

APPENDIX B
LWRP MANAGEMENT

**CITY OF RYE
LOCAL LAW NO. 1991**

A local law amending the Code of the City of Rye by adding thereto Chapter 73, Coastal Zone Management, for the purpose of managing development in the Coastal Zone of the City of Rye.

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

Section 1. The Code of the City of Rye is hereby amended by adding thereto a new chapter, to be known as Chapter 73, to read as follows:

CHAPTER 73

COASTAL ZONE MANAGEMENT

Section 73-1. Title

This local law will be known as the City of Rye Waterfront Consistency Review Law.

Section 73-2. Authority and Purpose

1. This local law is adopted under the authority of the Municipal Home Rule Law and the Waterfront Revitalization and Coastal Resources Act of the State of New York (Article 42 of the Executive Law).
2. The purpose of this local law is to provide a framework for agencies of the City of Rye to consider the policies and purposes contained in the Local Waterfront Revitalization Program when reviewing applications for actions or direct agency actions located in the coastal area; and to assure that such actions and direct action are consistent with the said policies and purposes.
3. It is the intention of the City of Rye that the preservation, enhancement and utilization of the natural and manmade resources of the unique coastal area of the City take place in a coordinated and comprehensive manner to ensure a proper balance between natural resources and the need to accommodate population growth and economic development. Accordingly, this local law is intended to achieve such a balance, permitting the beneficial use of coastal resources while preventing: loss of living estuarine resources and wildlife; diminution of open space areas or public access to the waterfront; erosion of shoreline; impairment of scenic beauty; losses due to flooding, erosion and sedimentation; or permanent adverse changes to ecological systems.
4. The substantive provisions of this local law shall only apply while there is in existence a City Local Waterfront Revitalization Program which has been adopted in accordance

with Article 42 of the Executive Law of the State of New York.

Section 73-3. Definitions

For the purpose of the Chapter, the following terms, phrases and words and their derivations shall have the following meanings given herein:

1. "Actions" mean either Type I or unlisted actions as defined in SEQRA regulations (6 N.Y.C.R.R. 617.2) which are undertaken by an agency and which include:
 - a. projects or physical activities, such as construction or other activities that may affect the environment by changing the use, appearance or condition of any natural resource or structure, that:
 - i) are directly undertaken by an agency; or
 - ii) involve funding by an agency; or
 - iii) require one or more new or modified approvals from an agency or agencies;
 - b. agency planning and policy making activities that may affect the environment and commit the agency to a definite course of future decisions;
 - c. adoption of agency rules, regulations and procedures, including local laws, codes, ordinances, executive orders and resolutions that may affect the environment; and
 - d. any combinations of the above.
2. "Agency" means any board, agency, department, office, other body, or officer of the City of Rye.
3. "Coastal area" means that portion of New York State coastal waters and adjacent shorelands as defined in Article 42 of the Executive Law which is located within the boundaries of the City of Rye, as shown on the Coastal Area map on file in the office of the Secretary of State and as delineated in the City of Rye Local Waterfront Revitalization Program.
4. "Coastal Assessment Form (CAF)" means the form, contained in Appendix D used by an agency to assist it in determining the consistency of an action with the Local Waterfront Revitalization Program.
5. "Consistent" means that the action will fully comply with the LWRP policy standards and conditions and, whenever practicable, will advance one or more of them.
6. "Direct Actions" mean actions planned and proposed for implementation by an agency,

such as, but not limited to a capital project, rule making, procedure making and policy making.

7. "Local Waterfront Revitalization Program (LWRP)" means the Local Waterfront Revitalization Program of the City of Rye, approved by the Secretary of State pursuant to the Waterfront Revitalization and Coastal Resources Act (Executive Law, Article 42), and from time to time amended, a copy of which is on file in the Office of the Clerk of the City of Rye.

Section 73-4. Review of Actions

1. Whenever a proposed action is located in the city's Coastal Area, an agency shall, prior to funding or directly undertaking the action by an agency, or prior to approval, refer the action to the Rye City Planning Commission for a determination that it is consistent with the LWRP policy standards and conditions set forth in Section 73-5D herein.
2. For the purposes of this Chapter a determination of consistency by the Rye City Planning Commission shall not be required for the following actions:
 - A. Excluded, exempt and Type II actions as defined by Chapter 87 of the Code of the City of Rye and the State Environmental Quality Review Act, and as amended.
 - B. Approval of an application to implement any part of an action or approval of an action which was previously determined by the Rye City Planning Commission to be consistent with the Rye City Local Waterfront Revitalization Program, except when the determination was made in connection with an amendment to Code of the City of Rye including but not limited to an amendment to the Zoning Map of the City of Rye or to Chapter 197 of the Code of the City of Rye.
 - C. The approval of applications for any action involving the construction or alteration of a single family or two family residence and its accessory buildings and appurtenances.
 - D. Appellate and Interpretative jurisdiction of the Rye City Board of Appeals pursuant to §197-80 and §197-81 of Rye City Code.
 - E. Rye City Planning Commission Local Waterfront Revitalization Program determinations of consistency.
 - F. Legislative Action taken by the City Council.

Sections 73-5. Application for determination of consistency

- A.** For actions to be directly undertaken by the City of Rye, the agency proposing the action shall, as early as possible in the formulation of the action, refer the proposed action to the Planning Commission for a determination of consistency and shall not implement such action until the Planning Commission has issued such determination of consistency.
- B.** For applications by persons, firms and corporations to a city agency for approval the applicant when making the application to such agency shall simultaneously apply to the Planning Commission for a determination of consistency. The applicant shall prepare a Coastal Assessment Form (CAF) to assist with the consistency review. In the case of application processes which require preliminary and final applications, the application for a determination of consistency shall be made with the application for preliminary approval and need not be re-applied for at the time of making a final application unless the scope of the project for which final approval is sought is substantially different from that of the application for preliminary approval, which determination shall be made by the agency to which the application is being made.
- C.** Except as provided below, the Rye Planning Commission shall make the determination of consistency based on the CAF, and such other information as is deemed to be necessary in its determination. The Rye Planning Commission shall issue its determination following the next regularly scheduled meeting. The Rye Planning Commission shall have the authority, in its finding of consistency, to impose practicable and reasonable conditions on an action to ensure that it is carried out in accordance with this Chapter.

Where the agency is the City Council or, in the consideration of applications for use and area variances, the Zoning Board of Appeals, the determination of the Planning Commission shall be advisory. The consistency of an action involving the City Council or the Zoning Board of Appeals shall be determined by these boards in the process of reviewing the proposed action. However, both boards shall obtain the recommendations of the Planning Commission as provided in this law, prior to reaching a decision. Both Boards shall have the authority, in their findings of consistency, to impose practicable and reasonable conditions on an action to ensure that it is carried out in accordance with this Chapter. The Planning Commission shall be the agency authorized to make final consistency determinations for all other actions by agencies of the City of Rye.

- D.** Actions to be undertaken within the Coastal Area shall be evaluated for consistency in accordance with the following LWRP policy standards and conditions, which are derived from and further explained and described in Section III of the City of Rye LWRP, a copy of which is on file in the City Clerk's office

and available for inspection during normal business hours. In the case of direct actions, the agency shall also consult with Section IV of the LWRP in making their consistency determination. The action shall be consistent with the policy to:

1. Revitalize deteriorated and underutilized waterfront areas (Policy 1).
2. Retain and promote recreational water-dependent uses (Policy 2).
3. Strengthen economic base of smaller harbor areas by encouraging traditional uses and activities (Policy 4).
4. Ensure that development occurs where adequate public infrastructure is available to reduce health and pollution hazards (Policy 5).
5. Streamline development permit procedures (Policy 6).
6. Protect significant and locally important fish and wildlife habitats from human disruption and chemical contamination (Policies 7, 7A, 7B, 8).
7. Maintain and expand commercial fishing facilities to promote commercial and recreational fishing opportunities (Policies 9 and 10).
8. Minimize flooding and erosion hazards through non-structural means, carefully selected, long-term structural measures and appropriate siting of structures (Policies 11, 12, 13, 14, 16, 17, and 28).
9. Safeguard economic, social and environmental interests in the coastal area when major actions are undertaken (Policy 18).
10. Maintain and improve public access to the shoreline and to water-related recreational facilities while protecting the environment (Policies 2, 19, 19A, 19B, 20, 21, 22).
11. Protect and restore historic and archeological resources (Policy 23).
12. Protect and upgrade scenic resources (Policy 25).
13. Site and construct energy facilities in a manner which will be compatible with the environment and contingent upon the need for a waterfront or water location (Policies 27, 29, 40).
14. Prevent ice management practices which could damage significant fish and wildlife and their habitats (Policy 28).

15. Protect surface and groundwaters from direct and indirect discharge of pollutants and from overuse (Policies 30, 31, 32, 33, 34, 35, 36, 37, 38).
 16. Perform dredging and dredge spoil disposal in a manner protective of natural resources (Policies 15, 35).
 17. Handle and dispose of hazardous wastes and effluents in a manner which will not adversely affect the environment nor expand existing landfills (Policy 39).
 18. Protect air quality (Policies 41, 42, 43).
 19. Protect tidal and freshwater wetlands (Policy 44).
- E. If it is determined that the action would not be consistent with one or more of the LWRP policy standards and conditions, such action shall not be undertaken unless the determining agency makes a written finding with respect to the proposed action that:
1. no reasonable alternatives exist which would permit the action to be undertaken in a manner which will not substantially hinder the achievement of such LWRP policy standards and conditions;
 2. the action would be undertaken in a manner which will minimize all adverse effects on such LWRP policy standards and conditions;
 3. the action will advance one or more of the other LWRP policy standards and conditions; and
 4. the action will result in an overriding city, regional or state-wide public benefit.

Such a finding shall constitute a determination that the action is consistent with the LWRP policy standards and conditions.

- F. The Rye Planning Commission shall maintain a file for each action made the subject of a consistency determination. The Planning Commission shall issue a "Certificate of Consistency" for each approved action. Such files shall be made available for public inspection upon request.

Section 73-6. Fees

Upon the filing of an application for a determination of consistency, excluding reviews of federal and state agency action's and actions proposed to be directly undertaken by an agency of the

City of Rye, the following fee shall be payable:

Application fee: \$100.00

Section 73-7. Enforcement

The City Building Inspector shall be responsible for enforcing this Chapter. No work or activity on a project in the Coastal Area which is subject to review under this Chapter shall be commenced or undertaken until the building inspector has been presented with a Certificate of Consistency from the Rye Planning Commission. In the event that an activity is not being performed in accordance with this Chapter or any condition imposed thereunder, the building inspector shall issue a stop work order and all work shall immediately cease. No further work or activity shall be undertaken on the project so long as a stop work order is in effect.

Section 73-8. Violations

1. A person who violates any of the provisions of, or who fails to comply with any condition imposed by, this Chapter shall have committed a violation, punishable by a fine not exceeding five hundred dollars for a conviction of a first offense and punishable by a fine of one thousand dollars for a conviction of a second or subsequent offense. For the purpose of conferring jurisdiction upon courts and judicial officers, each week of continuing violation shall constitute a separate additional violation.
2. The City Counsel is authorized and directed to institute any and all actions and proceedings necessary to enforce this local law. Any civil penalty shall be in addition to and not in lieu of any criminal prosecution and penalty.

Section 73-9. Severability

The provisions of this local law are severable. If any provision of this local law is found invalid, such finding shall not affect the validity of this local law as a whole or any part or provision hereof other than the provision so found to be invalid.

Section 73-10. Effective Date

This local law shall take effect immediately upon its filing in the office of the Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.