

**CITY OF RYE**  
**LOCAL LAW NO. 2015**

A local law to amend Chapter 133 "Noise" of the Code of the City of Rye by renaming and amending Section 8 as follows "Permit Required; Construction work, mechanical rock removal and blasting restrictions"; amending Section 133-9 "Penalties for Offenses" to increase the penalties, and amending Section 133-10 "Exempt Acts" to exempt certain entities from the requirements as follows:

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

**Section 1:** Chapter 133-8 "Permit Required; Construction work, mechanical rock removal and blasting restrictions:

A. Whenever used in this section, the following terms shall have the meanings indicated:

**ROCK EXCAVATION PERMIT** – A permit issued for rock excavation on a Subject Property.

**SUBJECT PROPERTY** – The lot for which a mechanical rock excavation permit or blasting permit pursuant to Chapter 98 is issued.

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

**MECHANICAL ROCK EXCAVATION** – Mechanical Rock Removal with the use of a mechanical hammer or similar device, but excluding drilling or boring of holes, and excluding the removal of man-made structures such as concrete steps or driveways.

**UNEXPECTED CIRCUMSTANCES** – Circumstances unforeseen by the property owner including mechanical failure of a machine, unexpected conditions or inclement weather.

B. No Mechanical Rock Excavation or blasting may take place unless a permit is obtained. All permits shall identify the purpose for which the Rock Excavation Permit or blasting permit is being issued, the owner of the Subject Property, including any partners of any limited liability company, and the permitted duration of the Mechanical Rock Excavation or blasting. The application for a Mechanical Rock Excavation or blasting Permit shall include a certification by the property owner that the property owner has reasonably determined that any Mechanical Rock Excavation can be completed within the period in subsection B(i) below.

- (i) Mechanical Rock Excavation and blasting shall be restricted to thirty (38) consecutive calendar days.
  - (ii) No new/additional Mechanical Rock Excavation Permit or blasting permit (see Chapter 98) shall be issued for the same Subject Property for 18 months from the date any previously issued permit expires.
- C. No Mechanical Rock Excavation Permit or blasting permit shall be issued unless the Applicant has a dust mitigation plan approved by the Building Department. Such dust mitigation plan shall incorporate the best dust control practices including, but not limited to, a water spray system (air suppression or surface wetting). All dust mitigation plans shall include measures to control water runoff as a result of any water spray program.
- (i) Trucks and other vehicles used to transport particulate matter shall be covered and any particulate matter kept on site shall be sufficiently wetted or stored to prevent particulate matter from becoming airborne.
  - (ii) Portable hand water sprinklers or hose sprinklers are acceptable means of wetting for dust control. The water sprays or jets shall be designed to break the water stream into small droplets or otherwise to provide effective wetting.
  - (iii) Suitable drainage means shall be provided for the removal of water and sludge which drains from the operation.
  - (iv) Soil or debris piles shall be moistened if dust is being emitted from the piles due to prevailing winds and not from a momentary gust. Adequately secured tarps, plastic or other material may be required by the Building Department to further reduce dust emissions.
- D. Upon receiving a Mechanical Rock Excavation Permit or blasting permit, any individual who intends to engage in Mechanical Rock Excavation or blasting on any property in the City of Rye shall register with the City at least seven (7) calendar days prior to the commencement of such activities. Upon such notification, the Subject Property will be listed on the City of Rye website showing the earliest commencement date and when the thirty-eight (38) day period ceases. Such notice shall be displayed in a visible location at the Subject Property.
- (i) In addition to notifying the City as required above, the individual must also notify the neighbors by sending out a public notification prepared by the Building Department. The applicant shall prepare a notification list, using the most current City of Rye Tax Maps and Tax Assessment Roll, showing the Tax Map sheet, block and lot number, the owner's name and owner's mailing address for each property located wholly or partially within 500 feet of the Subject Property. If a property on the public notification list is also listed as a cooperative or an apartment, the notice

shall only be mailed to the property owner of record. These mailing requirements must be performed in accordance with the following requirements:

- (ii) The mailing shall be limited solely to the public notice provided by the City Building Department.
  - (iii) The notice shall be mailed to all property owners by regular U.S. mail at a post office or official depository of the Postal Service, at least ten (10) days prior to the commencement of Mechanical Rock Excavation or blasting.
  - (iv) The individual must provide a copy of the certificate of mailing to the City Building Department prior to the commencement of any Mechanical Rock Excavation or blasting.
- E.** Construction work prohibited at certain hours and on certain days. No person shall engage in construction work earlier than 7:30 a.m. or later than 6:30 p.m., prevailing time, on weekdays; earlier than 10:00 a.m. or later than 5:00 p.m., prevailing time, on Saturdays; or at any hour on Sundays or any of the following holidays: New Year's Day, Presidents' Day, Martin Luther King Jr. Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Yom Kippur, Thanksgiving Day, Christmas Day and New Year's Day.
- F.** Notwithstanding any provision of §133-8 to the contrary, an individual may perform construction work him/herself on property on which such individual then resides as follows:
- (i) Weekdays, between 7:30 a.m. and 8:00 p.m.
  - (ii) Saturdays and Sundays (including holidays), between the hours of 10:00 a.m. and 8:00 p.m.
- G.** Mechanical Rock Removal, including Mechanical Rock Excavation, and blasting are prohibited at certain hours and on certain days. No person shall engage in Mechanical Rock Removal, including Mechanical Rock Excavation, as defined in Subsection A, or blasting operations using explosives as defined by § 98-40, within the City of Rye after the hour of 3:30 p.m. or before 9:00 a.m. on weekdays or at any time on Saturday and Sunday; or on any of the following holidays and time periods: New Year's Day, Presidents' Day, Martin Luther King Jr. Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Yom Kippur, Thanksgiving Day through Thanksgiving weekend and Christmas Day through New Year's Day except under authority of a special permit issued by the City Manager. In addition, Mechanical Rock Removal, including Mechanical Rock Excavation, and blasting will be prohibited within 500 feet of a school on Testing Days.

- H. No person performing Mechanical Rock Removal shall have more than two machines and two hammers operating on the Subject Property at the same time. Rock crushing shall not be permitted on the Subject Property.
- I. A property owner who has properly applied for and received a permit for Mechanical Rock Excavation or blasting, and has otherwise complied with the provisions of this law, may apply to the City Manager for an additional, one-time seven (7) calendar day waiver in addition to the thirty eight (38) days above, subject to all the other restrictions contained herein, to be granted at the discretion of the City Manager on a reasonable basis under a totality of the circumstances presented. If the waiver is granted, the additional seven (7) day period will be set by the City Manager, and the period will be listed on the City website.
- J. A property owner who has properly applied for and received a permit for Mechanical Rock Excavation or blasting, and has otherwise complied with the provisions of this law, may apply to the City Manager for an additional, one-time seven (7) consecutive calendar day waiver in addition to the thirty-eight (38) days above, subject to all the other restrictions contained herein. The property owner shall have the burden of demonstrating to the City Manager that a waiver is warranted due to Unexpected Circumstances. The City Manager, at his sole discretion, can require documentation supporting Unexpected Circumstances including a certification that the Unexpected Circumstances prevented the completion of Mechanical Rock Excavation or blasting during this period. If the waiver is granted the period will be listed on the City website.

**Section 2: Chapter 133-9. "Penalties for offenses".**

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

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

**Section 3: Chapter 133-10. "Exempt acts".**

**§ 133-10. Exempt acts.**

The following activities and agencies are exempt from the requirement of this Chapter:

- A. The actions of governmental agencies, including the Rye City School District and the Rye Neck Union Free School District, shall be specifically exempt from the requirements of this chapter.
- B. Removal of rock for the sole purpose of the installation of gas or electrical service, and the installation of water, sewer service or storm water drainage, shall be exempt from sections B and D above. Any property owner seeking to utilize this exemption must certify in writing that the rock removal is solely for this purpose, and must provide at least 24 hours notice to the City of same. The property owner must provide new certification and notice if the removal lasts more than three (3) days. Upon such notice(s), the activity will be listed on the City website.

**Section 4: Severability.**

If any clause, sentence, paragraph, section or part of any section of this title shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy and in which such judgment shall have been rendered.

**Section 5: Effective date.**

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

**City of Rye Clerk's Office  
1051 Boston Post Road  
Rye, New York 10580**

*Carolyn E. D'Andrea*  
11/3/2015