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

REGULAR MEETING OF THE CITY COUNCIL COUNCIL CHAMBERS, CITY HALL
Wednesday, December 19, 2018
7:30 p.m.

Please Note: 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 attorney-client privileged matters, personnel matters and labor negotiations.

1. Pledge of Allegiance.

2. Roll Call

3. General Announcements

4. Residents may be heard on matters for Council consideration that do not appear on the Agenda.

5. Draft unapproved minutes of the Budget Workshop on November 26, 2018, the Regular Meetings of the City Council held November 28, 2018.

6. Consideration of a petition by The Miriam Osborn Memorial Home Association to amend the text of the City of Rye Zoning Code to create a new use and development standards for "Senior Living Facilities" in the R-2 Zoning District.

7. Resolution to adopt the 2019 Budget and establish the 2019 tax levy and 2019 tax rate.
   Roll Call

8. Resolution authorizing the City Comptroller to make the necessary year-end closing transfers.

9. Resolution authorizing the Mayor to execute an agreement with the Rye Free Reading Room to furnish library services for 2018.
   Roll Call

10. Resolution authorizing the City Manager to enter into a 5-year Agreement for Emergency Medical Transport with the Village of Port Chester, the Village of Rye Brook and Port Chester-Rye-Rye Brook Volunteer Ambulance Corps. Inc.
    Roll Call

11. Public Hearing to amend Chapter 133 "Noise" of the City Code with respect to installations in the public right of way.

12. Public Hearing to amend Chapter 196 “Wireless Telecommunications Facilities”, the City’s wireless code.

13. Resolution authorizing the City Engineer to submit a request to the Westchester County Board of Legislature to transfer select properties along Locust Avenue, Graham Court, Clinton Avenue, Central Avenue, Woodcrest Road, Club Road, and Sunset Lane from the Blind Brook Sewer District to the Mamaroneck Valley Sewer District in connection with the installation of a new sewer pump station at the corner of Clinton Avenue and Central Avenue.

14. Resolution to authorize participation in Westchester County contracts.
    Roll Call

15. Resolution designating the days and time of regular meetings of the City Council for 2019 setting January 9, 2019 as the first regular meeting.

16. 2019 Participation in the Tree City program.

17. Appointments to Boards and Commissions by the Mayor with Council approval.

18. Miscellaneous communications and reports.

19. Old Business.

20. New Business.

21. Adjournment

* *

The next regular meeting of the City Council will be held on Wednesday, January 9, 2019 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”.

The Mayor and City Council have office hours in the Mayor’s Conference Room Annex at Rye City Hall, 1051 Boston Post Road. Attendance by the Mayor and Council Members will vary. The Mayor’s Conference Room Annex is located on the 1st floor of City Hall adjacent to the Council Chambers. Hours are as follows:

Mondays 9:30 a.m. to 11:00 a.m.
Wednesdays 9:30 a.m. to 11:00 a.m.

DRAFT UNAPPROVED MINUTES of the Special Meeting of the City Council of the City of Rye held in City Hall on November 26, 2018 at 7:30 P.M.

PRESENT:

JOSH COHN, Mayor
SARA GODDARD
EMILY HURD
RICHARD MECCA
JULIE SOUZA
BENJAMIN STACKS
Councilmembers

ABSENT:

DANIELLE TAGGER-EPSTEIN, Councilmember

1. Pledge of Allegiance.

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

2. Roll Call.

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

3. Discussion of the FY 2018 Budget:

● *Rye Free Reading Room Budget Review*

Chris Shoemaker, Director of the Rye Free Reading Room, gave an overview of library activities and accomplishments in the last year. He said that for every dollar that is provided, there was a return of over $4 in value from the library services. Mr. Shoemaker said that the Rye Free Reading Room was sixth in the County for programs, and attendance of library programs. Mr. Shoemaker gave an overview of current and future plans for the library, and reviewed the capital improvements being completed at the library to improve community programs. He explained that the funding for additional programming would be helpful. Mr. Shoemaker touched on cost savings with regard to employee benefits.

Mayor Cohn said that he was grateful that the library would be holding Sunday hours. There was general discussion over changes in the way that libraries function with the introduction of technology, and the various programming.

The Council thanked Mr. Shoemaker for a job well done on the library programs.

● *Police Department Budget Review*

Robert Falk, Public Safety Commissioner, thanked the Council and introduced Tom Scappaticci, Police Department Accountant. He ran through some highlights of the department, including having trained two drug recognition officers. He said that the radio system had been repaired this year. He mentioned that there were several retirees. Commissioner Falk talked about police services, drug take-back programs, and the contribution to the community. He also talked about objectives for 2019, such as tightening up enforcement for local laws and focusing on quality of life issues. He stated there were four new officers hired, and they will be fully operational in seven months after the academy and training. There was general discussion over the staffing levels, with the 33 current active members. With one retiree and four new hires, 36 officers are anticipated.

There was discussion over identifying annual overtime expenses.

● *Fire Department Budget Review*

Robert Falk, Public Safety Commissioner, stated that there were 19 career firefighters, made up of 1 lieutenant, and 18 firefighters in four squads. He identified some highlights of the 2018 year, including in-house training. Commissioner Falk stated that they were exploring the idea of working alongside Rye Brook or possibly other municipalities to increase response time, efficiency, etc. There was discussion of increasing the staffing in a minimal way while the City awaits a report from the professional consultant as to recommendations for the department's future.

There was discussion over replacing equipment. There was also discussion over revenues, primarily from violations issued. The Council asked that a memo be prepared on revenues.

● *Rye Recreation Budget Review*

Sally Rogol, Recreation Superintendent introduced Erin Mantz, Assistant Superintendent, and Lisa Dempsey, Rye Recreation Commission, and thanked the Council for their support and the opportunity to present. Superintendent Rogol thanked her entire Recreation staff and Recreation Commission for their hard work each day to make sure that the City has outstanding recreation programs. She highlighted the vast facilities that Rye Recreation has to offer throughout the City. She gave an overview of the successes of the year, such as the Turkey Run, Halloween Window Painting, Pancakes with Santa, Holiday Bonfire, Food Truck Festival, summer camp, winter vacation activities, senior programs, and other activities.

Superintendent Rogol stated that she would continue to strive to increase revenues, while keeping expenses flat.

The Mayor and Council thanked the Recreation Department for their hard work and successful programs for the residents.

4. <u>Adjournment.</u>

There being no further business to discuss, Councilman Mecca made a motion, seconded by Councilman Stacks, to adjourn the public budget workshop at 9:40 p.m.

Respectfully submitted,

Carolyn D'Andrea
City Clerk

DRAFT UNAPPROVED MINUTES of the Regular Meeting of the City Council of the City of Rye held in City Hall on November 28, 2018, at 7:30 P.M.

PRESENT:

JOSH COHN, Mayor
SARA GODDARD
EMILY HURD
RICHARD MECCA
JULIE SOUZA
BENJAMIN STACKS
DANIELLE TAGGER-EPSTEIN
Councilmembers

ABSENT:

NONE

The Council convened at 6:30 P.M. Councilman Mecca made a motion, seconded by Councilwoman Souza, to adjourn immediately into executive session at 6:30 P.M. to discuss personnel and litigation matters.

At 7:29 P.M., Councilman Mecca made a motion, seconded by Councilwoman Souza, to adjourn the executive session and commence the regular meeting of the City Council. The public meeting began at 7:38 P.M.

1. Pledge of Allegiance.

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

2. Roll Call.

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

3. General Announcements.

There was nothing discussed under this agenda item.

4. Draft unapproved minutes of the regular meeting of the City Council held November 7, 2018 and of the Budget Work Session on November 14, 2018.

Councilwoman Hurd made a motion, seconded by Councilwoman Souza and unanimously carried, to adopt the minutes of the regular meeting of the City Council held November 7, 2018 and of the Budget Work Session on November 14, 2018.

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

Kent Iarocci, 5 Charlotte Street, addressed and thanked the Council. He provided his thoughts on how flooding in Rye could be alleviated and how the dam could better function.

Mack Cunningham, 502 Forest Ave, addressed the Council on the issue of the budget. Mr. Cunningham wanted to bring attention to capital improvement needs, for items that are currently not in the Recreation Capital Project plan. He reported that the Damiano Center has a critical need for a new HVAC system and roof. Additionally, he felt that the field repair should be considered within the 2019 budget, rather than by private fundraising.

Bob Zahm, Ridgewood Drive, wanted to thank the City Manager and Council for repairing the flag pole and for addressing a broken light issue under the I-95 bridge in an expeditious manner. He asked the Council for an update on the data collected from the test study of the Rye Park neighborhood. Councilwoman Hurd explained the recent test was not yielding a report, but explained where the initial report from the United Hospital Traffic Study was available on the website. Mr. Zahm concluded that sight line still needs to be addressed for the Rye Park study.

6. Consideration of a holiday pay station waiver.

Mayor Cohn explained that the Council would like to recommend waiving the parking fee to encourage Holiday shopping.

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

WHEREAS, the City Council seeks to support the Central Business District local businesses during the 2018 Holiday Season, and;

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

RESOLVED, the City Council will provide 4 hour free parking for the periods between November 27, 2018 – December 1, 2018 and December 19, 2018 – December 24, 2018 by waiving parking restrictions and parking fees in all downtown lots (Car Parks 1-5) and Purchase Street at the City's expense.

ROLL CALL

AYES:	Councilmembers Goddard, Hurd, Mecca, Souza, Stacks, Tagger-Epstein, Mayor Cohn
NAYS:	None
ABSENT:	None

7. Consideration of Rye Country Day School request to continue temporary barrier and signage test in Rye Park neighborhood through December 8 to facilitate traffic study needed as part of investigation of potential acquisition of Thruway Authority site.

Councilwoman Hurd made a motion, seconded by Councilwoman Tagger-Epstein and unanimously carried, to continue the temporary barrier and signage test in Rye Park neighborhood through December 8, 2018 to facilitate traffic study needed as part of an investigation of potential acquisition of the Thruway Authority site.

8. Approval of the election of Christopher Alba to the Rye Fire Department.

Councilman Mecca stated that Mr. Alba was elected into the membership of the Rye Fire Police Patrol, through the fire department, and was approved by the Fire Wardens at their November 13, 2018 meeting.

Councilman Mecca made a motion, seconded by Councilwoman Hurd and unanimously carried, to approve the election of Christopher Alba to the Rye Fire Department.

Consideration of a resolution to have a six-month, 150-subscriber test of a pickup service for food scrap recycling, with an accompanying drop-off location at DPW, to be supported by a grant and subscription fees of $26 per household for the 26 weeks.

On September 26, 2018, the Rye Sustainability Committee (RSC) presented to the City Council and the public a Food Scrap Recycling Program that is currently occurring in the Village of Scarsdale.

Councilwoman Souza expressed she is in support of composting but felt that the natural progression should be a drop-off to start and the move towards pick up. Additionally, she stated that sending a diesel truck to pick up food scraps appears to be more hazardous and causes incremental harm. Councilwoman Souza suggested to separate the issue by approving composting.

Councilwoman Goddard explained that this program would be limited to a group that would be paying a subscription fee to have this pick up service. She feels the carbon footprint would not be hindered because the truck pick up would be equivalent to individuals driving to a drop off location. Additionally, the project is grant based and is a test program. She suggested it be tested out and talk through the details after the program has been in motion for the six month process.

Councilwoman Tagger-Epstein said she would look into the analysis of the carbon footprint of this program. Mayor Cohn added that the County is interested in looking into adding a closer composting location, which would lower the cost and pollution content.

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

WHEREAS, the City Council and the Rye Sustainability Committee are looking for ways to reduce the total volume of waste being incinerated or landfilled annually; and

WHEREAS, the City of Rye can support through waste reduction strategies and increased recycling; now, therefore, be it

RESOLVED, the City Council will to have a six-month, 150-subscriber test of a pickup service for food scrap recycling, with an accompanying drop-off location at DPW, to be supported by a grant and subscription fees of $26 per household for the 26 weeks.

ROLL CALL

AYES:	Councilmembers Goddard, Hurd, Mecca, Souza, Stacks, Tagger-Epstein, Mayor Cohn
NAYS:	None
ABSENT:	None

14. Discussion of Paving Program.

Mayor Cohn invited Gordon Daring, an engineering consultant from VHB, to discuss paving options for the City of Rye.

Mr. Daring spoke about the process of the pavement management and road analysis. He explained that it is essentially a planning process aimed to determine the optimal road treatment for the cost and life of the treatment. Their company begins with a paving inventory and analyzes the street from a Pavement Condition Index (PCI) of 0-100, 100 being an ideal road. The company has analyzed data from 4 years ago and used a computerized system to determine the current condition of the roads in Rye.

He explained the total backlog of pavement needs in the City of Rye is estimated to total 16 million dollars, according to the computerized software technology. $845,000, $1,000,000, and $1,250,000 are three cost scenarios that would benefit the City. Heavily traffic roads would take priority but a mix of paving options on various streets would reach optimal paving goals in each scenario.

Councilwoman Souza asked if we have access to previous data from neighboring municipalities who used the various methods of paving. Ryan Coyne, City Engineer, clarified that the software would explain which streets should be repaired and the City would then extract streets depending on future projects (ie. Con-Ed gas main replacements).

Councilman Stacks asked on the status of Fireman's Circle. Mayor Cohn explained the contractor did not stick to their August completion forecast, but rather stated December 10, 2018 as a start date of paving.

10. Ratify the retention of the consulting firm, Menkes Associates, LLC to assist the City in reviewing telecom infrastructure.

Mayor Cohn explained the consultant is assisting in the matters related to telecommunications rights and continuing negotiations with Crown Castle.

Councilwoman Hurd made a motion, seconded by Councilwoman Souza and unanimously carried, to ratify the retention of the consulting firm, Menkes Associates, LLC to assist the City in reviewing telecom infrastructure.

ROLL CALL

AYES:	Councilmembers Goddard, Hurd, Mecca, Souza, Stacks, Tagger-Epstein, Mayor Cohn
NAYS:	None
ABSENT:	None

11. Consider setting a Public Hearing on December 19, 2018 to amend Chapter 133 "Noise" of the City Code with respect to installations in the public right of way.

Mayor Cohn explained the proposed amendments address how the intensity of noise is measured for installations in the right of way within Chapters 133 in the City Code.

Councilwoman Hurd made a motion, seconded by Councilwoman Tagger-Epstein and unanimously carried, to set a Public Hearing on December 19, 2018 to amend Chapter 133 "Noise" of the City Code with respect to installations in the public right of way.

12. Consider setting a Public Hearing on December 19, 2018 to amend Chapter 196 "Wireless Telecommunications Facilities", the City's wireless code.

Mayor Cohn explained Amendments to Chapter 196 concern the aesthetics and use of the best available technology of certain types of telecommunication infrastructure in the City's right of way.

Councilwoman Hurd made a motion, seconded by Councilwoman Tagger-Epstein and unanimously carried, to set a Public Hearing on December 19, 2018 to amend Chapter 196 "Wireless Telecommunications Facilities", the City's wireless code.

13. Resolution to authorize the City Manager to sign the Electric Service Agreement on receipt of PSC approval and confirmation from Constellation.

Corporation Counsel Wilson explained that the Electric Service Agreement is a necessary step to allow Rye to launch the Community Choice Aggregation program in the City.

Councilwoman Souza made a motion, seconded by Councilwoman Tagger-Epstein and unanimously carried, to authorize the City Manager to sign the Electric Service Agreement on receipt of PSC approval and confirmation from Constellation.

15. Appointments to Boards and Commissions by the Mayor with Council approval.

There is nothing under this agenda item.

16. Miscellaneous communications and reports.

Councilman Mecca reiterated that the City made the right choice when looking into curbside pickup and the decisions made. He shared that another community made their recycling decision on the basis of co-mingling glass, paper and metal. They have now been directed by Westchester County to separate paper which has resulted in the unanticipated cost of purchasing another garbage can for each resident.

Councilwoman Hurd reported that Mistletoe Magic was a great event. She wanted to congratulate the Chamber of Commerce and mentioned the upcoming Chamber Holiday party. On behalf of the Boat Basin, boats are now overdue to be removed from the water. Rye Town Park will be lighting several trees for the first time as a result of private donations. Please join them for a Caroling event around the tree on December 15th at 5pm.

Councilwoman Souza clarified that Dec 6th is the Chamber of Commerce Holiday Party.

Jerry Seitz, Rye resident, asked why the Finance Committee presented the City's budget. Councilman Stacks clarified that the City Manager presented his budget but the citizen's budget is a derivative budget from the manager's report. Mr. Seitz asked why funds were taken from a fund balance transfer to cover needed infrastructure to which Mayor Cohn explained funds of approximately $3 million still exists as they were transferred to the Capital Projects fund. Mr. Seitz then questioned what the City plans to do to generate additional sources of income. Mayor Cohn explained that the Finance Committee reviewed the fees and charges this year and will be moving forward at looking at additional sources of revenue in 2019.

17. Old Business

There was nothing discussed under this agenda item.

18. New Business

There was nothing discussed under this agenda item.

19. Adjournment.

There being no further business to discuss, Councilman Mecca made a motion, seconded by Councilman Stacks and unanimously carried, to adjourn the meeting at 9:21 pm.

Respectfully submitted,

Euka Pietrosanti
Deputy City Clerk

CITY COUNCIL AGENDA

NO. 6 DEPT.: Planning DATE: December 19, 2018

CONTACT: Christian K. Miller, City Planner

AGENDA ITEM: Consideration of a petition by The Miriam Osborn Memorial Home Association to amend the text of the City of Rye Zoning Code to create a new use and development standards for "Senior Living Facilities" in the R-2 Zoning District.

FOR THE MEETING OF:
December 19, 2018

RYE CITY CODE,
CHAPTER
SECTION

RECOMMENDATION: That the City Council refer the petition to the City Planning Commission for its advisory review and comment.

IMPACT: ☒ Environmental ☐ Fiscal ☐ Neighborhood ☐ Other:

BACKGROUND: The City Council has received a petition from Miriam Osborn Memorial Home Association ("The Osborn") to amend Chapter 197, *Zoning*, of the City Code to allow "Senior Living Facilities" ("SLF") in the City's R-2, *Single-Family Residence*, District. The petition submitted by The Osborn seeks to amend the text of the City Zoning Code to allow SLF in the City's R-2 District. The proposed amendment would allow SLF as a new permitted use in the R-2 Residence District on those properties with 50 or more contiguous acres. The proposed amendment also includes new restrictions and requirements regarding maximum floor area, building setbacks, lot coverage and other development standards.

As currently proposed, the amendment would only apply to property currently owned by The Osborn. This property is the only property currently located in the R-2 District that meets the proposed 50-acre minimum lot area requirement. Currently, The Osborn is regulated outside of the City Zoning Code by way of a Declaration of Covenants and Restrictions, dated October 15, 1993.

The proposed amendment would regulate land use at The Osborn to include new standards that would allow The Osborn to make improvements to its campus that the current Covenants and Restrictions do not allow.

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November 29, 2018

Honorable Mayor Josh Cohn
and members of the City Council
City of Rye
1050 Boston Post Road
Rye, New York 10580

Re: The Osborn Home
101 Theall Road
Zoning Text Amendment

Dear Mayor Cohn and Members of the City Council:

This office represents Miriam Osborn Memorial Home Association ("The Osborn"), the owner and operator of the above-referenced property (the "Property"), which is the home of The Osborn's senior living development. The Osborn's facilities include memory care and assisted living, skilled nursing care, independent living apartments, and a number of associated improvements, including community facilities, office space, food preparation areas, and other support facilities needed to properly operate.

As some of you may be aware, The Osborn redeveloped its campus in 1992. Since that time, treatment methods have become more sophisticated, and the standard of care for seniors has greatly improved. The Osborn is in the process of developing its plans for the Property moving forward, to adapt its campus to current and future standards of care. As fully detailed in the enclosed letter from Matthew Anderson, President and CEO of The Osborn, it is imperative that The Osborn continues to adapt and grow with the senior care industry, in order to ensure the best care and quality of life for The Osborn's residents.

The Property is in the R-2 "One-Family" Zoning District, but is currently governed by a Declaration of Covenants and Restrictions that was put in place with the City of Rye as part of The Osborn's 1992 redevelopment. It has been suggested that the most beneficial path moving forward for all parties would be to codify the zoning and dimensional regulations that will affect The Osborn in the future.

For the foregoing reasons, The Osborn is seeking a zoning text amendment to revise the City of Rye Zoning Ordinance in order to allow for the necessary growth and adaptation of The Osborn campus to allow for the improved care of its residents. Specifically, the enclosed petition requests the addition of a new "R-2 Senior Living" use in the R-2 District. This use would be permitted by special exception use permit approval, giving the City discretion over such developments. The proposed zoning amendment also provides for bulk and height requirements to ensure that the area is improved in a manner that is compatible with surrounding uses and is not over-developed. Moreover, the zoning limits such developments to properties that meet certain criteria (at least 50 acres in size and in the R-2 District) in order to prevent such developments on incompatible sites within Rye.

Enclosed please find the following materials in support of the zoning text amendment petition hereby submitted to the City Council, together with a check for the required application fee:

1) Petition for Amendments to the City of Rye Zoning Ordinance (the "Petition"), together with the proposed text amendments to the Zoning Ordinance;

2) Letter from Matthew Anderson, dated November 28, 2018, certifying The Osborn's need for the proposed text amendments; and

3) Full Environmental Assessment Form ("EAF") relating to the proposed changes[1].

Kindly place this matter on the next available City Council agenda, in order for the Council to consider accepting the Petition and referral of the Petition to the Planning Commission. We look forward to discussing this important project with you.

Very truly yours,

Frank S. McCullough, Jr.

cc: Christian Miller
Kristen Wilson, Esq.
Matthew G. Anderson
Stephanie Larsen, Esq.

[1] You will note that because the proposed action is a zoning text amendment only, several sections of the EAF are not required to be filled out. Nevertheless, we have provided as much information as possible for the Council's convenience, in order to better facilitate your review.

CITY OF RYE CITY COUNCIL
COUNTY OF WESTCHESTER: STATE OF NEW YORK
----------x

In the Matter of the Petition of

MIRIAM OSBORN MEMORIAL HOME ASSOCIATION
Petitioner,

PETITION FOR AMENDMENT TO CITY OF RYE ZONING ORDINANCE

For Amendment to the City of Rye
Zoning Ordinance.

Parcel: 146-13-1-8
----------x

TO THE MAYOR AND MEMBERS OF THE CITY COUNCIL OF THE CITY OF RYE:

PETITIONER, MIRIAM OSBORN MEMORIAL HOME ASSOCIATION ("Petitioner", or "The Osborn"), with its principal place of business at 101 Theall Road, Rye, New York 10580 hereby petitions the City Council of the City of Rye ("Rye") for amendments to the Zoning Ordinance of Rye as follows:

INTRODUCTION

1. Miriam Osborn Memorial Home Association is a duly formed and existing not for profit corporation licensed to do business in the State of New York, with its principal place of business at 101 Theall Road, Rye, New York 10580.

2. Petitioner is the owner of a tract of land totaling approximately 55.8 acres of real property, which is the lot identified as 101 Theall Road, City of Rye, County of Westchester, State of New York, shown and designated on the City of Rye Tax Map as Tax Parcel 146-13-1-8 (hereinafter referred to as the "Property"). The Property is the site of The Osborn, a senior living facility comprised of memory care, assisted living units, skilled nursing care, independent living units, and various related community facilities.

3. The Property is located in the R-2 "One-Family" Zoning District in Rye.

4. The Property is the subject of a Declaration of Covenants and Restrictions, dated October 15, 1993, which governs the dimensional regulations for the Property. Currently, these dimensional regulations are not codified anywhere in the City's Zoning Ordinance.

5. The Property is located on the eastern side of Theall Road, between Osborn Road and Playland Access Drive, and it extends all the way to the western side of Boston Post Road. To the west of the Property, across Theall Road, are primarily office buildings, and a few multi-family and single-family residential lots. Across Boston Post Road, to the east, are single-family houses. Immediately adjacent to the Property along its northern border are additional office buildings. Along the southern border is the Osborn school, and additional single-family homes are located to the south across Osborn Road.

6. Currently, the Property is improved with a senior living campus, comprised of assisted living, memory care, and nursing home facilities, communal buildings, and independent living units. As The Osborn has grown, it has determined that the current facilities will not be able to adequately serve its needs and its residents in the future. As a result, the Petitioner is proposing to establish a new special exception use to allow for future growth and the eventual establishment of facilities needed for the continued and improved care of The Osborn's residents.

7. Therefore, Petitioner is hereby requesting that the City Council of Rye amend the Rye Zoning Ordinance to create a new use in the R-2 Zoning District, specifically a senior living campus use as a special exception use. This use would be established specifically for the benefit of larger properties uniquely situated for such uses within the City.

EXISTING STRUCTURES AND USES ON THE PROPERTY

8. The Property is approximately 55.88 acres and is presently improved with memory care and assisted living facilities, skilled nursing facilities, several garden homes and independent living units, communal amenities, food preparation facilities, offices, equipment storage areas, limited staff housing, and associated parking, landscaping, and security features.

PROPOSED TEXT AMENDMENTS TO ZONING ORDINANCE

9. Petitioner respectfully requests the adoption of a Local Law codifying a Zoning Text Amendment consisting of modifications to the Residence District Table of Use Regulations to permit a new "R-2 Senior Living" special exception use and associated accessory uses.

10. A copy of the proposed Local Law for said Zoning Text Amendment is attached hereto and made a part hereof as Exhibit A.

11. The Zoning Text Amendment would not have any adverse impact on the Zoning Ordinance or the City of Rye for several reasons. First, the proposed Zoning Text Amendment would only affect properties of more than 50 acres located in the R-2 District.

12. In addition, the proposed Zoning Text Amendment will allow The Osborn to continue to thrive and maintain a high quality of care for its current and future residents. The Osborn has long been a member of the Rye community, and is committed to continuing its relationship with the City.

13. For all of the foregoing reasons, it is respectfully submitted that the proposed Zoning Ordinance Amendments should be granted.

WHEREFORE, Petitioners respectfully request that the City Council of Rye amend the Zoning Ordinance of Rye as set forth above.

Dated: Rye, New York
November 28, 2018

Respectfully submitted,

MIRIAM OSBORN MEMORIAL HOME ASSOCIATION

By: _____
Matthew Anderson, President and CEO

EXHIBIT A

PROPOSED ZONING TEXT

CITY COUNCIL
CITY OF RYE, NEW YORK

LOCAL LAW NO. ___-2019

A LOCAL LAW TO REVISE THE ZONING ORDINANCE OF THE CITY OF RYE

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

Section One. Section 197-86 of the City of Rye Zoning Ordinance shall be amended by adding a new section (15) entitled "R-2 Senior Living Facilities" to Table A, Column 2, under the heading "R-1, R-2, R-3, R-4, R-5, R-6, RS and RT Districts", which shall state as follows:

(15) R-2 Senior Living Facilities. In the R-2 District, an age restricted, multi-family residential facility in a campus setting providing a variety of housing types, including, but not limited to: independent living units, assisted living facilities, ambulatory services, and domiciliary care facilities, with healthcare support, including but not limited to availability of accessible units and assistance for residents with activities of daily living, and including other appropriate ancillary and accessory uses typically found in senior residential communities including, but not limited to, communal space, associated office space, equipment storage, residences for staff, support facilities, food preparation and service facilities, provided that:

(a) Residents of R-2 Senior Living Facilities shall be limited to: (i) a single person 55 years of age or older; (ii) two or three persons, all of whom are 55 years of age or older; (iii) a married couple, live-in companion, or partner, one of which is 55 years of age or older; (iv) the surviving spouse of a person 55 years of age or older, provided that the surviving spouse was duly registered as a resident of the development at the time of the elderly person's death; and (v) one adult 18 years of age or older residing with a person who is 55 years of age or older, provided that said adult is essential to the long-term care of the elderly person as certified by a physician duly licensed in New York State.

[1] Notwithstanding the foregoing, up to four (4) dwelling units within the community may be set aside to be occupied by a superintendent, building manager, or other staff member and their family, to which the limitations on occupancy set forth above shall not apply.

[2] Persons under the age of 55 not specifically permitted to be occupants shall not be permitted to be permanent residents of dwelling units. For the purposes of this section, a "permanent resident" shall mean any person who resides within the dwelling for more than three consecutive weeks or in excess of 30 days in any calendar year, or has listed the residence as an abode for any purpose whatsoever, including, but not limited to, enrollment in public or private schools. Temporary occupancy by guests of families shall be

permitted, provided that such occupancy does not exceed a total of 30 days in any calendar year.

[3] The limitations on occupancy shall be included in the marketing materials for the development as well as within the rules and regulations or terms of any leases, bylaws or covenants and restrictions for the development. Violations of the limitations on occupancy shall be enforceable by the City of Rye Building Inspector against the owner or lessee or the agent of any of them and shall be punishable by a fine of $250 per day or by imprisonment not exceeding 15 days, or by both such fine and imprisonment. Exceptions to these regulations shall be granted if any limitations are determined to be in violation of any state or federal law.

[4] The Planning Commission shall have the right to require that the owner execute agreements and covenants as it may deem to be required during any site plan approval process as it may reasonably deem to be required to ensure compliance with the stated intent of this section. Said agreements or covenants shall be recorded in the office of the Westchester County Clerk and constitute a covenant running with the land. Such covenant or agreement may be modified or released only as set forth in said covenant or agreement or by the City Council.

(b) The site for an R-2 Senior Living Facility shall have a minimum of 50 contiguous acres.

(c) The floor area ratio shall not exceed 0.5.

(d) Lot building coverage shall not exceed 20% and total impervious coverage shall not exceed 35%.

(e) Building height shall not exceed five (5) stories or 60 feet.

(f) There shall be a minimum yard requirement of 150 feet for front yards and a minimum yard requirement of 50 feet for side and rear yards.

[1] Required front yard setbacks may be reduced to no less than 60 feet, provided that the maximum permitted area of the encroachment of the structure into this reduced setback shall be no more than 25% of the total area between the front yard line and the standard 150-foot setback. Notwithstanding the foregoing, for all new buildings and structures, a minimum setback of 150 feet shall be maintained from Old Boston Post Road.

[2] The provisions of § 197-52 shall not apply to R-2 Senior Living Facilities.

(g) New parking areas and roadways may be located in required yards, but in no case shall a parking area or roadway be located closer than 40 feet to a property line.

(h) There shall be a minimum distance of 20 feet between all buildings. Notwithstanding the foregoing, buildings may be connected by exterior paved pathways or interior corridors. The provisions of § 197-70 shall not apply to R-2 Senior Living Facilities.

(i) For independent living units in R-2 Senior Living Facilities, the minimum amount of residential floor area in each unit shall be 750 square feet for one bedroom units, 900 square feet for two bedroom units, and 1,100 square feet for three bedroom units. For assisted living units, the minimal amount of residential floor area shall be 200 square feet. The provisions of § 197-44.B shall not apply to R-2 Senior Living Facilities.

(j) On any lot used for an R-2 Senior Living Facility, at least 60% of the property shall be preserved as open space. The provisions of § 197-68 shall not apply to R-2 Senior Living Facilities.

(k) Off-street parking for R-2 Senior Living Facilities shall be provided as follows:
   [1] For independent living units: 1.5 spaces per dwelling unit.
   [2] For assisted living, skilled nursing, nursing home, and memory care facilities: 0.25 spaces per bed.

(l) The provisions of Chapter 197, Attachment 1, entitled "Table A: Residence Districts" shall not apply to R-2 Senior Living Facilities.

(m) The provisions of § 197-8.A and C shall not apply to R-2 Senior Living Facilities.

Section Two. If any section, subsection, clause, phrase or other portion of this Local Law is, for any reason, declared invalid, in whole or in part, by any court, agency, commission, legislative body or other authority of competent jurisdiction, such portion shall be deemed a separate distinct and independent portion. Such declaration shall not affect the validity of the remaining portions hereof, which other portions shall continue in full force and effect.

Section Three. This Local Law shall take effect immediately upon filing with the Secretary of State.

The Osborn

A tradition of gracious retirement living

November 28, 2018

Honorable Mayor Josh Cohn
and Members of the City Council
City of Rye
1050 Boston Post Road
Rye, New York 10580

Dear Mayor Cohn and Members of the City Council:

The Osborn was formed upon the death of Miriam A. Osborn in 1892, by an act of the New York State legislature, based on instructions in her will to establish a home to care for aged gentlewomen in needy circumstances. John W. Sterling, the executor of Mrs. Osborn's will, purchased the land on Theall's Hill in Rye upon which the original Osborn building was constructed and opened in 1908. Between 1950 and 1970, the board of The Osborn sold off hundreds of acres of landholdings surrounding the current 56-acre campus to generate funds for operations. Some land was sold to large companies for office space, some was sold for development of single-family homes, and some was sold to the Rye school district, which built Osborn Elementary School.

In the 1980's, The Osborn board sought to restore the institution to fiscal health and its charitable mission by adopting a comprehensive plan named "Pathway 2000". Under this plan, The Osborn intended to renovate and expand the facility to become a continuing care retirement community providing independent living, assisted living and skilled nursing care. In the early 1990's, The Osborn developed a plan for the expansion of its facilities on the Rye campus and made application to the City of Rye for approval of that plan.

Since the 1993 Covenants and Restrictions were established and the "Pathway 2000" project was completed, both health care and senior living have changed dramatically. For The Osborn to continue to innovate, evolve, and grow in the ever-changing competitive market, as well as meet the needs of seniors in the future, it must expand and update its core services, including newer Assisted Living facilities, additional memory care services, and independent living options with varied amenities. By allowing The Osborn to grow beyond its current restrictions, the City would assist The Osborn in positioning itself properly to succeed as a premier service provider and continue to be a significant taxpayer in Rye, as well as a good community partner.

Yours very truly,

Matthew G. Anderson
President and CEO

101 Theall Road Rye, New York 10580 Phone 914-967-4100 Fax 914-967-4555

Full Environmental Assessment Form
Part 1 - Project and Setting

Instructions for Completing Part 1

Part 1 is to be completed by the applicant or project sponsor. 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; indicate whether missing information does not exist, or is not reasonably available to the sponsor; and, when possible, generally describe work or studies which would be necessary to update or fully develop that information.

Applicants/sponsors must complete all items in Sections A & B. In Sections C, D & E, most items contain an initial question that must be answered either "Yes" or "No". If the answer to the initial question is "Yes", complete the sub-questions that follow. If the answer to the initial question is "No", proceed to the next question. Section F allows the project sponsor to identify and attach any additional information. Section G requires the name and signature of the project sponsor to verify that the information contained in Part 1is accurate and complete.

A. Project and Sponsor Information.

Name of Action or Project: THE OSBORN ZONING AMENDMENT		
Project Location (describe, and attach a general location map): THE PROPERTY LIES EAST OF THEALL ROAD AND WEST OF BOSTON POST ROAD		
Brief Description of Proposed Action (include purpose or need): A LOCAL LAW TO REVISE THE ZONING ORDINANCE OF THE CITY OF RYE IS BEING PROPOSED TO ALLOW FOR FLEXIBLE DESIGN OF SENIOR LIVING ON THE PROPERTY. THE AMENDMENT WILL INCLUDE SENIOR LIVIING FACILTIES AS A USE PERMITTED SUBJECT TO ADDITIONAL STANDARDS AND REQUIREMENTS IN A R-2 ZONE. IT WILL ALSO INCLUDE PERMITTED ACCESSORY USES TO R-2 SENIOR LIVING FACILTIES.		
Name of Applicant/Sponsor: MIRIAM OSBORN MEMORIAL HOME ASSOCIATION	Telephone: (914) 925-8201 E-Mail: MANDERSON@THEOSBORN.ORG	
Address: 101 THEALL ROAD		
City/PO: RYE	State: NY	Zip Code: 10580
Project Contact (if not same as sponsor; give name and title/role): FRANK S. MCCULLOUGH, JR.	Telephone: (914) 949-6400 E-Mail: FMCCULLOUGH@MGSLAWYERS.COM	
Address: 1311 MAMARONECK AVENUE, SUITE 340		
City/PO: WHITE PLAINS	State: NY	Zip Code: 10605
Property Owner (if not same as sponsor):	Telephone: E-Mail:	
Address:		
City/PO:	State:	Zip Code:

B. Government Approvals

B. Government Approvals, Funding, or Sponsorship. ("Funding" includes grants, loans, tax relief, and any other forms of financial assistance.)		
Government Entity	**If Yes: Identify Agency and Approval(s) Required**	**Application Date (Actual or projected)**
a. City Council, Town Board, or Village Board of Trustees ☑Yes☐No	ZONING TEXT AMENDMENT	NOVEMBER 2018
b. City, Town or Village Planning Board or Commission ☑Yes☐No	ZONING AMENDMENT REFERRAL	
c. City Council, Town or Village Zoning Board of Appeals ☐Yes☐No		
d. Other local agencies ☐Yes☐No		
e. County agencies ☑Yes☐No	239-M REFERRAL TO COUNTY PLANNING	
f. Regional agencies ☐Yes☐No		
g. State agencies ☐Yes☐No		
h. Federal agencies ☐Yes☐No		

i. Coastal Resources.

i. Is the project site within a Coastal Area, or the waterfront area of a Designated Inland Waterway? ☐Yes☑No

ii. Is the project site located in a community with an approved Local Waterfront Revitalization Program? ☑Yes☐No

iii. Is the project site within a Coastal Erosion Hazard Area? ☐Yes☑No

C. Planning and Zoning

C.1. Planning and zoning actions.

Will administrative or legislative adoption, or amendment of a plan, local law, ordinance, rule or regulation be the only approval(s) which must be granted to enable the proposed action to proceed? ☑Yes☐No

- **If Yes,** complete sections C, F and G.
- **If No,** proceed to question C.2 and complete all remaining sections and questions in Part 1

C.2. Adopted land use plans.

a. Do any municipally- adopted (city, town, village or county) comprehensive land use plan(s) include the site where the proposed action would be located? ☐Yes☑No

If Yes, does the comprehensive plan include specific recommendations for the site where the proposed action would be located? ☐Yes☐No

b. Is the site of the proposed action within any local or regional special planning district (for example: Greenway Brownfield Opportunity Area (BOA); designated State or Federal heritage area; watershed management plan; or other?) ☐Yes☑No

If Yes, identify the plan(s):

c. Is the proposed action located wholly or partially within an area listed in an adopted municipal open space plan, or an adopted municipal farmland protection plan? ☐Yes☑No

If Yes, identify the plan(s):

C.3. Zoning

a. Is the site of the proposed action located in a municipality with an adopted zoning law or ordinance. ☑ Yes ☐ No
If Yes, what is the zoning classification(s) including any applicable overlay district?
R-2 ONE-FAMILY (1/2 ACRE MIN PER UNIT)

b. Is the use permitted or allowed by a special or conditional use permit? ☐ Yes ☑ No

c. Is a zoning change requested as part of the proposed action? ☐ Yes ☑ No
If Yes,
i. What is the proposed new zoning for the site? _____

C.4. Existing community services.

a. In what school district is the project site located? RYE CITY SCHOOL DISTRICT

b. What police or other public protection forces serve the project site?
RYE POLICE DEPARTMENT

c. Which fire protection and emergency medical services serve the project site?
RYE FIRE DEPARTMENT

d. What parks serve the project site?
RYE NATURE CENTER

D. Project Details

D.1. Proposed and Potential Development

a. What is the general nature of the proposed action (e.g., residential, industrial, commercial, recreational; if mixed, include all components)? ZONING TEXT AMENDMENT ONLY

b. a. Total acreage of the site of the proposed action? 55.8 acres
b. Total acreage to be physically disturbed? _____ acres
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? 55.8 acres

c. Is the proposed action an expansion of an existing project or use? ☐ Yes ☐ No
i. If Yes, what is the approximate percentage of the proposed expansion and identify the units (e.g., acres, miles, housing units, square feet)? % _____ Units: _____

d. Is the proposed action a subdivision, or does it include a subdivision? ☐ Yes ☐ No
If Yes,
i. Purpose or type of subdivision? (e.g., residential, industrial, commercial; if mixed, specify types)

ii. Is a cluster/conservation layout proposed? ☐ Yes ☐ No
iii. Number of lots proposed? _____
iv. Minimum and maximum proposed lot sizes? Minimum _____ Maximum _____

e. Will proposed action be constructed in multiple phases? ☐ Yes ☐ No
i. If No, anticipated period of construction: _____ months
ii. If Yes:
- Total number of phases anticipated _____
- Anticipated commencement date of phase 1 (including demolition) _____ month _____ year
- Anticipated completion date of final phase _____ month _____ year
- Generally describe connections or relationships among phases, including any contingencies where progress of one phase may determine timing or duration of future phases: _____

f. Does the project include new residential uses? ☐Yes☐No
If Yes, show numbers of units proposed.

	One Family	Two Family	Three Family	Multiple Family (four or more)
Initial Phase	_____	_____	_____	_____
At completion of all phases	_____	_____	_____	_____

g. Does the proposed action include new non-residential construction (including expansions)? ☐Yes☐No
If Yes,
i. Total number of structures _____
ii. Dimensions (in feet) of largest proposed structure: _____height; _____width; and _____ length
iii. Approximate extent of building space to be heated or cooled: _____ square feet

h. Does the proposed action include construction or other activities that will result in the impoundment of any liquids, such as creation of a water supply, reservoir, pond, lake, waste lagoon or other storage? ☐Yes☐No
If Yes,
i. Purpose of the impoundment: _____
ii. If a water impoundment, the principal source of the water: ☐ Ground water ☐Surface water streams ☐Other specify:
_____
iii. If other than water, identify the type of impounded/contained liquids and their source.
_____
iv. Approximate size of the proposed impoundment. Volume: _____ million gallons; surface area: _____ acres
v. Dimensions of the proposed dam or impounding structure: _____ height; _____ length
vi. Construction method/materials for the proposed dam or impounding structure (e.g., earth fill, rock, wood, concrete):
_____

D.2. Project Operations

a. Does the proposed action include any excavation, mining, or dredging, during construction, operations, or both? (Not including general site preparation, grading or installation of utilities or foundations where all excavated materials will remain onsite) ☐Yes☐No
If Yes:
i. What is the purpose of the excavation or dredging? _____
ii. How much material (including rock, earth, sediments, etc.) is proposed to be removed from the site?
- Volume (specify tons or cubic yards): _____
- Over what duration of time? _____

iii. Describe nature and characteristics of materials to be excavated or dredged, and plans to use, manage or dispose of them.
_____
_____
iv. Will there be onsite dewatering or processing of excavated materials? ☐Yes☐No
If yes, describe. _____
_____
v. What is the total area to be dredged or excavated? _____acres
vi. What is the maximum area to be worked at any one time? _____ acres
vii. What would be the maximum depth of excavation or dredging? _____ feet
viii. Will the excavation require blasting? ☐Yes☐No
ix. Summarize site reclamation goals and plan: _____
_____
_____

b. Would the proposed action cause or result in alteration of, increase or decrease in size of, or encroachment into any existing wetland, waterbody, shoreline, beach or adjacent area? ☐Yes☐No
If Yes:
i. Identify the wetland or waterbody which would be affected (by name, water index number, wetland map number or geographic description): _____
_____

ii. Describe how the proposed action would affect that waterbody or wetland, e.g. excavation, fill, placement of structures, or alteration of channels, banks and shorelines. Indicate extent of activities, alterations and additions in square feet or acres: _____

iii. Will proposed action cause or result in disturbance to bottom sediments? ☐Yes☐No
If Yes, describe: _____

iv. Will proposed action cause or result in the destruction or removal of aquatic vegetation? ☐Yes☐No
If Yes:

- acres of aquatic vegetation proposed to be removed: _____
- expected acreage of aquatic vegetation remaining after project completion: _____
- purpose of proposed removal (e.g. beach clearing, invasive species control, boat access): _____
- proposed method of plant removal: _____
- if chemical/herbicide treatment will be used, specify product(s): _____

v. Describe any proposed reclamation/mitigation following disturbance: _____

c. Will the proposed action use, or create a new demand for water? ☐Yes☐No
If Yes:

i. Total anticipated water usage/demand per day: _____ gallons/day

ii. Will the proposed action obtain water from an existing public water supply? ☑Yes☐No
If Yes:

- Name of district or service area: SUEZ
- Does the existing public water supply have capacity to serve the proposal? ☑Yes☐No
- Is the project site in the existing district? ☑Yes☐No
- Is expansion of the district needed? ☐Yes☑No
- Do existing lines serve the project site? ☑Yes☐No

iii. Will line extension within an existing district be necessary to supply the project? ☐Yes☑No
If Yes:

- Describe extensions or capacity expansions proposed to serve this project: _____
- Source(s) of supply for the district: _____

iv. Is a new water supply district or service area proposed to be formed to serve the project site? ☐Yes☑No
If, Yes:

- Applicant/sponsor for new district: _____
- Date application submitted or anticipated: _____
- Proposed source(s) of supply for new district: _____

v. If a public water supply will not be used, describe plans to provide water supply for the project: _____

vi. If water supply will be from wells (public or private), maximum pumping capacity: _____ gallons/minute.

d. Will the proposed action generate liquid wastes? ☐Yes☐No
If Yes:

i. Total anticipated liquid waste generation per day: _____ gallons/day

ii. Nature of liquid wastes to be generated (e.g., sanitary wastewater, industrial; if combination, describe all components and approximate volumes or proportions of each): _____

iii. Will the proposed action use any existing public wastewater treatment facilities? ☐Yes☐No
If Yes:

- Name of wastewater treatment plant to be used: MAMARONECK WWTP
- Name of district: MAMARONECK
- Does the existing wastewater treatment plant have capacity to serve the project? ☑Yes☐No
- Is the project site in the existing district? ☑Yes☐No
- Is expansion of the district needed? ☐Yes☑No

- Do existing sewer lines serve the project site? ☑Yes☐No
- Will line extension within an existing district be necessary to serve the project? ☐Yes☑No

  If Yes:
  - Describe extensions or capacity expansions proposed to serve this project: _____

iv. Will a new wastewater (sewage) treatment district be formed to serve the project site? ☐Yes☑No

If Yes:
- Applicant/sponsor for new district: _____
- Date application submitted or anticipated: _____
- What is the receiving water for the wastewater discharge? _____

v. If public facilities will not be used, describe plans to provide wastewater treatment for the project, including specifying proposed receiving water (name and classification if surface discharge, or describe subsurface disposal plans):

_____

vi. Describe any plans or designs to capture, recycle or reuse liquid waste: _____

e. Will the proposed action disturb more than one acre and create stormwater runoff, either from new point sources (i.e. ditches, pipes, swales, curbs, gutters or other concentrated flows of stormwater) or non-point source (i.e. sheet flow) during construction or post construction? ☐Yes☐No

If Yes:

i. How much impervious surface will the project create in relation to total size of project parcel?

_____ Square feet or _____ acres (impervious surface)

_____ Square feet or _____ acres (parcel size)

ii. Describe types of new point sources. _____

iii. Where will the stormwater runoff be directed (i.e. on-site stormwater management facility/structures, adjacent properties, groundwater, on-site surface water or off-site surface waters)?

_____

- If to surface waters, identify receiving water bodies or wetlands: _____
- Will stormwater runoff flow to adjacent properties? ☐Yes☐No

iv. Does proposed plan minimize impervious surfaces, use pervious materials or collect and re-use stormwater? ☐Yes☐No

f. Does the proposed action include, or will it use on-site, one or more sources of air emissions, including fuel combustion, waste incineration, or other processes or operations? ☐Yes☐No

If Yes, identify:

i. Mobile sources during project operations (e.g., heavy equipment, fleet or delivery vehicles)

ii. Stationary sources during construction (e.g., power generation, structural heating, batch plant, crushers)

iii. Stationary sources during operations (e.g., process emissions, large boilers, electric generation)

g. Will any air emission sources named in D.2.f (above), require a NY State Air Registration, Air Facility Permit, or Federal Clean Air Act Title IV or Title V Permit? ☐Yes☐No

If Yes:

i. Is the project site located in an Air quality non-attainment area? (Area routinely or periodically fails to meet ambient air quality standards for all or some parts of the year) ☐Yes☐No

ii. In addition to emissions as calculated in the application, the project will generate:
- _____Tons/year (short tons) of Carbon Dioxide (CO_2)
- _____Tons/year (short tons) of Nitrous Oxide (N_2O)
- _____Tons/year (short tons) of Perfluorocarbons (PFCs)
- _____Tons/year (short tons) of Sulfur Hexafluoride (SF_6)
- _____Tons/year (short tons) of Carbon Dioxide equivalent of Hydroflourocarbons (HFCs)
- _____Tons/year (short tons) of Hazardous Air Pollutants (HAPs)

h. Will the proposed action generate or emit methane (including, but not limited to, sewage treatment plants, landfills, composting facilities)? ☐Yes☐No

If Yes:

i. Estimate methane generation in tons/year (metric): _____

ii. Describe any methane capture, control or elimination measures included in project design (e.g., combustion to generate heat or electricity, flaring): _____

i. Will the proposed action result in the release of air pollutants from open-air operations or processes, such as quarry or landfill operations? ☐Yes☐No

If Yes: Describe operations and nature of emissions (e.g., diesel exhaust, rock particulates/dust):

_____

j. Will the proposed action result in a substantial increase in traffic above present levels or generate substantial new demand for transportation facilities or services? ☐Yes☐No

If Yes:

i. When is the peak traffic expected (Check all that apply): ☐ Morning ☐ Evening ☐Weekend ☐ Randomly between hours of _____ to _____.

ii. For commercial activities only, projected number of semi-trailer truck trips/day: _____

iii. Parking spaces: Existing _____ Proposed _____ Net increase/decrease _____

iv. Does the proposed action include any shared use parking? ☐Yes☐No

v. If the proposed action includes any modification of existing roads, creation of new roads or change in existing access, describe:

_____

vi. Are public/private transportation service(s) or facilities available within ½ mile of the proposed site? ☐Yes☐No

vii Will the proposed action include access to public transportation or accommodations for use of hybrid, electric or other alternative fueled vehicles? ☐Yes☐No

viii. Will the proposed action include plans for pedestrian or bicycle accommodations for connections to existing pedestrian or bicycle routes? ☐Yes☐No

k. Will the proposed action (for commercial or industrial projects only) generate new or additional demand for energy? ☐Yes☐No

If Yes:

i. Estimate annual electricity demand during operation of the proposed action: _____

ii. Anticipated sources/suppliers of electricity for the project (e.g., on-site combustion, on-site renewable, via grid/local utility, or other):

_____

iii. Will the proposed action require a new, or an upgrade to, an existing substation? ☐Yes☐No

l. Hours of operation. Answer all items which apply.

i. During Construction:

- Monday - Friday: 24/7
- Saturday: 24/7
- Sunday: 24/7
- Holidays: 24/7

ii. During Operations:

- Monday - Friday: 24/7
- Saturday: 24/7
- Sunday: 24/7
- Holidays: 24/7

m. Will the proposed action produce noise that will exceed existing ambient noise levels during construction, operation, or both? ☐Yes☐No

If yes:

i. Provide details including sources, time of day and duration:

_____

ii. Will proposed action remove existing natural barriers that could act as a noise barrier or screen? ☐Yes☐No

Describe: _____

n.. Will the proposed action have outdoor lighting? ☐Yes☐No

If yes:

i. Describe source(s), location(s), height of fixture(s), direction/aim, and proximity to nearest occupied structures:

_____

ii. Will proposed action remove existing natural barriers that could act as a light barrier or screen? ☐Yes☐No

Describe: _____

o. Does the proposed action have the potential to produce odors for more than one hour per day? ☐Yes☐No

If Yes, describe possible sources, potential frequency and duration of odor emissions, and proximity to nearest occupied structures: _____

p. Will the proposed action include any bulk storage of petroleum (combined capacity of over 1,100 gallons) or chemical products 185 gallons in above ground storage or any amount in underground storage? ☐Yes☐No

If Yes:

i. Product(s) to be stored _____

ii. Volume(s) _____ per unit time _____ (e.g., month, year)

iii. Generally describe proposed storage facilities: _____

q. Will the proposed action (commercial, industrial and recreational projects only) use pesticides (i.e., herbicides, insecticides) during construction or operation? ☐ Yes ☐No

If Yes:

i. Describe proposed treatment(s):

_____

ii. Will the proposed action use Integrated Pest Management Practices? ☐ Yes ☐No

r. Will the proposed action (commercial or industrial projects only) involve or require the management or disposal of solid waste (excluding hazardous materials)? ☐ Yes ☐No

If Yes:

i. Describe any solid waste(s) to be generated during construction or operation of the facility:

- Construction: _____ tons per _____ (unit of time)
- Operation : _____ tons per _____ (unit of time)

ii. Describe any proposals for on-site minimization, recycling or reuse of materials to avoid disposal as solid waste:

- Construction: _____
- Operation: _____

iii. Proposed disposal methods/facilities for solid waste generated on-site:

- Construction: _____
- Operation: _____

s. Does the proposed action include construction or modification of a solid waste management facility? ☐ Yes ☐ No

If Yes:

i. Type of management or handling of waste proposed for the site (e.g., recycling or transfer station, composting, landfill, or other disposal activities): _____

ii. Anticipated rate of disposal/processing:

- _____ Tons/month, if transfer or other non-combustion/thermal treatment, or
- _____ Tons/hour, if combustion or thermal treatment

iii. If landfill, anticipated site life: _____ years

t. Will proposed action at the site involve the commercial generation, treatment, storage, or disposal of hazardous waste? ☐Yes☐No

If Yes:

i. Name(s) of all hazardous wastes or constituents to be generated, handled or managed at facility: _____

ii. Generally describe processes or activities involving hazardous wastes or constituents: _____

iii. Specify amount to be handled or generated _____ tons/month

iv. Describe any proposals for on-site minimization, recycling or reuse of hazardous constituents: _____

v. Will any hazardous wastes be disposed at an existing offsite hazardous waste facility? ☐Yes☐No

If Yes: provide name and location of facility: _____

If No: describe proposed management of any hazardous wastes which will not be sent to a hazardous waste facility: _____

E. Site and Setting of Proposed Action

E.1. Land uses on and surrounding the project site

a. Existing land uses.

i. Check all uses that occur on, adjoining and near the project site.

☐ Urban ☐ Industrial ☐ Commercial ☐ Residential (suburban) ☐ Rural (non-farm)
☐ Forest ☐ Agriculture ☐ Aquatic ☑ Other (specify): RETIREMENT COMMUNITY AND REHABILITATION FACILITY

ii. If mix of uses, generally describe: _____

b. Land uses and covertypes on the project site.

Land use or Covertype	Current Acreage	Acreage After Project Completion	Change (Acres +/-)
• Roads, buildings, and other paved or impervious surfaces	±14.8		
• Forested	0		
• Meadows, grasslands or brushlands (non-agricultural, including abandoned agricultural)	±41.0		
• Agricultural (includes active orchards, field, greenhouse etc.)	0		
• Surface water features (lakes, ponds, streams, rivers, etc.)	0		
• Wetlands (freshwater or tidal)	0		
• Non-vegetated (bare rock, earth or fill)	0		
• Other Describe: _____			

c. Is the project site presently used by members of the community for public recreation? ☐Yes☑No

i. If Yes: explain: _____

d. Are there any facilities serving children, the elderly, people with disabilities (e.g., schools, hospitals, licensed day care centers, or group homes) within 1500 feet of the project site? ☑Yes☐No

If Yes,

i. Identify Facilities:

THE OSBORN SCHOOL IS AN ADJACENT PROPERTY SOUTH OF THE PROJECT SITE.

e. Does the project site contain an existing dam? ☐Yes☑No

If Yes:

i. Dimensions of the dam and impoundment:

- Dam height: _____ feet
- Dam length: _____ feet
- Surface area: _____ acres
- Volume impounded: _____ gallons OR acre-feet

ii. Dam's existing hazard classification: _____

iii. Provide date and summarize results of last inspection:

f. Has the project site ever been used as a municipal, commercial or industrial solid waste management facility, or does the project site adjoin property which is now, or was at one time, used as a solid waste management facility? ☐Yes☑No

If Yes:

i. Has the facility been formally closed? ☐Yes☐ No

- If yes, cite sources/documentation: _____

ii. Describe the location of the project site relative to the boundaries of the solid waste management facility:

iii. Describe any development constraints due to the prior solid waste activities: _____

g. Have hazardous wastes been generated, treated and/or disposed of at the site, or does the project site adjoin property which is now or was at one time used to commercially treat, store and/or dispose of hazardous waste? ☐Yes☑No

If Yes:

i. Describe waste(s) handled and waste management activities, including approximate time when activities occurred:

h. Potential contamination history. Has there been a reported spill at the proposed project site, or have any remedial actions been conducted at or adjacent to the proposed site? ☐Yes☑ No

If Yes:

i. Is any portion of the site listed on the NYSDEC Spills Incidents database or Environmental Site Remediation database? Check all that apply: ☐Yes☐No

☐ Yes – Spills Incidents database — Provide DEC ID number(s): _____

☐ Yes – Environmental Site Remediation database — Provide DEC ID number(s): _____

☐ Neither database

ii. If site has been subject of RCRA corrective activities, describe control measures: _____

iii. Is the project within 2000 feet of any site in the NYSDEC Environmental Site Remediation database? ☑Yes☐No

If yes, provide DEC ID number(s): B00109

iv. If yes to (i), (ii) or (iii) above, describe current status of site(s):

THE SITE LISTED IN THE NYSDEC ENVIRONMENTAL SITE REMEDIATION DATABASE IS BEAVER SWAMP BROOK SITE LOCATED IN HARRISON, NY. REMEDIATION AT THIS SITE WAS COMPLETED OCTOBER 28, 2014.

v. Is the project site subject to an institutional control limiting property uses? ☐Yes ☑No

- If yes, DEC site ID number: _____
- Describe the type of institutional control (e.g., deed restriction or easement): _____
- Describe any use limitations: _____
- Describe any engineering controls: _____
- Will the project affect the institutional or engineering controls in place? ☐Yes ☐No
- Explain: _____

E.2. Natural Resources On or Near Project Site

a. What is the average depth to bedrock on the project site? 2 TO 6 feet

b. Are there bedrock outcroppings on the project site? ☐Yes ☐No
If Yes, what proportion of the site is comprised of bedrock outcroppings? _____%

c. Predominant soil type(s) present on project site:

	52 %
	26 %
	22 %

d. What is the average depth to the water table on the project site? Average: _____ feet

e. Drainage status of project site soils:
- ☐ Well Drained: ____% of site
- ☐ Moderately Well Drained: ____% of site
- ☐ Poorly Drained ____% of site

f. Approximate proportion of proposed action site with slopes:
- ☐ 0-10%: ____% of site
- ☐ 10-15%: ____% of site
- ☐ 15% or greater: ____% of site

g. Are there any unique geologic features on the project site? ☐Yes ☑No
If Yes, describe: _____

h. Surface water features.

i. Does any portion of the project site contain wetlands or other waterbodies (including streams, rivers, ponds or lakes)? ☐Yes ☑No

ii. Do any wetlands or other waterbodies adjoin the project site? ☐Yes ☑No

If Yes to either *i* or *ii*, continue. If No, skip to E.2.i.

iii. Are any of the wetlands or waterbodies within or adjoining the project site regulated by any federal, state or local agency? ☐Yes ☑No

iv. For each identified regulated wetland and waterbody on the project site, provide the following information:
- Streams: Name _____ Classification _____
- Lakes or Ponds: Name _____ Classification _____
- Wetlands: Name _____ Approximate Size _____
- Wetland No. (if regulated by DEC) _____

v. Are any of the above water bodies listed in the most recent compilation of NYS water quality-impaired waterbodies? ☐Yes ☑No

If yes, name of impaired water body/bodies and basis for listing as impaired: _____

i. Is the project site in a designated Floodway? ☐Yes ☑No

j. Is the project site in the 100 year Floodplain? ☐Yes ☑No

k. Is the project site in the 500 year Floodplain? ☐Yes ☑No

l. Is the project site located over, or immediately adjoining, a primary, principal or sole source aquifer? ☑Yes ☐No
If Yes:

i. Name of aquifer: Principal Aquifer

m. Identify the predominant wildlife species that occupy or use the project site:

Squirrel	Chipmunk	Various song birds
White tail deer	Wild turkey	
Groundhog	Eastern cottontail	

n. Does the project site contain a designated significant natural community? ☐Yes ☑No

If Yes:

i. Describe the habitat/community (composition, function, and basis for designation): _____

ii. Source(s) of description or evaluation: _____

iii. Extent of community/habitat:

- Currently: _____ acres
- Following completion of project as proposed: _____ acres
- Gain or loss (indicate + or -): _____ acres

o. Does project site contain any species of plant or animal that is listed by the federal government or NYS as endangered or threatened, or does it contain any areas identified as habitat for an endangered or threatened species? ☐Yes ☑No

p. Does the project site contain any species of plant or animal that is listed by NYS as rare, or as a species of special concern? ☐Yes ☑No

q. Is the project site or adjoining area currently used for hunting, trapping, fishing or shell fishing? ☐Yes ☑No

If yes, give a brief description of how the proposed action may affect that use: _____

E.3. Designated Public Resources On or Near Project Site

a. Is the project site, or any portion of it, located in a designated agricultural district certified pursuant to Agriculture and Markets Law, Article 25-AA, Section 303 and 304? ☐Yes ☑No

If Yes, provide county plus district name/number: _____

b. Are agricultural lands consisting of highly productive soils present? ☐Yes ☑No

i. If Yes: acreage(s) on project site? _____

ii. Source(s) of soil rating(s): _____

c. Does the project site contain all or part of, or is it substantially contiguous to, a registered National Natural Landmark? ☐Yes ☑No

If Yes:

i. Nature of the natural landmark: ☐ Biological Community ☐ Geological Feature

ii. Provide brief description of landmark, including values behind designation and approximate size/extent: _____

d. Is the project site located in or does it adjoin a state listed Critical Environmental Area? ☑Yes ☐No

If Yes:

i. CEA name: County & State Park Lands

ii. Basis for designation: Exceptional or unique character

iii. Designating agency and date: Agency:Westchester County, Date:1-31-90

e. Does the project site contain, or is it substantially contiguous to, a building, archaeological site, or district which is listed on, or has been nominated by the NYS Board of Historic Preservation for inclusion on, the State or National Register of Historic Places? ☐ Yes ☑ No

If Yes:

i. Nature of historic/archaeological resource: ☐ Archaeological Site ☐ Historic Building or District

ii. Name: _____

iii. Brief description of attributes on which listing is based: _____

f. Is the project site, or any portion of it, located in or adjacent to an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory? ☑ Yes ☐ No

g. Have additional archaeological or historic site(s) or resources been identified on the project site? ☐ Yes ☑ No

If Yes:

i. Describe possible resource(s): _____

ii. Basis for identification: _____

h. Is the project site within fives miles of any officially designated and publicly accessible federal, state, or local scenic or aesthetic resource? ☐ Yes ☐ No

If Yes:

i. Identify resource: _____

ii. Nature of, or basis for, designation (e.g., established highway overlook, state or local park, state historic trail or scenic byway, etc.): _____

iii. Distance between project and resource: _____ miles.

i. Is the project site located within a designated river corridor under the Wild, Scenic and Recreational Rivers Program 6 NYCRR 666? ☐ Yes ☑ No

If Yes:

i. Identify the name of the river and its designation: _____

ii. Is the activity consistent with development restrictions contained in 6NYCRR Part 666? ☐ Yes ☐ No

F. Additional Information

Attach any additional information which may be needed to clarify your project.

If you have identified any adverse impacts which could be associated with your proposal, please describe those impacts plus any measures which you propose to avoid or minimize them.

G. Verification

I certify that the information provided is true to the best of my knowledge.

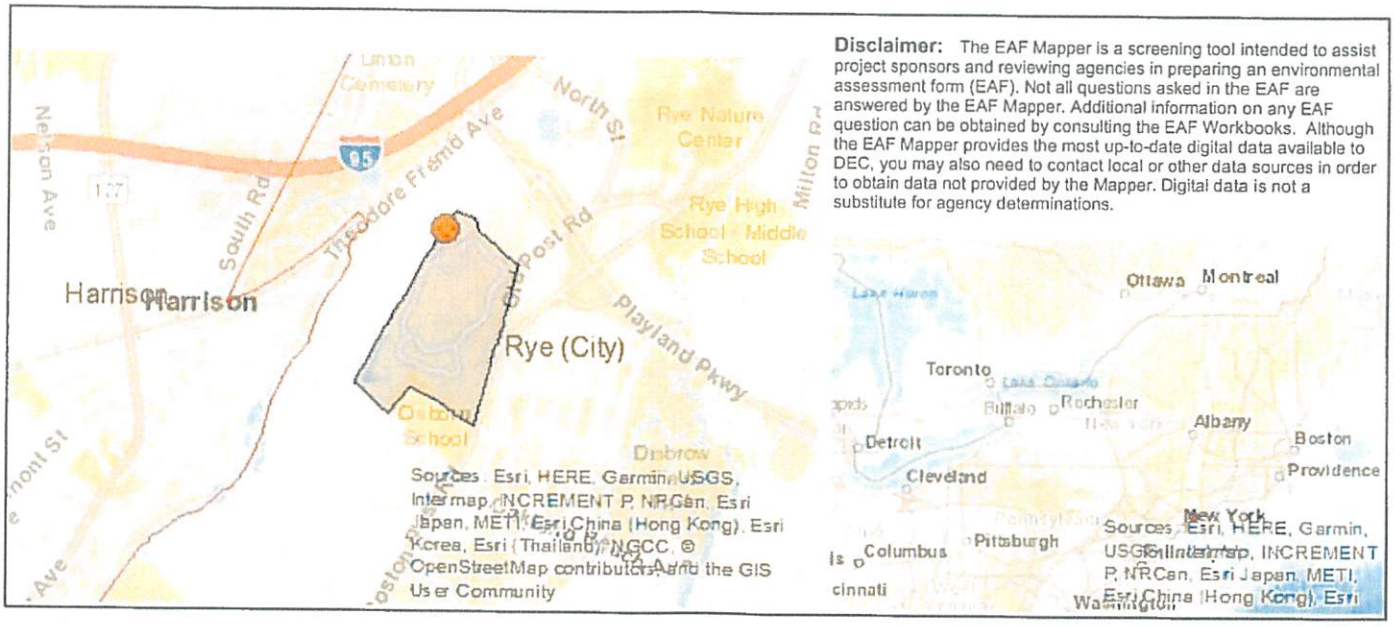
Applicant/Sponsor Name Miriam Osborn Memorial Home Assoc. Date 11/28/18

Signature _____ Title President / CEO

PRINT FORM

EAF Mapper Summary Report

Tuesday, November 13, 2018 9:36 AM



B.i.i [Coastal or Waterfront Area]	No
B.i.ii [Local Waterfront Revitalization Area]	Yes
C.2.b. [Special Planning District]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h [DEC Spills or Remediation Site - Potential Contamination History]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h.i [DEC Spills or Remediation Site - Listed]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h.i [DEC Spills or Remediation Site - Environmental Site Remediation Database]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h.iii [Within 2,000' of DEC Remediation Site]	Yes
E.1.h.iii [Within 2,000' of DEC Remediation Site - DEC ID]	B00109
E.2.g [Unique Geologic Features]	No
E.2.h.i [Surface Water Features]	No
E.2.h.ii [Surface Water Features]	No
E.2.h.iii [Surface Water Features]	No
E.2.h.v [Impaired Water Bodies]	No
E.2.i. [Floodway]	No
E.2.j. [100 Year Floodplain]	No
E.2.k. [500 Year Floodplain]	No
E.2.l. [Aquifers]	Yes
E.2.l. [Aquifer Names]	Principal Aquifer
E.2.n. [Natural Communities]	No

E.2.o. [Endangered or Threatened Species]	No
E.2.p. [Rare Plants or Animals]	No
E.3.a. [Agricultural District]	No
E.3.c. [National Natural Landmark]	No
E.3.d [Critical Environmental Area]	Yes
E.3.d [Critical Environmental Area - Name]	County & State Park Lands
E.3.d.ii [Critical Environmental Area - Reason]	Exceptional or unique character
E.3.d.iii [Critical Environmental Area – Date and Agency]	Agency:Westchester County, Date:1-31-90
E.3.e. [National Register of Historic Places]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.3.f. [Archeological Sites]	Yes
E.3.i. [Designated River Corridor]	No

CITY COUNCIL AGENDA

NO. 7 DEPT.: Finance DATE: December 19, 2018

CONTACT: Joe Fazzino, Deputy Comptroller

AGENDA ITEM: Resolution to adopt the 2019 Budget and establish the 2019 tax rate.

FOR THE MEETING OF:
December 19, 2018

RYE CITY CODE,
CHAPTER
SECTION

RECOMMENDATION: That the City Council adopt the following resolution:

WHEREAS, on November 7, 2018 the 2019 Tentative Budget was presented to the City Council, and;

RESOLVED, that the tentative budgets and fee schedules as approved by the City Council, are hereby adopted for the fiscal year ending December 31, 2019, and be it further;

RESOLVED, that the City Council does hereby certify to the City Comptroller the 2019 City of Rye tax rate of $176.76 per $1,000 taxable assessed valuation and the 2019 City of Rye tax levy of $24,864,094 and be it further;

RESOLVED, that the City Council does hereby direct the City Comptroller to apportion and extend against each taxable property listed upon the assessment roll at the tax rate certified in this resolution to produce the tax levy certified in this resolution, and to render tax notices for, and receive and collect, the several sums so computed and determined, with interest as provided by law, and any special assessments heretofore authorized and approved.

IMPACT: ☐ Environmental ☐ Fiscal ☐ Neighborhood ☐ Other:

BACKGROUND: On November 7, 2018 the City Manager and City Comptroller presented the 2019 Tentative Budget to the City Council. The tentative budget has since been reviewed and adopted by City Council at public meetings. The above resolution provides for the adoption of the 2019 Budget.

CITY COUNCIL AGENDA

NO. 8 DEPT.: Finance DATE: December 19, 2018

CONTACT: Joseph Fazzino, Deputy Comptroller

AGENDA ITEM: Resolution authorizing the City Comptroller to make the necessary year-end closing transfers.

FOR THE MEETING OF:
December 19, 2018

RYE CITY CODE,
CHAPTER
SECTION

RECOMMENDATION: That the City Council adopt the following resolution:

RESOLVED, that the City Comptroller is hereby authorized to make the necessary 2018 fiscal year-end budget transfers in City accounts, provided a list of such transfers over $10,000 is furnished to the City Council after completion of such transfers.

IMPACT: ☐ Environmental ☒ Fiscal ☐ Neighborhood ☐ Other:

BACKGROUND: While at the fund level total actual expenditures do not exceed the total budgeted amount, there may be several detailed budget lines that show various over and under expended amounts. Funds that are not encumbered or reserved for a specific expense will be moved to Fund Balance from individual financial lines. This resolution authorizes the City Comptroller to make the necessary year-end budget adjustments to ensure that the line item budgets are properly allocated.

CITY COUNCIL AGENDA

NO. 9 DEPT.: The City Manager DATE: December 19, 2018

CONTACT: Marcus Serrano, City Manager

AGENDA ITEM: Resolution authorizing the Mayor to enter into an agreement with the Rye Free Reading Room to furnish library services for 2019.

FOR THE MEETING OF:
December 19, 2018
RYE CITY CODE,
CHAPTER
SECTION

RECOMMENDATION: That the City Council approve the following resolution:
RESOLVED, that the Mayor be and hereby is authorized to execute an agreement with the Rye Free Reading Room to furnish library services for 2019.

IMPACT: ☐ Environmental ☒ Fiscal ☐ Neighborhood ☐ Other:

BACKGROUND: Each year the City of Rye financially supports the operations of the Rye Free Reading Room (RFRR). In FY 2018, the contribution was in the amount of $1,285,000. The attached agreement for FY 2019 includes an appropriation of $1,295,000 The agreement stipulates the specific rights and obligations of both parties, pursuant to section 256 of the Education Law of the State of New York.

See attached 2019 Agreement.

THIS AGREEMENT, made as of the _____day of December, 2018, by and between the CITY OF RYE, a municipal corporation located within the County of Westchester and State of New York, party of the first part, and RYE FREE READING ROOM, a free library association duly registered by the Regents of the University of the State of New York at a meeting thereof on January 24-25, 1917, and maintaining a free library in the City of Rye, County of Westchester and State of New York, party of the second part:

WITNESSETH, that the parties hereto, pursuant to section 256 of the Education Law of the State of New York, do hereby mutually covenant and agree as follows:

1. The party of the second part does hereby agree to furnish library privileges to the people of the City of Rye, under reasonable rules and regulations of the party of the second part, during the terms of this agreement.

2. The party of the second part does hereby agree that the Rye Free Reading Room will make all best efforts to offer service to the public a minimum of 47 hours in the winter and 47 hours in the summer. The Library will make all best efforts to ensure that within its hours of operation that Saturday is open**.** In addition, the Rye Free Reading Room will guarantee that they will be open for "special events" in accordance with the policies and procedures of the library as they occur throughout the year.

3. The party of the second part does hereby agree to submit to the City of Rye a financial report within two months of the close of its fiscal year and to provide copies of an annual narrative report prepared for association members. Copies of all audit reports prepared by independent audit firms or the State of New York will be filed, within 30 days of receipt, with the City Comptroller and the City Council's Audit Committee.

4. In consideration of the foregoing the party of the first part does hereby agree to pay the sum of One Million Two Hundred Ninety Five Thousand Dollars ($1,295,000) to the party of the second part during the calendar year: Six Hundred Forty Seven Thousand Five Hundred Dollars ($647,500) to be paid in January, and Six Hundred Forty Seven Thousand Five Hundred Dollars ($647,500) to be paid in July.

5. Pursuant to said statute, such total sum shall be a charge upon the City of Rye and shall be raised, appropriated and paid in the same manner as other City charges.

6. If the capital improvements that were part of the 2012 bond resolution are installed in 2019, the Rye Free Reading Room will be responsible for all maintenance and repair costs of same.

7. This agreement shall be effective and continue for the calendar year 2019.

IN WITNESS WHEREOF, the parties hereto have duly executed this agreement as of the day and year first above written.

CITY OF RYE

By_____
Mayor

RYE FREE READING ROOM

Attest:

By_____
President

_____
City Clerk

CITY COUNCIL AGENDA

NO. 10 DEPT.: City Manager DATE: December 19, 2018

CONTACT: Marcus Serrano

AGENDA ITEM: Authorization for the City Manager to enter into an Agreement for Emergency Medical Transport with the Village of Port Chester, the Village of Rye Brook and Port Chester-Rye-Rye Brook Volunteer Ambulance Corps, Inc.

FOR THE MEETING OF:

December 19, 2018

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 Agreement is for a five-year extension commencing July 1, 2019 through June 30, 2024.

See attached documentation.

EXTENSION AGREEMENT

AGREEMENT made this_____ day of_____ 2019 between **The City of Rye, the Village of Port Chester and the Village of Rye Brook,** (hereinafter "Municipalities") and **Port Chester-Rye-Rye Brook Volunteer Ambulance Corps, Inc.** (hereinafter "Contractor").

WITNESSETH:

Whereas, the Municipalities and the Contractor have entered into a certain Emergency Medical Transport Agreement, herein after "the Agreement," dated November 22nd, 1994; and

Whereas, on April 8th, 2009 the Municipalities approved a contract entered into by all parties, thereafter "EMS Agreement," for five (5) years, commencing on July 1st, 2009 and continuing until June 30th, 2014; and

Whereas, said contract can be extended twice for a period of five (5) years by extension agreement, and

Whereas, said contract was extended once, from the period of July 1st, 2014 to June 30th, 2019, and

Whereas, the second extension of said contract would be for the period of July 1st, 2019 to June 30th, 2024, and

Whereas, the parties desire to extend said contract;

Now, therefore, in consideration of the promises herein set forth, the parties mutually agree that all terms and conditions of said contract shall remain in full force and effect.

In Witness Thereof, the parties have executed this Agreement as of the date hereinabove set forth.

City of Rye

By:_____
City Manager

Village of Rye Brook

By:_____
Village Mayor

Village of Port Chester

By:_____
Village Manager

Port Chester-Rye-Rye Brook VAC, Inc.

By:_____
Administrator

EMERGENCY MEDICAL SERVICES

PORT CHESTER-RYE-RYE BROOK VOLUNTEER AMBULANCE CORPS, INC.
417 ELLENDALE AVENUE, PORT CHESTER, NEW YORK 10573
Phone: 914-939-8112 Fax: 914-939-1075

October 11, 2018

To the members of the Emergency Medical Services Committee

RE: Municipal Contribution

Dear Members:

As per the Emergency Medical Transport Agreement and the Inter-Municipal Agreement, the breakdown of municipal financial support to the Ambulance Corps with a 5% increase would be:

Municipality	1/3 of 75%	2010 Census	% of total Population	25% by Population	Total	Quarterly Payments
Port Chester	$178,450.00	29,247	54%	$96,363.00	$274,813.00	$68,703.25
City of Rye	$178,450.00	15,868	29%	$51,750.50	$230,200.50	$57,550.13
Rye Brook	$178,450.00	9,347	17%	$30,336.50	$208,786.50	$52,196.62
	$535,350.00,	54,462	100%	$178,450.00	$713,800.00	$178,450.00

According to Section 9 of the Transportation Agreement, quarterly installments would be payable on or before January 1, April 1, July 1 and October 1.

Thank you for your continued support.

Sincerely,

Scott T. Moore
EMS Administrator
EMSC Secretary

CITY COUNCIL AGENDA

NO. 11 DEPT.: Legal DATE: December 19, 2018

CONTACT: Kristen Wilson, Corporation Counsel

AGENDA ITEM: Public Hearing to amend Chapter 133 "Noise" of the City Code with respect to installations in the public right of way.

FOR THE MEETING OF:
December 19, 2018

RYE CITY CODE:
CHAPTER
SECTION

RECOMMENDATION: Open a Public Hearing to amend Chapter 133 "Noise" of the City Code with respect to installations in the public right of way.

IMPACT: ☐ Environmental ☐ Fiscal ☑ Neighborhood ☐ Other:

BACKGROUND:

The proposed amendments address how the intensity of noise is measured for installations in the right of way.

See attached.

CITY OF RYE

LOCAL LAW NO. ____ 2019

A local law to amend Chapter 133 "Noise" Section 3 "Permissible Intensity of Noise" and Section 4 "Points and method for measuring intensity of sound" to reflect changes in technology related to the deployment of wireless services and other supporting equipment as follows:

Section 1:

Chapter 133: Noise

§133-1 Unnecessary noise prohibited.

Subject to the provisions of this chapter, the creation of any unreasonably loud, disturbing and unnecessary noise is prohibited. Noise of such character, intensity and duration as to be detrimental to the life or health of any individual is prohibited.

§133-2 Prohibited acts. ***

§133-3 Permissible intensity of noise.

[Amended 8-21-1991 by L.L. No. 19-1991]

Except for noise emanating from the operation of motor vehicles, the permissible intensity of noise from any of the foregoing acts, whether such noise is intermittent, impulsive, sporadic or continuous, shall be limited as follows:

A. Maximum sound pressure [db(A)] shall be as follows:

(1) Fifty-five db(A) for stationary sources and 70 db(A) for outdoor power tools.

(2) Portable air compressors and their related equipment are limited to 76 db(A).

(3) Lawn mowers, leaf blowers, and outdoor vacuum cleaners shall have a permitted intensity of 85 db(A); use of this equipment is prohibited between the hours of 8:00 p.m. and 8:00 a.m. on weekdays and between the hours of 6:00 p.m. and 10:00 a.m. on weekends and holidays. The permitted intensity and hours described in this subsection will apply to leaf blowers during months when the use of leaf blowers is permitted.

(4) Air-conditioning units and pool filters are limited to 60 db(A).

(5) Stationery utility or communication facilities shall be limited to 45 db(A)

§133-4 Points and method for measuring intensity of sound.

A. Except for noise emanating from the operation of motor vehicles, the point at which the intensity of sound is to be measured shall be at a distance of 50 feet, except that noise from:

(1) Air-conditioning units and pool filters at a distance of 10 feet.

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(2) Stationary utility or communications facilities within 500 feet of any residentially zoned property shall be measured three feet from the source of the noise. For any such facilities, the measurements should include noise from that facility and all other stationary utility or communications facilities proximately associated with the stationary utility or communications facility or its Supporting Structure as defined in Chapter 196.

B. Measurement shall be made using a meter capable of measuring decibels and of a type meeting ANSI S1.4-1971, Type 2 standard. The measurement is to be made using a free-field microphone directed at the noise source.

Section 2: 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 3: Effective date.

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

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CITY COUNCIL AGENDA

NO. 12 DEPT.: Legal DATE: December 19, 2018

CONTACT: Kristen Wilson, Corporation Counsel

AGENDA ITEM: Public Hearing to amend Chapter 196, the City's wireless code.

FOR THE MEETING OF:
December 19, 2018

RYE CITY CODE:
CHAPTER
SECTION

RECOMMENDATION: That the City Council opens a Public Hearing to amend Chapter 196, the City's wireless code.

IMPACT: ☐ Environmental ☐ Fiscal ☑ Neighborhood ☐ Other:

BACKGROUND:

Amendments to Chapter 196 concern the aesthetics and use of the best available technology of certain types of telecommunication infrastructure in the City's right of way.

See attached.

CITY OF RYE

LOCAL LAW NO. 2019

A local law to amend in its entirety **Chapter 196** "Wireless Telecommunications Facilities" to be responsive to the Federal Communications Order 18-133, to reflect changes in technology related to the deployment of wireless services, to update the permitting process regarding new technology, and to update the City's regulations governing the time, place and manner of these facilities as follows:

Section 1

Chapter 196 - "Wireless Telecommunications Facilities"

§ 196-1 Purpose and legislative intent.

A. The Telecommunications Act of 1996 affirmed the City of Rye's authority concerning the placement, construction and modification of wireless telecommunications facilities. The City Council finds that wireless telecommunications facilities and related equipment may pose a unique hazard to the health, safety, public welfare and environment of the City and its inhabitants, and may also have adverse visual and sonic impacts on the community, its character and thus the quality of life in the City.

B. The intent of this chapter is to ensure that the placement, construction or modification of wireless telecommunications facilities and related equipment is consistent with the City's land use policies and Zoning Code[1]; to minimize the negative and adverse visual impact of wireless telecommunications facilities; to assure a comprehensive review of environmental impacts of such facilities; to protect the health, safety and welfare of the City of Rye; and to define when shared use of wireless telecommunication facilities is the more aesthetically sensitive alternative.

C. The City finds that minimization of clutter and structures in the rights-of-way is important to the welfare of the community, and that placement near residential structures, and in historical areas should be restricted where not critical to the provision of services.

§ 196-2 Title.

This chapter may be known and cited as the "Wireless Telecommunications Facilities Siting and Special Use Permit Law for the City of Rye," or may otherwise be known as the "Wireless Facilities Law."

§ 196-3 Definitions; word usage.

For purposes of this chapter, and where not inconsistent with the context of a particular section, the defined terms, phrases, words, abbreviations and their derivations shall have the meanings

[1] 1. Editor's Note: See Ch. 197, Zoning.

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given in this section. When not inconsistent with the context, words in the present tense include the future tense, words used in the plural number include words in the singular number and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

ACCESSORY FACILITY OR STRUCTURE — An accessory facility or structure serving or being used in conjunction with a Base Station and located in proximity to the Base Station, whether or not owned by the person who owns or controls the Base Station, including but not limited to utility or transmission equipment storage sheds or cabinets; electric meters; and fencing or shielding.

APPLICANT — Includes any individual, corporation, estate, trust partnership, joint-stock company, association of two or more persons, limited liability company or entity submitting an application to the City of Rye for a Special Use Permit for a Wireless Facility.

APPLICATION — The form as may be amended from time to time, together with all necessary and appropriate documentation that an applicant must submit in order to receive a Special Use Permit for a Wireless Facility.

ANTENNA — A device, dish, array, or similar device used for sending and/or receiving electromagnetic waves for any wireless communications.

BASE STATION - A facility or equipment at a fixed location that enables FCC licensed or any other authorized wireless communications between user equipment and a communications network. The term does not encompass a Tower as defined herein or Accessory Facility or Structure associated with a Tower. The term Base Station includes, without limitation:

(1) Equipment associated with wireless communications services such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

(2) Radio transceivers, Antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including Distributed Antenna Systems ("DAS") and small-cell networks or micro-wireless facilities); provided that, wireline connections in the rights of way linking Antennas to other elements of a small cell, DAS or similar network will not be treated as part of the Wireless Facility and instead their placement shall be subject to review consistent with applicable provisions of the Rye City Code, the applicable franchise; and New York law.

(3) Any Supporting Structure, other than a Tower, that at the time the relevant application is filed with the City under this section, supports or houses equipment described in paragraphs (1)-(2) that has been reviewed and approved for placement of such equipment under this Chapter, or under another State or local regulatory review process, even if the Supporting Structure was not built for the sole or primary purpose of providing that support. For Supporting Structures that support equipment described in paragraphs (1)-(2), including but not limited to the sides of buildings, water Towers, or utility poles, the term includes only that portion of a Supporting Structure specifically approved to support the wireless

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equipment described in paragraphs (1)-(2), and only relates to activities necessary to permit the installation, maintenance, replacement or collocation of wireless equipment described in the preceding paragraph. The exemption of a Supporting Structure from review is not an approval.

BREAK POINT — The location on a Tower which, in the event of a failure of the Tower, would result in the Tower falling or collapsing within the boundaries of the property on which the Tower is placed.

CARRIER ON WHEELS or CELL ON WHEELS ("COW") - A portable self-contained temporary facility that can be moved to a location and set up to provide Personal Wireless Services. A COW is normally vehicle-mounted and contains a telescoping boom to support the Antenna. A COW shall only be in place in connection with an emergency or event, but no longer than required for the emergency or event, provided the installation does not involve excavation, movement or removal of existing facilities.

CITY — The City of Rye, New York.

CITY MANAGER – The chief administrative officer of the City of Rye, or its designee.

COLLOCATION — The use of an Existing Tower or Base Station to install additional transmission equipment or Antennas for the provision of wireless services.

COMMERCIAL IMPRACTICABILITY or COMMERCIALLY IMPRACTICABLE — The meaning in this chapter and any Special Use Permit granted hereunder as is defined and applied under the United States Uniform Commercial Code (UCC).

COMPLETED APPLICATION — An application that contains all information and/or data required by the City on application forms, by ordinance or by written practice and such additional information as the City may reasonably require specific to any application.

CONCEALMENT ELEMENT - Any design feature, including but not limited to painting, landscaping, shielding requirements and restrictions on location, proportions, or physical dimensions in relation to the surrounding area or Supporting Structures that are intended to and do make a Wireless Facility or any Supporting Structure supporting it substantially less visible to the casual observer.

COUNCIL — The City Council of the City of Rye, which is the officially designated agency or body of the community to whom applications for a Special Use Permit for a Wireless Facility must be made, and that is authorized to review, analyze, evaluate and make decisions with respect to granting or revoking Special Use Permits for Wireless Facilities. The Council may, at its discretion, delegate or designate other official agencies of the City to accept, review, analyze, evaluate and make recommendations to the Council with respect to the granting or not granting, recertifying or not recertifying or revoking Special Use Permits for Wireless Facilities.

EAF — The Environmental Assessment Form approved by the New York Department of Environmental Conservation.

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ELIGIBLE FACILITY PERMIT – The official document or permit by which an applicant meets the criteria for administrative review of a Wireless Facility as granted by the City Engineer and Corporation Counsel.

ENVIRONMENTALLY SENSITIVE AREA ("ESA") – An area that has an exceptional or unique character with respect to one or more of the following: a) a benefit (or threat) to human health or quality of life (including residential areas); b) a benefit (or threat) to wildlife; c) a natural setting (e.g. fish/wildlife habitat open space, area of important aesthetics of scenic quality); d) agricultural, social cultural, archeological, recreational or educational values. The City Council shall determine what areas qualify as an ESA.

EXISTING - In place as of the date an application is received for installation or modification of a Wireless Facility.

FAA — The Federal Aviation Administration or its duly designated and authorized successor agency.

FCC — The Federal Communications Commission or its duly designated and authorized successor agency.

HEIGHT — When referring to a Tower or Supporting Structure, the distance measured from the preexisting grade level to the highest point on the Tower or Supporting Structure, even if said highest point is an Antenna.

MICRO-WIRELESS FACILITY – A small wireless facility strung between two utility poles having dimensions no larger than 24 inches in length, 15 inches in width and 12 inches in height and an exterior antenna, if any, no longer than 11 inches, and which antenna may be enclosed in an imaginary cylinder no larger than one inch in diameter. The reference to height in this definition is not intended to permit any person to install a facility that violates, or causes the strand to which it is attached to violate, clearance or other requirements under the applicable safety codes.

NIER — Nonionizing electromagnetic radiation.

PERSON — Any individual, corporation, estate, trust, partnership, joint-stock company, association of two or more persons having a joint common interest or governmental entity.

PERSONAL WIRELESS SERVICES — Shall have the same meaning as defined and used in the 1996 Federal Telecommunications Act and associated regulations.

SPECIAL USE PERMIT — The official document or permit by which an applicant is allowed to construct and use a Wireless Facility, as granted by the City.

STEALTH FACILITY - Any Wireless Facility that is integrated as an architectural feature of a an Existing Supporting Structure or any new Wireless Facility that is camouflaged or concealed so that the presence of the Wireless Facility is either: (1) virtually imperceptible to the casual observer, such as an Antenna behind louvers on a building, or inside a steeple or similar structure; or (2) camouflaged, through stealth design, so as to blend in with its surroundings to such an extent that it is indistinguishable by the casual observer from the structure on which it is placed or the

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A tower that is not supported by guy wires and ground anchors or other means of attached or external support.¶

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See definition for "telecommunications tower."¶

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surrounding in which it is located. Examples of Stealth Facilities include Wireless Facilities which are disguised as flagpoles, as indigenous trees, as rocks, or as architectural elements such as dormers, steeples and chimneys. To qualify as "stealth" design, the item in question must match the character of its surroundings and the type of item that it is mimicking in size, scale, shape, dimensions, color, materials, function, and other attributes as closely as possible. The elements that make a facility a Stealth Facility are Concealment Elements.

SUPPORTING STRUCTURE – Any building, mast, pole, Utility Pole or other facility capable of supporting or housing a Base Station. Except as used in the definition of the term "Tower," the term "Supporting Structure" does not include and is not used to refer to a Tower.

SUBSTANTIAL CHANGE - Substantial change has the same meaning as the term "Substantial Change" as defined by Federal Communications Commission regulations, 47 C.F.R. §1.40001(b)(7).

TELECOMMUNICATIONS — The transmission and reception of audio, video, data and other information by wire, radio frequency, light and other electronic or electromagnetic systems.

TEMPORARY — In relation to all aspects and components of this chapter fewer than 90 days.

TOWER – Any supporting structure built for the sole or primary purpose of supporting any Antennas (and related Base Station and Accessory Facilities or Structures), including supporting structures that are constructed for wireless communications including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site. This definition does not include Utility Poles.

UNDERGROUND AREAS – Those areas where there are no electrical facilities or facilities of the incumbent local exchange carrier in the right-of-way; or where the wires associated with the same are or are required to be located underground; or where the same are scheduled, to be converted from overhead to underground. For the purposes of this Chapter, any residentially zoned area outside the FEMA designated 50-year floodplain as depicted on the most recently approved FEMA flood maps is considered an Underground Area. An "electrical facility" is a distribution facility owned by an electric utility and does not include transmission facilities used or intended to be used to transmit electricity at nominal voltages in excess of 35,000 volts.

UTILITY POLE - A Supporting Structure owned and/or operated by a public utility, and regulated by the New York State Department of Public Service, which is primarily built to support lines, cables, or wires for telephone, cable television, or electricity, or to provide lighting.

TALL STRUCTURE – A tall structure includes, but is not limited to, existing Towers, non-residential building rooftops at least 5 stories in height or greater, domes, belfry's, lanterns, spires, steeples or other architectural features on top of the roof.

WIRELESS FACILITY — All elements of a facility approximate to a fixed location used in connection with the provision of any wireless communications, including the Antenna, Base Station (but excluding any Existing Supporting Structure to which the Base Station is attached or

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A structure or location designed or intended to be used or used to support antennas. It includes without limit antennas applied to the facade of a building or roof-mounted antennas, freestanding towers, guyed towers, monopoles and similar structures that employ camouflage technology, and including, but not limited to, structures such as a church steeple, water tower, sign or other similar structures intended to mitigate the visual impact of an antenna or the functional equivalent of such. It is a facility or structure intended for transmitting and/or receiving radio, television, cellular, paging, personal telecommunications services or microwave telecommunications, but excluding those used exclusively for fire, police and other dispatch telecommunications, or exclusively for private radio and television reception and private citizens' bands, amateur radio and other similar telecommunications.¶
TELECOMMUNICATIONS STRUCTURE ¶
Any structure used in, associated with or necessary for the provision of wireless services and as described in the definition of wireless telecommunications facility.¶

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within which it is enclosed), Tower, if any, and Accessory Facilities or Structures serving that Base Station.

WIRELESS REGULATIONS – Those regulations, adopted by majority vote of City Council pursuant to this Chapter and implementing the provisions set forth herein.

§ 196-4. Policy and goals for Special Use Permits.

In order to ensure that the placement, construction and modification of Wireless Facilities conforms to the City's purpose and intent of this chapter, the Council creates a Special Use Permit for Wireless Facilities for the purpose of achieving the following goals:

A. Implementing an application process for person(s) seeking a Special Use Permit for a Wireless Facility.

B. Establishing a policy for examining an application for and issuing a Special Use Permit for a Wireless Facility that is both fair and consistent.

C. Establishing timeframes for granting or not granting a Special Use Permit for a Wireless Facility, or recertifying or revoking the Special Use Permit granted under this chapter.

D. Promoting and encouraging, wherever possible, but only where it will result in the least overall visual and sonic impact for residential dwelling units, the collocation of Wireless Facilities.

E. Promoting and encouraging, wherever possible, the placement of a Wireless Facility in such a manner as to cause minimal disruption to the land, property, buildings and other facilities adjacent to, surrounding and in generally the same area as the requested location of such a Wireless Facility and to minimize adverse visual, sonic, and aesthetic impacts to the community and risk of adverse impacts to community character and property value.

§ 196-5. Special Use Permit.

A. A person who installs Wireless Facilities pursuant to this section must comply with all safety codes; comply with requirements for RF emissions; and must utilize Concealment Elements and maintain facilities to minimize visibility of the Wireless Facilities. Wireless Facilities that require a Special Use Permit or if existing on January 14, 2019 would have required a Special Use Permit but for Section 196-14 "Existing Facilities" or would have been exempt if installed after January 14, 2019; and all Wireless Facilities in the rights of way are subject to the registration requirements of Section 167.72.

B. This Chapter does not apply to any device designed for end-user over-the-air reception, not transmission, of television broadcast signals, multi-channel multi-point distribution service, or direct broadcast satellite service; or for end user reception of signals from an Internet service provider and end user transmission of signals to an Internet service provider.

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C. The following Wireless Facilities do not require a Special Use Permit, except where the same are on or affect a historic property, or an environmentally sensitive area. Requirements that may apply to the underlying Supporting Structure, to which a Base Station is to be attached, as well as all other applicable laws and regulations continue to apply.

(1) Wireless Facilities that are less than 1 cu ft. in size, placed on Existing Supporting Structures without increasing the physical dimensions of the Existing Supporting Structures. The "cubic footage" takes into account all the elements of the Wireless Facility (including Accessory Facilities or Structures).

(2) Wireless Facilities placed on the rooftop of non-residential buildings; that are at least 40 feet from any residential unit; and that include Concealment Elements so that the Wireless Facilities are not visible from the street.

(3) Wireless Facilities within Existing Supporting Structures (other than historical properties) that are not visible or audible from outside the Supporting Structure and do not change the physical dimensions or appearance of the Supporting Structure within which they are placed.

(4) Carriers on Wheels where the placement is permitted, and complies with, applicable FCC regulations for temporary placement of Wireless Facilities.

(5) Routine maintenance, or replacement of elements of a Wireless Facility or Supporting Structure that do not change the dimensions,visibility, or audibility of a Wireless Facility or Supporting Structure.

D. The City Manager or his/her designee shall prepare application forms that must be used by persons seeking to place Wireless Facilities in the City and which shall require additional submission of at least the information required by the City Code, and may require information that the City may consider in acting upon an application

1. Franchise Required. In addition to the Special Use Permit required herein, the placement of

a wireless telecommunications facility in the public rights-of-way requires the persons who will own or control those facilities to obtain a franchise or permit to be located within the City's right-of-way, unless that person holds a franchise from the State which authorizes it to use the right-of-way for that purpose, without further permission of the City. Pursuant to Chapter 167 "Streets and Sidewalks", such franchise or permit shall be approved by the City.

E. As part of the administration of this Article, the City Council may adopt by simple majority vote regulations governing the placement and modification of wireless telecommunications facilities consistent with the requirements of this Article, including regulations governing collocation and resolution of conflicting applications for placement of wireless

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telecommunications facilities, and guidelines for placement of wireless telecommunications facilities on City-owned or controlled structures in the rights-of-way.

(1) Develop acceptable designs for wireless telecommunications facilities in particular corridors, taking into account the zoning districts bounding the rights-of-way;

(2) The City Manager shall issue any notices of incompleteness, requests for information, or conduct or commission such studies as may be required to determine whether a permit should be issued.

(3) The City Manager shall develop forms and procedures for submission of applications for placement or modification of wireless telecommunication facilities, and proposed changes to any support structure consistent with this Article.

F. For eligible facilities requests, as defined in the Federal Communications regulation 47 C.F.R. §1.40001(b)(3), implementing federal law, 47 U.S.C. §1455, an Eligible Facility Permit is required prior to installation (including modifications), of Wireless Facilities or modification of Existing Support Structures in connection with the installation of Wireless Facilities.

(1) An Eligible Facility Permit may be issued administratively by the City Engineer and Corporation Counsel jointly. The Eligible Facility Permit shall specifically provide that it is being issued at the direction of the federal government and without the consent of the City, and shall be of no further force and effect when the permit for the underlying facility expires, or the federal law changes so that the permit as issued is no longer required.

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(2) The application for any permit must contain at least the information required to permit the City Manager and Corporation Counsel to determine whether the application is an eligible facilities request, including (i) the underlying approval for the existing Tower and Base Station; (ii) any approved modifications to the same where the modifications were approved prior to February 22, 2012; and (iii) detailed information about the physical dimensions of Tower and Base Station as the same exist on the date of the application, and as proposed to be modified.

(3) The application shall be denied if it is not an eligible facilities request. If an application is denied because it is determined that it is not an eligible facilities request, the applicant may request that the application be treated as a request for special permit by submitting all the information required for a special permit within ten (10) days of the denial of application.

G. All other Wireless Facility installations (including modifications), or construction, modification or replacement of Support Structures in connection with the installation of Wireless Facilities require a Special Use Permit.

(1) Special Use Permits may be granted where applicant shows by clear and convincing evidence:

(a) The Wireless Facility proposed is not being built speculatively (that is, there is a customer for the Wireless Facility), and it will be built and used promptly upon approval.

(b) The applicant and any entity whose equipment would be included in the installations has all the authorizations required to place the Wireless Facilities from the state, or the City (other than the Special Use Permit requested), or the owner of the property, and to modify, replace or attach to a Supporting Structure, and the placement construction and operation of the Wireless Facilities (including in relation to Supporting Structures) will be in compliance with all applicable laws.

(c) The Wireless Facility is designed and placed to minimize the visual and sonic impact on the community.

(d) The Wireless Facility does not significantly impact the site upon which it will be located or the properties that will be disturbed as a result of its installation.

(e) If Applicant is confirmed to bea utility under New York law or is confirmed to be a provider, as described below, it must demonstrate that the Wireless Facility is necessary for the provision of services. All Applicants must show that the proposed installation is the least intrusive alternative for providing service. If the applicant is a provider of wireless services or facilities under 47 U.S.C. § 332(c)(7), it must show that absent approval, there will be a prohibition in the provision of wireless services within the meaning of federal law.

(2) City may approve a Special Use Permit without the showing required by Section G(1)(e) where the facility is not located in or does not affect historic properties or Environmentally Sensitive Areas and the Wireless Facility:

(a) Is a Stealth Facility that otherwise satisfies the provisions of this ordinance.

(b) Contains Concealment Elements, and is to be placed or shielded on an Existing Supporting Structure in such a way such that the Wireless Facility is not readily visible to surrounding properties, and is not subject to modification except at the discretion of the City.

(3) Notwithstanding the foregoing, City may require the showing under Section G(1)(e) where the City determines installation or modification of the Wireless Facility substantially alters the size, proportions or dimensions of an Existing Supporting Structure.

H. [new section] General Standards for Wireless Telecommunications Facilities in the Rights-of-Way

(1) Generally. Wireless telecommunications facilities in the rights-of-way shall: 1) follow priorities; and 2) propose the most aesthetically pleasing alternative. In addition, such facilities mustmeet the minimum requirements set forth in this ordinance,the Wireless Regulations, and the requirements of any other applicable law. An Applicant must establish that it has proposed the most aesthetically pleasing alternative for placement by showing: a) it is installing Stealth Facilities to the extent possible; and b) it is otherwise installing facilities in the highest priority locations that are available and necessary to the provision of service or to avoid a prohibition; (c) it is installing concealed facilities to the extent possible; and (d) it is otherwise installing facilities in the highest priority locations that are available and necessary to the provision of service or to avoid a prohibition. Applicants for wireless telecommunications facilities shall locate, site and erect said wireless telecommunications facilities, including towers or other tall structures, in accordance with the following priorities in Section 196-5(I) below.

(2) Waiver of Requirements. The Wireless Regulations and decisions on applications for placement of wireless telecommunications facilities in the rights-of-way shall, at a minimum, ensure that the requirements of this Chapter are satisfied, unless, in the case only of an applicant who has the requisite status protected by federal laws, it is determined that applicant, who has requisite status to be protected by federal law, has established that denial of an application would, within the meaning of federal law, prohibit or effectively prohibit the provision of personal wireless services, or otherwise violate applicable laws or regulations, under circumstances such that deployment of the facilities must be authorized. If that determination is made, the requirements of this ordinance, including any regulations and forms to implement this ordinance, may be waived, but only to the minimum extent required to avoid conflict with federal law.

(3) Standards. Wireless telecommunications facilities in the rights-of-way shall be installed and modified in a manner that minimizes risks to public safety, avoids placement of aboveground facilities in underground areas, avoids installation of new support structures or equipment cabinets in the public rights-of-way, complies in the rights-of-way with the City's prioritization list of the least aesthetically intrusive areas and otherwise maintains the integrity and character of the neighborhoods and corridors in which the facilities are located; ensures that installations are subject to periodic review to minimize the intrusion on the rights-of-way and compliance with health and safety codes; and ensures that the City bears no risk or liability as a result of the installations, and that such use does not inconvenience the public, interfere with the primary uses of the rights-of-way, or hinder the ability of the City or other government agencies to improve, modify, relocate, abandon or vacate the rights-of-way or any portion thereof, or the ability of the City or other government agencies to cause the improvement, modification, relocation, vacation or abandonment of facilities in the rights-of-way.

(4) Concealment. The Special Use Permits for Wireless Facilities in the rights-of-way shall incorporate specific concealment elements to minimize visual impacts consistent with the Wireless Regulations, and shall incorporate design requirements ensuring compliance with all standards for noise emissions and in accordance with Chapter 133 of the Rye City Code. Unless it is determined that another design is less intrusive or placement is required under applicable law:

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a. Antennas located at the top of support structures shall be incorporated into the structure, [or placed within shrouds of a size such that the antenna appears to be part of the support structure];

b. Antennas placed elsewhere on a support structure shall be integrated into the structure, or be designed and placed to minimize visual impacts.

c. Radio units or equipment cabinets holding radio units and mounted on a utility pole shall be placed as high as possible on the utility pole, placed to avoid interfering or creating any hazard to any other use of the public rights-of-way, and located on one side of the utility pole. Unless the radio units or equipment cabinets can be concealed by appropriate traffic signage, radio units or equipment cabinets mounted below the communications space on utility poles shall be designed so that visibility is limited to the fewest number of people, the largest dimension is vertical, and the width is such that the radio units or equipment cabinets are minimally visible from the opposite side of the support structure on which they are placed. In Underground Areas, the equipment cabinets shall be located underground with any above ground intrusion minimizws. If equipment cabinet must be located aboveground, then the cabinet shall be a Stealth Facility and shall substantially incorporate in all other concealment elements.

d. Wiring and cabling shall be neat and concealed within, or or within conduit, flush to the support structure, ensuring concealment of these components to the greatest extent possible.

e. Ground-mounted equipment associated with a wireless telecommunications facility is prohibited in Underground Areas and shall be permitted only where consistent with the portion of the corridor in which it is to be placed, and may be required to be undergrounded, located in alleys or otherwise shielded. Ground-mounted equipment shall not interfere with pedestrian or vehicular traffic.

f. Wireless telecommunications facilities shall comply with FCC regulations governing radio frequency ("RF") emissions. Every wireless facility shall at all times comply with applicable FCC regulations governing RF emissions, and failure to comply shall be a treated as a material violation of the terms of any permit or lease. No special use permit shall be issued or effective unless it is shown that the wireless telecommunications facility will comply with those regulations; any areas where occupational or general public exposures will exceed FCC limits are identified, and there is a clear plan addressing safety for any areas where exposures may exceed those limits.

g. No towers greater than 75 feet shall be permitted in the public rights-of-way, and no wireless telecommunications facilities shall be permitted above-ground in Underground Areas; towers less than 75 feet may be placed

in the public rights-of-way only on major roads provided that the City Council determines that such tower in the public right-of-way would be the most aesthetically pleasing means and location to serve an area with less residential density. The City may permit placements where all elements of the wireless telecommunications facility are concealed.. Any tower design must in any case be consistent with the corridor in which the facility is placed, and minimize the obtrusiveness of the facility considered individually and as part of a network of wireless telecommunications facilities.

5. No electric meters shall be placed on a Utility Pole or any other Supporting Structure.

I. Demonstration of compliance with Wireless Regulations.

As part of showing that the proposed location and structure meets the criteria in this law and the Wireless Regulations, an applicant is required to show how it has complied with the priority list below unless the applicant can show that compliance is prohibitory:

(1) The highest priority locations for all installations are:

(a) On existing tall structures or telecommunications towers.

(b) Collocation on a site with existing telecommunications towers or tall structures.

(c) In commercially zoned areas along Interstate 95, Interstate 287 or railroad tracks.

(d) In nonresidential areas.

(e) On other property in the City.

(2) The priority of locations for installations in the residential right-of-way are, in order of priority:

(a) Located on a major road, at least 60 feet or more from the nearest residential structure

(b) Located on other roads but only when required to be non-prohibitory, and at least 60 feet or more from the nearest residential structure;

(c) Located on a major road, at least 40 feet from the nearest residential structure;

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(3) Municipal property in category (1) and (2) above shall be a higher priority than other locations in the same category.

(4) An applicant is further required to show that its proposed installation or modification:

(a) Minimizes the visual impact of the Wireless Facilities and associated Supporting Structures upon the community, and in particular upon residential units, as proposed and under any modification that could be made to that installation as of right; and

(b) Is designed to be consistent with the overall characteristics of the area where the facilities are located; and

(c) Has minimized the new Supporting Structures proposed, and the impact of those Supporting Structures.

(d) In considering the visibility of Wireless Facilities, City may consider separately and in conjunction with any nearby or similar facilities, or any other facilities then proposed, the mass and size of the facilities, the scale of the facilities (or the effect of the placement on the mass, size and scale of Supporting Structures to which or within which the Wireless Facilities may be attached or concealed) , and any other factor that may affect the impact on the community. It may consider the elements of a Wireless Facility separately and collectively, and may require a showing the visibility of each element of the Wireless Facility, and the effect on any Supporting Structure to which the Wireless Facility will be attached, has been minimized.

(e) It has proposed facilities using universal antennae each having and utilizing multi-carrier capacity to the fullest extent technologically possible.

(5) The City may approve or require placement in a location that is not the highest priority where the record shows a proposed installation at a different location will result in less impact on the community, considering the specific installation that is proposed and any project of which it is a part that involves installation of more than one Wireless Facility.

(6) In considering whether a proposal meets the general requirements of this law and the Wireless Regulations, the City will consider the impact of a planned project as a whole, taking into account the factors specified above.

§ 196-6. Special Use Permit, and Special Eligible Facility Permit Application Requirements.

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A. All applicants for a Special Use Permit for a Wireless Facility or any modification of such facility shall comply with the requirements set forth in this section. In addition to the information required by Section 196-5(E), an applicant for a special conditional use permit must comply with the requirements of this section, as applicable.

B. An application shall be signed on behalf of the applicant by the person preparing the same and with knowledge of the contents and representations made therein and attesting to the truth and completeness of the information. The landowner, if different than the applicant, shall also sign the application. At the discretion of the Council, any false or misleading statement in the application may subject the applicant to denial of the application without further consideration or opportunity for correction, or to revocation of the permit if the permit is issued.

C. Applications not meeting the requirements stated herein or which are otherwise incomplete may be rejected by the Council.

D. The applicant shall include a statement in writing that:

(1) The applicant's proposed Wireless Facility will be maintained in a safe manner and in compliance with all conditions of the Special Use Permit, without exception, unless specifically granted relief by the Council in writing, as well as all applicable and permissible local codes, ordinances and regulations, including any and all applicable county, state and federal laws, rules and regulations.

(2) The construction of the Wireless Facility is legally permissible, including but not limited to the fact that the applicant is authorized to do business in New York State.

E. Each application shall include a complete plan for the site proposed, and if the application is submitted as part of a larger project that will include multiple sites, a description of that project, and the number and type of installations required, and complete application materials for each site proposed, so that the Council has the ability to and shall review and make a determination with respect to each individually and as part of any larger project. For Special Use Permits, the site plan shall be reviewed and approved by the Council prior to issuance of the Special Use Permit by the City Council. Where a certification is required, the certification shall be in the form of a report containing the information hereinafter set forth, signed by a licensed professional engineer registered in the state and acceptable to the City, unless otherwise noted. The application shall include, in addition to the other requirements for the Special Use Permit, the following information:

(1) Documentation that shows applicant satisfies the requirements of Section 196-5E-(H), as applicable.

(2) Name and address of the engineer or engineers submitting any certifications, and to whom questions regarding the certification should be submitted.

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(3) Name and address of the property owner, operator and applicant, to include the legal form of the applicant. Name and address of any person who will own equipment associated with the Wireless Facility.

(4) Postal address and Tax Map parcel number of the property.

(5) Zoning district or designation in which the property is situated.

(6) Size of the property stated both in square feet and lot line dimensions and a diagram showing the location of all lot lines where the facility is proposed to be located outside of the right of way, and within the rights-of-way, the location of the proposed facility in relation to the right of way, pedestrian and non-motorized vehicle pathways and cross-walks, and the location in relation to driveways on the same right-of-way and within 750 feet.

(7) Location of all residential structures within 750 feet.

(8) Location of all habitable structures within 750 feet.

(9) Location of all structures on the property which is the subject of the application, or for the right of way, within 250 feet of the proposed facility.

(10) Location, size and height of all proposed and Existing Wireless Facilities and Supporting Structures at the proposed site.

(11) Type, size and location of all proposed and existing landscaping.

(12) The number, type and design of the Wireless Facility(s) proposed and the basis for the calculations of the Wireless Facility's capacity to accommodate multiple users.

(13) The make, model and manufacturer of each of the elements of the Wireless Facility.

(14) A detailed description of each element of the proposed Wireless Facility and any Existing Support Structure which will be utilized, which description shall include, but not be limited to, a description of the Supporting Structures, appurtenances and apparatus, including height above preexisting grade, materials, color and lighting. For a modification to a facility, applicant must describe precisely any change in physical dimensions to any portion of the Wireless Facility or and describe in detail any additional equipment installed as part of the modification and any modifications required to the Supporting Structure (including, but not limited to, modifications to meters, powers supplies, cabling, and guys).

(15) The frequency, modulation and class of service of radio or other transmitting equipment.

(16) Transmission and maximum effective radiated power of the Antenna(s).

(17) Direction of maximum lobes and associated radiation of the Antenna(s).

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(18) Certification by a qualified RF engineer that NIER levels at the proposed site are within the threshold levels adopted by the FCC.

(19) The applicant's proposed wireless facility maintenance and inspection procedures and related system of records.

(20) A copy of the FCC license applicable for the use of the Wireless Facility, if any, and a copy of any certificate issued by the State of New York for the facility; and proof that applicant and any person who will own facilities associated with the proposed Wireless Facility are authorized to place the facilities at the location proposed.

(21) For a Tower, certification that a topographic and geomorphologic study and analysis has been conducted and that taking into account the subsurface and substrata, and the proposed drainage plan, that the site is adequate to assure the stability of the proposed s Tower on the proposed site. The certifying engineer need not be approved by the City.

(22) Propagation studies of the proposed site and all adjoining proposed or in-service or existing sites signed by a suitable engineer and the provider(s) that will utilize the proposed installation.

(23) The applicant shall disclose, in writing, any agreement in existence prior to submission of the application that would limit or preclude the ability of the applicant to share any new Wireless Facility that it constructs.

(24) The applicant shall provide a notarized affidavit that either the proposed installation meets all laws, codes and ordinances or that it meets the same except as specifically listed on said affidavit.

F. In the case of a new Wireless Facility, the applicant shall be required to submit a report demonstrating its efforts to secure shared use of existing Wireless Facility(s). Copies of written requests and responses for shared use shall be provided to the Council.

G. Certification that the Wireless Facility and, if applicable, the Existing Supporting Structure both are designed and constructed ("as built") to meet all county, state and federal structural requirements for loads, including wind and ice loads.

H. After construction and prior to receiving a certificate of compliance, certification that the Wireless Facility and related facilities are grounded and bonded so as to protect persons and property and installed with appropriate surge protectors.

I. The applicant shall submit a completed long form EAF and a completed Visual EAF addendum. The Council may require submission of a more detailed visual analysis based on the results of the Visual EAF addendum. Applicants are encouraged to seek pre-application meetings with the City Council to address the scope of the required visual assessment.

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(20) - Certification that the proposed antenna(s) will not cause interference with existing telecommunications devices. The certifying engineer need not be approved by the City. ¶
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J. A visual impact assessment shall be provided with each application which shall include:

(1) A Zone of Visibility Map, which shall be provided in order to determine locations where the facility may be seen.

(2) Pictorial representations of before and after views from key viewpoints, including but not limited to state highways and other major roads; state and local parks; other public lands; historic districts; environmentally sensitive areas; preserves and historic sites normally open to the public; and from any other location where the site is visible to a large number of visitors or travelers. The City will provide guidance concerning the appropriate key sites at a pre-application meeting.

(3) An assessment of the visual impact of the facility base, guy wires and accessory buildings from abutting and adjacent properties and streets.

(4) Scaled and dimensioned photo simulations of the before and after images of the project and project site from at least three different angles and showing the maximum silhouette, viewshed analysis, color and finish palette and proposed screening for the Wireless Facility.

K. The applicant shall identify any Concealment Elements proposed for the Wireless Facility, and for a Stealth Facility, shall specifically show that the proposed Wireless Facility qualifies as a Stealth Facility and effectively screen from view its proposed wireless telecommunications facilities and structures, subject to Council approval.

L. All utilities serving any wireless telecommunications facility shall be installed underground, embedded in existing construction or otherwise shielded from view and in compliance with all laws, rules and regulations of the City, including specifically, but not limited to, the National Electrical Safety Code and the National Electrical Code, where appropriate. The Council may waive or vary the requirements of undergrounding installation of utilities whenever, in the opinion of the Council, such variance or waiver shall not be detrimental to the health, safety, general welfare or environment, including the visual and scenic characteristics of the area. Where possible, for Wireless Facilities located outside of the rights of way wiring and other components shall be located within buildings. Wireless Facilities installed on the exterior of Existing buildings/Supporting Structures shall be integrated into the design of such buildings/Supporting Structures. The intent of this provision is to make the installation invisible or indistinguishable from other existing architectural features. Both the Wireless Facility and any and all accessory or associated facilities shall maximize the use of building materials, colors and textures designed to blend with the Existing Supporting Structure to which it may be affixed and with the natural surroundings. Where possible, for facilities in the rights of way, when existing Utility Poles are replaced, the Wireless Facility will be placed within a pole approved by the City and the utility.

M. An access road and parking to assure adequate emergency and service access shall be provided, should such be deemed necessary by the Council. Maximum use of existing roads, whether public or private, shall be made to the extent practicable. Road construction

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M. - All wireless telecommunications facilities and accessory facilities applications shall contain a demonstration that the facility shall be sited so as to have the least adverse visual impact on the environment and its character, and the residences in the area of the wireless telecommunications facility site. The application shall also include appropriate information addressing the cumulative visual impact of future collocations by the applicant or other telecommunication service providers. ¶
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shall at all times minimize ground disturbance and vegetation cutting. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion potential.

N. Every Wireless Facility, and the Existing Support Structures to which Wireless Facilities are attached shall be constructed, operated, maintained, repaired, modified or restored in strict compliance with the then-current version of all technical, safety and safety-related codes adopted by the City, county, state or United States, including but not limited to the most recent editions of the National Electrical Safety Code and the National Electrical Code, as well as accepted and responsibly workmanlike industry practices and recommended practices of the National Association of Tower Erectors. The codes referred to are codes that include, but are not limited to, construction, building, electrical, fire, safety, health and land use codes. The applicant is responsible for ensuring compliance with the foregoing for the Wireless Facility and any portion of an Existing Supporting Structure affected by the Wireless Facility. In the event of a conflict between or among any of the preceding, the more stringent shall apply.

O. Every person constructing or owning a Wireless Facility shall obtain, at its own expense, all permits and licenses required by applicable law, rule, regulation or law and must maintain the same, in full force and effect, for as long as required by the City or other governmental entity or agency having jurisdiction over the applicant.

P. The Council intends to be the lead agency, pursuant to SEQRA. The Council shall conduct a review of the proposed project in combination with its review of the application under this chapter.

Q. An applicant shall submit to the City Engineer the number of completed applications determined to be needed at the pre-application meeting. A copy of the notification of application shall be provided to the legislative body of all adjacent municipalities and to the Westchester County Planning Board.

R. If the applicant is proposing the construction of a Tower or installation on an Existing Tower or building, the applicant shall examine the feasibility of designing a multi-carrier use to extent practicable and consistent with other requirements of this Chapter. This requirement may be waived, provided that the applicant, in writing, demonstrates that the provisions of future shared usage of the Wireless Facility is not technologically feasible, or is commercially impracticable and creates an unnecessary and unreasonable burden, based upon:

(1) The number of FCC licenses foreseeably available for the area.

(2) The kind of Wireless Facility proposed, or Existing Supporting Structure that would be utilized.

(3) Available space on existing and approved Towers.

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S. Unless waived by the Council, there shall be a pre-application meeting required for every Special Use Permit. The purpose of the pre-application meeting will be to address issues which will help to expedite the review and permitting process. Where the application is for the shared use of an Existing Tower or Supporting Structure, the applicant can seek to waive any application requirements that may not be applicable. At the pre-application meeting, the waiver requests, if appropriate, will be decided by the City. Costs of the City's consultants to prepare for and attend the pre-application meeting will be borne by the applicant.

T. Without limiting the foregoing, except where it is demonstrated that denial would result in a prohibition of the provision of wireless services within the meaning of federal law:

(1) In the rights-of-way, no Towers are permitted except as permitted in Section 196-5(H)(4)(g).

(2) No Wireless Facilities are permitted within Underground Areas except those that are located underground.

(3) A new or replacement Supporting Structure, other than a Stealth Facility or one permitted in Section 196-5(H)(4)(g), street lighting or traffic control structure may not be approved that is greater in height from ground level than the average height of existing distribution utility poles in the same area. No extension of an existing Supporting Structure (other than street lighting or traffic control structures) to permit installation of a Wireless Facility may be approved that unless the addition complies with subsection 5 and increases the height of the supporting structure by no more than the lesser of 20% or six feet.

(4) Except for cabling within a conduit, the lowest edge of any component of the Wireless Facility on a Utility Pole must be 12 feet above the ground unless concealed within the pole.

(5) All Wireless Facilities mounted to the side of a Supporting Structure in the right of way, other than in the communications space, must be flush-mounted, sized and painted so that the facility to the extent possible the facility is concealed;

(6) All Wireless Facilities mounted to the top of a pole must be designed so that the facilities form a continuous and uninterrupted line with the pole, and as a Concealment Element, are no more than 10% greater in diameter than the pole itself.

(7) Any indicator lights should be recessed or otherwise designed so that they present no hazard to traffic or interfere with enjoyment of properties from which the lights may be visible.

(8) In addition to the other provisions of this Chapter,inplacing Wireless Facilities, following rules apply:

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§ 196-6 **Location of wireless telecommunications facilities.** ¶
A. - Priority of location.¶
(1) - Applicants for wireless telecommunications facilities shall locate, site and erect said wireless telecommunications facilities, including towers or other tall structures, in accordance with the following priorities, Subsection **A(1)(a)** being the highest priority and Subsection **A(1)(e)** being the lowest priority:¶
(a) - On existing tall structures or telecommunications towers. ¶
(b) - Collocation on a site with existing telecommunications towers or structures. ¶
(c) -

(a) Wireless Facilities should be at least 40 feet from any residential structure, and located so that the facilities are not directly in front of any front window or door of a residential structure.

(b) Locations that are less visible from a residential structure are preferred over locations that are more visible.

(c) Locations of Wireless Facilities in the rights-of-way shall be located no closer than 1000 feet measured in all directions to another Wireless Facility of the same carrier. Wireless Facilities in the rights-of-way for different carrier shall be located no closer than 600 feet measured in all directions from each other.

(d) All Wireless Facilities shall make maximum use of universal antennae capable of serving multiple carriers.

(e) Stealth and concealment shall have priority over collocation.

(f) Subject to (d) and (e) above, towers shall have provisions to allow for multiple carriers.

§ 196-7. Failure to pursue an application.

Applicants shall respond to all requests or notices from the City with respect to an application promptly, so that City may meet any applicable deadlines for action on an application. Where an applicant fails to promptly respond, the Corporation Counsel is authorized to notify an applicant that its application is denied for failure to pursue that application, without prejudice to resubmittal of an application. Without limiting the foregoing, if an applicant is notified that its application is incomplete, and there is fails to complete the application within sixty (60) days of the date of the notice, the Corporation Counsel is authorized to notify an applicant that its application is denied for failure to pursue that application, without prejudice to resubmittal of an application even if there is no deadline applicable to action on the application.

(f) § 196-8.

(g)

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(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. The person seeking such an exception must satisfactorily demonstrate the reason or reasons why such a permit should be granted for the proposed site and the hardship that would be incurred by the applicant if the permit were not granted for the proposed site. ¶ ... [21]

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Height of wireless telecommunications facilities.

A. Wireless Facilities shall be no higher than the minimum height necessary. Unless an area variance for height is granted by the Board of Appeals, the maximum height of Wireless Facilities approved pursuant to Section 196-5(H)(4)(g) shall be 75 feet and the maximum height of Wireless facilities located outside the rights of way shall be 90 feet, based on three collocated Antenna arrays and ambient tree height of 70 feet. Height shall be measured from ground level, to the highest point on the Wireless Facility, or if higher, the highest point on any extension to an Existing Supporting Structure required to support the Wireless Facility. In Towers, universal antennas allowing multicarrier use will be utilized to the extent technologically possible and maximum height shall be reduced accordingly.

B. The maximum height of any Wireless Facility constructed after the effective date of this chapter shall not exceed that which shall permit operation without artificial lighting of any kind in accordance with municipal, county, state and/or any federal law and/or regulation.

§ 196-9 Visibility of facilities.

A. Excluding indicator lights satisfying the requirements of Section 196-6, Wireless Facilities shall not be artificially lighted or marked, except as required by law.

B. Except where inconsistent with concealment elements, Towers shall be of a galvanized finish, or painted with a rust-preventive paint of an appropriate color to harmonize with the surroundings as approved by the Council and the Board of Architectural Review, and shall be maintained in accordance with the requirements of this chapter.

C. Excluding indicator lights satisfying the requirements of Section 196-6, if lighting is required, the applicant shall provide a detailed plan for sufficient lighting of as unobtrusive and inoffensive an effect as is permissible under state and federal regulations, and an artist's rendering or other visual representation showing the effect of light emanating from the site on neighboring habitable structures within 1,500 feet of all property lines of the parcel on which the Wireless Facility is located.

§ 196-10 Security of facilities.

All Wireless Facilities shall be secured in a manner which prevents unauthorized access to hazardous components. Specifically:

A. Where possible, Wireless Facilities and modifications to Existing Supporting Structures, including guy wires, shall be made inaccessible to individuals and constructed or shielded in such a manner that they cannot be climbed or run into; Towers will be fenced and shielded to prevent unauthorized access to the structure unless the Tower is a Stealth Facility or the fencing or shielding is inconsistent with required Concealment elements; and

B. To the extent possible, Wireless Facilities shall be installed so that powered elements are readily accessible only to persons authorized to operate or service them.

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§ 196-11. Signage.

For Towers, unless the City determines that the signage required under this section would be inconsistent with minimizing visual impact, Wireless Facilities shall contain a sign no larger than four square feet to provide adequate notification to persons in the immediate area of the presence of an Antenna that has transmission capabilities. The sign shall contain the name(s) of the owner(s) and operator(s) of the Antenna(s) as well as emergency phone number(s). The sign shall be located so as to be visible from the access point of the site. No other signage, including advertising, shall be permitted on any Wireless Facilities, unless required by law, or unless the signage is part of a concealment element. Signs shall be approved by the Board of Architectural Review. Nothing in this section affects rules with respect to signage that may apply to Existing Support Structures.

§ 196-12. Lot size and setbacks. [Amended 10-1-2003 by L.L. No. 7-2003]

With the exception for Towers approved pursuant to Section 196-5(H)(4)(g):

A. All proposed Towers shall be set back from abutting parcels, recorded rights-of-way and road and street lines a distance sufficient to substantially contain on site all ice-fall or debris from a Tower or Tower failure and to preserve the privacy and sanctity of any adjoining properties.

B. Towers, other than Towers placed on an existing Supporting Structure shall be setback from any property line at least a distance equal to the height of the facility plus 10 feet, or the existing setback requirement of the underlying zoning district, whichever is greater. Further, any Accessory Facility or Structure shall be located so as to comply with the minimum zoning setback requirements for the principal building on the property on which it is situated.

C. Where a Wireless Facility involves an attachment to an Existing building or Supporting Structure other than a Supporting Structure in the rights of way, the facility, including but not limited to Antennas, accessory Supporting Structures, and/or other appurtenances, shall be setback from any property line the distance of the setback requirement of the underlying zoning district.

§ 196-13. Retention of expert assistance and reimbursement by applicant.

A. The Council may hire any consultant and/or expert necessary to assist the Council in reviewing and evaluating the application and any requests for recertification.

B. An applicant shall deposit with the City funds sufficient to reimburse the City for all reasonable costs of consultant and expert evaluation and consultation to the Council in connection with the review of any application. The necessary application fee(s) shall be set annually by the City Council and the consultant and expert deposit shall be established on an application by application basis.

C. The total amount of the funds set forth in Subsection B of this section may vary with the scope and complexity of the project, the completeness of the application and other information as may be needed by the Council or its consultant/expert to complete the

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necessary review and analysis. Additional funds, as required, shall be paid by the applicant. The initial amount of the escrow deposit shall be established at a pre-application meeting with the City. Notice of the hiring of a consultant/expert shall be given to the applicant at or before this meeting.

§ 196-14. Existing Facilities.

All Wireless Facilities existing on or before the original effective date of this chapter shall be allowed to continue as they presently exist; provided, however, any owner of such existing facility must provide the City information set forth in Section 196-17 to the extent it applies and any modification to existing facilities must comply with this chapter. All other wireless telecommunications facilities existing prior to January 14, 2019 must apply for a Special Use Permit and otherwise come into compliance with this Chapter.

§ 196-15. Public hearing required for Special Use Permit.

A. Public hearing and public notification by applicant. Before the City Council acts on any application for a Special Use Permit, it shall hold a public hearing thereon in accordance with the General City Law. To facilitate notification of the public, a public notification list shall be prepared by the applicant, using the most current City of Rye Tax Maps and Tax Assessment Roll, showing the Tax Map sheet, black and lot number, the owners name and owner's mailing address for each property located wholly or partially within 300 feet of the perimeter of the property in any direction. If a property on the public notification list is also listed as a cooperative or an apartment on a list entitled "Apartment List City of Rye," maintained by the City Assessor's office, the notice shall only be mailed to the property owner of record. When the public hearing is required by the City Council, the applicant shall deliver a copy of the public notice provided by the City Planner to all of the property owners contained on the public notification list by certified mail with certificate of mailing.

The above mailing and posting notice requirements must be performed in accordance with the following requirements:

(1) The delivery of mailing shall be limited solely to the public notice provided by the City Planner.

(2) The public notice shall be mailed to all property owners with a certificate of mailing (no return receipt necessary) at a post office or official depository of the Postal Service, at least 14 calendar days prior to the date of the public hearing.

(3) At least five business days prior to the public hearing, the applicant shall provide to the City Planner all certificates of mailing.

(4) For Towers, at least one week preceding the date of the public hearing, at least one sign, a minimum of two feet by three feet in size and carrying a legend prescribed by the City Council announcing the public hearing, shall be posted on the property. The height of the lettering on the sign shall be no less than two inches, except that

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the words "PUBLIC NOTICE" appearing at the top of the sign shall have no less than five-inch-high lettering. The sign shall be in full public view from the street and not more than 30 feet therefrom. The sign shall be removed from the property within two days after the public hearing.

B. The Council shall schedule the public hearing referred to in Subsection A of this section once it finds the application is complete. The Council, at any stage prior to issuing a Special Use Permit, may require such additional information as it deems necessary.

C. Council may waive any requirement hereof and of Section 196-16 as required to comply with state or federal law.

§ 196-16. Action on application for Special Use Permit.

A. Subject to the requirements of any effective state and federal law or FCC order, 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 given the relative complexity of the application and the circumstances, with due regard for the public's interest and need to be involved, and the applicant's desire for a timely resolution.

B. The Council shall refer any application or part thereof to the Board of Architectural Review (BAR) and may refer any application or part thereof to the Planning Commission for their advisory review and comment prior to the public hearing. This referral shall not preclude any final approvals of these or other City boards or departments required by this chapter or other law.

C. After the public hearing and after formally considering the application, the Council may approve and issue or deny a Special Use Permit. Its decision shall be in writing and shall be based on substantial evidence in the record. The burden of proof for the grant of the permit shall always be upon the applicant.

D. If the Council approves the Special Use Permit for a Wireless Facility, then the applicant shall be notified of such approval, in writing, within 10 calendar days of the Council's action, and the Special Use Permit shall be issued within 30 days after such approval.

E. If the Council denies the Special Use Permit for a Wireless Facility, then the applicant shall be notified of such denial, in writing, within 10 calendar days of the Council's action.

F. The City's decision on an application for a Special Use Permit for a Wireless Facility shall be supported by substantial evidence contained in a written record.

§ 196-17. Recertification of Special Use Permit.

A. At any time between 12 months and six months prior to the five-year anniversary date after the effective date of the permit and all subsequent fifth anniversaries of the original Special Use Permit for a Wireless Facility, the holder of a Special Use Permit for such Tower shall submit a written request for recertification. In the written request for recertification, the holder of such Special Use Permit shall note the following:

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(1) The name of the holder of the Special Use Permit for the Wireless Facility.

(2) If applicable, the number or title of the Special Use Permit.

(3) The date of the original granting of the Special Use Permit.

(4) Whether the Wireless Facility has been moved, relocated, rebuilt, repaired or otherwise modified since the issuance of the Special Use Permit.

(5) If the Wireless Facility has been moved, relocated, rebuilt, repaired or otherwise modified, then whether the Council approved such action, and under what terms and conditions, and whether those terms and conditions were complied with and abided by.

(6) Any requests for waivers or relief of any kind whatsoever from the requirements of this chapter and any requirements for a Special Use Permit.

(7) That the Wireless Facility is in compliance with the Special Use Permit and compliance with all applicable codes, laws, rules and regulations.

(8) Whether the facility is still being used; and whether it is the least intrusive means of providing service, including whether it can be reduced in size, combined with or replaced by other facilities or otherwise altered to make it less visible or less audible.

(9) Whether it complies with then applicable requirements of the City Code for placement of Wireless Facilities.

(10) Whether there have been any changes in the legal status of the applicant or any entity whose facilities are part of the Wireless Facility; and whether all required authorizations and consents are still in full force and effect.

B. If, after such review, the Council determines that the permitted Wireless Facility is in compliance with the Special Use Permit and all applicable codes, laws and rules; that it continues to be used in the provision of wireless services; that all relevant entities continue to have all necessary authorizations; and that the facility cannot be modified or replaced so that it is less visible or less audible, or has a lesser adverse impact on aesthetics, community character or property values, then the Council shall issue a recertification Special Use Permit for the Wireless Facility, which may include any new provisions or conditions that may be lawfully imposed, or that are required by codes, law or regulation.

C. If the Council does not complete its review, as noted in Subsection B of this section, prior to the five-year anniversary date of the Special Use Permit, or subsequent fifth anniversaries, then the applicant for the permitted Wireless Facility shall receive an extension of the Special Use Permit for up to six months, in order for the Council to complete its review.

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D. If the holder of a Special Use Permit for a Wireless Facility does not submit a request for recertification of such Special Use Permit within the time frame noted in Subsection A of this section, or if the Council finds that the Wireless Facility has been moved, relocated, rebuilt, or otherwise modified without approval of such having been granted by the Council under this chapter, or that the conditions for recertification have not been met, then such Special Use Permit and any authorizations granted thereunder shall cease to exist on the date of the fifth anniversary of the original granting of the Special Use Permit, or subsequent fifth anniversaries, unless the holder of the Special Use Permit adequately demonstrates to the Council that extenuating circumstances prevented a timely recertification request. If the Council agrees that there were legitimately extenuating circumstances, then the holder of the Special Use Permit may submit a late recertification request. Council may also recertify subject to additional conditions that it establishes, and contingent on satisfaction of those conditions.

§ 196-18. Extent and parameters of Special Use Permit and Eligible Facility Permit.

The extent and parameters of a Special Use Permit or an Eligible Facility Permit for a Wireless Facility shall be as follows:

A. Such permit shall be nonexclusive.

B. Such permit shall not be assignable or transferable without the express written consent of the Council.

C. Such permit may be revoked, canceled or terminated for a violation of the conditions and provisions of the Special Use Permit for a Wireless Facility, or for a material violation of this chapter or applicable law.

D. Such permit shall be valid for a period of five (5) years, or such longer period as is required by state law, but the permit may be recertified upon application, which application must demonstrate:

(1) The Wireless Facility is still in use; and for facilities where a demonstration of need or effective prohibition was required, that the facility remains necessary or that recertification is required to avoid an effective prohibition; and

(2) The impact of the Wireless Facility cannot reasonably be further minimized.

§ 196-19. Application fee.

A. At the time that a person submits an application for a Special Use Permit for a new Wireless Facility, such person shall pay an application fee to the City of Rye as set annually by the City Council set forth in the fee schedule. If the application is for a Special Use Permit for collocating on an Existing Wireless Facility, the applicant shall also pay a fee as set forth in the fee schedule.

B. Applicants for recertification of a Special Use Permit for a Wireless Facility shall also pay a fee as set forth in the fee schedule.

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§ 196-20 Performance security.

The applicant and the owner of record of any portion of a Wireless Facility, and the owner of real property on which the Wireless Facility is located (unless the property is publicly owned) shall be jointly required to execute and file with the City a bond, or other form of security acceptable to the City as to type of security and the form and manner of execution, in an amount and with such sureties as are deemed sufficient by the Council to assure the faithful performance of the terms and conditions of this chapter and conditions of any Special Use Permit issued pursuant to this chapter. The full amount of the bond or security shall remain in full force and effect throughout the term of the Special Use Permit and/or until the removal of the Wireless Facility and any necessary site restoration is completed. The failure to pay any annual premium for the renewal of any such security shall be a violation of the provisions of the Special Use Permit and shall entitle the Council to revoke the Special Use Permit after prior written notice to the applicant and holder of the permit.

§ 196-21 Reservation of authority to inspect Wireless Facilities.

A. In order to verify that the holder of a Special Use Permit for a Wireless Facility and any and all lessees, renters and/or licensees of a Wireless Facility place and construct such facilities, including Towers and Antennas, in accordance with all applicable technical, safety, fire, building and zoning codes, laws, ordinances and regulations and other applicable requirements, the City may inspect all facets of said permit holder's, renter's, lessee's or licensee's placement, construction, modification and maintenance of such facilities, including but not limited to Towers, Antennas and buildings or other Supporting Structures constructed or located on the permitted site.

The Applicant shall pay for costs associated with such an inspection.

B. Payment of such costs shall be made to the City within 30 days from the date of the invoice or other demand for reimbursement. In the event that the finding(s) of violation is (are) appealed in accordance with the procedures set forth in this chapter, said reimbursement payment must still be paid to the City, and the reimbursement shall be placed in an escrow account established by the City specifically for this purpose, pending the final decision on appeal.

§ 196-22 NIER certification.

A. Every Wireless Facility must meet FCC RF emission standards as the same may be amended from time to time.

B. Except as prohibited by law, City may require any person controlling a Wireless Facility to provide proof that the Wireless Facility satisfies FCC RF emission standards.

C. An applicant for a special use or Eligible Facility Permit, shall:

(1) At the time of an application provide information sufficient to show that the facility will comply with FCC RF standards; and

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(2) Immediately after installation, submit field test measurements sufficient to show compliance with FCC RF standards at full operational power. Measurements should be cumulative, and not just based on facilities that a particular person may own or install at a location.

D. All special use permit and Eligible Facility permit holders shall submit an annual recertification showing that the Wireless Facility satisfies FCC RF emission standards.

§ 196-23. Liability insurance.

A. A holder of a Special Use Permit for a Wireless Facility shall secure and at all times maintain public liability insurance, property damage insurance and umbrella insurance coverage for the duration of the Special Use Permit in amounts as set forth below:

(1) Commercial general liability: $5,000,000 per occurrence, $10,000,000 aggregate.

(2) Automobile coverage: $1,000,000 per occurrence, $2,000,000 aggregate.

B. The commercial general liability insurance policy shall specifically include the City and its officials, employees and agents as additional insureds.

C. The insurance policies shall be issued by an agent or representative of an insurance company licensed to do business in the state.

D. The insurance policies shall contain an endorsement obligating the insurance company to furnish the City with at least 30 days' written notice in advance of the cancellation of the insurance.

E. Renewal or replacement policies or certificates shall be delivered to the City at least 15 days before the expiration of the insurance which such policies are to renew or replace.

F. Before construction of a permitted Wireless Facility is initiated, but in no case later than 15 days after the grant of the Special Use Permit, the holder of the Special Use Permit shall deliver to the City a copy of each of the policies or certificates representing the insurance in the required amounts.

§ 196-24. Indemnification.

Any Special Use Permit issued pursuant to this chapter shall contain a provision with respect to indemnification. Such provision shall require the holder of the Special Use Permit, to the extent permitted by the law, to at all times defend, indemnify, protect, save, hold harmless and exempt the City, officials of the City, its officers, agents, servants, and employees from any and all penalties, damage or charges arising out of any and all claims, suits, demands, causes of action, or award of damages, whether compensatory or punitive, or expenses arising therefrom, either at law or in equity, which might arise out of, or are caused by, the construction, erection, modification, location, products performance, operation, maintenance, repair, installation, replacement, removal or restoration of a Wireless Facility within the City (including, by way of example and not limitation, the same resulting from modification to an Existing Supporting Structure). With respect

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to the penalties, damages or charges referenced herein, reasonable attorneys' fees, consultants' fees, and expert witness fees are included in those costs that are recoverable by the City.

§ 196-25. Penalties for offenses.

A. Civil sanctions. Any person who violates any of the provisions of this chapter shall be liable for a civil penalty of not more than $5,000 for every such violation. Each consecutive day of violation will be considered a separate offense. Such civil penalty may be released or compromised by the City Council. In addition, the City Council shall have power, following a hearing, to direct the violator to comply with the provisions of this chapter.

B. Criminal sanctions. Any person, firm or corporation who or which willfully violates any of the provisions of this chapter or permits promulgated thereunder, excluding provisions set forth in the rules and regulations promulgated thereunder, upon conviction thereof of the first offense, shall be guilty of a violation punishable by a fine of not less than $5,000 and not more than $10,000 and, for a second offense and each subsequent offense, shall be guilty of a violation punishable by a fine of not less than $10,000 nor more than $20,000 or a term of imprisonment of not more than 15 days, or both. Each consecutive day of violation will be considered a separate offense.

C. Notwithstanding anything in this chapter, the holder of the Special Use Permit for a Wireless Facility may not use the payment of fines, liquidated damages or other penalties to evade or avoid compliance with this chapter or any section of this chapter. An attempt to do so shall subject the holder of the Special Use Permit to termination and revocation of the Special Use Permit. The City may also seek injunctive relief to prevent the continued violation of this chapter.

§ 196-26. Default and/or revocation.

A. If a Wireless Facility is repaired, rebuilt, placed, moved, relocated, modified or maintained in a way that is inconsistent or not in compliance with the provisions of this chapter or of the Special Use Permit, then the Council shall notify the holder of the Special Use Permit, in writing, of such violation. Such notice shall specify the nature of the violation or noncompliance and that the violations must be corrected within seven days of the date of the postmark of the notice, or of the date of personal service of the notice, whichever is earlier. Notwithstanding anything to the contrary in this subsection or any other section of this chapter, if the violation causes, creates or presents an imminent danger or threat to the health or safety of lives or property, the Council may, at its sole discretion, order the violation remedied within 24 hours.

B. If within the period set forth in Subsection A above the Wireless Facility is not brought into compliance with the provisions of this chapter, or of the Special Use Permit, or substantial steps are not taken in order to bring the affected Wireless Facility into compliance, then the Council may revoke such Special Use Permit for a Wireless Facility and shall notify the holder of the Special Use Permit within 48 hours of such action.

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C. Without limiting the foregoing, if a Supporting Structure or Tower no longer complies with applicable codes, and may no longer be safely used to support other elements of a Wireless Facility, the City may require removal of those elements, in addition to taking any action against the owner of the Supporting Structure or Tower.

§ 196-27. Removal of Wireless Facilities.

A. Under the following circumstances, the Council may determine that the health, safety and welfare interests of the City warrant and require the removal of a Wireless Facility:

(1) A Wireless Facility with a permit has been abandoned (i.e., not used as a Wireless Facility) for a period exceeding 90 days or a total of 180 days in any three-hundred-sixty-five-day period, except for periods caused by force majeure or acts of God.

(2) A permitted Wireless Facility falls into such a state of disrepair that it creates a health or safety hazard.

(3) A Wireless Facility has been located, constructed or modified without first obtaining the required Special Use Permit, or any other necessary authorization.

(4) A Wireless Facility that has allowed its Special Use Permit to lapse or has otherwise failed to timely comply with providing the City with the required inspection reports, NIER certifications or other information in order to confirm such facility's compliance with this Chapter.

B. If the Council makes such a determination as noted in Subsection A of this section, then the Council shall notify the holder of the Special Use Permit for the Wireless Facility within 48 hours that said Wireless Facility is to be removed. The Council may approve an interim temporary use agreement/permit, such as to enable the sale of the Wireless Facility.

C. The holder of the Special Use Permit, or its successors or assigns, shall dismantle and remove such Wireless Facility, and all associated Supporting Structures or portions of Supporting Structures and Accessory Facilities and Structures used solely by it, from the site and restore the site to as close to its original condition as is possible, such restoration being limited only by physical or commercial impracticability, within 90 days of receipt of written notice from the Council. However, if the owner of the property upon which the Wireless Facility is located wishes to retain any access roadway to the Wireless Facility, the owner may do so with the approval of the Council.

D. If removal, or substantial progress to complete removal has not occurred within 90 days after the permit holder has received notice, then the Council may order officials or representatives of the City to remove the Wireless Facility and associated structures at the sole expense of the owner or permit holder.

E. If the owner of property that is removed does not claim the property and remove the property from the site to a lawful location within 10 days, then the City may take steps to declare the property abandoned and sell it and its components.

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F. Notwithstanding anything in this section to the contrary, the Council may approve a temporary use agreement/permit for the Wireless Facility, for no more 90 days, during which time a suitable plan for removal, conversion or relocation of the affected Wireless Facility shall be developed by the holder of the permit, subject to the approval of the Council, and an agreement to such plan shall be executed by the holder of the permit and the City. If such a plan is not developed, approved and executed within the ninety-day time period, then the City may take possession of and dispose of the affected Wireless Facility in the manner provided in this section.

§ 196-28. Applicability of application requirements and permit conditions.

A. Any applicant can request the waiver of application requirements that are inapplicable to their permit application. Such request shall be in writing. Requests should be discussed at the pre-application meeting. The applicant shall have the burden of supporting such requests. Determinations as to applicability of application requirements shall be made by the City.

B. In determining permit conditions, the City Council can waive inapplicable permit requirements, consistent with the policy goals and priorities of this chapter. The applicant shall have the burden of supporting such requests. Determinations as to applicability of permit condition requirements shall be made by the City Council.

§ 196-29. Adherence to state and/or federal rules and regulations.

A. To the extent that the holder of a Special Use Permit for a Wireless Facility has not received relief, or is otherwise exempt, from appropriate state and/or federal agency rules or regulations, then the holder of such a Special Use Permit shall adhere to and comply with all applicable rules, regulations, standards and provisions of any state or federal agency, including but not limited to the FAA and the FCC. Specifically included in this requirement are any rules and regulations regarding height, lighting, security, electrical and RF emission standards.

B. To the extent that applicable rules, regulations, standards and provisions of any state or federal agency, including but not limited to the FAA and the FCC, and specifically including any rules and regulations regarding height, lighting and security, are changed and/or are modified during the duration of a Special Use Permit for a Wireless Facility, then the holder of such a Special Use Permit shall conform the permitted Wireless Facility to the applicable changed and/or modified rule, regulation, standard or provision within a maximum of 24 months of the effective date of the applicable changed and/or modified rule, regulation, standard or provision, or earlier as may be required by the issuing entity.

§ 196-30. Conflict with other laws.

Where this chapter differs or conflicts with other laws, rules and regulations, unless the right to do so is preempted or prohibited by the county, state or federal government, the more restrictive or protective of the City and the public shall apply.

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§ 196-31 Severability.

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

§ 196-32 Enforcement.

This chapter shall be enforced by the Building Inspector or the City Engineer in the same manner as provided in Chapter 197, Zoning.

§ 196-33 Authority.

This chapter is enacted pursuant to the Municipal Home Rule Law. This chapter shall supersede the provisions of City law to the extent it is inconsistent with the same, and to the extent permitted by the New York State Constitution, the Municipal Home Rule Law or any other applicable statute.

Section 2: Effective date.

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

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CITY COUNCIL AGENDA

NO. 13 DEPT.: Planning DATE: December 19, 2018

CONTACT: Christian K. Miller, City Planner

AGENDA ITEM: Resolution authorizing the City Engineer to submit a request to the Westchester County Board of Legislature to transfer select properties along Locust Avenue, Graham Court, Clinton Avenue, Central Avenue, Woodcrest Road, Club Road, and Sunset Lane from the Blind Brook Sewer District to the Mamaroneck Valley Sewer District in connection with the installation of a new sewer pump station at the corner of Clinton Avenue and Central Avenue.

FOR THE MEETING OF:
December 19, 2018
RYE CITY CODE,
CHAPTER
SECTION

RECOMMENDATION: That the City Council adopt the attached resolution requesting the transfer of properties from the Blind Brook to Mamaroneck Valley Sewer District.

IMPACT: ☒ Environmental ☐ Fiscal ☐ Neighborhood ☐ Other:

BACKGROUND: In late 2017 it was discovered that the existing sanitary sewer line serving select properties along Locust Avenue, Graham Court, Clinton Avenue, Central Avenue, Woodcrest Road, Club Road, and Sunset Lane, was heavily damaged. The City installed temporary repairs until a permanent solution could be identified. In May, the City Council adopted a resolution authorizing the design and construction of a new sewer pump station to be located on a City-owned property at the corner of Clinton Avenue and Central Avenue. This would allow the existing sewer line, which crosses under I-95, runs north between I-95 and the MetroNorth railroad tracks, and crosses back under I-95, to be abandoned, therefore eliminating the need for any future maintenance or repairs on a sanitary sewer system located underneath a heavily traveled interstate highway. Property owners in the affected area would experience improved sewer service and future maintenance needs would be more easily addressed.

The proposed new pump station would require the transfer of 60 properties (shown in green on the attached map) from the Blind Brook Sewer District to the Mamaroneck Valley Sewer District. The attached resolution requires approval from the City Council prior to consideration by the County Board of Legislators.

RESOLUTION

Requesting that Select Properties along Locust Avenue, Graham Court, Clinton Avenue, Central Avenue, Woodcrest Road, Club Road, and Sunset Lane be Transferred From the Blind Brook Sewer District to the Mamaroneck Valley Sewer District In Connection With the Construction of New Pump Station at Clinton Avenue and Central Avenue.

WHEREAS, on May 23, 2018, the Rye City Council adopted a resolution authorizing the design, and construction of a new pump station located at Clinton Avenue and Central Avenue; and

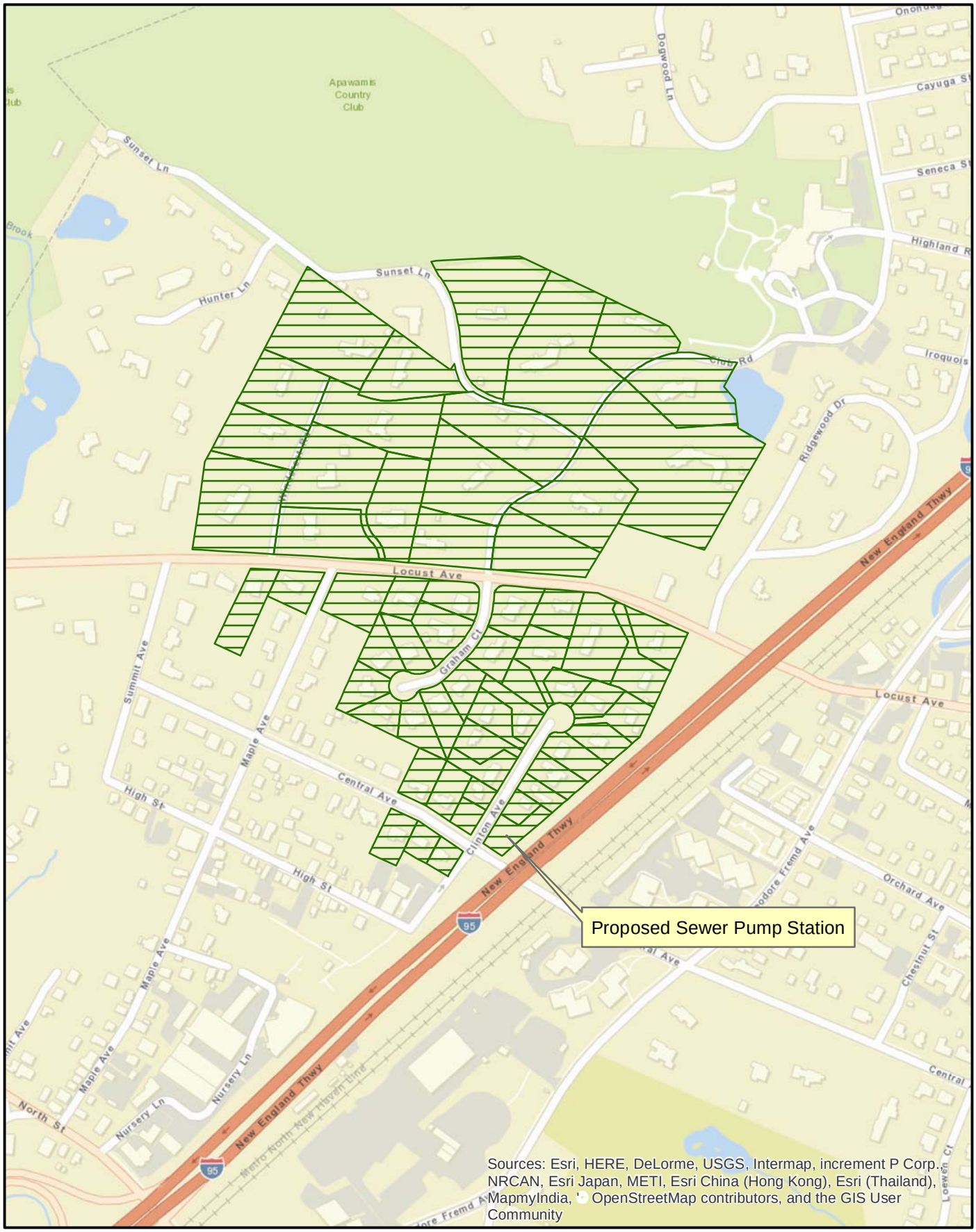
WHEREAS, the sewer project requires the transfer of properties from the Blind Brook Sewer District to the Mamaroneck Valley Sewer District;

NOW, THEREFORE, BE IT RESOLVED, that the Rye City Council authorizes the City Engineering Department to provide a letter requesting Westchester County Board of Legislature approval to transfer the following 60 properties from the Blind Brook Sewer District to the Mamaroneck Valley Sewer District:

Parcel ID (S/B/L)	**Address**
146-6-2-19-2	3 GRAHAM CT
146-6-2-47-1	47 CLINTON AVE
146-6-2-47-2	49 CLINTON AVE
146-6-2-19-3	5 GRAHAM CT
146-6-2-19-4	7 GRAHAM CT
146-6-2-19-5	9 GRAHAM CT
146-6-2-19-6	10 GRAHAM CT
146-6-2-19-7	8 GRAHAM CT
146-6-2-19-8	6 GRAHAM CT
146-6-2-19-9	4 GRAHAM CT
146-6-2-19-10	2 GRAHAM CT
146-6-2-19-11	169 LOCUST AVE
146-6-2-18	195 LOCUST AVE
146-6-2-5	221 LOCUST AVE
146-6-2-4	227 LOCUST AVE
146-6-2-19-1	1 GRAHAM CT
146-6-2-20	165 LOCUST AVE
146-6-2-21	161 LOCUST AVE
146-6-2-45	57 CLINTON AVE
146-6-2-22	155 LOCUST AVE
146-6-2-23	151 LOCUST AVE
146-6-2-42	153 LOCUST AVE
146-6-2-41	58 CLINTON AVE
146-6-2-43	60 CLINTON AVE
146-6-2-44	59 CLINTON AVE
146-6-2-46	55 CLINTON AVE
146-6-2-47-4	53 CLINTON AVE
146-6-2-47-3	51 CLINTON AVE

Parcel ID (S/B/L)	Address
146-6-2-40	56 CLINTON AVE
146-6-2-39	54 CLINTON AVE
146-6-2-38	52 CLINTON AVE
146-6-2-37	50 CLINTON AVE
146-6-2-36	48 CLINTON AVE
146-6-2-35	CLINTON & CENTRAL
146-6-2-48	45 CLINTON AVE
146-6-2-49	190 CENTRAL AVE
146-6-2-50	182 CENTRAL AVE
146-6-2-51	192 CENTRAL AVE
146-6-2-65	201 CENTRAL AVE
146-6-2-66	199 CENTRAL AVE
146-6-2-67	197 CENTRAL AVE
146-6-1-30	10 CLUB RD
146-6-1-29	30 CLUB RD
146-6-1-12-1	3 CLUB RD
146-6-1-12-2	1 CLUB RD
146-6-1-11	6 CLUB RD
146-6-1-10	2 SUNSET LN
146-6-1-9	4 SUNSET LN
146-6-1-33	25 CLUB RD
146-6-1-32	21 CLUB RD
146-6-1-31	180 LOCUST AVE
146-6-1-35	190 LOCUST AVE
146-6-1-36	2 WINDCREST RD
146-6-1-40	1 WINDCREST RD
146-6-1-37	4 WINDCREST RD
146-6-1-39	3 WINDCREST RD
146-6-1-38	5 WINDCREST RD
146-6-1-6	7 WINDCREST RD
146-6-1-34	6 WINDCREST RD
146-6-1-7	8 WINDCREST RD

Properties to be Transfered to the Mamaroneck Valley Sewer District



CITY COUNCIL AGENDA

NO. 14 DEPT.: Finance DATE: December 19, 2018

CONTACT: Joe Fazzino, Deputy Comptroller

AGENDA ITEM: Resolution to authorize participation in Westchester County contracts.

FOR THE MEETING OF:
December 19, 2018

RECOMMENDATION: That the City Council adopt the following resolution:

WHEREAS, by Act No. 8-1983, The County Board of Legislators authorized the County Purchasing Agent to act as Purchasing Agent for any city, town, village, school district or other unit of local government within the County of Westchester County, provided that said unit of local government by act, ordinance or resolution authorizes the County Purchasing Agent to act as its Purchasing Agent for items purchased by the County, and empowering designated officers and employees to sign requisitions, and further directing the proper official of local government to audit and pay County bills for the cost of County services within thirty (30) days after the receipt of said bill by the local government, and to provide the County with such insurance coverage as may be required by the County's Director of Risk Management, NOW, THEREFORE, be it

RESOLVED, that the County Purchasing Agent is hereby authorized to act as Purchasing Agent for the City of Rye, New York on a continuing basis, and be it further

RESOLVED, that the City Manager, the City Comptroller, and/or the City Engineer are hereby authorized to sign appropriate requisitions, and be it further

RESOLVED, that the City Comptroller is hereby authorized and directed to audit and pay County bills for the cost of County services within thirty (30) days after receipt of said bills, and be it further

RESOLVED, that the City Comptroller is hereby authorized to secure and provide to the County of Westchester any and all insurance required by the County's Director of Risk Management, in Accordance with County Act No. 8-1983.

IMPACT: ☐ Environmental ☒ Fiscal ☐ Neighborhood ☐ Other:

BACKGROUND:

The City of Rye participates in contracts awarded by the County of Westchester. The County of Westchester requires a resolution of our governing board for our continued participation in County purchase contracts.

CITY COUNCIL AGENDA

NO. 15 DEPT.: City Manager's Office DATE: December 19, 2018

CONTACT: Marcus Serrano, City Manager

AGENDA ITEM: Resolution designating the days and time of regular meetings of the City Council for 2019 setting January 9, 2019 as the first regular meeting.

FOR THE MEETING OF:
December 19, 2018
RYE CITY CODE,
CHAPTER
SECTION

RECOMMENDATION: That the Mayor and City Council schedule the first regular meeting date of the City Council for January 9, 2019.

IMPACT: ☐ Environmental ☐ Fiscal ☐ Neighborhood ☒ Other:

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

See Attached Calendar

2019 City Council Meetings Calendar

January 2019						
Su	Mo	Tu	We	Th	Fr	Sa
		1	2	3	4	5
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July 2019						
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August 2019						
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September 2019						
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November 2019						
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December 2019						
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Council Meeting Dates

Budget Workshops

Joint City Council/School Board Meeting

February 18-22	**School Mid-Winter Recess**
April 15-22	**School Spring Break**
November 5	**Election Day**