection Association (NFPA).

Decision:

X Update reference to the National Fire Protection Association

- ☐ Revise as follows:
☐ Make no change

- C. In § 81-6B(1) the wording "a valid and substituting certificate" apparently should read "a valid and subsisting certificate."

Decision:

X Change "substituting" to "subsisting"

- ☐ Revise as follows:
☐ Make no change

- D. Section 81-8 refers to the New York Board of Fire Underwriters. That agency ceased doing business as of October 2009.

Decision:

X Change "the New York Board of Fire Underwriters" to "an inspector registered under § 81-6 of this chapter"

- ☐ Revise as follows:

- E. Section 81-12 sets the penalty for violations of this chapter at a fine of not more than \$100 or imprisonment for not more than 30 days, or both. Is any revision desired?

Decision:

X Revise as follows: – change to \$250

☐ Make no change

Ch. 87, Escrow Provisions

L.L. No. 7-2010

- A. Section 87-1A refers to "the Planning Commission, the Planning Commissioner." There are no other references in the Code to a Planning Commissioner. There are references to a City Planner.

Decision:

X Change "the Planning Commissioner" to "the City Planner"

☐ Delete "the Planning Commissioner"

☐ Make no change

- B. In § 87-1B(6) the reference to "any other section of this chapter" does not make sense, as there are no other sections in this chapter. Perhaps the following revision could be made: "Payment of consultant fees shall be required in addition to any and all other fees required by any other section of this Code or any other City law or regulation."

Decision:

X Revise as indicated

☐ Revise as follows:

Ch. 90, Fences and Walls

L.L. No. 1-2002

- A. Section 90-3F sets the penalty for failure to obtain a permit at a fine not exceeding \$250 or

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imprisonment for not more than 15 days, or both. Is any revision desired?

Decision:

☐ Revise as follows:

X Make no change

- B. Section 90-18 provides for appeals to be filed "with the Clerk of the Board." Should this wording read "Secretary of the Board"?

Decision:

☐ Revise to "Secretary of the Board"

X Revise to "City Manager"

☐ Make no change

Ch. 93, Filming

L.L. No. 17-1985

- A. In § 93-5A we will update the reference to § 197-82L to § 197-82K. (Section 197-82 was amended in 1999.)
- B. This chapter provides for the issuance of a license. For consistency, "filming permit" in § 93-8E and F should be changed to "filming license."

Decision:

☐ Change "permit" to "license" as indicated

☐ Revise as follows:

X Make no change

- C. Section 93-12 sets the penalty for violation of this chapter at a fine of not more than \$250 or imprisonment for not more than 15 days, or both. Is this penalty still satisfactory?

Decision:

☐ Revise as follows:

X Make no change

Ch. 95, Firearms

9-19-1945

This chapter appears satisfactory as written.

Ch. 98, Fire Prevention

L.L. No. 4-1963

- A. This chapter was originally adopted in 1963 and many of the sections have not been amended since that time. It contains very detailed standards that we do not typically see in a local law. We recommend that the City Fire Inspector and Building Inspector be consulted as to whether any of the provisions in this chapter should be deleted as covered by the State Fire Code and other state regulations or modified to match current standards.

Decision:

- ☐ See revisions on enclosed copy
☐ Revisions will not be made at this time

- B. National Board of Fire Underwriters.

- (1) Section 98-1 refers to "nationally recognized good practice" and to the standards of the National Board of Fire Underwriters "or other approved nationally recognized safety standards." Should this section be revised to refer to the State Fire Code rather than national standards?

Decision:

- ☐ See revisions on enclosed copy
☐ Make no change

- (2) Section 98-3 refers to the Fire Prevention Code recommended by the National Board of Fire Underwriters and to "nationally recognized good practice." Should this section be revised to refer to the State Fire Code?

Decision:

- ☐ See revisions on enclosed copy
☐ Make no change

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- (3) Sections 98-38, 98-55, 98-71 and 98-133 refer to the standards of the National Board of Fire Underwriters known as the "National Electrical Code." The National Electrical Code is promulgated by the National Fire Protection Association (NFPA).

Decision:

X Update to National Fire Protection Association

- ☐ Revise as follows:
☐ Make no change

- C. Fees. Many sections in this chapter were amended in 2000 to replace specific fee amounts with the following wording: "to be set annually by resolution of the City Council before adoption of the budget for the following year." However, the following sections still contain specific fees:

- (1) Section 98-9C: inspection fee of \$5.
(2) Section 98-14: bowling alley inspection and permit fee of \$50.
(3) Section 98-44A: permit fee for use of explosives of \$5.
(4) Section 98-142: variance application fee of \$100.

Decision:

X Revise to state that fees are set by Council resolution

- ☐ Revise as follows:
☐ Make no change

- D. The definition of "approved" in § 98-11 refers to the National Bureau of Standards. As of 1988 this agency became the National Institute of Standards and Technology. This definition also refers to the American Gas Association Laboratories. It appears that the American Gas Association ended its laboratory operations in 1997.

Decision:

- ☐ Update "National Bureau of Standards" to "National Institute of Standards and Technology"
☐ Revise as follows:
☐ Make no change

- E. In § 98-44G the wording "placed at a reasonable distance appoint one from the other" does not make sense.

Decision:

X Revise to read "placed at a reasonable distance apart from one another"

☐ Revise as follows:

- F. In § 98-59 the cross-reference to § 98-63E is no longer correct. Section 98-63 was amended in 1993 and no longer contains a Subsection E.

Decision:

X Delete "except as otherwise permitted in § 96-63E"

☐ Revise as follows:

- G. Section 98-63, Self-service stations, regular service stations and garages.

- (1) We recommend changing "The above facilities will be inspected" in Subsection A to "Self-service stations, regular service stations and garages will be inspected" to clarify this wording.

Decision:

X Revise as indicated

☐ Revise as follows:

☐ Make no change

- (2) Subsection A contains an outdated reference to the old State Uniform Code, Section 1164.3. How should this reference be updated?

Decision:

☐ Revise as follows:

☐ Delete specific section reference; revise to read "to ensure compliance with the New York State Uniform Fire Prevention and Building Code"

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- (3) Subsection B of this section should be deleted. This subsection consists of a copy of § 1164.3 of the old Uniform Code. It is very unusual for text from the Uniform Code to be copied and included in a local law in this manner, and this material is now outdated.

Decision:

X Delete Subsection B

- ☐ Replace Subsection B with current standards; copy enclosed
- ☐ Other:

- H. In § 98-70 the wording "not to exceed one year or more" does not make sense. Perhaps one of the following revisions could be made:

- (1) "Tanks not to be used for a period of up to one year shall be filled with water and lines capped."
- (2) "Tanks not to be used for a period of one year or more shall be filled with water and lines capped."

Decision:

- ☐ Use Option (1)
- ☐ Use Option (2)

X Other: – remove language

- I. Section 98-113 indicates that rubbish and yard waste (grass and leaves) can be burned in the City under certain conditions. Open burning of rubbish, including leaves, has been banned in cities and villages in New York since 1972, and this ban was extended in 2009 to the entire state. Below is a link to the current regulations of the State Department of Environmental Conservation (6 NYCRR 215).

<http://www.dec.ny.gov/regs/4261.html>

Decision:

- ☐ See revisions on enclosed copy
- ☐ Make no change

X Delete

- J. Section 98-144 sets the penalty for violation of this chapter at a fine of not more than \$250 for a first offense and not more than \$500 for a subsequent offense or imprisonment for not more than 15 days, or both. Is any revision needed? Note that violations of the State Fire

Code (the Uniform Code) are subject to a fine of not more than \$1,000 or imprisonment for not more than one year, or both, pursuant to § 382 of the Executive Law.

Decision:

X Revise as follows: – use State Code amount

☐ Make no change

Ch. 100, Floodplain Management

L.L. No. 5-2007

- A. Section 100-3E sets the penalty for violations of this chapter at a fine not exceeding \$250 or imprisonment for not more than 15 days, or both. Is any revision desired?

Decision:

☐ Revise as follows:

X Make no change

- B. The phrase "if base flood elevation are available" appears in §§ 100-4C(9) and (10) and 100-5B(2)(d). We believe this wording is supposed to read "if base flood elevation data are available." See § 100-4C(1) and (8)

Decision:

X Add "data" as indicated

☐ Revise to read "if base flood elevations are available"

☐ Other:

- C. Section 100-4D(3)(c) consists of an incomplete sentence. The following revision could be made: "The local administrator shall determine compliance with Chapter 195, Wetlands and Watercourses, of the Rye City Code."

Decision:

X Revise as indicated

☐ Revise as follows:

☐ Make no change

- D. Section 100-5B(2)(c) could also be revised to create complete sentences as follows:

Designs for meeting this requirement must either be certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria: (i) a minimum of two openings having a total net area of not less than one square inch for every square foot

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of enclosed area subject to flooding shall be provided; and (ii) the bottom of all such openings shall be no higher than one foot above the lowest adjacent finished grade.

Decision:

X Revise as indicated

- ☐ Revise as follows:
☐ Make no change

- E. In § 100-5, the title of Subsection C is "Residential structures (except coastal high-hazard areas)" but the first sentence of this subsection indicates that it applies to nonresidential structures: "The following standards apply to new and substantially improved commercial, industrial and other nonresidential structures." We question whether this first sentence should simply be deleted. See the requirements for nonresidential structures in Subsections E and F of this section.

Decision:

X Delete the first sentence of Subsection C

- ☐ Revise as follows:

Ch. 104, Graffiti

L.L. No. 7-1992

- A. This chapter was adopted in May 1992. In November 1992 the following sections were added to the State Penal Law by L. 1992, c. 458: § 145.60, Making graffiti (Class A misdemeanor), and § 145.65, Possession of graffiti instruments (Class B misdemeanor). The Corporation Counsel should be consulted as to whether any revisions are needed in this chapter in light of these sections.

Decision:

- ☐ Revise as follows:
☐ Make no change

- B. The following penalties are established in this chapter:

- (1) Making graffiti: not more than \$500 for a first offense and not more than \$1,000 for a second or subsequent offense or imprisonment for not more than 15 days.

Decision:

- ☐ Revise as follows:
☐ Make no change

- (2) Sale of paint or markers: civil penalty of not more than \$250.

Decision:

- ☐ Revise as follows:
☐ Make no change

Ch. 106, Helicopters and Other Aircraft

L.L. No. 10-1983

This chapter appears generally satisfactory, provided that the penalty in § 106-3 (not less than \$100 nor more than \$250) is still acceptable.

Decision:

- ☐ Revise as follows:
X Make no change

Ch. 108, Housing Standards

L.L. No. 5-1963

- A. In § 108-6 should the reference to the New York State Building Construction Code be updated to the State Building Code?

Decision:

- ☐ Update to the State Building Code
xUpdate to State Uniform Fire Prevention and Building Code
☐ Make no change

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- B. Section 108-30A(1) refers to a certificate of compliance issued by the New York Board of Fire Underwriters. That agency ceased doing business as of October 2009.

Decision:

- ☐ Revise to read "issued by the Building Inspector or an inspector registered under § 81-6 of this Code"
- ☐ Revise as follows:

- C. Section 108-56 sets the penalty for violation of this chapter at a fine of not more than \$1,000. Is this penalty still satisfactory?

Decision:

- ☐ Revise as follows:
- ☐ Make no change

- D. The City might want to have this chapter reviewed by the Building Inspector as to whether it reflects current standards and is consistent with the State Uniform Code. Most of the sections in this chapter have not been revised since the adoption of this chapter in 1963.

Decision:

- ☐ See revisions on enclosed copy
- ☐ No other revisions will be made at this time

Ch. 113, Junk Dealers

2-4-1942

This chapter appears generally satisfactory, provided that it reflects current practice in the City. Should a penalty section be added?

Decision:

X Add a reference to the penalty in § 1-15

- ☐ Add the following:
- ☐ Make no change

Ch. 117, Landmarks Preservation

L.L. No. 6-1977

- A. References in this chapter to the State Board on Historic Preservation should read "State Board for Historic Preservation." See § 14.03 of the Parks, Recreation and Historic Preservation Law. We will make this correction.
- B. In § 117-5D(1)(a) we question whether the wording "on the Register" should be deleted as follows:

Sites or structures which have been listed on the National Register of Historic Places or proposed by the Committee ~~on the Register~~ for consideration by the New York State Board ~~on~~ for Historic Preservation for a recommendation to the State Historic Officer for nomination for inclusion in the National Register of Historic Places, and which have been recommended for designation by the Landmarks Advisory Committee, may be designated by the City Council, on its own action, as protected sites or structures, when determined by said Council to be of important historic significance.

Decision:

X Revise as indicated

- ☐ Revise as follows:
- ☐ Make no change

- C. We were unable to confirm the reference to the "State Historic Officer" in § 117-5D(1)(a). There is a National Register Unit in the State Historic Preservation Office.

Decision:

X Change "State Historic Officer" to "State Historic Preservation Office"

- ☐ Revise as follows:
- ☐ Make no change

- D. Section 117-11 establishes the following penalties for violation of this chapter: not more than \$100 per day for each violation; for knowing and willful violation of this chapter: not more than \$150 or imprisonment for not more than 15 days, or both. Are any revisions desired?

Decision:

- ☐ Revise as follows:

X Make no change

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Ch. 121, Laundromats

5-4-1960

- A. The provisions in this chapter are almost identical to Chapter 98, Article VI, except that this chapter uses the term "laundromat" and requires a license while Chapter 98, Article VI, uses the term "coin-operated laundry establishment" and requires a permit. The definitions provided for these terms are the same. Compare § 98-35 with § 121-1. Should one of these items be deleted? The only provision included in Chapter 121 that is not covered in Chapter 98, Article VI, is § 121-6, Hours of operation.

Decision:

- ☐ Delete Chapter 98, Article VI

X Move § 121-6 to Chapter 98, Article VI, and delete remainder of Chapter 121

- ☐ Other:

- B. If this chapter is retained should a penalty be added?

Decision:

- ☐ Add reference to the penalty in § 1-15
☐ Add the following:
☐ Make no change

Ch. 125, Licenses

2-4-1942

This chapter contains general procedures with respect to any license issued pursuant to the City Code and dates from 1942. Do the procedures described reflect current practice?

Decision:

- ☐ See revisions on enclosed copy
☐ Make no change

*** you can delete this chapter

Ch. 128, Local Improvement Assessments

L.L. No. 4-2003

Provided that it reflects current procedures, this chapter appears satisfactory as written.

Ch. 133, Noise

Ord. No. 1-1962

- A. In § 133-7, which restricts the use of leaf blowers, Subsection F provided for a review of the section to take place between January 1 and March 1 of 2009. Could this subsection now be deleted?

Decision:

X Delete § 133-7F

- ☐ Revise as follows:
☐ Make no change

- B. The penalties in § 133-9 should be reviewed to ensure they are still satisfactory:
- (1) Violations of § 133-8 (construction work): for a first offense, not more than \$750, an order to suspend construction work for up to 72 hours, and/or imprisonment for not more than 15 days; for a subsequent offense, not more than \$1,000, an order to suspend construction work for up to 72 hours, and/or imprisonment for not more than 15 days.
 - (2) Other violations: not more than \$250 or imprisonment for not more than 15 days, or both.

Decision:

- ☐ Revise as follows:
X Make no change

Ch. 138, Parking Lots

4-18-1956

- A. This chapter has not been revised in 57 years. Is this chapter still in use? If so, are the procedures described accurate?

Decision:

- ☐ See revisions on enclosed copy
☐ Make no change

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- B. Section 138-5 provides for a license fee of \$1 per car of the maximum capacity of the parking lot or \$0.25 per car for seasonal lots. Section 138-14 sets the fee for a parking lot employee's license at \$1. Are any updates needed?

Decision:

- ☒ X Revise to state that fee is set by Council resolution
- ☐ Revise as follows:
- ☐ Make no change
- C. Section 138-14, Licensing of employees, requires an applicant to include his color on the job application.

Decision:

- ☐ Delete "color" from § 138-14
- ☐ Revise as follows:
- ☐ Make no change
- D. Section 138-29 sets the penalty for violations of this chapter at a fine of not more than \$100 or imprisonment for not more than 30 days, or both. Is any revision desired?

Decision:

- ☐ Revise as follows:
- ☐ Make no change

Ch. 141, Peace and Good Order

2-4-1942 Rescind Chapter

- A. Section 141-1 prohibits loitering in certain locations. The Corporation Counsel should be consulted as to whether this section meets the criteria of Subdivision 37 of § 20 of the General Law, which grants cities the following power:

To adopt ordinances or local laws prohibiting and punishing loitering; provided however, that such ordinance or law shall only prohibit loitering for a specific illegal purpose or loitering in a specific place of restricted public access and shall therein set forth guidelines for application of such prohibitions by law enforcement officers so as to prevent arbitrary or discriminatory enforcement of such prohibitions.

A sample of a more recent loitering law (City of Beacon Local Law No. 17-2000) is included at the end of the Editorial Analysis for your reference.

Decision:

- ☐ Delete § 141-1 add sample with revisions as shown on the enclosed copy
- ☐ Revise as follows:
- ☐ Make no change

- B. Section 141-8 prohibits trespassing, subject to a fine of not more than \$10 for a first offense and \$25 for a subsequent offense. Is this section still in use or would this type of violation be prosecuted under the State Penal Law? See § 140.05, Trespass, of the Penal Law.

Decision:

- ☐ Delete this section
- ☐ Revise as follows:
- ☐ Make no change

- C. The penalty in § 141-8 is the only penalty prescribed in this chapter. Should a penalty section be added to apply to other violations of this chapter?

Decision:

- ☐ Add reference to the penalty in § 1-15
- ☐ Add the following:
- ☐ Do not add a penalty section

Ch. 144, Peddling and Soliciting

L.L. No. 6-2010

This chapter was recently adopted and appears generally satisfactory. In § 144-10D the wording "issuance of a permit" could be revised to "issuance of a license" for consistency with the rest of this chapter, which provides for a license.

Decision:

- ☐ Change "permit" to "license"
- ☐ Make no change

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Ch. 145, Public Officers Indemnification

L.L. No. 8-1997

This chapter appears satisfactory as written. We do recommend moving this chapter, which applies to City officers and employees, to Part I, Administrative Legislation, of the Code. We typically include this type of law in Part I of the Code as a chapter titled "Defense and Indemnification."

Decision:

X Move this chapter to Part I of Code

☐ Do not move this chapter

Ch. 147, Records Management

L.L. No. 11-1996

- A. This type of law is also one we would typically see included in Part I, Administrative Legislation, of the Code as it deals with the management of City records.

Decision:

X Move this chapter to Part I of Code

☐ Do not move this chapter

- B. In the definition of "archives" in § 147-7 should "Advisory Committee" be changed to "Records Advisory Board"? See § 147-3.

Decision:

X Change to "Records Advisory Board"

X Revise as follows: – **change “shall” to “may” in § 147-3**

☐ Make no change

Ch. 149, Refrigerators, Abandoned

2-4-1942

- A. Is this chapter, adopted in 1942, still in use or should it be removed as covered by § 270.10 of the State Penal Law? Section 270.10 provides that a person is guilty of creating a hazard (a Class B misdemeanor) when:

Having discarded in any place where it might attract children, a container which has a compartment of more than one and one-half cubic feet capacity and a door or lid which

locks or fastens automatically when closed and which cannot easily be opened from the inside, he fails to remove the door, lid, locking or fastening device;

Decision:

- ☒ Remove this chapter
- ☐ Retain this chapter

- B. If this chapter is retained, is the penalty in § 149-2 (not more than \$50 or imprisonment for not more than 10 days, or both) still satisfactory?

Decision:

- ☐ Revise as follows:
- ☐ Not applicable; chapter removed
- ☐ Make no change

Ch. 153, Residential Care Facilities

Art. I, Registration

Ord. No. 3-1978

- A. Does the City still require registration of these facilities in the manner described in this article?

Decision:

- ☐ See revisions on enclosed copy
- ☐ Make no change

- B. Should a penalty be added for failure to obtain the required registration?

Decision:

- ☐ Add reference to the penalty in § 1-15
- ☐ Add the following:
- ☐ Do not add penalty

City of Rye, NY

Ch. 154, Retail Checkout Bags

L.L. No. 7-2011

This recently adopted law appears generally satisfactory, provided that the fine in § 154-6B (up to \$150) is still acceptable.

Decision:

- ☐ Revise as follows:
☒ Make no change

Ch. 157, Sanitary Regulations

2-4-1942

- A. Many of the provisions in this chapter are quite old and should be reviewed as to whether they reflect current practice and standards. For example, § 157-5, Keeping of poultry, was last amended in 1947.

Decision:

- ☐ See revisions on enclosed copy
☐ No revisions will be made at this time
- B. Section 157-1 prohibits unmuzzled dogs from running at large but only during a period of rabies. The City might want to review this provision in conjunction with Chapter 76, Dogs, § 76-5, which prohibits any dogs from running at large.

Decision:

- ☐ Revise as follows:
☐ Make no change
- C. The following sections in this chapter refer to a City Health Officer: §§ 157-5, 157-22D, 157-29C, 157-63D and 157-71B. There are no other references in the Code to this official.

Decision:

- ☐ Update references to "Health Officer" as follows:
☐ Make no change
- D. The following fees are included in this chapter:
- (1) Tourist park or camp investigation fee: \$50 for every five units or fewer; \$10 for each additional five units. See § 157-9.

- (2) Tourist park or camp license: \$60 per unit. See § 157-12A.
- (3) Automobile tourist park or camp license: \$60 per unit. See § 157-12B.
- (4) Permit for transportation of solid waste: \$10 per vehicle. See § 157-29F.

Decision:

- ☐ Revise all to state that fees are set by Council resolution
- ☐ Revise as follows:
- ☐ Make no change

- E. Section 157-22F requires reports "to the Health Department of the City and to the Westchester County Department of Health." There are no other references in the Code to a City Health Department.

Decision:

- ☐ Delete reference to City Health Department
- ☐ Revise as follows:
- ☐ Make no change

- F. In § 157-28C the reference to 6 NYCRR 366 requires revision, as Part 366 has been repealed. Part 371 is titled "Identification and Listing of Hazardous Wastes."

Decision:

- ☐ Update reference to 6 NYCRR 371
- ☐ Revise as follows:

- G. Section 157-52 establishes a height limit on weeds of 12 inches. We note that § 302.4 of the State Property Maintenance Code sets a height limit of 10 inches:

All premises and immediate exterior property shall be maintained free from weeds or plant growth in excess of 10 inches (254 mm). All noxious weeds shall be prohibited. Weeds shall be defined as all grasses, annual plants and vegetation, other than trees or shrubs provided; however, this term shall not include cultivated flowers and gardens.

Decision:

- ☐ Change 12 inches to 10 inches
- ☐ Make no change

- H. Section 157-63, adopted in 1949, requires heating of occupied buildings. This section conflicts with Chapter 108, Housing Standards, § 108-27, Heating, amended in 2008.

City of Rye, NY**Decision:**

- ☐ Delete § 157-63
- ☐ Revise as follows:
- ☐ Make no change

I. Section 157-65 establishes the following penalty for violations of this chapter: a fine not more than \$100 or imprisonment for not more than 30 days, or both.

- (1) As Article X, Swimming Pools, and Article XI, Littering, contain their own penalty sections, should the words "where no other penalty is provided" be added to this section?

Decision:

- ☐ Add wording as indicated
- ☐ Revise as follows:
- ☐ Make no change

- (2) Is this penalty otherwise still satisfactory?

Decision:

- ☐ Revise as follows:
- ☐ Make no change

J. Article X, Swimming Pools.

- (1) In § 157-68A the wording "plans that specifications" apparently should read "plans and specifications."

Decision:

- ☐ Revise as indicated
- ☐ Revise as follows:

- (2) Section 157-75 sets the penalty for violations of this article at a fine not exceeding \$250 or imprisonment not exceeding 30 days, or both. Is any revision desired?

Decision:

- ☐ Revise as follows:
☐ Make no change

- K. Section 157-100 sets the penalty for violations of Article XI, Littering, at a fine not exceeding \$100 or imprisonment not exceeding 30 days. The same penalty is prescribed in § 157-65 for other violations of this chapter. Perhaps § 157-100 could be revised to refer to the penalty in § 157-65.

Decision:

- ☐ Revise § 157-100 to read "be punished as prescribed in § 157-65 of this chapter"
☐ Revise as follows:
☐ Make no change

Ch. 161, Sewers

Art. I, Use of Public Sewers

9-20-1950

- A. Section 161-1 refers to the Sanitation Committee of the City Council. Does the Council still have this Committee?

Decision:

- ☐ Revise as follows:
☐ Make no change

- B. Section 161-3A provides for an administrative charge of \$100 in the event work has to be performed by the City. This section dates from 1980. Does this amount need updating?

Decision:

- ☐ Revise to state that charge is set by Council resolution
☐ Revise as follows:
☐ Make no change

City of Rye, NY

- C. Section 161-4 sets the penalty for violations of this article at a fine not exceeding \$500 or imprisonment not exceeding 15 days, or both. Is this penalty still satisfactory?

Decision:

- ☐ Revise as follows:
☐ Make no change

Art. II, Sewer Rents

L.L. No. 9-1963

This article establishes a sewer rent at the rate of \$210 per connection for a sewer system maintained by a municipality other than the City of Rye. Section 161-5, which states the sewer rent amount, has not been amended since 1988. Is any revision needed?

Decision:

- ☐ Revise as follows:
☐ Make no change

Ch. 162, Storm Sewer System

L.L. No. 4-2007

- A. This chapter is out of alphabetical order in the Code, as is Chapter 174, Stormwater Management. As both of these chapters deal with stormwater, we recommend creating a new Chapter 166, Stormwater Management, and moving Local Law No. 4-2007 (Chapter 162) and Local Law No. 8-2007 (Chapter 174, Article I) to the new Chapter 166 as Articles I and II, respectively.

Decision:

- ☐ Move/renumber chapters as indicated
X Do not move chapters

- B. The permit and inspection fees in § 162-13C should be reviewed to ensure they are up-to-date.

Decision:

- X Revise to state that fees are set by Council resolution
☐ Revise as follows:
☐ Make no change

- C. Section 162-16B provides that violations of this chapter shall be subject to a term of imprisonment of not more than two months and/or the following fines: not exceeding \$1,000 for a first offense; not less than \$1,000 nor more than \$2,000 for a second offense within five years; and not less than \$2,000 nor more than \$5,000 for a third or subsequent offense within five years. Are these amounts still satisfactory?

Decision:

- ☐ Revise as follows:
X Make no change

Ch. 164, Shopping Carts

Ord. No. 5-1962

This chapter has not been updated since its adoption in 1962 and should be reviewed as to whether it reflects current procedures. Sections 164-5 and 164-6 provide for redemption of impounded carts upon payment of a fee of \$5.

Decision:

- ☐ See revisions on enclosed copy
X Revise to state that fees are set by Council resolution; no other changes needed
☐ Make no change

Ch. 165, Signs

L.L. No. 4-1999

- A. Section 165-3D establishes the following penalties for violations of this chapter: a fine of not more than \$250 or imprisonment for not more than 15 days, or both, and a civil penalty of not more than \$1,500 for each violation. Are these penalties still satisfactory?

Decision:

- ☐ Revise as follows:
X Make no change

City of Rye, NY

- B. This chapter is now 14 years old and should be reviewed to ensure that it reflects the City's current sign standards.

Decision:

- ☐ See revisions on enclosed copy
X No revisions needed

Ch. 167, Streets and Sidewalks

Art. I, Encroachments and Obstructions*2-4-1942*

- A. Section 167-3 requires awnings to be at least seven feet above the sidewalk. Should this section be deleted as covered by Chapter 165, Signs, adopted in 1999? See the awning requirements in § 165-5C.

Decision:

- X Delete § 167-3
☐ Retain § 167-3

- B. This article does not contain a penalty section. Should one be added?

Decision:

- X Add reference to the penalty in § 1-15
☐ Add the following:
☐ Make no change

Art. II, Excavation in Streets*L.L. No. 9-1986*

- A. The inclusion of the word "parking" in the definition of "street" in § 167-7A seems incorrect: "Any street, avenue, road, alley, lane, highway, boulevard, **parking**, culvert, sidewalk..."

Decision:

- X Revise to "parking area"
☐ Revise as follows:
☐ Make no change

- B. Section 167-7C contains two references to 12 NYCRR 53 (Rule No. 53 of the New York Industrial Code). Part 53 has been repealed. A reference to this rule is also included in § 167-9G.

Decision:

- ☐ Delete references to 12 NYCRR 53 (Rule 53 of the Industrial Code)

X Revise as follows: - end with **“with all applicable provisions to the New York State Industrial Code.”**

- C. Section 167-7P sets the following penalty for violations of this article: a fine not exceeding \$100 or imprisonment for not more than 15 days, or both.
- (1) If this penalty does apply to all of Article II and not just § 167-7, we recommend making this wording a separate section instead of a subsection in § 167-7.

Decision:

X Penalty applies to entire article; renumber as a separate section

- ☐ Penalty applies only to § 167-7; change "any of the provisions of this article" to "any of the provisions of this section"

- ☐ Other:

- (2) Is the penalty prescribed satisfactory? Many of the other penalty sections in the Code are set at a maximum fine of \$250.

Decision:

X Change \$100 to \$250

- ☐ Revise as follows:
- ☐ Make no change

- D. Section 167-8, Sidewalks, curbs and driveways.

- (1) In Subsection C(2) the following wording does not make sense: "by reason of death or injury to all personal or property of another."

Decision:

X Change "all personal or property" to "all persons or property"

- ☐ Revise as follows:

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- (2) Subsection D establishes the following fee: \$30 or 10% of the amount of the deposit, whichever is greater. Is this fee up-to-date? Similar wording in § 167-9D regarding the fee for a street opening permit refers to a fee schedule.

Decision:

X Revise to refer to fee schedule

- ☐ Revise as follows:
☐ Make no change

- (3) The deposit amounts in Subsection E(1) have not been revised since this article was adopted in 1986. Are any revisions needed?

Decision:

- ☐ See revisions on enclosed copy
☐ Make no change

- E. The deposit schedule in § 167-9E for a street opening permit was last amended in 2002. Are any revisions needed?

Decision:

- ☐ See revisions on enclosed copy
☐ Make no change

- F. Section 167-9I(2)(b) refers to the "Driver – Clerk of the Fire Department." Does the Fire Department still have a position with this title?

Decision:

- ☐ Revise as follows:
☐ Make no change

- G. Section 167-9J, Poles and wires, should be reviewed in conjunction with § 167-5, Erection and maintenance of poles and wires. Could one of these sections be deleted? Note that § 167-5 requires consent of the Council while § 167-9J requires a permit from the City Clerk.

Decision:

- ☐ Revise as follows:
☐ Make no change

- H. Section 167-11C(1) refers to sewer pipe saddles manufactured by the JM Manufacturing Company, Inc. Referencing a specific company in this manner is somewhat unusual in a local law. Does this subsection reflect current practice?

Decision:

- ☐ Revise as follows:
☐ Make no change

- I. Section 167-13, Street obstructions.

- (1) Subsection D(2) provides for a minimum fee of \$100 or 10% of the deposit amount. Is any revision desired?

Decision:

X Revise to refer to fee schedule

- ☐ Revise as follows:
☐ Make no change

- (2) Do the deposit amounts in Subsection E(1)(a) and (b) need updating?

Decision:

- ☐ See revisions on enclosed copy
☐ Make no change

- J. Section 167-14, Containers for construction debris, requires a deposit of \$150 and a fee of \$50 in Subsection D, last amended in 1996. Are any updates needed?

Decision:

X Replace fee with reference to fee schedule

- ☐ Revise as follows:
☐ Make no change

Art. III, Sidewalks

2-4-1942

Section 167-48C sets the penalty for violations of § 167-47, Removal of snow and ice, at a fine of

City of Rye, NY

not less than \$50 nor more than \$100. Is this penalty still satisfactory?

Decision:

☐ Revise as follows:

X Make no change

Art. IV, Street Improvements

L.L. No. 2-1975

This article provides for payment for street improvements by assessment of the property benefitted by the improvement. It appears satisfactory as written, provided that the procedures described reflect current practice.

Art. V, Newsracks

L.L. No. 9-1980

This article appears satisfactory as written.

Ch. 170, Subdivision of Land

7-30-1957

The procedures in this chapter for approval of subdivision plats should be reviewed as to whether they reflect actual current practice in the City. We also recommend review of the current provisions of §§ 32, 33 and 34 of the General City Law. State law on this topic was significantly revised during the 1990s to coordinate review of subdivision plats with review under the State Environmental Quality Review Act (SEQRA).

- A. The term "City Development Plan" is defined in § 170-4 and used in this chapter. Is this title the current title of this document? The more common term would be "Comprehensive Plan" or "Master Plan."

Decision:

☐ Revise as follows:

X Make no change

- B. The definition of "Flood Boundary and Floodway Map" in § 170-4 refers to a map effective April 1, 1980. Is any revision needed to this definition and the other floodplain provisions in this chapter in light of the adoption of Local Law No. 5-2007 (Chapter 100, Floodplain

Management)? See in particular the definition of "Flood Boundary and Floodway Map" in § 100-2 and the maps listed in § 100-3B(1).

Decision:

X Revise definition of "Flood Boundary and Floodway Map" to refer to ~~match~~ the definition in § 100-2

☐ Revise as follows:

☐ Make no change

C. In § 170-5D we will update the cross-reference to § 170-7C(6) to § 170-7C(4). Section 170-7C, as last amended in 2010, no longer contains a Subsection C(6).

D. Sections 170-6B(3), 170-7A(3) and 170-11B(6), regarding consultant fees, have expired and should be removed. These subsections were added in 1997 and specifically stated that they would expire after two years. These provisions are now covered by Chapter 87, Escrow Provisions.

Decision:

X Replace these subsections with: "Applications under this section shall be subject to the requirements of Chapter 87, Escrow Provisions, of the City Code."

☐ Delete all three subsections in their entirety

☐ Other:

E. Section 170-6F provides that "The Planning Commission, at its discretion, may hold an informal public hearing on the preliminary layout." It is our understanding that a public hearing is required for a preliminary plat. See § 32, Subdivision 5, of the General City Law.

Decision:

☐ Revise as follows:

X Make no change

F. Sections 170-6F(5) and 170-7C(3) provide for notice of the public hearing to be published at least five days prior to the hearing. Section 32 of the General City Law now provides for notice as follows:

The hearing on the preliminary plat shall be advertised at least once in a newspaper of general circulation in the city at least five days before such hearing if no hearing is held on the draft environmental impact statement, or fourteen days before a hearing held jointly therewith.

The hearing on the final plat shall be advertised at least once in a newspaper of general circulation in the city at least five days before such hearing if no hearing is held on the draft environmental impact statement, or fourteen days before a hearing held jointly therewith.

City of Rye, NY**Decision:**

X Revise to read "The City will publish a notice regarding the public hearing in the official newspaper of the City in accordance with § 32 of the General City Law." – **Please specify those time frames.**

- ☐ Revise as follows:
- ☐ Make no change

- G. Section 170-7A(1) requires submission of the application for subdivision plat approval within one year of the preliminary approval. Section 32, Subdivision 5(h), of the General City Law requires submission of a final plat within six months of approval of a preliminary plat.

Decision:

X Change 1 year to 6 months

- ☐ Revise as follows:
- ☐ Make no change

- H. Section 170-7D requires the Planning Commission to act on the subdivision plat within 45 days of submission. This subsection is no longer consistent with § 32 of the General City Law, which provides as follows:

- (1) If the final plat is in substantial agreement with the approved preliminary plat, action is required in 62 days.
- (2) If the final plat is not in substantial agreement with the approved preliminary plat, or if no preliminary plat was required, the procedures in Subdivision 6(d) of § 32 must be followed. The time frame for action varies depending on whether or not the Planning Commission acts as lead agency for SEQRA review and whether or not an environmental impact statement (EIS) is required. For example, if no EIS is required, the Planning Commission issues its decision within 62 days of the close of the hearing; if an EIS is required, the Planning Commission issues its decision within 30 days of the filing of the final EIS.

Decision:

X Revise to read "The Planning Commission shall approve, modify and approve or disapprove the plat in accordance with § 32 of the General City Law." (include specific requirements of § 32)

- ☐ Revise as follows:
- ☐ Make no change

- I. Section 170-9 requires an approved subdivision plat to be filed with the County Clerk within 90 days. This time frame is also mentioned in § 170-8D(1). In Subdivision 11 of § 32 of the General City Law this time frame is now 62 days.

Decision:

X Change 90 days to 62 days

☐ Revise as follows:

☐ Make no change

- J. Section 239-nn was added to the General Municipal Law by L. 2005, c. 658, and requires municipalities to notify adjoining municipalities in planning and zoning matters, including subdivision review and approval on property within 500 feet of the adjacent municipality. To reflect this requirement the following could be added to § 170-7:

The Planning Commission shall give notice to an adjacent municipality * when a hearing is held by such body relating to a subdivision review and approval on property that is within 500 feet of an adjacent municipality. * **add – “as required by the General Municipal Law or Westchester County Administrative Code”**

Decision:

X Add indicated wording

☐ Do not add this wording

- K. Section 170-14J(2) states that "House numbers will be assigned by the City Engineer." According to Chapter 69, Buildings, Numbering of, numbers are assigned by the City Assessor.

Decision:

X Change "Engineer" to "Assessor" in § 170-14J(2)

☐ Revise Chapter 69 to refer to the Engineer instead of the Assessor

☐ Other:

- L. This chapter was amended in 1986 (Local Law No. 7-1986) to require surface water, erosion and sediment control consistent with Chapter 173 of the City Code, adopted by Local Law No. 8-1986. Chapter 173, as amended in 2007, now applies only to developments of less than one acre. Developments of more than one acre are required to comply with Chapter 174, Stormwater Management, Article I, adopted in 2007. The City Engineer should be consulted as to whether any changes are needed in this chapter to reflect

City of Rye, NY

the stormwater management requirements adopted in 2007. See in particular § 170-15B, Surface water control improvements, and § 170-15E, Erosion and sediment control.

Decision:

- ☐ See revisions on enclosed copy
- ☐ No changes will be made at this time

- M. Section 170-15D refers to trees eight inches or more in caliper. The definition of "tree preservation plan" in § 170-4 and §§ 170-20J and 170-21D refer to trees 10 inches or more in caliper. Should these sections be consistent?

Decision:

- ☐ Change 8 inches to 10 inches in § 170-15D
- ☐ Change 10 inches to 8 inches in the definition of "tree preservation plan" and in §§ 170-20J and 170-21D
- ☐ Make no change

Change to 8 inches throughout

- N. Section 170-15D(9) provides for payment of \$1,700 to the City Tree Fund. This subsection was last amended in 2000. Is this amount still satisfactory?

Decision:

- ☐ Revise as follows:

X Make no change

- O. In § 170-16G the following wording does not make sense: "the Planning Commission may require that such lots be served by a minor stain order to limit possible traffic hazard on such street." In similar laws this wording reads "the Planning Commission may require that such lots be served by a combined access drive in order to limit possible traffic hazard on such street."

Decision:

X Revise as indicated

- ☐ Revise as follows:

- P. In § 170-20E the reference to § 89 of the Public Health Law requires revision, as the current Public Health Law does not contain this section. A former § 89 was renumbered in 1953 as §§ 1115, 1116, 1117 and 1118, which are all part of Article 11, Title II, Realty Subdivisions: Water Supply, of the Public Health Law.

Decision:

X Update reference to Article 11, Title II, of the Public Health Law

☐ Revise as follows:

Ch. 173, Surface Water, Erosion and Sediment Control

L.L. No. 8-1986 **This Chapter was repealed by Local Law No. 1 of 2013**

- A. Section 170-2 of this chapter was amended in 2007 to provide that this chapter applies only to development involving less than one acre. Development involving more than one acre is subject to Chapter 174 of the Code, enacted in 2007. However, there are still provisions in this chapter that apply to larger developments. See for example § 173-5A(5)(a), which begins "Sites of four acres or more shall provide for a one-hundred-year stormwater detention facility." The City Engineer should be consulted as to whether this subsection and any other provisions in this chapter should be deleted as no longer applicable in light of the adoption of Chapter 174.

Decision:

☐ See revisions on enclosed copy

☐ Make no change

- B. Section 173-9, Fees.

- (1) Subsection A provides for an application fee of \$120 and a modification fee of \$10. Are these amounts up-to-date?

Decision:

☐ Revise to state that fees are set by Council resolution

☐ Revise as follows:

☐ Make no change

- (2) Subsection A(2) provides for an inspection fee of 2% if the cost is in excess of \$2,000. Is the intent for the fee to be 2% of the cost? The City might want to clarify this provision.

Decision:

☐ Revise to read "2% of cost"

☐ Revise as follows:

☐ Make no change

City of Rye, NY

- C. Section 173-11D provides for a civil penalty for violations of this chapter of not more than \$200 for the original violation and \$50 for each day the violation continues. Are these amounts still satisfactory?

Decision:

- ☐ Revise as follows:
☐ Make no change

Ch. 174, Stormwater Management

Art. I, Erosion and Sediment Control for Development of One Acre or More

L.L. No. 8-2007

This article is based on a model local law promulgated by the State Department of Environmental Conservation and appears generally satisfactory.

- A. This article defines and uses the term "Planning Board." See § 174-6. For consistency with the rest of the Code, should "Planning Board" be changed to "Planning Commission"?

Decision:

X Change to "Planning Commission"

- ☐ Make no change

- B. Section 174-12D provides that violations of this article shall be subject to imprisonment for not more than six months and/or the following fines: not exceeding \$350 for a first offense; not less than \$350 nor more than \$700 for a second offense within five years; and not less than \$700 nor more than \$1,000 for a third or subsequent offense within five years. Is any revision desired?

Decision:

- ☐ Revise as follows:
☐ Make no change

City of Rye, NY

Ch. 177, Taxation

Art. I, Tax on Income of Utilities*L.L. No. 1-1944*

- A. Section 177-2 includes a reference to Article 3B of the Public Service Law, which was repealed in 1970. The current reference would be Article 6 (Matters Relating to All Motor Carriers) of the Transportation Law.

Decision:

☒ X Update reference to Article 6 of the Transportation Law

☐ Make no change

- B. This article was adopted in 1944 and last amended in 1950. Section 177-1 states that this article is modeled on § 186-a of the Tax Law. The definitions in § 177-3 no longer match the definitions in Subdivision 2 of § 186-a of the Tax Law. For example, the definition of "utility" in the statute now includes providers of telecommunication services. The City might want to consider simply referencing the definitions in the statute.

Decision:

X Replace § 177-3 with: "The terms 'gross income,' 'gross operating income,' 'person' and 'utility,' as used in this article, shall be defined as provided in Subdivision 2 of § 186-a of the Tax Law."

☐ Revise as follows:

☐ Make no change

- C. We will update the references in this article to Article 78 of the Civil Practice Act to Article 78 of the Civil Practice Law and Rules.
- D. Section 177-11 provides that this tax "shall not be added as a separate item to bills rendered by the utility to customers but shall constitute a part of the operating costs of such utility." Subdivision 6 of § 186-a of the Tax Law was amended in 2000 (L. 2000, c. 63) to provide that the tax "may be added as a separate item to bills rendered by the utility to customers."

Decision:

☒ X Revise to match statute

☐ Make no change

- E. Section 177-14B provides for a penalty of not exceeding \$1,000 or imprisonment for not exceeding six months, or both, for violations of the confidentiality requirements of § 177-14A. Is this penalty still satisfactory?

Decision:

- ☐ Revise as follows:
X Make no change

Art. II, Alternative Veterans Exemption

L.L. No. 5-1997

This article appears satisfactory as written.

Art. III, Senior Citizens Exemption

L.L. No. 1-1971

- A. In § 177-27 we will update the reference to the "State Board" to the State Commissioner of Taxation and Finance. See Subdivision 5 of § 467 of the Real Property Tax Law.
- B. The maximum fine amount of \$100 in § 177-29 is prescribed by Subdivision 7 of § 467 of the Real Property Tax Law and should not be changed.

Art. IV, Nonprofit Organizations

L.L. No. 1-1975

- A. Section 177-30 cites as the authority for this article § 421 of the Real Property Tax Law. Section 421 was renumbered § 421-a in 1977 and has been amended numerous times. It now deals with multiple dwellings, not nonprofit organizations. The correct current reference is Real Property Tax Law § 420-b, Nonprofit organizations, added in 1981.

Decision:

X Revise to refer to § 420-b of the Real Property Tax Law

- ☐ Revise as follows:
☐ Make no change

- B. The description of taxable property in § 177-31 could be updated to match § 420-b of the Real Property Tax Law, which lists the following:

Real property owned by a corporation or association which is organized exclusively for bible, tract, benevolent, missionary, infirmity, public playground, scientific, literary, bar association, medical society, library, patriotic or historical purposes, for the development of

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good sportsmanship for persons under the age of eighteen years through the conduct of supervised athletic games, for the enforcement of laws relating to children or animals, or for two or more such purposes, and used exclusively for carrying out thereupon one or more of such purposes...

Decision:

☒ X Revise to match statute

☐ Revise as follows:

☐ Make no change

Art. V, Business Improvements

L.L. No. 2-1977

This article appears generally satisfactory. Section 177-34 provided for this article to be filed with the State Board of Equalization and Assessment. We will add the following note to this reference: "Now the Commissioner of Taxation and Finance."

Art. VI, Fiscal Information

L.L. No. 8-1963

This article appears satisfactory as written.

Art. VII, Exemption for Solar or Wind Energy Equipment

L.L. No. 3-1991

This article appears satisfactory as written.

Art. VIII, Exemption for Persons with Disabilities and Limited Incomes

L.L. No. 1-2001

- A. Are the income levels in § 177-38 still satisfactory? Section 459-c of the Real Property Tax Law, as amended by L. 2006. c. 187, provides for a maximum income level of \$29,000.

Decision:

☐ See revisions on enclosed copy

☐ Make no change

- B. In § 177-39 we will update the reference to the New York State Board of Real Property Services to the State Commissioner of Taxation and Finance. See Subdivision 7 of § 459-c of the Real Property Tax Law.

Art. IX, Room Occupancy Tax*L.L. No. 9-2006*

- A. This article was adopted in 2006 but Tax Law § 1202-aa, Occupancy tax in the city of Rye, was enacted in 2009 (L. 2009, c. 89). That statute is also due to expire in two years, on September 15, 2015. The Corporation Counsel should be consulted as to whether any changes are needed in this article or if a new local law should be adopted pursuant to Tax Law § 1202-aa. Subdivision (10) of § 1202-aa indicates that the City can adopt a local law imposing this tax only for a term of three years and then has to adopt another local law:

Each enactment of such a local law may provide for the imposition of a hotel or motel tax for a period of time no longer than three years from the date of its enactment. Nothing in this section shall prohibit the adoption and enactment of local laws, pursuant to the provisions of this section, upon the expiration of any other local law adopted pursuant to this section.

Decision:

- ☐ Revise as follows:
☐ Make no change

- B. We will update the references to the Superintendent of Insurance in §§ 177-51 and 177-52 to "Superintendent of Financial Services" pursuant to L. 2011, c. 62.

Art. X, Cold War Veterans Exemption*L.L. No. 5-2010*

- A. The definitions in § 177-66 appear to have been copied from Subdivision 1 of § 458-b of the Real Property Tax Law. The City might want to consider simply referencing the definitions in the statute.

Decision:

X Replace § 177-66 with: "Terms used in this article shall be defined as provided in § 458-b, Subdivision 1, of the Real Property Tax Law."

- ☐ Retain definitions

- B. We will update the references in this article to the New York State Board of Real Property Tax Services to the State Commissioner of Taxation and Finance, pursuant to L. 2010, c. 56. See the corresponding provisions in § 458-b of the Real Property Tax Law.

City of Rye, NY**Art. XI, Abatement for Rent-Controlled or Rent-Regulated Property Occupied by Senior Citizens or Persons with Disabilities***L.L. No. 8-2009*

Section 177-71 first provides, in Subsection A, that certain terms will have the definitions provided in § 457-b of the Real Property Tax Law but then provides, in Subsection B, for definitions of those terms. Typically when definitions in a statute or another law are referenced in the manner provided in Subsection A, the definitions themselves are not also included. Should Subsection B be deleted? Note that the eligibility requirements for disabled persons are described in Subdivision 5 of § 457-b; "disabled person" is not defined in Subdivision 1 of § 457-b. Perhaps § 177-71 could be replaced with the following:

The terms "dwelling unit," "head of household," "income," "income tax year," "increase in maximum rent or legal regulated rent" and "members of the household," as used in this article, shall have the definitions ascribed to them in the Real Property Tax Law § 467-b, Subdivision 1. To qualify as a disabled person for the purposes of this article, an individual must meet the eligibility requirements of Subdivision 5 of § 457-b of the Real Property Tax Law.

Decision:

☒ Replace § 177-71 as indicated

☐ Delete § 177-71A

☐ Make no change

Ch. 180, Taxicabs

2-4-1942

This chapter appears generally satisfactory. Section 180-14, which establishes fares, was recently amended in June 2012. Should a penalty be added for violations of this chapter?

Decision:

☒ Add reference to the penalty in § 1-15

☐ Add the following penalty:

☐ Make no change

Ch. 183, Tax Liens, Disposition of

L.L. No. 3-1964

This chapter was adopted in November 1964 and has never been amended. The City Comptroller should be consulted as to whether any revisions are needed to bring this chapter in line with current

procedures. We note that § 183-12 refers to Article 10 of the Tax Law, which article was repealed in 2004 (L. 2004, c. 60).

Decision:

- ☐ See revisions on enclosed copy
- ☐ Make no change

Ch. 185, Telecommunications

L.L. No. 9-1993

- A. Should the definition of "input selector switch" be deleted from § 185-5? The definition of "a/b switch or input selector switch" in this section was deleted in 1996, along with former § 185-39A(3), which dealt with the use of an a/b or input selector switch.

Decision:

- X Delete definition of "input selector switch"
 - ☐ Make no change
- B. Section 185-10A provides for filing a petition. We believe the word "position" in the last sentence is supposed to be "petition": "The ~~position~~ petition shall set forth the relief requested..."

Decision:

- X Revise as indicated
 - ☐ Make no change
- C. Section 185-17A provides for a civil penalty of up to \$250 for violations of this chapter. Is any revision desired?

Decision:

- ☐ Revise as follows:
 - X Make no change
- D. There are references in §§ 185-46C(1) and 185-84 to the New York State Commission on Cable Television (NYSCCT). Provisions in the Executive Law relating to this Commission were repealed in 1995, and the definition of "NYSCCT" in § 185-5 was repealed in 1996.

City of Rye, NY

Should these references be updated to the New York State Public Service Commission (PSC)?

Decision:

☒ Update references to State Public Service Commission

☐ Revise as follows:

☐ Make no change

- E. In § 185-46C(5) is the wording "mobile park owners" supposed to read "mobile home park owners"?

Decision:

☒ Revise to "mobile home park owners"

☐ Make no change

Ch. 187, Trees

L.L. No. 17-1990

- A. In the definition of "Tree Foreman" in § 187-2 should the reference to the Superintendent of Public Works be updated to refer to the City Engineer? There are no other references in the Code to a Superintendent of Public Works.

Decision:

☐ Update to City Engineer

☐ Revise as follows:

☐ Make no change

- B. Section 187-17B provides for a civil penalty of \$250 for each tree removed, cut down or destroyed in violation of this chapter. Is this amount still satisfactory?

Decision:

☐ Revise as follows:

☐ Make no change

- C. Should a penalty be added for other violations of this chapter, such as planting a tree on public property without a permit (§ 187-3) or injuring trees (§ 187-4)?

Decision:

- ☐ Add reference to the penalty in § 1-15
- ☐ Add the following penalty:
- ☐ Make no change

Ch. 191, Vehicles and Traffic

Part 1, General Regulations

2-4-1942

- A. The City might want to take this opportunity to have the traffic and parking regulations listed in Articles II and III checked against current signage in the City.

Decision:

- ☐ See revisions on enclosed copy
- ☐ No changes will be made at this time

- B. Section 191-29, Horses, dates from 1942. Is this section still needed?

Decision:

- X Delete § 191-29
- ☐ Retain § 191-29

- C. The penalties set forth in §§ 191-31 through 191-35 for various violations of this chapter should be reviewed to ensure they are still satisfactory. The City might want to review the penalties for traffic infractions prescribed by § 1800 of the Vehicle and Traffic Law.

Decision:

- ☐ See revisions on enclosed copy
- ☐ Make no change

Part 2, Metered Parking

7-21-1954

Section 191-44 states that violation of § 191-41 (misuse of meters) shall be punishable by a fine not exceeding \$300. Section 191-44 is part of Article VII, Off-Street Metered Parking. According to

City of Rye, NY

§ 191-32, a violation of Article VII is punishable by a fine of not less than \$50 nor more than \$200 or by imprisonment for not more than five days, or both.

Decision:

- ☐ Delete § 191-44 as covered by the penalty in § 191-32
- ☒ Add "where no other penalty is provided" in § 191-32
- ☐ Other:

Part 3, Commuter Parking

1-19-1955

The definition in § 191-45 contains outdated references to the Vehicle and Traffic Law. The terms listed are defined in §§ 159, 129, 128 and 131 of the Vehicle and Traffic Law, respectively. We will update these references accordingly. Otherwise Part 3 appears satisfactory as written, provided that it reflects current practice.

Ch. 194, Water

Art. I, Water Conservation

10-21-1953

- A. This article dates from 1953. Are these provisions still in use? We note that § 1125, Water supply emergency plans, of the Public Health Law was added in 1987 (L. 1987, c. 590) and requires any person who owns or operates a community water system that supplies drinking water to more than 3,300 people to prepare an emergency plan.

Decision:

- ☐ See revisions on enclosed copy
 - ☒ Make no change
- B. Section 194-2, Penalties for offenses.
 - (1) The following wording which appears in this section is generally considered to be outdated under the current State Penal Law and is not used in any other penalty sections in the Code: "shall be deemed to be a disorderly person and shall be

prosecuted as such." Section 240.20 of the Penal Law now specifically defines "disorderly conduct."

Decision:

- ☒ X Delete indicated wording
- ☐ Retain this wording

- (2) This section sets the penalty for violations of this article at a fine of not more than \$50 or imprisonment for not more than 30 days, or both. Is any revision desired?

Decision:

- ☐ Revise to \$250/15 days
- ☐ Revise as follows:
- ☐ Make no change

Ch. 195, Wetlands and Watercourses

L.L. No. 28-1991

- A. Sections 195-1B(2), 195-4B(1), 195-6 and 195-11B refer to the "Conservation Commission/Advisory Council." All other references in the Code to this Commission read simply "Conservation Commission." The term "Advisory Council" does not appear anywhere else.

Decision:

- ☐ Delete "/Advisory Council"
- ☐ Revise as follows:
- ☐ Make no change

- B. Section 195-5J, Consultants and related fees, added in 1997, has expired. Subsection J(1)(g) provided for expiration after two years. These provisions are now covered by Chapter 87, Escrow Provisions.

Decision:

- ☒ X Replace § 195-5J with: "Applications under this section are subject to the requirements of Chapter 87, Escrow Provisions, of this Code."
- ☐ Delete § 195-5J
- ☐ Other:

City of Rye, NY

- C. The penalties in § 195-7 should be reviewed to ensure they are still satisfactory. Subsection A provides for a civil penalty of not more than \$3,000 and Subsection B provides for the following criminal sanctions: not less than \$500 nor more than \$1,000 for a first offense and not less than \$1,000 nor more than \$2,000 or imprisonment for not more than 15 days, or both, for a second or subsequent offense.

Decision:

- ☐ Revise as follows:
X Make no change

Ch. 196, Wireless Telecommunications Facilities

L.L. No. 9-1998

- A. In § 196-6 we question whether the following wording in Subsection B could be deleted as similar wording is already provided in Subsections A(2):

§ 196-6A(2): If the proposed property site is not the highest priority listed above, then a detailed explanation must be provided as to why a site of a higher priority was not selected.

§ 196-6B: If the site selected is not the highest priority, then a detailed written explanation as to why sites of a higher priority were not selected shall be included with the application.

Decision:

- ☐ Delete indicated wording from § 196-6B
☐ Revise as follows:
☐ Make no change

- B. Section 196-13 provides for an escrow account and payment of consultant fees. Is this section still in use or would Chapter 87, Escrow Provisions, adopted in 2010, apply to applications under this chapter?

Decision:

- ☐ Revise as follows:
☐ Make no change

- C. Section 196-16A provides that "The Council will undertake a review of an application pursuant to this chapter in a timely fashion and shall act within a reasonable period of time." In November 2009 the Federal Communications Commission (FCC) issued a Declaratory Ruling regarding wireless communication facilities which established application processing timeframes (the "shot clock" rules). Pursuant to the FCC rules, cell tower applications must be processed within 90 days if the application is for co-location

and 150 days if the application is for a new tower. Perhaps § 196-16A could be revised as follows:

Following receipt of a complete application for a special use permit as provided in this chapter, the Council will undertake a review and shall act on the application within 90 days if the application is for co-location or within 150 days for other applications.

Decision:

- ☐ Revise as indicated
- ☐ Revise as follows:
- ☐ Make no change

- D. Section 196-19A establishes the following application fees: \$3,000 for co-location and \$5,000 for a new facility. Are these amounts current?

Decision:

- ☐ Revise to state that fees are set by Council resolution
- ☐ Revise as follows:
- ☐ Make no change

- E. The penalties in § 196-25 should be reviewed to ensure they are still satisfactory. Subsection A provides for a civil penalty of not more than \$3,000 and Subsection B provides for the following criminal sanctions: not less than \$500 nor more than \$1,000 for a first offense and not less than \$1,000 nor more than \$2,000 or imprisonment for not more than 15 days, or both, for a second or subsequent offense.

Decision:

- ☐ Revise as follows:
- ☐ Make no change

- F. Section 196-32 provides that this chapter shall be subject to the same penalties as set forth in Chapter 197, Zoning. This provision does not make sense, as § 196-25 prescribes penalties for this chapter, and these penalties are different from the penalties for violations of Chapter 197 prescribed in § 197-84E.

Decision:

- ☐ Delete "and subject to the same penalties as set forth therein"
- ☐ Revise as follows:

City of Rye, NY

Ch. 197, Zoning

5-2-1956

- A. The republication of the City Code means that the entire Zoning Chapter will be reprinted. This provides the City with an excellent opportunity to update the overall structure of this chapter. We have prepared a Revised Table of Contents for this chapter which is included at the end of this Editorial Analysis. We strongly recommend that the City at least consider these changes, as the opportunity to update the entire chapter at once will not likely happen again for some time. The Revised Table of Contents provides for the following:
- (1) The elimination of point sections in the section numbering (197-5.1, 197-13.1).
 - (2) The elimination of "reserved" sections. Any historical information (histories, footnotes, etc.) regarding repealed material will be retained.
 - (3) Grouping related material together with clearer structure. For example, a new article title "Off-Street Parking" is created to contain the seven sections dealing with off-street parking facilities, making it easier to locate these provisions.
 - (4) Moving the use regulations currently designated of Columns 1, 2 and 3 of Tables A, B and C at the end of the chapter into the text as regularly numbered articles and sections. See proposed Articles IV, V and VI. Tables are typically used to present material that consists mostly of numbers rather than text. It is very unusual for this amount of text to be set up as a table. Doing so makes it difficult to reference and index this material. We typically see use regulations included in the body of the chapter while the dimensional and bulk regulations, which consist mostly of numbers, are included in tables at the end of the chapter.

Decision:

X Reorganization of chapter as shown on Revised Table of Contents is approved

- ☐ The following changes only can be made:
- ☐ Do not make any of the suggested changes

- B. Section 197-1, Definitions and usage.

- (1) The definition of "Flood Boundary and Floodway Map" refers to a map effective April 1, 1980. Is any revision needed to this definition and the other floodplain provisions in this chapter in light of the adoption of Local Law No. 5-2007 (Chapter

100, Floodplain Management)? See in particular the definition of "Flood Boundary and Floodway Map" in § 100-2 and the maps listed in § 100-3B(1).

Decision:

☒ X Revise definition of "Flood Boundary and Floodway Map" to match the definition in § 100-2

☐ ☐ Revise as follows:

☐ Make no change

- (2) The definition of "highway, arterial" contains an outdated reference to the State Superintendent of Public Works. The former State Department of Public Works was absorbed into the State Department of Transportation in 1967. See Highway Law Article XII-B, State Arterial Highways Passing through Cities (L. 1944, c. 543).

Decision:

☒ X Update to Commissioner of Transportation

☐ Revise as follows:

- C. Section 197-3, Zoning Map; Parking Districts Map. Should hard copies of these maps be included in the new Code? If so, please provide current copies. We have the two-sheet Parking Districts Map adopted in 1979. Many of our clients choose not to include such maps in the Code now that they can be made available online.

Decision:

☒ X Include paper maps in Code; current copies enclosed

☐ Include files for current maps with on-line code; files have been e-mailed to ezsupp@generalcode.com

☐ Do not include maps

- D. Is § 197-5.1, Floodplain zoning, added in 1978, still needed in light of the more detailed provisions in Chapter 100, Floodplain Management? See in particular § 100-5, Construction standards.

Decision:

☒ X Delete § 197-5.1 as superseded by Chapter 100

☐ Revise as follows:

☐ Make no change

City of Rye, NY

E. Section 197-7, Site development plan.

- (1) The terms "site plan" and "site development plan" are both used. These references should be made consistent. The more common term is "site plan."

Decision:

- ☒ Use "site plan"
- ☐ Use "site development plan"
- ☐ Retain both terms

- (2) In Subsection A(1)(d) the cross-reference to Subsection A(2) should be deleted, as that subsection was repealed in 1991.

Decision:

- ☒ Delete cross-reference to Subsection A(2)
- ☐ Revise as follows:
- ☐ Make no change

- (3) Subsection A(1)(d) also refers to "Section 8-4.1 of the General Ordinances of the City." The City might want to clarify this reference.

Decision:

- ☐ Revise as follows:
- ☒ Delete entire subsection
- ☐ Make no change

- (4) This section provides for site plans to follow the same approval procedure as subdivision plats and refers to a "preliminary site development plan" and a "final site development plan." General City Law § 27-a establishes the procedure for site plan review, which is quite different from the procedure for subdivision plat review under § 32 of the General City Law and in Chapter 170 of the City Code. Is any revision needed? Note that Subdivision 8 of General City Law § 27-a provides as follows:

Public hearing and decision on site plans. In the event a public hearing is required by ordinance or local law adopted by the legislative body, the authorized board shall conduct a public hearing within sixty-two days from the day an application is received on any matter referred to it under this section. The authorized board shall mail notice of said hearing to the applicant at least ten days before said hearing and shall give public notice of said hearing in a newspaper of general circulation in the city at least five days prior to the date thereof and shall make a decision on the application within sixty-two days after such hearing, or after the day the application is received if no hearing has been held. The time within which the authorized board must render its decision may be extended by mutual consent of the applicant and

such board. The decision of the authorized board shall be filed in the office of the city clerk within five business days after such decision is rendered, and a copy thereof mailed to the applicant. Nothing herein shall preclude the holding of a public hearing on any matter on which a public hearing is not so required.

Decision:

- ☐ See revisions on enclosed copy
- ☐ Make no change

F. Section 197-10, Uses permitted subject to additional standards and requirements.

- (1) Subsection A provides for the Planning Commission to conduct a public hearing upon an application for this type of use and file a report with the Building Inspector within 90 days. Does this subsection reflect current practice? We typically see this type of authorization referred to as a "special use permit" with administration as provided in § 27-b of the General City Law, which provides for a public hearing within 62 days of the filing of the application and action by the Planning Commission within 62 days after the close of the hearing.

Decision:

- X Change 90 days to 62 days
- ☐ Revise as follows:
- ☐ Make no change

- (2) In Subsection C, should the references to "Subsection A(1) to (6)" be updated to "Subsection A(1) to (7)" or simply "Subsection A"? Subsection A(7) was added in 1991.

Decision:

- ☐ Revise to "Subsection A"
- X Revise to "Subsection A(1) to (7)"
- ☐ Make no change

G. Former § 197-13.2, Landmarks Preservation District – Alansten, was repealed in 1999. However, this district (LPD-A) is still listed in § 197-2; in the schedule of parking requirements in § 197-28A; and in the tables of regulations at the end of this chapter.

Decision:

- X Delete all references to the LPD-A District
- ☐ Make no change

City of Rye, NY

- H. In § 197-22A(2) the wording "except advertising signs permitted in § 197-15" requires revision. Section 197-15 was repealed in 1999. Chapter 165, Signs, does not use the term "advertising sign."

Decision:

X Delete 197-22 in its entirety

- ☐ Revise to read "except signs permitted in Chapter 165, Signs, of this Code"
- ☐ Revise as follows:

- I. Sections 197-25 through 197-31 deal with off-street parking.

- (1) Former § 197-27, Payment of fee in lieu of parking space requirements, was repealed in 1989. We question whether the following wording should be deleted in light of the repeal of § 197-27; note that § 197-26.1 specifically refers to the repealed section:
- (a) In § 197-25: "except as provided herein for the A and B Parking Districts where an agreement has been entered into to make payments or payment has been made in full in lieu of providing required on-site parking."
- (b) In § 197-26B: " In the event that a prior agreement was entered into to make payments or payment has been made in full in lieu of providing required on-site parking in the A or B Parking District, the number of on-site parking spaces represented by said agreement or payment in full shall be counted as existing on-site parking, provided that the property owner is not in default of making said payments."
- (c) In § 197-26.1: "unless the Planning Commission has approved a payment in lieu thereof as provided for in § 197-27 of this chapter. Fees paid in lieu of providing on-site parking shall be noted on the approved site development plan and thereafter credited as existing on-site parking."

Decision:

X Delete indicated wording

- ☐ Revise as follows:

- (2) In the schedule of parking requirements in § 197-28A we will convert the notes from asterisks (****) to numbers (⁴). This change will save space within the table and make it easier to know which note is being referenced (instead of having to count the asterisks). If there are any questions in this regard please contact the project editor.

J. Article V, Lot, Floor Area, Height, Yard and Court Regulations.

- (1) In § 197-38 the reference to the definition of "lodging house" seems incorrect. Should this reference be to the definition of "lot"?

Decision:

- ☐ Change "lodging house" to "lot"
X Revise as follows: Delete 197-38
☐ Make no change

- (2) Section 197-68B, regarding tennis courts and pools, contains the same provisions as § 170-17A(3) in Chapter 170, Subdivision of Land, except that § 197-68B(1) requires a setback "at least equal to the number of proposed residences times 10 feet" while § 170-17A(3)(a)[1] requires a setback "at least equal to the number of proposed residences times 20 feet in R-1 Districts and 15 feet in all other districts." Should these sections be made consistent?

Decision:

- ☐ Revise as follows:
X Make no change

K. Article VI, Appeals

- (1) We question whether § 197-79, Creation of Board of Appeals, should be deleted as superseded by Article 20, Board of Appeals, of the City Charter.

Decision:

- X Delete § 197-79
☐ Retain § 197-79

- (2) In § 197-81 it appears that the references to "such ordinance or local law" should be changed to "this chapter." The wording "such ordinance or local law" is used in the statute (General City Law § 81-b) to refer to the local zoning law.

Decision:

- X Revise as indicated
☐ Make no change

City of Rye, NY**L. Section 197-84, Enforcement.**

- (1) Subsection E sets the penalty for violations of this chapter at a fine of not more than \$250 or imprisonment for not more than 15 days, or both. Is this penalty still satisfactory?

Decision:

- ☐ Revise as follows:
X Make no change

- (2) Subsection F(1)(k), regarding consultant fees, has expired and should be removed. See Subsection F(1)(k)[7]. These provisions are now covered by Chapter 87, Escrow Provisions.

Decision:

X Replace Subsection F(1)(k) with: "Applications under this chapter may ~~shall~~ be subject to the requirements of Chapter 87, Escrow Provisions, of the City Code"

- ☐ Delete this subsection in its entirety
☐ Other:

- M. Section 239-nn was added to the General Municipal Law by L. 2005, c. 658, and requires notification of adjoining municipalities in planning and zoning matters. Ten days' notice is required for hearings on the issuance of a special use permit or granting of a use variance for property within 500 feet of the adjacent municipality and for site plan review and approval on property that is within 500 feet of the adjacent municipality. The City might want to consider adding a section to this chapter reflecting this requirement, such as the following:

The Planning Commission, Board of Appeals or City Council, as applicable, shall give notice to an adjacent municipality * when a hearing is held by such body relating to the issuance of a special use permit, the granting of a use variance or site plan review and approval on property that is within 500 feet of the adjacent municipality.

Decision:

X Add wording as indicted including after adjacent municipality * – as required by General Municipal Law and Westchester County Administrative Code

- ☐ Add the following:
☐ Make no change

- N. In Table C, Column 3, Permitted Accessory Uses, Subsection (2)(f) under the MC Districts provides that "fences not less than three-fourths-inch open construction shall be permitted up to 12 feet in height around tennis courts and other similar facilities." Sections 170-17A(3)(a)[3] and 197-68B refer to open mesh fences not higher than 10 feet:

Fence heights shall not be in excess of six feet above the average natural grade, except that fences not exceeding a height of 10 feet above the average natural grade, which are open mesh and are set back and screened, as required for tennis and other similar courts, are permitted and may be equipped with the customary attached windbreaks.

Decision:

- ☐ Revise to read "fences which are open mesh shall be permitted up to 10 feet in height around tennis courts and similar facilities"
- ☐ Revise as follows:
 - X Make no change

Additional suggested changes to Chapter 197

- **Delete § 197-7(c)**
- **Delete § 197-40**
- **Delete § 197-71**
- **Convert Use Regulations to Table format**

City of Rye, NY

WRAP UP

Completeness Check

In order to ensure that the codification project can be scheduled for final editing upon return of this Editorial Analysis to General Code, please double-check the following items prior to sending:

- ❑ Binder and Seal information on p. 7: Is the table completed? Is the Seal attached (or has it been e-mailed) if required?
- ❑ Throughout the Editorial Analysis, are all questions answered?
 - The only blank boxes should be for topics that are to be deleted or included "as is."
 - Items marked with a question mark or a note "to be reviewed" cannot be accurately edited and require follow-up. It is most efficient for the City officials to get the answer now, when the whole document is available.
- ❑ Are all attachments accounted for? If a checkbox refers to "enclosed copy" is there a corresponding document?

Final Review

- ❑ The Municipal Attorney has been consulted about and/or has reviewed and approved the decisions in this document.
- ❑ Sample language and any wording supplied by the municipality has been customized according to your specific requirements.

Sending Materials

The Editorial Analysis and any documents with a decision or revised wording should be submitted.

We strongly suggest that you make a photocopy for your records before sending General Code the original materials.

- ✓ If several officials have completed their own copies of the Editorial Analysis, please compile all responses into one comprehensive version. Any conflicts in responses should be resolved prior to submission.
- ✓ If several officials have worked in the same copy of the Editorial Analysis, that version can be sent to General Code, as long as there are no conflicts in the responses.

Send materials to:

General Code
781 Elmgrove Road
Rochester, NY 14624

E-mail files to:

ezsupp@generalcode.com



CITY COUNCIL AGENDA

NO. 6

DEPT.: Planning

DATE: March 12, 2014

CONTACT: Christian K. Miller, AICP, City Planner

AGENDA ITEM: Continuation of the Public Hearing to change the zoning designation of County-owned property located on Theodore Fremd Avenue and North street to the RA-5 District to provide for the construction of affordable senior housing.

FOR THE MEETING OF:

March 12, 2014

RYE CITY CODE,

CHAPTER 197
SECTION 3

RECOMMENDATION: That the City Council hold a Public Hearing to amend the zoning designation of the County-owned property on Theodore Fremd Avenue.

IMPACT: ☒ Environmental ☐ Fiscal ☒ Neighborhood ☐ Other:

BACKGROUND:

The petitioner, Lazz Development/Pawling Holdings, seeks an amendment to the City Zoning Map to change the zoning district designation of an approximately 2.0-acre property located on Theodore Fremd Avenue and North Street. The request would change the zoning of the Westchester County-owned property from the B-6, *General Business*, District and the B-1, *Neighborhood Business*, District to the RA-5, *Senior Citizen's Apartment*, District. The petitioner is seeking to construct fifty-four (54) units of age-restricted housing located in two buildings. The proposal would be limited to those over age 55 and consist of 44 one-bedroom units and 10 two-bedroom units. The proposed units would also be affordable and 27 of these units would count towards Rye's contribution to the 750 units of fair and affordable housing Westchester County is obligated to provide as part of a stipulation of settlement with the U.S. Department of Housing and Urban Development (HUD). It is noted that the proposed zoning change is the same district as adopted by the City Council in the mid-1980s to accommodate the nearly 100 units of affordable senior housing at 300 Theall Road. The matter was referred to the City Planning Commission and a recommendation memo was provided to the City Council. Westchester County has provided its advisory comments on the matter.

Nick Everett, Chairman
Martha Monserrate, Vice Chair
Laura Brett
Barbara Cummings
Hugh Greechan
Peter Olsen
Alfred Vitiello



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CITY OF RYE Planning Commission

Memorandum

To: Rye City Council

From: Rye City Planning Commission
Christian K. Miller, City Planner

cc: Scott Pickup, City Manager
Kristen K. Wilson, Esq., Corporation Counsel

Date: February 5, 2014

Subject: **Recommendation to the Rye City Council Regarding the Petition of Lazz Development/Pawling Holdings to Change the Zoning Designation of County-Owned Property Located on Theodore Fremd Avenue and North Street to the RA-5, *Senior Citizens Apartment*, District to Provide for the Construction of Affordable Senior Housing.**

As requested, this memorandum provides the Planning Commission's recommendation to the Rye City Council regarding the petition of Lazz Development/Pawling Holdings to change the zoning designation of Westchester County-owned property located on Theodore Fremd Avenue and North Street to the RA-5, *Senior Citizens Apartment*, District to provide for the construction of affordable senior housing. This memorandum was prepared by the City Planner and reviewed and unanimously approved by the Planning Commission at its February 4, 2014 meeting.

Background

On or about December 10, 2013, the City Council received a petition from Lazz Development/Pawling Holdings to change the zoning of a property located at 150 North Street. The approximately 2.080-acre property has frontage on North Street, but is commonly referred to by its accessible frontage on Theodore Fremd Avenue rather than its legal address of 150 North Street. The request would change the zoning of the Westchester County-owned property from the B-6, *General Business*, District and the B-1, *Neighborhood Business*, District to the RA-5, *Senior Citizen's Apartment*, District (see Exhibit 1).

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The existing zoning districts applicable to the property do not permit multi-family housing. The proposed zoning change to the RA-5 District would permit (and limit) future construction on the property to affordable senior housing. The petitioner has represented that if the zoning change is granted, he would seek subsequent approvals from the Rye City Planning Commission to construct approximately fifty-four (54) units of affordable age-restricted housing located in two buildings. The proposal would be limited to those over age 55 and consist of approximately 44 one-bedroom units and 10 two-bedroom units.

The proposed RA-5 District for the property is the same district adopted by the City Council in the mid-1980s to accommodate the nearly 100 units of affordable senior housing on an approximately 2-acre site at 300 Theall Road, also known as Rye Manor. The proposed units would be affordable and a minimum of 27 of the units would count towards the 750 units of fair and affordable housing that Westchester County is obligated to provide within 31 eligible municipalities as part of a stipulation of settlement with the U.S. Department of Housing and Urban Development (HUD). Rye has been identified in the housing settlement as one of the 31 eligible Westchester County communities.

The subject property has long been considered for affordable housing by the City of Rye. In the early 1990s a local not-for-profit in partnership with the City of Rye sought to change the zoning of the property to construct 12 two-family units (i.e. 24 total units). That proposal and the required zoning change were never advanced due to the identification of sub-surface contamination on the property in 1993. Since that time the property has been subject to an environmental clean-up, but the City continued to periodically advocate for its use as an affordable housing site (see Exhibit 2).

Unlike the affordable housing proposal twenty years ago the City of Rye is not a partner in the construction, property ownership or administration of the affordable housing units. Westchester County is the property owner and the petitioner is the County's preferred developer for the property. The City of Rye's role is typical of any other land use application, which is to review and consider the land use policy implications of the request.

Westchester County's interest is to advance its obligation under the housing settlement. The property in Rye is unique because there are few (if any) undeveloped County-owned properties within one of the 31 eligible housing settlement communities. It's also unique because the City has a 20-year history of advocating for the development of affordable housing. Rye's historic advocacy for affordable housing does not constitute a commitment or obligation to approve the petitioner's request, but is relevant in terms of the planning context and the City's affordable housing policy.

The petitioner's interest is to develop affordable housing. The petitioner has constructed a number of affordable housing communities in the Sound Shore area,

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including 27 units in two separate projects on Cottage Street in Rye. Both of those projects required the City's Council's legislative authority to either amend the City Zoning Code or de-map an unused road right-of-way. In an August 9, 2013 letter the Petitioner received authorization from Westchester County "to seek all necessary approvals from the City of Rye..." (see Exhibit 3). This letter was provided to the City and forwarded to the City Council on August 16, 2013. This letter was expected based on a meeting City Council members and staff attended at Westchester County in June 2013. A summary of that meeting was provided to the City Council (see Exhibit 4).

The City's interest is to potentially advance identified affordable housing needs in the area consistent with its land use planning and other policies. The County has only a limited allocation of housing that it can designate as age-restricted towards the 750-unit obligation under the settlement. If that age-restricted allocation is lost to another community, there will continue to be pressure to develop the County-owned property in Rye for affordable housing without the age restriction. Age-restricted housing eliminates the potential for the generation of school-age children and the potential for a land use outcome in which potential municipal and school district service costs from the proposed development exceed anticipated property tax revenue.

Zoning Petition Review Process

Any change to the City Zoning Code or Map is a discretionary action of the City Council. As is typical in most communities, legislative actions involving land use matters are referred to the City Planning Commission for its review and comment. The specific action under consideration is a local law to amend the City Zoning Map to change the zoning district designation of the subject property to the RA-5 District. The minimum legal requirements to implement the local law are as follows:

1. *Local Law and Petition Referral.* The draft local law and petition must be referred to the Westchester County Planning Board pursuant to Section 239-m of the GML and Section 451 of the Westchester County Administrative Code. This information was forwarded to the County on December 24, 2013. The City Council cannot take an action on the petition until it receives a response from the County or until 30 calendar days has passed from the date of such referral. That response was provided on January 30, 2014 (see Exhibit 5).
2. *Public Hearing.* As with any law change a public hearing is required and notification of such hearing must be published in the City's official newspaper. Unlike New York State Town or Village Law, Section 83 of the General City Law does not require any additional notification (e.g. signage on the property, mailing of hearing notice, etc.) to property owners affected by or within the vicinity of the proposed zoning change.

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3. *SEQR.* Before making a decision on the local law, the City Council must comply with the requirements of State Environmental Quality Review (SEQR) and conduct an environmental assessment of the proposed action. The City Council has already taken the first step in this process by declaring at its December 18, 2013 meeting its intent to be Lead Agency for the environmental review. On December 24, 2013, staff circulated the Council's intent to be Lead Agency to other involved agencies. There has been no objection to the City Council being Lead Agency within the minimum required 30-day objection period. The City Council is therefore the Lead Agency at this time. As Lead Agency, the City Council must review the environmental assessment form (EAF) submitted by the applicant and conduct its own assessment of potentially adverse environmental impacts. If the Council finds that the proposed action does not have any significant adverse environmental impacts and issues a "Negative Declaration" a decision on the local law can be made. If the Council finds that there are potentially significant adverse impacts associated with the proposed action a "Positive Declaration" must be issued requiring a more involved environmental review. This review involves a number of procedural requirements and typically takes at least a year to complete.
4. *Decision.* After conducting and closing the public hearing and completing the SEQR process the City Council can make a decision. A simple majority vote is required for the adoption of the local law. A super majority vote of the Council (i.e. a minimum of three-fourths of the members) is required if twenty percent or more of property owners subject to the zoning change or within 100 feet therefrom submit a written protest to the request. Based on a preliminary review it appears that a written objection by just three property owners within 100 feet of the site would trigger a super majority vote (or 6 of the 7 City Council members) to approve the zoning request.

Westchester County HUD Settlement and Its Implications for Rye

In 2009 Westchester County entered into an agreement with the U.S. Department of Housing and Urban Development (HUD) to settle a lawsuit. The civil lawsuit was initiated by the Anti-Discrimination Center of Metro New York, Inc. The lawsuit alleged that the County failed to affirmatively further fair housing (AFFH) in its administration of federal funds including the Community Development Block Grant (CDBG) program and other federal programs. Specially, the lawsuit alleged that the County did not conduct a meaningful Analysis of Impediments (AI) to fair housing choice and did not take appropriate actions to overcome the effects of any impediments identified through that analysis. The County's failure to comply with that obligation as a recipient of federal funds was alleged to be a violation of the False Claims Act.

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There are many requirements of the stipulation of settlement. One requirement is that the County fund 750 affordable housing units within five years within eligible U.S Census Tracts of 31 municipalities in Westchester County. Eligible census tracts were identified as those having low percentages of minority populations. To date, the County has funded the construction of 27 affordable housing units in the City of Rye that count towards the 750-unit requirement. The City is not bound by the terms of the Settlement and is not required to approve any fair and affordable housing units, but has advanced affordable housing proposals when they were consistent with the land use, planning and housing objectives of the City.

A second significant requirement of the settlement is that the County is responsible for promoting and advancing a model affordable housing ordinance in each of the 31 eligible municipalities. The model ordinance, which was approved by the Monitor in October 2010, includes provisions to promote affordable housing including inclusionary zoning requirements, recommendations to increase multi-family housing zoning and other provisions. Westchester County is aggressively promoting the model ordinance, but no community is required to adopt it. In fact, most communities have not adopted it in full and many communities (including Rye) continue to review the model ordinance for its appropriateness given the existing land use planning and legal context.

A final significant requirement of the settlement relevant to Rye is that the City cannot receive CDBG and other federal funds administered by the County unless it advances fair and affordable housing. The City currently receives no such funding and therefore has no obligation.

The County and the monitor retained by HUD to oversee the implementation of the settlement have identified the County-owned property at 150 North Street as an opportunity to provide additional affordable housing in Rye. There have been conversations with the County and the City over the years both before and after the Settlement to discuss the potential for affordable housing at this location, but there has been no commitment by either party as to a specific development program. It has always been understood that any final action would require City Council approval because the property is not currently zoned for multi-family use.

In March 2013, Rye along with the other the 31 eligible communities identified in the Settlement were surprised to receive a "report card" directly from the Federal Monitor. Westchester County was not aware that report cards were being sent to communities, none of which are not party to the Settlement. The report card included an assessment of each community's existing zoning code.

In many, if not all, cases the report cards were critical of the lack of multi-family zoning in each community and repeatedly stated that more land use changes would be needed to accommodate affordable housing needs. The need was not for the implementation of the 750 units under the Stipulation, but rather the need identified in the 2005 Affordable

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Housing Allocation Plan prepared by the Westchester County Housing Opportunities Commission. This allocation plan was not adopted by the Westchester County Board of Legislators and is considered an advisory document. That document recommends the need for over 10,000 affordable housing units in Westchester County, which is significantly higher than the 750 units under the stipulation.

In the case of Rye the unadopted report allocates 167 affordable housing units in the City. The monitor's report card uses that number as the basis for his analysis of affordable housing deficiency. He notes that of the 167 units the City has already provided 27 under the Settlement leaving 140 affordable units of "required" allocation for the City. Accommodating this number of units in the City, particularly under the preferred 90/10 inclusionary development scenario recommended by the monitor will require very aggressive land use changes by the City Council.

As the City Council considers the petitioner's request it should be mindful of these non-binding affordable housing allocations. Development of additional affordable housing at this location could significantly advance the City's contribution to meeting affordable housing needs both under the settlement and the advisory housing allocation plan. At this time Westchester County has stated that a minimum of 27 of the proposed affordable housing units at the petitioner's site could be "counted" towards the housing settlement. Providing affordable housing units may help address some of the criticism of the City's land use and affordable housing policies.

Planning Analysis

The City Planning Commission supports the zoning petition and finds that the proposed use is consistent with the City's historic and future planning policies and housing objectives. In reaching this finding the Planning Commission considered the full development potential of the property under existing, planned and proposed zoning, the precedent established by the application of the RA-5 District and the compatibility of the requested change with surrounding land uses.

The petitioner has proposed a specific use and site plan for the property. As with all zone changes, however, the proper planning analysis requires an assessment not of the petitioner's specific proposal, but rather of the full development potential of the site after the zoning request is granted. Plans can and likely will change.

The petitioner's site plan accompanying his request proposes two four-story buildings, where the lowest story is unenclosed parking. The plan submitted shows approximately 75,600 square feet of total development, 90 parking spaces for an estimated 54 units and compliant with all other bulk and dimensional restrictions of the RA-5 District. This plan represents about 83% of the maximum development potential permitted under the proposed zoning. The proposed FAR of 1.0 is slightly higher than the 0.75 FAR permitted in the B-6 District located on the rear portion of the site and the 0.50 FAR

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permitted in the B-1 District located on the front of the site. The RA-5 District allows four stories within a maximum building height of 40 feet. The B-6 District allows just two stories, but the same building height of 40 feet. The B-1 District limits maximum building height to 2½ stories and 35 feet. The front yard setback for the proposed RA-5 District is 25 feet, which is greater than the 10-foot requirement for the B-1 and B-6 District. Side yard setback dimensions are also greater for the RA-5 District than the existing districts applicable to the site and the rear yard requirement is generally the same.

The RA-5 District is limited to just one use, which reads as follows:

Apartments for Senior Citizens and Handicapped. A detached residence for three or more families or housekeeping units or a group of buildings housing three or more families on one lot, undertaken by private nonprofit sponsors with public financial assistance, subject to the requirements of § 197-7.

In the event the conditions were to change after the zoning were established for the property the future use would continue to be limited to senior multi-family housing including an element of “public financial assistance” (i.e. affordable housing). On the other hand, the existing B-6 District allows a boarder range of uses including automotive uses, storage establishments, public transportation and utilities, service/contractor businesses, bus storage and repair, kennels and veterinary hospitals and limited manufacturing. The B-1 District allows offices, retail and personal service businesses, garages, apartments over stores, lodging houses, service/contractor businesses and social clubs and lodges.

The City Development Plan (1986) does not cite a specific written recommendation for the property or area, but generally encourages creating additional affordable housing opportunities in the City (see Plan, Chapter 1, *Residential Development*). The future land use plan designates this area for office (see Plan, p. 8-9). Since that time only the property at 350 Theodore Fremd Avenue has been developed as an office building under the B-1 District designation. Since the early 1990s the plan for the subject property has been for the development of the site for affordable housing. The Planning Commission believes that office as recommended in the Development Plan is not an economically viable use as evidenced by the long-standing high vacancy rate of office in the City and County and that a change in use is required. In the last few years the City has seen the conversion of a large office building to medical office and a request to amend the B-4 Office Building District to allow a hotel at 120 Old Post Road.

Residential at this location would be more compatible with the residential properties located opposite the site on Theodore Fremd Avenue than many of the uses permitted under the existing B-6 and B-1 District. The site is in close proximity to other non-residential uses including gas stations, a contractor's yard for a landscape business, the ConEdison property and the Metro-North Railroad and Interstate 95. The Commission

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notes other multi-family communities (both affordable and market-rate) and other residential neighborhoods located adjacent to transportation corridors that bisect the City.

The use of an existing zoning district classification in the City also is in keeping with the City's land use planning objectives. The RA-5 District specifically provides for the affordable housing needs for seniors. Expanding that district to other appropriate locations in the City is considered a desirable planning objective.

SEQRA Considerations

The Planning Commission has reviewed the environmental assessment form submitted with the zoning petition. As Lead Agency the City Council should consider the following potential impacts and mitigation measures associated with the project prior to making a determination of environmental significance.

- *Sub-surface Conditions.* As the City Council considers the petitioner's request it is recommended that it secure written confirmation from Westchester County Health Department regarding the status of the sub-surface contamination on the site and the status of the environmental clean-up. The Planning Commission understands based on the petitioner's representations that the County Health Department will require that future development at the site require elevating the first habitable story above grade. The Health Department should conduct a review of the proposed plan including all proposed surface and sub-surface improvements such as utilities, stormwater drainage measures and sewer connections.
- *Sanitary Sewer Service.* There is an existing sanitary sewer line that extends from Nursery Lane under I-95 and MNR tracks through the site to an existing connection in Theodore Fremd Avenue. The existing line is compromised and is difficult to service and maintain due to the high volume, high speed vehicular and rail traffic on a major regional transportation corridor. The City does not want to continue to maintain this existing sewer line through the site and accommodate the additional sewage flow from the petitioner's development. The Commission recommends that the existing public sewer line be abandoned and that the future development on the property be required to provide a new sewer connection from Nursery Lane to an existing sewer connection in North Street. This project has been identified in the City's Capital Improvement Program (CIP) for some time at a preliminary project cost of \$150,000. This is a substantial off-site improvement and may challenge the fiscal feasibility of the project depending on the availability of funding to the petitioner. The sewer modification and extension may also require securing easements from Nursery Lane property owners and Westchester County approval of the sewer design.

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- *Drainage/Wetland Impacts.* On its site inspection of the property, the Planning Commission noted a drainage pipe that extends from Theodore Fremd Avenue and discharges stormwater runoff from this roadway onto the site. It appears that this runoff has created what may be considered a wetland under the City's Wetlands and Watercourses Law¹. The proposed development appears that it will result in the wetland loss of a relatively low-functioning wetland and require a drainage plan to replace the stormwater quantity and quality functions of this on-site wetland. If the area is considered a wetland a wetland permit from the Planning Commission will be required as part of a future site plan review process.
- *Municipal Services.* The existing property is County-owned and therefore generates no property tax revenue. The proposed zoning change to allow senior development will generate tax revenue based on the income approach (as opposed to the value of construction approach used for single-family residences). The income approach would be based on the total value of the below market rents after project completion. Since the project is age-restricted there will be no school-age children costs. There would be City expenditures for some municipal services including for sanitation, emergency medical, police, fire and recreation services.
- *Community Character and Aesthetics.* The proposed RA-5 District with a floor area ratio (FAR) of 1.0 would result in development at a greater intensity than the existing B-6 (FAR 0.75) District and B-1 (FAR 0.5) District currently on the property. Existing zoning permits buildings at or close to the same overall 40-foot building height as the proposed RA-5 District. Existing zoning is limited to commercial/general business, which is consistent with existing commercial and transportation uses abutting the site, but potentially inconsistent with the single-family residential character across the street. Overall, the bulk and scale of development under the proposed RA-5 District would likely be greater than development under existing zoning for the site, but not necessarily inconsistent with the character of the surrounding area. Reducing the scale of the building is complicated by the restriction that there can be no units located on the ground level due to the sub-surface contamination on the site. The lowest floor will be used for parking, which counts as a story under the City's Zoning Code but not towards the maximum permitted floor area since the parking is not enclosed.
- *Traffic.* The proposed RA-5 District would generate additional traffic associated with a future senior housing project. The relatively low anticipated trip generation would not adversely impact the relatively high intersection levels of service (LOS). The ITE Trip Generation Manual (ninth edition) provides trip generation

¹ Question 13 of the petitioner's EAF indicates that there are no wetlands on the property. This petitioner should provide additional information supporting this conclusion.

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rates for two different types of senior housing units. The following was calculated by Brian Dempsey (Traffic and Pedestrian Safety Chair and NYS licensed traffic engineer) assuming a 60-unit senior housing development:

Senior Adult Housing Detached: Land Use 251

- Peak AM Hour of Adjacent Street: ranges from 5 in and 8 out to 14 in and 26 out
- Peak PM Hour of Adjacent Street: ranges from 10 in and 6 out to 19 in and 12 out
- Peak AM Hour of Generator: ranges from 7 in and 10 out to 15 in and 20 out
- Peak PM Hour of Generator: ranges from 11 in and 9 out to 31 in and 24 out
- Saturday Peak Hour of Generator: 7 in and 7 out (limited studies)

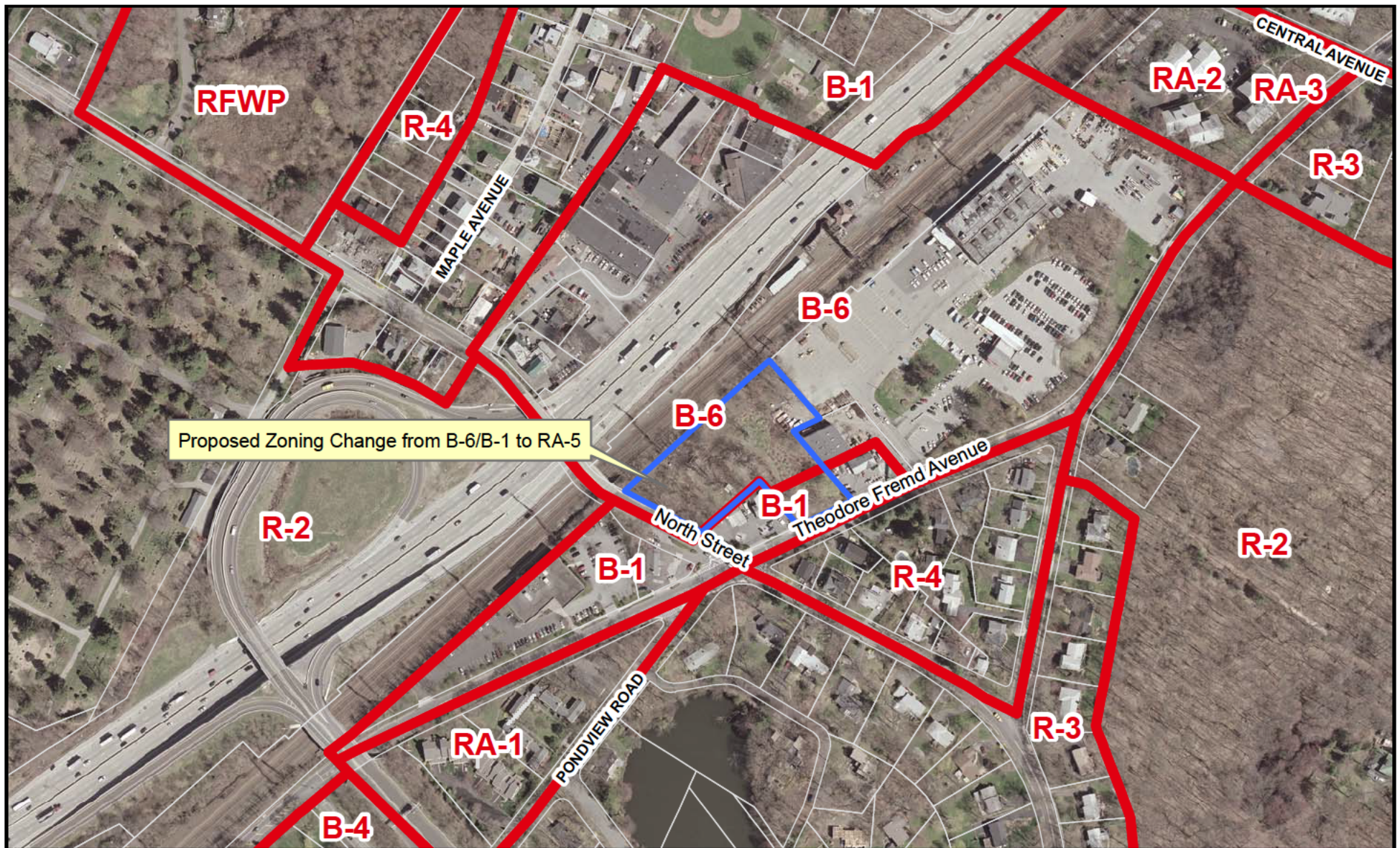
Senior Adult Housing Attached: Land Use 252

- Peak AM Hour of Adjacent Street: ranges from 4 in and 8 out to 4 in and 8 out
- Peak PM Hour of Adjacent Street: ranges from 8 in and 7 out to 9 in and 7 out
- Peak AM Hour of Generator: ranges from 11 in and 12 out to 11 in and 13 out
- Peak PM Hour of Generator: ranges from 10 in and 9 out to 12 in and 9 out
- Saturday Peak Hour of Generator: 11 in and 8 out (limited studies)

A recent traffic study conducted in connection with the sustainable Playland proposal shows that the Theodore Fremd Avenue/North Street intersection operates at the highest levels of service (i.e. "A" or "B"). This level of service is maintained in a 2016 future "build" scenario in the event the sustainable Playland project moves forward. It is also noted that the property is located along an existing bus route, which could potentially reduce trip generation. Given the relatively low trip generation rates associated with senior housing and existing intersection level of service adverse traffic impacts are not anticipated with the proposed change to the RA-5 District.

- *Reduction in Impacts.* As with any project potential impacts can be reduced or minimized by either the implementation of mitigation measures or the reduction in project scope. In considering impacts, the City Council should be mindful of the fact that the proposed RA-5 District requires that future development be affordable senior housing so project and off-site improvement costs and density are a significant consideration to make such projects economically viable, particularly given the incomes proposed to be served. The RA-5 District provides for a reasonable future development intensity that can create the opportunity to advance the City's affordable housing objectives.

City of Rye, New York



Zoning Districts - Theodore Fremd Area



At a regular meeting of the City Council held March 30, 2005, Councilwoman Larr made a motion, seconded by Mayor Otis and Councilman Chu, to adopt the following resolution:

WHEREAS, The Rye Commission on Human Rights commissioned a survey in 2003 to ascertain existing and projected affordable housing needs for residents and those who serve the community; and

WHEREAS, the survey was conducted during the summer of 2004 and the results presented to the Council at its regular meeting held March 9, 2005; and

WHEREAS, the Chairman of the Rye Commission on Human Rights made a request to the Council that it take action on several specific recommendations; now, therefore, be it

RESOLVED, that the Council strongly and unequivocally restates its interest in using the Theodore Fremd and North Street site, currently owned by the County, but in a state of contamination, to create 24 affordable housing units; and be it further

RESOLVED, that the Council urges the County to develop a complete and quick remediation plan for the Theodore Fremd and North Street site, and be it further

RESOLVED, that the City Manager urge the State Department of Environmental Conservation (DEC) to move meaningfully and expediently to develop a plan to decontaminate the Theodore Fremd and North Street site, and be it further

RESOLVED, that the Planning Commission specifically address the need for affordable housing among City employees, volunteer fire fighters and public and private school employees, as made clear from the response to the survey.

ROLL CALL:

AYES: Mayor Otis, Councilmen Chu, Cypher, Fahey, Larr and Seitz

NAYS: None

ABSENT: Councilman Hennes

STATE OF NEW YORK)
COUNTY OF WESTCHESTER)
CITY OF RYE)

THIS IS TO CERTIFY that I have compared the foregoing resolution with the original thereof, duly passed and adopted at a regular meeting of the Council of the City of Rye held on the 30th of March, 2005 by the affirmative vote of at least a majority of all members of said Council then in office, present and voting thereon, the vote upon passage thereof having been taken by recording the ayes and nays and duly entered in the minutes of said meeting of said Council and on file in this office, and **I DO HEREBY CERTIFY** said resolution to be a correct transcript thereof and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed the official seal of the City of Rye this 16th day of January 2016.

SEAL

Dawn F. Nodarse
DAWN F. NODARSE
CITY CLERK



Robert P. Astorino
County Executive

August 9, 2013

Mr. Louis Larizza
211 South Ridge Street
Rye Brook, New York 10573

**Subject: Proposed Theodore Fremd Senior Housing Development
 150 North Street, Rye New York**

Dear Mr. Larizza:

Please allow this correspondence to serve as formal authorization from the County of Westchester (the "County") for you to seek all necessary approvals from the City of Rye, New York (the "City") for the development of approximately twenty-five (25) to fifty (50) affordable affirmatively furthering fair housing units (the "AFFH Units") on the County-owned property located at 150 North Street in Rye, New York (the "Proposed Development").

At this time, it is anticipated that the AFFH Units will be available for seniors earning at or below 50% and 60% of the Westchester County Area Median Income for fifty (50) years. These AFFH Units are expected to further the County's efforts to create new fair and affordable housing units under the 2009 lawsuit titled *United States of America ex rel. Anti-Discrimination Center of Metro New York, Inc. v. Westchester County, New York*.

Please note, that upon receipt of all approvals from the City, the Development and any related County funding shall be subject to all necessary County approvals, including but not limited to, approvals from the County Board of Legislators, and from the County's Board of Acquisition and Contract. Further be advised that the County makes no commitment for funding at this time, and all costs incurred in connection with the Proposed Development and any required local approvals shall be your sole responsibility, whether or not said approvals are ultimately granted by the City, whether or not the County grants or denies any necessary or related approvals, or if the County, in its sole discretion, determines not to proceed with or fund the Proposed Development. This letter shall not bind the County in any respect.

Please also be aware that, although formal plans have not yet been reviewed by the County that the Proposed Development must be consistent with Westchester County affordable housing policies and guiding principles:



- It will be compliant with the Westchester County Consolidated Plan submitted to HUD for the Westchester Urban County Consortium, of which the City of Rye is a member.
- It will be consistent with and reinforce *Westchester 2025 – Policies to Guide County Planning*, the County Planning Board’s adopted long-range land use and development policies, by contributing to the development of “a range of housing types” affordable to all income levels and by channeling development to centers where infrastructure can support growth and where public transportation can be provided.
- As noted above, it will consistent with the housing settlement reached in the case of *United States of America ex rel. Anti-Discrimination Center of Metro New York, Inc. v. Westchester County, New York* and will contribute toward the County’s requirement to ensure the development of seven hundred fifty (750) new affordable affirmatively furthering fair housing units in communities that meet certain demographic criteria.

We are available to discuss any questions you may have regarding this authorization and look forward to reviewing your proposal.

Sincerely,

A handwritten signature in black ink, appearing to read "Kevin Plunkett", with a stylized flourish extending from the end.

Kevin J. Plunkett
Deputy County Executive

cc: Mary Mahon, Esq., Special Assistant to the County Executive
Robert F. Meehan, Esq., County Attorney
Edward Buroughs, AICP, Commissioner of Planning

Christian K. Miller, AICP
City Planner
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CITY OF RYE
Department of Planning

CONFIDENTIAL – Memorandum

To: Scott Pickup, City Manager

From: Christian K. Miller, AICP, City Planner

cc: Kristen K. Wilson, Esq., Corporation Counsel

Date: June 14, 2013

Subject: **Summary of Meeting with Westchester County to discuss the Potential Development of Affordable Housing at County-owned Property located on Theodore Fremd Avenue near the Intersection of North Street.**

As requested, this memorandum provides a summary of our meeting today with Westchester County officials regarding the potential development of affordable housing at the approximately 2.07-acre County-owned property located on Theodore Fremd Avenue near the intersection of North Street. The meeting was requested by Westchester County and was held at the County Executive's Office. For approximately 20 years the City has advocated for the development of affordable housing at this location and has periodically had meetings with the County to discuss development possibilities.

Today's meeting was attended by the Mayor, Laura Brett, you and I as representatives from the City. From the County were representatives from the County Executive's office (Kevin Plunkett and Mary Mahon), Planning Department (Commissioner Ed Burroughs and Norma Drummond) and a representative from the County Attorneys office. Also in attendance was Lou Larriza who may be the County's preferred developer for the potential development of the site.

Summary

- *Sub-surface Environmental Conditions.* NYSDEC continues to monitor the site for the status of the environmental contaminants on the site. The last test was conducted in 2011 showed elevated levels from previous tests, but that additional tests are at the discretion of NYSDEC. The City requested that additional tests

Summary of Meeting with Westchester County

June 14, 2013

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be conducted and that it preferred that the site be clean before development occurs. Ms. Drummond stated that the County Health Department is not concerned with potential future housing development on the property provided that there is no enclosed habitable space below grade or on the first floor. The City was advised that there is currently no on-going remediation on the property.

- *Development and Land Use Review Process.* The County stated that it would select a preferred developer for the development of housing on the property. The County stated that the City would not need to be in the chain of title for the property and would not need to select a developer or eligible not-for-profit to develop the property. The City would act as it does for all land use applications, including former affordable housing applications on Cottage Street, by requiring approvals from all relevant City land use boards. As with the applications on Cottage Street, the City noted that the property is not currently zoned for the proposed development and that changes in the zoning code or variances would be required. The County understands that the City has local land use authority.
- *Development Scenario.* Mr. Larriza discussed his development concept for the site. He stated that he is seeking 48 units of senior (i.e. age 55 and over) housing on the property. The number of units is dictated by the desire to use tax credit financing for the property, which limits household income to 50% and 60% of Area Median Income (AMI). He stated that the unit mix would be one- and two-bedroom units. The project would total approximately 50,000 square feet within two 4- or 5-story buildings on the rear half of the 2.07-acre property. Parking would be located at grade level under the building to comply with the Health Department requirement that there be no habitable space below grade or on the first floor.

The County stated that County infrastructure bond money would also be used to assist with the project funding. The County confirmed that the proposed senior tax credit units would count towards the 750-unit obligation under the Housing Settlement. The County stated that only 187 out of the 750 units can be senior and that Rye would be using the last of that limited allocation.

- *Next Steps.* The County will complete its process to select a preferred developer and the City can expect an application for affordable housing development potentially in the fall. At that point, or sooner if it desires, the City will need to undertake a zoning analysis and determine what, if any, land use modifications it would like to implement to accommodate affordable development on this or potentially other properties in the City.

Robert P. Astorino
County Executive

County Planning Board

January 30, 2014

Christian K. Miller, City Planner
Rye City Planning Department
1051 Boston Post Road
Rye, NY 10580

**Subject: Referral File No. RYC 14 - 001 – The Courtyard at Theodore Fremd
Zoning Map Amendment and Site Plan
Lead Agency**

Dear Mr. Miller:

The Westchester County Planning Board has received a notice of intent to serve as Lead Agency pursuant to the NYS Environmental Quality Review Act (SEQR), as well as a one-sheet preliminary site plan (dated December 9, 2013) and related materials for the above referenced application. The applicants are petitioning the City to rezone a 2.08-acre site, currently owned by Westchester County with frontage on Theodore Fremd Avenue (County Road 54) and North Street (County Road 73), from B-6 General Business and B-1 Neighborhood Business to RA-5 Senior Citizens Apartment District. The zone change would permit the development of up to 58 units of housing on the site. If successfully rezoned, the applicant intends to apply for a site plan approval to construct a 54-unit apartment building with 95 parking spaces. All of the proposed units would be age-restricted to seniors over the age of 55 and would be affordable affirmatively furthering fair housing (AFFH) units. The unit mix would consist of 44 one-bedroom units and 10 two-bedroom units.

We have no objection to the Rye City Council assuming Lead Agency status for this review. Since this proposal involves the disposition of County-owned land as well as potential funding administered by Westchester County, we recommend that the County Board of Legislators be included as an Involved Agency with respect to SEQR.

Because we have not received full site plans, we will reserve full comment on this matter under the provisions of Section 239 L, M and N of the General Municipal Law and Section 277.61 of the County Administrative Code for a later date. At this time we offer the following preliminary comment:

Fair and affordable housing – development of affordable AFFH units. We support the concept of this proposal as it will add to the supply of affordable AFFH units in Westchester County. We look forward to working with both the City and the applicant as this application moves forward. We recommend that the applicant consider adding an apartment within the proposed building for a building superintendant, which is typical for a development of this size.

Thank you for calling this matter to our attention.

Respectfully,
WESTCHESTER COUNTY PLANNING BOARD

For:
By: 

Edward Burroughs, AICP
Commissioner

EEB/LH

622 STILES AVENUE MAMARONECK, NEW YORK 10543 TEL 914-698-8207 FAX 914-698-8208
chnarch@yahoo.com

Clark Neuringer Architect

CONNECTICUT
DELAWARE
FLORIDA
MARYLAND
NEW YORK

December 10, 2013

The Honorable Mayor Douglas French
Members of the City Council
Rye City Hall
1051 Boston Post Road
Rye, New York 10580

Re: Proposed Zoning Amendment;
The Courtyard at Theodore Fremd

Dear Mayor French and Members of the City Council,

On behalf of our client, Lazz Development / Pawling Holdings, we are pleased to submit this request for an amendment to the Zoning Code of the City of Rye with respect to a proposed fifty four (54) unit rental development located at the corner of Theodore Fremd Avenue and North Street, adjacent to the existing Con Edison operations and equipment facility. The proposed development will advance a long-term planning objective of the City to provide affordable housing on this Westchester County-owned property. The proposed development would consist of 44 one-bedroom units and 10 two-bedroom units all of which will be restricted to those over age 55.

The approximately 2.1-acre property is currently within both the B-6 General Business District and B-1 Neighborhood Business District. Our proposal is to re-zone the entire property to the RA-5 Senior Citizen's Apartment District, which is the same district adopted by the City Council in the 1980s to provide for the construction of the approximately 100 units of senior affordable housing at 300 Theall Road. Current uses permitted within the B-6 District are limited to light manufacturing; garages, parking lots, and filling stations; small boat facilities; and kennels and veterinary hospitals. The portion of the property located in the B-1 District allows for business, professional office, retail, single-family dwellings and two-family residences.

The Honorable Douglas French
Page 2
December 10, 2013

Multi-family is not currently permitted in either district. We respectfully request that the City Council amend the Zoning Map to change the zoning district classification of this property to the RA-5 Senior Citizens Apartment District.

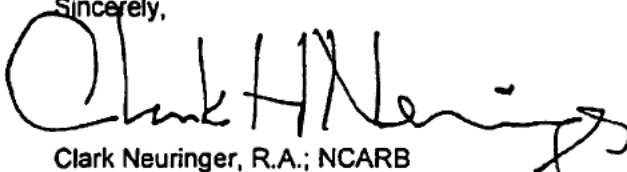
Our proposed senior citizen residential development meets or exceeds the requirements of the RA-5 District and would be a beneficial addition to the City in general and to the particular neighborhood. Our proposal represents a lower intensity of use of the property compared to what could be developed under the current limited zoning. Even under the RA-5 District requirements, our proposed residential development has several distinct positive attributes as follows:

- Area of the lot is more than double the size of minimum required.
- Total amount of buildable floor area proposed to be constructed is 17% less than permitted.
- Total amount of parking proposed is almost seven times more than minimum required.
- Total amount of open space proposed is more than double amount required.

As a result, the requested amendment would allow a residential development that would act as a transition between existing residential uses to the south and commercial uses otherwise surrounding the property. The design of our proposed site development results in a separation between the closest existing neighborhood residential building and one of our apartment buildings of a distance in excess of approximately 250 feet. As such, there would be no adverse impact on any of the existing residential areas to the south of the site. Compared to other uses that would be permitted on the site, we believe the proposed residential community would be a more attractive and beneficial use to the neighborhood.

We look forward to further reviews and discussions with you regarding the requested zoning amendment.

Sincerely,

A handwritten signature in black ink, appearing to read "Clark Neuringer". The signature is fluid and cursive, with a large initial "C" and a long, sweeping underline.

Clark Neuringer, R.A.; NCARB

Cc: Louis Larizza, Lazz Development // Pawling Holdings

DRAFT

Formatted: Left: 72 pt, Right: 72 pt

LOCAL LAW
CITY OF RYE NO. ____ -2014

A Local Law to Amend the “Zoning Map of the City for Rye, New York” to Change the Zoning Designation of a Property Known on the City of Rye Tax Map as Section 146.10, Block 1, Lot 66 from B-6, *General Business*, District and B-1, *Neighborhood Business*, District to RA-5, *Senior Citizens Apartment*, District.

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

Section 1. **The Zoning Map of the City of Rye, New York is hereby amended to change the zoning district designation of a property known on the City of Rye Tax Map as Section 146.10, Block 1, Lot 66 from B-6, *General Business*, District and B-1, *Neighborhood Business*, District to RA-5, *Senior Citizens Apartment*, District.**

Section 2. **Severability**

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

Section 3. **Effective Date**

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

617.20
Appendix B
Short Environmental Assessment Form

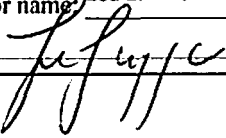
Instructions for Completing

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

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

Part 1 - Project and Sponsor Information							
City of Rye Affordable Senior Housing							
Name of Action or Project: The Courtyard at Theodore Fremd							
Project Location (describe, and attach a location map): Theodore Fremd Avenue and North Street, Rye, NY							
Brief Description of Proposed Action: 1. Construct 54 units of senior affordable housing units with parking areas for 95 cars on 2.08 acres in the City of Rye, NY. 2. Approval of a City of Rye zoning text amendment to permit certain residential types in the B6 (Business) zone.							
Name of Applicant or Sponsor: Pawling Holdings, LLC		Telephone:					
		E-Mail:					
Address: 211 South Ridge Street, Suite 3R							
City/PO: Rye Brook		State: NY	Zip Code: 10573				
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.			<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="text-align: center;">NO</td> <td style="text-align: center;">YES</td> </tr> <tr> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> </table>	NO	YES	<input checked="" type="checkbox"/>	<input type="checkbox"/>
NO	YES						
<input checked="" type="checkbox"/>	<input type="checkbox"/>						
2. Does the proposed action require a permit, approval or funding from any other governmental Agency? If Yes, list agency(s) name and permit or approval: City of Rye Planning Commission, City of Rye Council, the Home Fund, HIF, AHC agencies, County of Westchester DPW			<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="text-align: center;">NO</td> <td style="text-align: center;">YES</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input checked="" type="checkbox"/></td> </tr> </table>	NO	YES	<input type="checkbox"/>	<input checked="" type="checkbox"/>
NO	YES						
<input type="checkbox"/>	<input checked="" type="checkbox"/>						
3.a. Total acreage of the site of the proposed action?		2.08 acres					
b. Total acreage to be physically disturbed?		2.08 acres					
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor?		2.08 acres					
4. Check all land uses that occur on, adjoining and near the proposed action. <input checked="" type="checkbox"/> Urban <input type="checkbox"/> Rural (non-agriculture) <input type="checkbox"/> Industrial <input checked="" type="checkbox"/> Commercial <input checked="" type="checkbox"/> Residential (suburban) <input type="checkbox"/> Forest <input type="checkbox"/> Agriculture <input type="checkbox"/> Aquatic <input type="checkbox"/> Other (specify): Railroad, Interstate Highway 95 <input type="checkbox"/> Parkland							

5. Is the proposed action, a. A permitted use under the zoning regulations?	NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>	N/A <input type="checkbox"/>
b. Consistent with the adopted comprehensive plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?	NO <input type="checkbox"/>	YES <input checked="" type="checkbox"/>	
7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area? If Yes, identify: _____	NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>	
8. a. Will the proposed action result in a substantial increase in traffic above present levels?	NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>	
b. Are public transportation service(s) available at or near the site of the proposed action?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
c. Are any pedestrian accommodations or bicycle routes available on or near site of the proposed action?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
9. Does the proposed action meet or exceed the state energy code requirements? If the proposed action will exceed requirements, describe design features and technologies: _____	NO <input type="checkbox"/>	YES <input checked="" type="checkbox"/>	
10. Will the proposed action connect to an existing public/private water supply? If No, describe method for providing potable water: _____	NO <input type="checkbox"/>	YES <input checked="" type="checkbox"/>	
11. Will the proposed action connect to existing wastewater utilities? If No, describe method for providing wastewater treatment: _____	NO <input type="checkbox"/>	YES <input checked="" type="checkbox"/>	
12. a. Does the site contain a structure that is listed on either the State or National Register of Historic Places?	NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>	
b. Is the proposed action located in an archeological sensitive area?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
13. a. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, state or local agency?	NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>	
b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody? If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply: <input type="checkbox"/> Shoreline <input type="checkbox"/> Forest <input type="checkbox"/> Agricultural/grasslands <input type="checkbox"/> Early mid-successional <input type="checkbox"/> Wetland <input checked="" type="checkbox"/> Urban <input checked="" type="checkbox"/> Suburban			
15. Does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered?	NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>	
16. Is the project site located in the 100 year flood plain?	NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>	
17. Will the proposed action create storm water discharge, either from point or non-point sources? If Yes, a. Will storm water discharges flow to adjacent properties? <input type="checkbox"/> NO <input checked="" type="checkbox"/> YES	NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>	
b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)? If Yes, briefly describe: _____ Existing Culvert beneath Metro North Rail Lines	<input type="checkbox"/> NO <input checked="" type="checkbox"/> YES		

18. Does the proposed action include construction or other activities that result in the impoundment of water or other liquids (e.g. retention pond, waste lagoon, dam)? If Yes, explain purpose and size: _____ Three subsurface detention vaults to be constructed beneath the parking areas. Size is generally 1000 square feet per system. The purpose is to limit flows to current levels.	NO <input type="checkbox"/>	YES <input checked="" type="checkbox"/>
19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility? If Yes, describe: _____	NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>
20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste? If Yes, describe: _____ NYS DEC database has no record of remediation 1978 to present.	NO <input type="checkbox"/>	YES <input checked="" type="checkbox"/>
I AFFIRM THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE Applicant/sponsor name: <u>Lou Larizza</u> Date: <u>11/6/2013</u> Signature: <u></u>		

Part 2 - Impact Assessment. The Lead Agency is responsible for the completion of Part 2. Answer all of the following questions in Part 2 using the information contained in Part 1 and other materials submitted by the project sponsor or otherwise available to the reviewer. When answering the questions the reviewer should be guided by the concept "Have my responses been reasonable considering the scale and context of the proposed action?"

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

	No, or small impact may occur	Moderate to large impact may occur
10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
11. Will the proposed action create a hazard to environmental resources or human health?	<input checked="" type="checkbox"/>	<input type="checkbox"/>

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

2. The project will increase the intensity of use since the development of 54 apartments for seniors will occur on vacant land. Mitigation is proposed by providing sufficient stormwater controls to prevent flooding, and water quality treatment to reduce impacts to water courses. Traffic mitigation is considered to be mitigated by limiting occupancy to an over-55 years age group. Excess on-site parking is provided to eliminate off-street parking impacts. The site is on the County Bus route which affords opportunity to mitigate traffic. New local street sidewalks to be constructed will also help to mitigate traffic. The proposed landscaping, consisting of landscaped buffers, new trees, shrubs and decorative fencing throughout, will mitigate visual impacts. An erosion control plan in conformance with the NYS Stormwater Design Manual will be used to offset temporary impacts of erosion.

7a. Water supply: The water demand for the project of 54 units with average of a two-person occupancy is about 10,800 gallons per day. United Water Westchester provides 7.6 million gallons per day and the increase is nominal due to this project and should not impact the facilities. Mitigation of water use is provided in limiting the occupancy to an over-55 age group.

7b. Wastewater Treatment: The project is in the County's Blind Brook Sewer District and sewage flow will be treated at the Blind Brook Treatment Plant which has a capacity of 5 mgd and is currently operating at 3.3 mgd. City-owned sewers at the site are adequately sized to handle the increased flow from this project. Therefore, given the reduced water use and in turn sewage generation, the project should not adversely impact these facilities.

Long term impacts are the same as short term impacts described above.

Cumulative impacts of the development are limited due to the lack of other new projects of this type in the area.

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

PRINT



CITY COUNCIL AGENDA

NO. 7 DEPT.: City Manager DATE: March 12, 2014
CONTACT: Scott D. Pickup, City Manager

AGENDA ITEM: Presentation by the Sustainability Committee regarding the City of Rye participating in a local environmental consortium.

FOR THE MEETING OF:

March 12, 2014

**RYE CITY CODE,
CHAPTER
SECTION**

RECOMMENDATION:

IMPACT: ☒ Environmental ☐ Fiscal ☐ Neighborhood ☐ Other:

BACKGROUND: A presentation will be made by the Sustainability Committee regarding the City of Rye participating in the Southern Westchester Energy Action Consortium (SWEAC). SWEAC is a collaboration of municipalities addressing energy and other sustainability concerns in Southern Westchester that benefits from participation from elected officials, municipal staff and/or environmental committees. The following municipalities are members of SWEAC: Bronxville, Dobbs Ferry, Eastchester, Greenburgh, Hastings-on-Hudson, Irvington, Town of Mamaroneck, New Rochelle, Rye Brook, Scarsdale, Tarrytown, Tuckahoe, White Plains, and Yonkers. SWEAC focuses activities in the areas of energy, waste and recycling, and transportation. Projects underway or soon to commence include: supporting municipalities in the development of greenhouse gas emissions inventories (which detail energy consumption and can serve to identify energy saving opportunities), multi-municipality sales of compost bins (which reduce municipal waste disposal fees and support healthy gardens), and supporting pedestrian and bike-friendly improvements (which foster more economic activity in downtowns).

Information on SWEAC is available on their website at: <http://www.sweac.org/>



CITY COUNCIL AGENDA

NO. 9

DEPT.: City Manager

DATE: March 12, 2014

CONTACT: Scott Pickup, City Manager

AGENDA ITEM: Authorization for City Manager to enter into an Intermunicipal Agreement with the Village of Port Chester to remove an historic mile marker located in Port Chester along Boston Post Road.

FOR THE MEETING OF:

March 12, 2014

**RYE CITY CODE,
CHAPTER
SECTION**

RECOMMENDATION: That the Mayor and Council authorize the City Manager to enter into the agreement.

IMPACT: ☐ Environmental ☐ Fiscal ☐ Neighborhood ☐ Other:

BACKGROUND: The Landmarks Committee has identified the historic significance of the mile markers and the need to landmark, restore and preserve them. One mile marker sits on the property of the former United Hospital; the property owner and the Village of Port Chester have agreed to return the mile marker to the City of Rye for placement within the City. The IMA provides authorization for and outlines the terms of removal of the mile marker.

See attached IMA.

**INTERMUNICIPAL AGREEMENT BETWEEN CITY OF RYE AND THE VILLAGE OF
PORT CHESTER RELATED TO THE MILE MARKER LOCATED ALONG BOSTON
POST ROAD**

An INTERMUNICIPAL AGREEMENT among the municipal corporations of the City of Rye ("Rye"), 1051 Boston Post Road, Rye, New York 10580 and the Village of Port Chester, 222 Grace Church Street, Port Chester, New York 10573 ("Port Chester") for Rye to remove an historic mile marker located in Port Chester along Boston Post Road (the "IMA").

WHEREAS, Rye's Landmarks Advisory Committee has requested that the mile marker located in the front of the property formerly owned by United Hospital along Boston Post Road be returned to the City of Rye as the mile marker's original placement was in Rye; and

WHEREAS, Port Chester has agreed to give the mile marker back to Rye as long as Rye is responsible for the removal and transportation of same; and

WHEREAS, the current owner of the property has consented to Rye removing the mile marker;

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth, the parties hereto mutually agree as follows:

1. Port Chester consents to Rye removing and transporting the mile marker from its existing location in Port Chester to Rye.
2. Rye is responsible for all removal and transportation costs and will notify Port Chester when the removal process will take place.
3. This IMA shall be governed by and construed in accordance with the laws of New York State.

City Manager, City of Rye

By:_____

Dated: _____

Village Manager, Village of Port Chester

By:_____

Dated: _____



CITY COUNCIL AGENDA

NO. 10

DEPT.: Police

DATE: March 12, 2014

CONTACT: Interim Police Commissioner Robert Falk

AGENDA ITEM: Resolution to authorize expenditure of police donation funds for the purchase of Storm Tech outwear jackets with the PBA logo.

FOR THE MEETING OF:
March 12, 2014

RECOMMENDATION: That the City Council adopt the following resolution:

WHEREAS, the City Manager and Interim Police Commissioner have approved a request of the Rye Police Association ("RPA") dated December 19, 2013 to purchase Storm Tech outwear jackets with the PBA logo in the amount of \$3,500 for the Rye Police Department with funds available in the police donations account, and;

WHEREAS, sufficient funds exist in the police donations account to comply with the aforementioned request of the RPA; now therefore be it;

RESOLVED, that \$3,500 be appropriated from the police donations account to increase 2014 General Fund appropriations for Police uniforms.

IMPACT: ☐ Environmental ☒ Fiscal ☐ Neighborhood ☐ Other:

BACKGROUND: The Police Donations account was established to account for donations made by the general public for the specific purpose of benefiting City of Rye police officers. The process to release these funds requires that a request made by the Rye Police Association is approved by the Police Commissioner and City Manager, and finally by resolution of the City Council. The Police Commissioner and City Manager approved a request by the RPA dated December 19, 2013 for such funds to be used for the purchase of Storm Tech outwear jackets with the PBA logo. 35 officers will each receive \$100.00 towards the purchase.

See attached documentation.

Rye Police Association, Inc.

CITY OF RYE

P.O. Box 246



NEW YORK

Rye, N.Y. 10580

March 2, 14

City Council

The PBA members annually request release of funds to what has been traditionally known as the "Christmas Fund". We have used this money to purchase items such as boots, flashlights and sunglasses. This year's committee, headed by PO Rossi presented a lightweight three-season jacket with the PBA Shield.

This "PBA Shield" consists a generic police badge with the "City of Rye" embroidered on the top section and "PBA" embroidered in the center where an individual officer's shield number would be placed. This "PBA Shield" is white or silver in color and does not reflect rank or position within the membership (i.e. detective, sergeant, lieutenant). As a paramilitary organization we fall under the restrictions of our formal uniform requirements. For officers to have their badge and *individual* shield number placed in the center would increase the cost of this project substantially. Currently our General Orders do not account for this as a uniform item.

I hope this addresses your concern about our request. Please feel free to contact the Rye PBA Executive Board if you have any additional questions at executiveboard@ryepba.org.

Sincerely,

Michael Kenny

Vice President, City of Rye PBA
Co-Chair "Christmas Fund" Committee
PO Box 246
Rye NY 10580



CITY COUNCIL AGENDA

NO. 11 DEPT.: City Council DATE: March 12, 2014
CONTACT: Mayor Joseph Sack

AGENDA ITEM: One appointment to the Landmarks Advisory Committee for a three-year term, by the Mayor with Council approval.

FOR THE MEETING OF:

March 12, 2014

**RYE CITY CODE,
CHAPTER
SECTION**

RECOMMENDATION: That the Council approve the appointment of Paula Gamache for a term expiring January 1, 2017.

IMPACT: ☐ Environmental ☐ Fiscal ☐ Neighborhood ☐ Other:

BACKGROUND

<u>Current Committee Members</u>	<u>Expiration Date</u>
George Zahringer, Chair	1-1-16
Jerome Coleman*	1-1-15
Vicky Farrington	1-1-17
Rex Gedney	1-1-16
Peter Rolland	1-1-17
Maurio Sax	1-1-15

*Historical Society Rep.



CITY COUNCIL AGENDA

NO. 12

DEPT.: City Mayor

DATE: March 12, 2014

CONTACT: Mayor Joseph Sack

ACTION: One appointment to the Rye Town Park Advisory Committee for a three-year term, by the Mayor with Council approval.

FOR THE MEETING OF:

March 12, 2014

**RYE CITY CODE,
CHAPTER
SECTION**

RECOMMENDATION: That the Council approve the reappointment of Ted Stein.

IMPACT: ☐ Environmental ☐ Fiscal ☐ Neighborhood ☒ Other:

BACKGROUND:

Current Committee Members

Expiration Date

Jeanne Golden, Chair

1-1-16

Russell Gold

1-1-15

Stephen P. Kovacs

1-1-16

Jason Mehler

1-1-16

Ann Moller

1-1-16

Elinore White

1-1-17



CITY COUNCIL AGENDA

NO. 13

DEPT.: City Manager

DATE: March 12, 2014

CONTACT: Scott D. Pickup

AGENDA ITEM: Consideration of a request by the Milton Elementary School PTO to approve a parade to precede the Milton Elementary School Fair on Saturday, March 15, 2014 from 9:00 a.m. to 10:15 a.m.

FOR THE MEETING OF:

March 12, 2014

**RYE CITY CODE,
CHAPTER
SECTION**

RECOMMENDATION: That the Council consider granting the request.

IMPACT: ☐ Environmental ☐ Fiscal ☐ Neighborhood ☐ Other:

BACKGROUND:

The Milton Elementary School PTO is requesting the Council approve a parade to precede the Milton Elementary School Fair on Saturday, March 15, 2014 from 9:00 a.m. to 10:15 a.m.

See attached request from the Milton Elementary School PTO.

MILTON ELEMENTARY SCHOOL PTO
11 Hewlett Avenue
Rye, NY 10580

February 25, 2014

Mr. Scott D. Pickup
City Manager
1051 Boston Post Road
Rye, NY 10580

Dear Mr. Pickup,

The Milton Elementary School PTO would like to request that the City Council approve a parade route to precede the annual Milton Elementary School Fair on Saturday, March 15, 2014. The parade lineup is scheduled to begin at 9:00 am at the Rye Town Park and will end at approximately 10:15 am. At that time, the Milton School Fair will begin.

The parade participants will gather at Rye Town Park and proceed through Seaside Johnny's parking lot, exiting right onto Dearborn Avenue. The parade will continue by turning left onto Forest Avenue at the first intersection and then turning right onto Green Avenue. At the intersection of Green and Fairway Avenues, the parade will turn right onto Fairway Avenue and proceed to Hewlett Avenue, where the parade will turn left and end at the front of Milton School.

Please contact me at [REDACTED] if you have any questions. Thank you for your help with this important fundraiser.

Sincerely,



C. Alex Doyle

cc: Dr. Joanne Nardone, Milton School Principal
Dawn Yardis, Milton PTO President
Jannine Moran, Milton PTO Vice President
Maria Ryan, Milton School Fair, Co-Chair
Kristin Bosacco, Milton School Fair, Co-Chair



CITY COUNCIL AGENDA

NO. 14

DEPT.: City Manager

DATE: March 12, 2014

CONTACT: Scott D. Pickup, City Manager

AGENDA ITEM: Resolution to declare certain City of Rye equipment as surplus.

FOR THE MEETING OF:

March 12, 2014

RYE CITY CODE,

CHAPTER
SECTION

RECOMMENDATION: That the City Council adopt the following resolution:

WHEREAS, the City has been provided with a list of City equipment identified as being obsolete or will become obsolete during 2014, and,

WHEREAS, these Departments have recommended that said equipment be declared surplus, now, therefore, be it

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

RESOLVED, that authorization is given to the City Comptroller to sell or dispose of said equipment in a manner that will serve in the best interests of the City.

IMPACT: ☐ Environmental ☒ Fiscal ☐ Neighborhood ☐ Other

BACKGROUND: The following Departments have provided a list of equipment that is either currently obsolete or will become obsolete during calendar year 2014:

Police Department: equipment

Information Technology Department: equipment

See attached.

Rye Police Department

Computer Equipment That Has Been Removed From Inventory For Disposal

The following equipment is either obsolete, nonfunctional or in disrepair and has been removed from inventory.

As of April 2, 2013

9 Sierra Wireless MP 595 3G 1X/ EVDO CDMA Modems.

1 HP Compaq DC5100 MT Workstation Computer, Serial # MXL533ONDB

- Floppy Drive, Missing DVD ROM, No Hard Drive, No Memory, Missing various frame parts. 7 Years Old.

1 HP Compaq DC5100 MT Computer, Serial # MXL533ONDB

- DVD ROM, Floppy Drive, No Hard Drive and No Memory, 7 years old

Kerry Donahue
Coordinator of Computer Services
1051 Boston Post Road
Rye , New York 10580



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FAX: 914-967-7107
Email: kdonahue@ryeny.gov
<http://ryeny.gov>

CITY OF RYE
INFORMATION TECHNOLOGY DEPARTMENT

TO: Scott Pickup, City Manager

FROM: Kerry Donahue, Coordinator of Computer Services

DATE: March 6, 2014

SUBJECT: Request to declare items surplus

The following equipment is either obsolete, nonfunctional or in disrepair and has been removed from service.

I request that these items be declared surplus.

Item	Make	Model	Serial #
Monitor	ViewSonic	VCDTS22037	21P0050000380
Fax	HP	HP640	CN86G4MOW8
Computer	HP	D530sff	USU4_09WH
Docking Station	hp	Compaq	157935-001
Monitor	HP	LA1951G	CNCO51NV5L
Monitor	HP	LA1945W	3CQ9250NCC
Tablet	HP	KRD404034X	DQ871A#ABA
Card Printer	Zebra	D310CM	ER267814
Monitor	ELO	Touchsysystem	723420805C
Monitor	ELO	Touchsysystem	723420788C
Printer	HP	LJ1505	VND3G36008
POS	JIVA	TP8600B	TP8A1118
Printer	Epson	M188B	F73G159317
Computer	HP	DX2400 Micro Tower	2UA8211HPH
Paper Shredder	Achiever	SCSG	N/A

Kerry Donahue
Coordinator of Computer Services