

Motion by Alderman LEHNER

Seconded by Alderman SILL

LOCAL LAW NO. 3 OF 1986

A LOCAL LAW REPLACING THE ENVIRONMENTAL QUALITY REVIEW LAW
OF THE CITY OF RENSSELAER (LOCAL LAW No. 3 OF 1978)
RELEVANT TO THE LOCAL WATERFRONT REVITALIZATION PROGRAM

BE IT ENACTED by the Common Council of the City of Rensselaer as follows:

1. Local Law No. 3 of 1978 of the City of Rensselaer, New York, otherwise known as "the Environmental Quality Review Law of the City of Rensselaer" is hereby amended by the addition or amendment of the following sections, shown as underlined:

ARTICLE I General Provisions

- A. TITLE. This Local Law shall be known and may be cited as the "Environmental Quality Review Law of the City of Rensselaer, New York".
- B. PURPOSE. It is the purpose of this local law to establish a procedure whereby the City of Rensselaer may implement Article 8 of the New York State Environmental Conservation Law, providing for the environmental quality review of any action which may have a significant effect on the environment, and also to provide for the protection and beneficial use of the natural and man-made resources within the City of Rensselaer waterfront area by insuring where and when possible and practicable that certain actions to be undertaken, approved or funded by a city agency be performed in a manner consistent with the policies and purposes of the City of Rensselaer Local Waterfront Revitalization Program.
- C. AUTHORITY. This law is adopted under the authority of Article 42 of the Executive Law of New York State, Section 10 of the Municipal Home Rule Law of New York State, the State Environmental Quality Review Act, and the State Environmental Quality Review Regulations.
- D. APPLICABILITY. All appropriate agencies of the City of Rensselaer must comply with this local law, prior to directly undertaking, approving, or funding any action when such action is classified as Type I or Unlisted under Part 617 of Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York.
- E. SEVERABILITY. The provisions of this local law are severable. If any part of this local law is found invalid, such finding will apply only to the particular provision and circumstances in question. The remainder of this local law, and the application of the disputed provision to other circumstances, will remain valid.
- F. DEFINITIONS.
- (a) "Action" means either a "Type I" or "Unlisted" action as defined in SEQR regulations at 6 NYCRR 617.2, or any directly undertaken, funded, or approval action occurring within or affecting a critical environmental area designated pursuant to 6 NYCRR 617.4(j).

- (b) "Coastal Zone Area" means that portion of the NYS Coastal Area within the City of Rensselaer as delineated in the City of Rensselaer Local Waterfront Revitalization Program.
- (c) "EAF" means Environmental Assessment Form as defined at 6 NYCRR 617.2(l).
- (d) "EIS" means Environmental Impact Statement as defined at 6 NYCRR 617.2(m).
- (e) "Local Waterfront Revitalization Program (LWRP)" means the local program to implement the NYS Coastal Management Program within the City of Rensselaer as approved by the Secretary of State pursuant to the Waterfront Revitalization and Coastal Resources Act of 1981 (Article 42 of the Executive Law of New York State), a copy of which is on file in the City Clerk's Office and available for inspection during normal business hours.
- (f) "Part 617" means the State Environmental Quality Review Regulations. (Part 617 of Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York).
- (g) "SEQR" means the State Environmental Quality Review Act (Article 8 of the Environmental Conservation Law, which is Chapter 43-b of the Consolidated Laws of the State of New York).
- (h) "City" means the City of Rensselaer.
- (i) "City Agency" means any board, commission, department, office, body or officer of the City of Rensselaer.
- (j) "Common Council" means the Common Council of the City of Rensselaer.
- (k) "CAF" means Coastal Assessment Form as adopted by the Common Council.
- (l) "Planning Commission" means the City of Rensselaer Planning Commission.
- (m) All other terms used in this Local Law shall have the same meaning as those defined in Section 8-0113 of the Environmental Conservation Law and Part 617 of Title 6 NYCRR.

ARTICLE II DELEGATION OF RESPONSIBILITY

- A. RESPONSIBILITY FOR REVIEW. The City Planning Commission is assigned the responsibility to review and approve all matters relating to the use and development of the designated Coastal Zone Area.
- B. SECRETARY. The Secretary of the Planning Commission, or such other person as the Planning Commission may designate, shall assume the responsibility for scheduling of all meetings, coordinating of all activities and recording and filing of all business pertaining to the matters described in section A of this Article.
- C. ANNUAL REPORT REQUIRED. The Secretary, or such other person designated by the Planning Commission, shall prepare an annual report on the Planning Commission's activities relating to use and development of the Coastal Zone Area, not later than 1 April of each year. Such report shall be submitted to the mayor and common council and may include any recommendations pertaining to

any changes necessary to more effectively implement the environmental quality review processes contained in this Local Law. A copy of the annual report shall be filed with the Department of Environmental Conservation.

ARTICLE III COMPLIANCE REQUIRED

- A. GENERAL. No decision to carry out or approve or fund any action shall be made by the common council or by any other city agency until there has been full compliance with all requirements of this Local Law and Part 617 of Title 6 NYCRR.
- B. TYPE I ACTIONS. Consistent with Part 617 of Title 6 NYCRR and the criteria therein, the Type I actions listed in Section 617.12 and all directly undertaken, funded or approval actions occurring within or affecting a critical environment area designated pursuant to 6 NYCRR 617.4(j) are deemed likely to have a significant effect on the environment and are likely to, but shall not necessarily, require preparation of an environmental impact statement.
- C. TYPE II ACTIONS. Consistent with Part 617 of Title 6 NYCRR and the criteria therein the Type II actions listed in Section 617.13 are deemed not to have a significant effect on the environment impact statement.
- D. EXEMPT AND EXCLUDED ACTIONS. The following actions and activities shall be exempt from the requirement of this Local Law:
1. Actions defined as exempt actions in Section 617.2 of Title 6 NYCRR;
 2. Actions undertaken or fully approved or funded prior to the effective date of the State Environmental Quality Review Act;
 3. All normal street, highway and utility maintenance activities;
 4. The conducting of environmental engineering, economic feasibility or other studies and preliminary planning necessary for the formulation of a proposal for action without committing the City to approve, commence, or engage in such action; and
 5. The granting of approval to any part of an application which relates only to technical specifications and requirements, provided that no such partial approval shall entitle the applicant to commence the action until all requirements of this local law and Part 617 of Title 6 NYCRR have been fulfilled.
- E. UNLISTED ACTIONS. Consistent with Part 617 of Title 6 NYCRR and the criteria therein, unlisted actions are defined as those actions which are not excluded or exempt nor listed as Type I or Type II actions in State or local SEQR regulations. Such actions may or may not have a significant effect on the environment and may or may not require the preparation of an environmental impact statement.

ARTICLE IV INITIAL DETERMINATION/GENERAL PROCEDURE

- A. APPLICATION. For the purpose of determining whether any variance, approval or other action may have a significant effect on the environment, applicants for permits or other approvals, except for those actions initiated by the City, shall file a written statement with the responsible official or body setting

forth the name of the applicant; the location of the property affected, if any; a description of the nature of the proposed action; and, as a supplement to the otherwise required information, a statement of the effect it may have on the environment. The statement shall be filed simultaneously with the application. The statement provided herein shall be upon an environmental assessment form prescribed by the responsible official or body and shall contain such additional relevant information as shall be required in the prescribed form. Such statement shall be accompanied by drawings, sketches, and maps, if any, together with any other relevant explanatory material required by the City official or body having variance, approval or permit jurisdiction.

- B. **POSTING.** Upon receipt of a complete application and statement, the responsible official or body shall cause a notice to be posted on the signboard maintained by the City and may also cause such notice to be published in the official newspaper of the City, describing the nature of the proposed action and stating that written views thereon of any person shall be received by the responsible official or body not later than a date specified in such notice. Such notice shall also be sent to each member of the Planning Commission.
- C. **WRITTEN DETERMINATION.** The responsible official or body shall render a written determination, except where not required by this Local Law, on such application within fifteen (15) calendar days following receipt of a complete application and statement, provided, however, that such period may be extended by mutual agreement of the applicant and the responsible official or body. The determination shall state whether such proposed action may or will not have a significant effect on the environment.
- D. **REFERRAL TO PLANNING COMMISSION.** Where any proposed action is not specifically governed by Article IV, (C), or (D) or this Local Law, the responsible official or body shall so notify the Planning Commission within five (5) calendar days following receipt of a complete application and statement. The Planning Commission shall review the proposed action and issue recommendation to the responsible official or body. The responsible official or body shall then render a written determination in accordance with this Local Law, which determination shall be consistent with the recommendations of the Planning Commission, and shall file such determination with the required agencies provided in Part 617 of Title 6 NYCRR, Section 617.10.
- E. **CONSULTATION.** The responsible official or body or the Planning Commission may hold informal meetings or consult with any person for the purpose of aiding in making a determination on the application.
- F. **CITY INITIATED ACTIONS.** Actions as defined in Part 617 of Title 6 NYCRR, Section 617.12, initiated by the City shall, for the purpose of compliance with this Local Law and Part 617 of Title 6 NYCRR, be under the jurisdiction of the Director of Planning and Development. No decision to carry out any such action shall be made until the Director of Planning and Development has rendered a written determination in accordance with Article V (C) through (E) of this Local Law. Within these sections, for actions initiated by the City, the procedures which apply to the responsible official or body shall instead apply to the Director of Planning and Development.
- G. **TIME REQUIREMENTS.** The time limitations provided in this Local Law shall be coordinated with, to the extent practicable, other time limitations provided by statute or Local Law, ordinance or regulation of the City.

ARTICLE V DRAFT ENVIRONMENTAL IMPACT STATEMENT (DEIS)

- A. GENERAL. If it is determined, in accordance with this Local Law, that a proposed action may have a significant effect on the environment, the proposed action shall be reviewed and processed in strict accordance with the provisions of part 617 of Title 6 NYCRR and as provided in this Local Law.
- B. DEIS PREPARATION. Following a determination that a proposed action may have a significant effect on the environment, the Director of Planning and Development for actions initiated by the City, or the responsible official or body shall prepare or cause to be prepared a draft environmental impact statement in accordance with the provisions of Part 617 of Title 6 NYCRR. Refusal of the applicant to prepare such a draft shall cause the official or body to cease processing the application. Where the action involves an application for a variance, approval or other action, the full cost of preparing the draft environmental impact statement shall be borne by the applicant.
- C. NOTICE OF COMPLETION OF DEIS. Upon completion of a draft environmental impact statement, a Notice of Completion containing the information specified in Part 617 of Title 6 NYCRR shall be published in the official newspapers of the City. Copies of the draft environmental impact statement and the Notice of Completion shall be filed, circulated, sent and made available as required by Part 617 of Title 6 NYCRR.
- D. REVIEW OF DEIS. The draft environmental impact statement shall be reviewed by the Planning Commission which shall determine if a public hearing on the draft environmental impact statement is necessary. If the Planning Commission determines that a public hearing is necessary, notice thereof shall be filed, circulated and sent in the same manner as the Notice of Completion and shall be published in the official newspapers of the City, at least fourteen (14) calendar days prior to such public hearing. Such notice shall also state the place where substantive written comments on the draft environment impact statement may be sent and the date before which such comments shall be received. The public hearing shall commence no less than fifteen (15) nor more than sixty (60) calendar days after the filing of the draft environmental impact statement except as otherwise provided where the Director of Planning and Development, for actions initiated by the City, or the responsible official or body determines that additional time is necessary for public or other agency review of the draft environmental impact statement or where a different hearing date is required as appropriate under applicable law. If, on the basis of the draft environmental impact statement or a public hearing, the Planning Commission determines that an action will not have a significant effect on the environment, the proposed action may be processed without further regard to this Local Law.

ARTICLE VI FINAL ENVIRONMENTAL IMPACT STATEMENT (EIS)

- A. GENERAL. If it is determined, in accordance with review of the DEIS, that a proposed action will have a significant effect on the environment, preparation of a final environmental impact statement shall be required and shall be reviewed and processed in strict accordance with the provisions of Part 617 of Title 6 NYCRR and as provided in the Local Law.
- B. EIS PREPARATION. Except as otherwise provided in this Local Law, the Director of Planning and Development, for actions initiated by the City, or the responsible official or body shall prepare or cause to be prepared a final environmental impact statement in accordance with the provisions of Part 617 of Title 6 NYCRR, provided further that if the action involves an application, the responsible official or body shall direct the applicant to prepare the final environmental impact statement. Such final

environmental impact statement shall be prepared within forty-five (45) calendar days after the close of any public hearings or within sixty (60) calendar days after the filing of the draft environmental impact statement, whichever last occurs, provided, however, that the responsible official or body may extend this time as necessary to complete the statement adequately or where problems identified with the proposed action require material consideration or modification.

- C. **NOTICE OF COMPLETION OF EIS.** A notice of Completion of a final environmental impact statement shall be prepared, published and filed in the same manner as provided in Article VI (C) of this Local Law and shall be sent to all persons to whom the Notice of Completion of the draft environment impact statement was sent. Copies of the final environmental impact statement shall be filed and made available for review in the same manner as the draft environmental impact statement.
- D. **REVIEW OF EIS.** The final environmental impact statement shall be reviewed by the Planning Commission which shall provide the Director of Planning and Development, for actions initiated by the City, or the responsible body or official with written recommendations and comments concerning the final environmental impact statement within fifteen (15) calendar days after the filing date of the final environmental impact statement.
- E. **FILING REQUIRED.** No decision to carry out or approve an action which has been the subject of a final environmental impact statement shall be made by the Common Council or any other board, department, commission, officer or employee of the City having jurisdiction until after the filing and consideration of the final environmental impact statement, which decision shall be made within thirty (30) calendar days of the filing of the final environmental impact statement.
- F. **WRITTEN DETERMINATION.** When the Common Council or any other board, department, commission, officer or employee of the City having jurisdiction decides to carry out or approve an action which may have a significant effect on the environment, the following findings shall be made in a written determination:
 - 1. Consistent with social, economic, and other essential considerations of City policy, to the extent practicable, from among the reasonable alternatives thereto, the action to be carried out or approved is one which minimizes or avoids adverse environmental effect, including the effects disclosed in relevant environmental impact statements.
 - 2. All practicable means will be taken in carrying out or approving the action to minimize or avoid adverse environmental effects. For public information purposes, a copy of such determination shall be filed and made available as required in Part 617 of Title 6 NYCRR.

ARTICLE VII MAINTENANCE OF RECORDS

The City Clerk shall maintain files open for public inspection of all Notices of Completion, draft and final environmental impact statements and written determinations prepared or caused to be prepared by the City. Duplicates of all such files shall be maintained by the Planning Commission in the Office of the Director of Planning and Development. The Director of Planning and Development shall also maintain for

public review a copy of Article 8 of the New York State Environmental Conservation law, as amended, and its implementing regulations, as included in Part 617 of Title 6 NYCRR.

ARTICLE VIII LEAD AGENCY DESIGNATION

When more than one agency is involved in an action, the procedures of Section 617.6 and 617.7 of Part 617 of Title 6 NYCRR shall be followed. In such cases, it shall be the policy of the City to encourage that lead agency designation be assumed by the local governmental agency having jurisdiction if practicable.

ARTICLE IX MODIFICATION OF PRIOR ACTIONS

Actions undertaken or approved prior to the dates specified in Article 8 of the Environmental Conservation Law shall be exempt from the Local Law and the provisions of Article 8 of the Environmental Conservation Law and Part 617 of Title 6 NYCRR provided, however, that if, after such dates, the Common Council, or any other board, department, commission, officer or employee of the City having jurisdiction modifies an action undertaken or approved prior to that date and the Planning Commission determines that the modification may have a significant effect on the environment, such modification shall be an action subject to this Local Law and Part 617 of Title 6 NYCRR.

ARTICLE X EFFECTIVE DATE

This Local Law shall take effect ten (10) days after its approval by the Mayor.

APPENDIX A - COASTAL ZONE AREA/CONSISTENCY REVIEW

A. Description. The Coastal Zone Area of the City of Rensselaer is defined in the adopted Local Waterfront Revitalization Program approved by the New York State Secretary of State, as approximately all lands within the designated 100-year flood plain on the river side of the existing railroad tracks (See attached map). The designated flood plain is described in the National Flood Insurance Program Flood Insurance Rate Map, issued by the Federal Insurance Administration, U.S. Department of Housing and Urban Development.

B. Consistency. Any action to be undertaken by any person, corporation or agency within the designated Coastal Zone Area, as herein defined, shall also be consistent to the extent practicable with the coastal policies listed in Appendix A (I)(D) of this Local law and explained in the Local Waterfront Revitalization Program of the City of Rensselaer. A review of any such action shall contain a written determination of consistency whether or not the action is determined to have a significant effect on the environment.

C.1 Review. The Planning Commission or another city agency, when proposing to undertake, approve, or fund a Type I or Unlisted action in the Coastal Zone Area shall prepare or cause to be prepared a CAF for the proposed action. Following the preparation of an EIS or the issuance of a negative declaration pursuant to Part 617 of Title 6 of NYCRR, a city agency shall refer the CAF, any EIS and other pertinent information for that action to the Planning Commission for review and determination regarding the action's consistency with the policies of the LWRP.

C.2 Certification of Consistency

C.2.1 Prior to its undertaking, approving or funding of a proposed Type I or Unlisted action in the Coastal Zone Area, and for each action referred by a city agency

pursuant to section C.1, the Planning Commission shall either:

- (a) Find and certify in writing that the action will not substantially hinder the achievement of any of the policies and purposes of the LWRP; or
- (b) If the action will substantially hinder the achievement of any policy of the LWRP, find and certify in writing that all three of the following requirements are satisfied: (i) no reasonable alternatives exist which would permit the action to be undertaken in a manner which would not substantially hinder the achievement of such policy; (ii) the action will minimize all adverse effects on such policy to the extent practicable; and (iii) the action will result in a significant regional or state-wide public benefit. Such certification shall constitute a determination that the action is consistent to the extent practicable with the policies and purposes of the LWRP; or
- (c) Find and certify in writing that the action is not consistent with the policies and purposes of the LWRP, since it would substantially hinder the achievement of one or more policies and would not satisfy all of the requirements identified in section C.2.1.(b) above.

C.2.2 The Planning Commission shall complete its review of the proposed action's consistency and prepare a written finding to the referring city agency within thirty (30) days of the referral date. The Planning Commission may refer such actions for review and recommendation to any city agency.

C.2.3 No action contemplated under this Local Law shall be undertaken, approved, or funded unless the Planning Commission certifies its consistency with the policies and purposes of the LWRP by finding pursuant to either C.2.1 (a) or C.2.1 (b) above.

C.2.4 The written findings and certification of consistency made by the Planning Commission shall be filed with the city clerk before the action is undertaken, approved, or funded.

D. Maintenance of Records. Any such consistency determination shall become part of the lead agency's findings and, as such shall be a permanent record to be maintained in accordance with Article VII of this Local Law.

E. State Policies. Actions to be undertaken within the Coastal Zone Area shall be evaluated for consistency in accordance with the following LWRP policies, standards and conditions, which are derived from and further explained and described in Section III of the City of Rensselaer's LWRP, a copy of which is filed in the City Clerk's office and available for inspection during normal business hours. Agencies which directly undertake actions shall also consult with Section IV of the LWRP in making their consistency determination. The action shall be consistent with the policy to:

Redevelop the Albany Port District area as a regional marine transportation facility. (Policy I; Ia)

Revitalize the central business district and create opportunities for commercial expansion. (Policy 1; 1b; 1e)

Revitalize deteriorated residential neighborhoods and create new residential opportunities (Policy 1; 1c; 1d)

Develop where and when practicable a Riverfront Open Space and Trail System along the City's waterfront.

Permit office park development in the north waterfront. (Policy 1; 1g)

Facilitate the siting of water dependent uses. (Policy 2)

Maintain all suitable industrial land within and contiguous to Port lands for marine-related industrial development. (Policy 2; 2a)

Further develop the port of Albany as a center of commerce and industry and encourage the siting of land uses which are essential to or in support of waterborne transportation. (Policy 3)

Reduce Port-related truck traffic in residential neighborhoods. (Policy 3; 3a)

Encourage development in areas where adequate infrastructure is already in place. (Policy 5)

Prevent chemical contamination of fish and wildlife resources and their food chains. (Policy 8)

Promote recreational use of fish and wildlife resources, and protect such resources from chemical pollution. (Policy 8;9)

Minimize damage to natural resources and property from flooding and erosion through proper location of new land development, protection of wetlands, proper construction and use of structural erosion controls, and use of non-structural measures where practicable. (Policy 11; 14; 17)

Structures will be sited so as to minimize damage to property and the endangering of human life caused by flooding and erosion. (Policy 11)

Development and land use will be undertaken in such manner as to protect natural protective features.

Construction or reconstruction of erosion protection structures may be performed only if they have a probability of controlling erosion for at least 30 years. (Policy 13)

Development and land use, including reconstruction of erosion protection structures, shall not cause an increase in erosion or flooding. (Policy 14)

Public funds shall only be used for erosion protective structures where necessary to protect human life or existing water-dependent development. (Policy 16)

Non-structural measures to minimize flood and erosion are preferred. (Policy 17)

Develop where and when practicable overlooks, boat launches, boat moorings, fishing piers, and direct access to the shoreline along the Riverfront Open Space and Trail System. (Policy 19-19h)

Link the Riverfront Open Space and Trail System with recreational amenities in the Town of North Greenbush waterfront, if appropriate. (Policy 19; 19h)

Access to the public foreshore shall be provided, retained and increased where and when practicable. (Policy 20)

Promote water-dependent recreation. Provide water related recreation as a multiple use when compatible with primary use. (Policy 21; 22)

Protect historic, archeological, architectural and cultural resources. (Policy 23)

Protect and enhance visual quality. (Policy 24; 25)

Coastal Policies will be considered when reviewing or modifying water classifications or standards. Water overburdened by contaminants will be treated as a development constraint. (Policy 31)

Best management practice will be used to ensure the control of storm water runoff and combined sewer overflows draining into coastal waters. Promote responsible marine sanitation practices. (Policy 33; 34)

Dredging and dredge spoil disposal projects shall protect living, natural and scenic resources, and wetlands. (Policy 35)

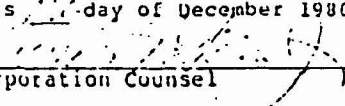
Activities related to the shipment and storage of hazardous materials shall be conducted in a manner to prevent spills and minimize impacts. (Policy 36)

Best management practices to minimize non-point discharge of excess nutrients, organics and eroded soils, are required. (Policy 37)

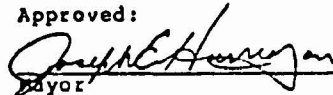
Solid waste shall be handled in a manner which protects natural and scenic resources, and recreational land uses. (Policy 39)

Preserve and protect freshwater wetlands. (Policy 44)

Approved as to Form and Sufficiency
this 11 day of December 1986


Corporation Counsel

Approved:


Mayor

11/31/86
Date

EDWARD FINLAN
EDWARD SILL
JOHN MOONEY
RICHARD COMBLEN
MARA LEMMER
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NICHOLAS STOKELAS
DARRIS PELS
TOTAL

AYES	NOES

