

CITY OF RYE

LOCAL LAW NO. __ OF 2015

A Local Law adopting a six (6) month moratorium in the City of Rye temporarily prohibiting Mechanical Rock Removal or use of explosives within the City of Rye for more than a total of thirty (30) consecutive calendar days for the duration of this moratorium from the day that Mechanical Rock Removal or the use of explosives begins.

WHEREAS, the extended period of Mechanical Rock Removal and the use of explosives in the City can pose, among other things, quality of life impacts to the community; and

WHEREAS, in November 2014, the Mayor and City Council formed a Rock Chipping Study Group to study, among other things, whether new or more restrictive limitations should be placed on hours, duration, decibel levels, on-site crushing, and amounts which may be removed, as well as whether greater efforts should be taken to control dust, noise, erosion, and water runoff, and to enhance safety and make recommendations to the Rye City Council of ways to address on a going-forward basis issues raised in City Council meetings concerning rock chipping in Rye; and

WHEREAS, the City Council has determined that it is appropriate to review the City's existing regulations relating to rock excavation to ensure that such activity does not negatively impact the quality of life of its residents and businesses; and

WHEREAS, Mechanical Rock Removal and use of explosives, in the absence of appropriate limitations, may have negative impacts on the City, its residents and the existing businesses; and

WHEREAS, further analysis is needed in order to develop the regulations and mitigation measures for Mechanical Rock Removal and the use of explosives; and

WHEREAS, the City expects that it may require up to six (6) months to engage in the process for developing and considering the aforementioned regulations and mitigation measures.

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

Section 1. Purpose

In order to ensure appropriate limitations on the use of mechanical rock removal and/or the use of explosives, there shall be a moratorium on any mechanical rock removal or use

of explosives in excess of a total of thirty (30) consecutive calendar days during this moratorium period. Any individual who intends to engage in mechanical rock removal or use explosives after this local law is becomes effective shall notify the City Building Department in writing the date such Mechanical Rock Removal or use of explosives will commence.

Section 2. Authority

This moratorium is enacted by the City Council of the City of Rye pursuant to its authority to adopt local laws under the New York State Constitution Article IX and Municipal Home Rule Law § 10.

Section 3. Enactment of Moratorium

1. Any individual who intends to engage in Mechanical Rock Removal as defined by §133-8(A) or use explosives in compliance with Chapter 98, Article VII on any property in the City of Rye shall register with the City a least seven (7) calendar days prior to the commencement of such activities.
2. During the period of this moratorium all Mechanical Rock Removal or explosive use shall cease on the 31st day after the commencement of such activity.
3. If the owner of the property or the owner's agent: a) commences Mechanical Rock Removal or uses explosives without properly notifying the City Building Department in writing of the commencement date; and/or b) engages in such activity more than thirty (30) consecutive calendar days from the date of commencement shall be guilty of an offense and shall, upon conviction thereof, be subject to a fine of not more than \$1,000, an order to suspend construction work on the site, or by imprisonment not exceeding 15 days, or any combination of such fine, suspension and imprisonment. Each day of Mechanical Rock Removal and/or use of explosives prior to sending in notice of the commencement date or in violation of the thirty (30) day limit shall be construed as a separate offense.

Section 4. Appeals/waiver

An aggrieved property owner may apply to the City Council for a waiver and the City Council shall have the discretion to grant such waiver. The property owner shall have the burden of demonstrating to the City Council that a wavier is warranted due to substantial hardship and that such substantial hardship was not the result of an act or omission by the property owner.

In granting a waiver, the City Council must find that the waiver will not adversely affect the purpose of this Local Law.

Section 5. Early Termination or Extension of this Local Law

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

In like manner, if more than six (6) months have passed since the implementation of this Local Law, and it shall be determined by a finding of the City Council that an extension of this moratorium is required, then the City Council by resolution, may extend this moratorium for such a period of time as it deems necessary in order to further the purposes of this law up to and including an additional six (6) months from the date of the original expiration of this Local Law.

Section 6. Conflicts with State Statutes and Authority to Supersede

To the extent any provisions of this Local Law are in conflict with or are construed as inconsistent with the provisions of New York State Law, this Local Law shall control.

Section 7. Severability

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

Section 8. Effective Date

This Local Law shall take effect on June 17, 2015.