

**Appendix B      Supporting Local Legislation**

**CITY OF ROCHESTER  
LOCAL WATERFRONT REVITALIZATION PROGRAM**

**Legislation Resulting from the Rochester LWRP**

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**City of Rochester  
City Clerks Office  
Certified Ordinance**

Rochester, N.Y., \_\_\_\_\_

**TO WHOM IT MAY CONCERN:**

I hereby certify that the following is a true copy of an ordinance which was duly passed by the Council of the City of Rochester on September 11 19 90 and Approved (not disapproved, approved, repassed after disapproval) by the Mayor of the City of Rochester, and was deemed duly adopted on September 13, 19 90 in accordance with the applicable provisions of law.

**Ordinance No. 90-364**

**Amending Chapter 115 Of The Municipal Code, Zoning Ordinance, With Respect To Regulations For The R-H River-Harbor District**

**BE IT ORDAINED**, by the Council of the City of Rochester as follows:

**Section 1.** Section 115-72 of the Municipal Code, R-H River-Harbor District, as amended, is hereby further amended to read in its entirety as follows:

**Section 115-72. R-H River-Harbor District**

- A. Purpose.** The R-H River Harbor District is intended to preserve and enhance the recreational character of the harbor area at the mouth of the Genesee River; improve the visual quality of the harbor environment; preserve, retain and promote public access, both physically and visually to the shoreline; and encourage tourism in the area. While the primary uses of the area are boating and fishing, complementary commercial uses which enhance the recreational character of the area and provide conveniences for water-related and shoreline recreational activities are permitted. The development of additional public and private facilities for fishing, boating, swimming, dining, picnicking, strolling and sightseeing is encouraged. Residential land use is permissible to help promote a diversity of land uses and a year round population which will reinforce the village character of the area. The review of development in this district is intended to promote the integration, intermingling and visual and physical proximity of a variety of activities.
- B. Permitted uses.**

- (1) **The following uses are permitted as of right in the R-H River Harbor District subject, in each case, to site plan approval in accordance with provisions of Section 115-30 of this chapter:**
    - (a) **Public boardwalks, paths and biking trails.**
    - (b) **Boating and fishing docks.**
  - (2) **The following uses are permitted as of right in the R-H River Harbor District if located one hundred twenty-five (125) feet or more from the edge of the Genesee River, subject in each case, however, to site plan approval in accordance with the provisions of Section 115-30 of this chapter:**
    - (a) **Restaurants and taverns**
    - (b) **Private clubs**
    - (c) **Public parking lots and garages**
    - (d) **The following retail shopping and consumer service establishments:**
      - [1] **Clothing sales**
      - [2] **Fish, seafood and specialty food stores**
      - [3] **Gift shops**
      - [4] **Bicycle sales and rental**
      - [5] **Sporting goods sales**
      - [6] **Fishing supply stores**
      - [7] **Boating and sailing equipment and supplies sales and rental**
    - (e) **Tourist information centers**
    - (f) **Museums**
    - (g) **Studios for artists and craftsmen**
    - (h) **Other establishments relating to and supporting harbor activities.**
- C. **Accessory uses and structures. Accessory uses and structures are permitted in the R-H River Harbor District subject to the provisions of Section 115-87 of this chapter.**

**D. Temporary uses.** Temporary uses are permitted in the R-H River Harbor District subject to the provisions of Section 115-89 of this chapter.

**E. Special permit uses**

**(1) In addition to uses specified in subsection 115-29E(1), the following uses and structures may be permitted in the R-H River Harbor District subject to the issuance of a special permit, as provided in Section 115-29 of this chapter:**

- (a) Any use permitted in Subsection B(2) above when located within one hundred twenty-five (125) feet of the edge of the Genesee River.**
- (b) Any structure or building over fifteen (15) feet in height.**
- (c) Private and commercial recreation and amusement facilities, subject to the additional standards set forth in subsection 115-54G(2)(a) and (b) of this chapter.**
- (d) Dwellings, subject to all the provisions and regulations applicable in the R-3 District.**
- (e) Fuel sale**
- (f) Hotels and motels**
- (g) Marinas**
- (h) Boat launches**
- (i) Coast Guard Stations**
- (j) Water passenger transportation terminals**
- (k) Boating and sailing instruction schools**
- (l) Boat, yacht, canoe, and kayak sales, repair and storage**
- (m) Sales and repair of boat trailers**
- (n) Boat rental and charter facilities**

**(2) Standards.** In addition to standards specified in subsection 115-29E(2) and (3) of this chapter, the following additional standards shall be met:

- (a) The proposed building, structure or use will not unnecessarily interfere with the passage of boats nor unnecessarily obstruct public access to riverside parcels.**

- (b) **The proposed design and arrangement of the building, structure or use will provide for pedestrian access to riverside parcels and public views of the river to the maximum extent possible.**
- (c) **The proposed building, structure or use is subject to the parking and loading requirements as set forth in Section 115-90 of this chapter except that the Planning Commission may, in approving the special permit for any use listed in subsection E(1) of this section waive or modify the standards of 115-90 when it finds that such action is warranted by reason of unique physical conditions or by the nature and location of the particular building, structure, or use proposed.**

**F. Prohibited uses.**

- (1) **All manufacturing uses except for carnivals and circuses as temporary uses.**
- (2) **Warehousing and distribution centers.**
- (3) **Commercial cargo and shipping terminals.**
- (4) **Railroad storage and freight yards.**
- (5) **Adult bookstores, adult entertainment centers and adult film centers.**
- (6) **Auto repair, rental, sales and storage.**
- (7) **Drive-in establishments.**

**G. Bulk, space and yard requirements.**

- (1) **The maximum height of structures in the R-H River Harbor District shall be 15 feet unless a Special Permit is issued as provided for in subsection 115-72E(1)(b).**
- (2) **There shall be no yard requirements in the R-H River Harbor District except for Residential uses as set forth in Section 115-50 of this chapter.**

**H. Parking and loading requirements. Off-street parking and loading requirements applicable in the R-H River Harbor District are set forth in Section 115-90 of this chapter.**

**I. Signs. Sign regulations applicable in the R-H River Harbor District are set forth in Section 115-88 of this chapter.**

**J. Use limitations.**

- (1) No specialized retail shopping and consumer service establishment use permitted in subsection 115-72B(2) shall occupy a floor area greater than two thousand five hundred (2,500) square feet to conduct its operations and to store its wares, products, inventory and materials.
- (2) No open-air outdoor storage of construction materials shall be permitted. Refuse and trash may be stored outdoors at all times only if placed in closed containers located in an area screened from view at all points on any public or private property or street when viewed from ground level.

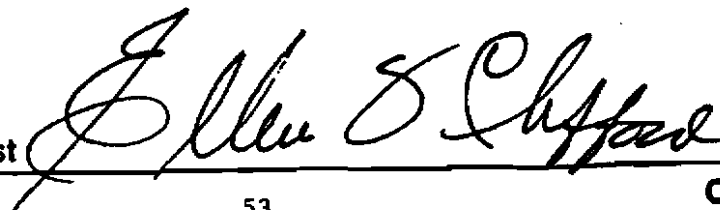
**Section 2. This ordinance shall take effect immediately.**

**Passed by the following vote:**

**Ayes - President Curran, Councilmembers Childress Brown, Giess, King, Mains, Muldoon, Norwood, Padilla, Stevenson - 9.**

**Nays - None - 0.**

**Attest**



**City Clerk**



**City of Rochester  
City Clerks Office  
Certified Ordinance**

Rochester, N.Y., \_\_\_\_\_

**TO WHOM IT MAY CONCERN:**

I hereby certify that the following is a true copy of an ordinance which was duly passed by the Council of the City of Rochester on September 11 19 90 and Approved by the Mayor of the City of Rochester, and was deemed duly adopted on September 13, 19 90 in accordance with the applicable provisions of law.

**Ordinance No. 90-365**

**Amending Chapter 115 Of The Municipal Code, Zoning Ordinance, With Respect To The Creation Of An O-HTD Overlay Harbor Town Design District**

**BE IT ORDAINED, by the Council of the City of Rochester as follows:**

**Section 1. Chapter 115 of the Municipal Code, Zoning Ordinance, as amended, is hereby further amended by adding thereto the following new Section 115-85.2:**

**Section 115-85.2. - O-HTD Overlay Harbor Town Design District.**

**A. Purpose.**

**(1) General Purpose.**

**The Overlay Harbor Town Design (O-HTD) District is intended through the review and regulation of design characteristics, to promote and facilitate:**

- a. a unique village neighborhood theme, character or atmosphere along the Lake Avenue corridor north of the Lake Ontario State Parkway, and along Stutson Street and Latta Road, from Lake Avenue to River Street; and,**
- b. a unique maritime theme, character or atmosphere along River Street north of Petten Street, and on both sides of the Genesee River; and,**
- c. the protection of significant natural, topographic and physical features.**

The thematic concepts, design regulations, and procedures contained in this section are based on, and are in conformance with, the land use policies and recommendations of the City of Rochester's Local Waterfront Revitalization Program (LWRP).

(2) **Thematic Concepts.**

a. **Village Neighborhood Character.**

The village neighborhood theme, character or atmosphere shall be realized through design elements, amenities or treatments that recreate, enhance or reinforce the village-like character that existed within the boundaries of the overlay district during the latter part of the nineteenth century and early part of the twentieth century. This village-like atmosphere was characterized by:

- [1] small-scale residences, shops and buildings along Lake Avenue that relate directly to the street;
- [2] recreational development along the lakeshore and riverfront that provides water-dependent or water-enhanced recreational opportunities;
- [3] a diversity of land uses in the area that provide local services and that encourage and thrive on recreational development as well as on lively street activity;
- [4] ease of pedestrian movement throughout the area and the deemphasis of the automobile as a means to experience the area;
- [5] signage which relates to pedestrians;
- [6] open space and landscaped areas throughout the area that provide gathering places and physical breaks from development;
- [7] overall design continuity that creates a sense of boundaries to the village, resulting in a unique enclave within the larger community.

b. **Maritime Character.**

The maritime or waterfront theme, character or atmosphere shall be realized through design elements, amenities or treatments that recreate, enhance or reinforce the water-oriented land uses, activities and ambience that existed within certain areas of the overlay district during the latter part of the nineteenth century and early part of the twentieth century. This maritime ambience was characterized by:



- 
- [1] boating activity and marina operations, docks, wharves, piers and similar uses, the Genesee Lighthouse, and their associated land use and design amenities;**
  - [2] small-scale residences, shops and buildings in the area which relate directly to the water or to those streets which provide access to the water;**
  - [3] a diversity of land uses in the area which provide local services and which encourage and thrive on a mix of water-oriented activity as well as on lively street activity;**
  - [4] ease of visual and physical access to the waterfront throughout the area;**
  - [5] ease of pedestrian movement throughout the area and the deemphasis of the automobile as a means to experience the area;**
  - [6] signage which related to pedestrians.**

**(3) Specific Goals**

**The purpose of the Overlay Harbor Town Design (O-HTD) District established in this section includes the following specific goals:**

- (a) To encourage and promote outstanding design and craftsmanship, sensitive use of design and landscape features and amenities, and appropriate use of building materials, detailing and textures;**
- (b) To encourage and promote a sense of design continuity that appropriately relates the historic past of the district to on-going revitalization and redevelopment efforts, and that appropriately relates proposed development to existing designs, structures and land uses;**
- (c) To create a unique identity for and sense of neighborhood place along the Lake Avenue, Stutson Street and Latta Road corridors, and along River Street adjacent to the waterfront, that relates to the history of the area, and reinforces the relationship to the river and lake, as well as the water-oriented recreational uses located in the district;**
- (d) To reestablish or reinforce the visual and physical relationships between the district and the lakeshore, riverfront and adjacent harbor areas;**

- (e) To retain and enhance significant views and vistas within the district, as well as the unique aesthetic or visual qualities of the area;
- (f) to encourage and promote direct visual and physical access to and from the river, lake and shore;
- (g) To utilize and enhance significant existing buildings and structures;
- (h) To restore, complement or enhance existing historic structures;
- (i) To encourage and promote lively and vibrant street activity which relates to and reinforces land uses within the district;
- (j) To encourage and promote pedestrian movement, access and circulation throughout the district;
- (k) To utilize a flexible design review process that recognizes the variety of existing land uses, activities and design treatments within the district, and provides appropriate direction and guidance for property rehabilitation or new development through the use of the Overlay Harbor Town Design District Guidelines;
- (l) To require the issuance of a Certificate of Design Compliance by the Director of Zoning for certain types of redevelopment or new construction within the district, based on the purpose, goals, and guidelines stated or referenced herein.

**B. Overlay District.**

The O-HTD District shall not be independently mapped upon the District Zoning Map, but shall be mapped, pursuant to the procedures for amending the District Zoning Map established by Section 115-26 of this chapter, only in conjunction with an underlying Zoning District. When so mapped, the O-HTD District shall provide regulations in regard to design of development and redevelopment additional to those applicable in the underlying districts; provided, however, that any lot may continue to be used in accordance with the regulations applicable in the underlying district in the same manner as though the O-HTD District did not exist except as hereinafter restricted.

**C. Permitted Uses.**

Uses as permitted in the underlying district.

**D. Accessory Uses and Structures.**

**Accessory uses and structures are permitted in the OHTD District, subject to the provisions of Section 115-87 of this chapter.**

**E. Special Permit Uses.**

**Special permit uses as specified in subsection 115-29E(1) of this chapter and as specified in the underlying district.**

**F. Bulk Space and Yard Requirements.**

**Bulk, space and yard requirements shall be as specified in the underlying district.**

**G. Parking and Loading Requirements.**

**Off-street parking and loading requirements applicable in the O-HTD District are set forth in Section 115-90 of this chapter.**

**H. Signs.**

**Sign regulations applicable in the OHTD District are set forth in Section 115-88 of this chapter.**

**I. Use Limitations.**

**Use limitations shall be as specified in the underlying district.**

**J. Design Review.**

**The mechanism used to accomplish design review within the district shall be the Certificate of Design Compliance. Such certificate shall be required and utilized pursuant to the provisions and standards set forth in Section 115-24.1 of this chapter. In reviewing and deciding upon applications for Certificates of Design Compliance, the Director of Zoning shall be guided by the Overlay Harbor Town Design District Guidelines as referenced in this section.**

**K. Design Guidelines.**

**The Director of Zoning shall establish Overlay Harbor Town Design District Guidelines to provide direction and guidance in the review of applications for Certificates of Design Compliance. These guidelines shall be in keeping with the purpose and goals for the O-HTD District as established herein.**

**Section 2. Section 115-88 of the Municipal Code, relating to signs, as amended, is hereby further amended by adding thereto the following new subsection Z:**

- Z. Signs in the O-HTD Overlay Harbor Town Design District shall be subject to the regulations of the underlying district with the following exceptions:**

- (1) Advertising signs shall not be permitted in the O-HTD Overlay Harbor Town Design District.
- (2) Pole signs shall not be permitted in the O-HTD Overlay Harbor Town District.
- (3) Signs attached to buildings extending above the roof peak shall not be permitted in the O-HTD Overlay Harbor Town District.
- (4) A Certificate of Design Compliance shall be required for all signs in the O-HTD Overlay Harbor Town Design District pursuant to subsections 115-85.2D and E of this chapter.

Section 3. Section 115-96 of the Municipal Code, relating to non-conformities, as amended, is hereby further amended by amending subsection F(3)(f)[1] to read in its entirety as follows:

- [1] Any non conforming sign not terminated pursuant to any other provision of this chapter except for:
  - [a] Advertising signs in C-2, C-3, C-4 and M-1 and M-2 Districts, unless such districts are within an established Preservation District or the Overlay Harbor Town Design District;
  - [b] Pole signs and signs attached to buildings extending above the roof peak located within the Overlay Harbor Town Design District and legally existing on the effective date of the ordinance establishing the O-HTD District.

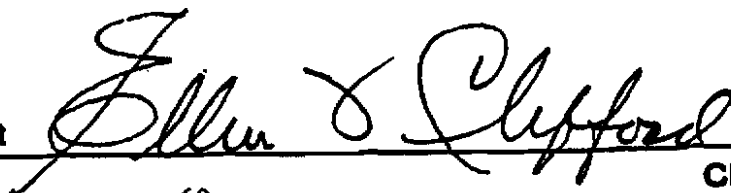
Section 4. This ordinance shall take effect immediately.

Passed by the following vote:

Ayes - President Curran, Councilmembers Childress Brown, Giess, King, Mains, Muldoon, Norwood, Padilla, Stevenson - 9.

Nays - None - 0.

Attest



City Clerk



**City of Rochester  
City Clerks Office  
Certified Ordinance**

Rochester, N.Y., \_\_\_\_\_

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I hereby certify that the following is a true copy of an ordinance which was duly passed by the Council of the City of Rochester on September 11 19 90 and Approved by the Mayor of the City of Rochester, and was deemed duly adopted on September 13, 19 90 in accordance with the applicable provisions of law. Ordinance No. 90-366

**Amending Chapter 115 Of The Municipal Code, Zoning Ordinance, And Chapter 48, Environmental Review To Require A Certificate Of Design Compliance In Overlay Design Districts**

**BE IT ORDAINED**, by the Council of the City of Rochester as follows:

**Section 1.** There is hereby added to the Municipal Code the following new Section 115-24.1 to read in its entirety as follows:

**Section 115-24.1 Certificate of Design Compliance.**

**A. Authority.**

The Director of Zoning shall, subject to the procedures, standards and limitations hereinafter set forth, review and approve, approve with conditions, or deny applications for Certificates of Design Compliance.

**B. Purpose.**

The Certificate of Design Compliance process recognizes that some designs even though generally suitable for location in a design district, are, because of their character, building materials, details, textures or other features of probable impact, capable of adversely affecting the goals for which a design district is established unless careful consideration has been given to critical design elements. The Certificate of Design Compliance provides a vehicle for review of the developer's attention to such design elements. It is intended that the Certificate of Design Compliance shall be utilized only in conjunction with an Overlay Design District.

**C. Certificate of Design Compliance required.**

**A Certificate of Design Compliance shall be required only in Overlay Design Districts, as established in this chapter, for the following activities:**

- (1) Construction of new buildings or structures;**
- (2) Exterior alterations to buildings, including alterations to signs, which are substantially visible from public open space, Lake Ontario, the Genesee River or any public right-of-way;**
- (3) Exterior alterations to existing buildings and structures on any lot which abuts the Genesee River;**
- (4) Alterations to structures that change structure volume;**
- (5) Alterations to buildings which change the shape or height of a roof line;**
- (6) Development or redevelopment of a parking lot;**
- (7) Exterior alterations to existing buildings and structures on any lot which is immediately adjacent to any landmark or landmark site;**
- (8) Exterior work involved in repairing fire damage when such damage exceeds fifty percent (50%) of the replacement cost new of the unit damaged; however, a Certificate of Design Compliance shall be required when such damage is less than fifty percent (50%) of the replacement cost new and the replacement is not in kind.**
- (9) Street and other improvements in the public right-of-way.**

**D. Procedure.**

- (1) Application. Applications for certificates of design compliance shall be submitted to the Director of Zoning. A nonrefundable fee, as established from time to time by the City Council to help defray administrative costs, shall accompany each application. Applications shall be submitted in two (2) duplicate copies and shall be in such form and contain such information and documentation as shall be prescribed from time to time by the Director of Zoning, but shall in all instances contain at least the following information or documentation unless any such information or document is expressly waived by the Director of Zoning as not relevant or necessary to determine that all provisions of this chapter have been met in a particular case:**

- (a) The applicant's name, address and interest in the subject property.
- (b) The owner's name and address, if different than the applicant, and the owner's signed consent to the filing of this application.
- (c) The name, residence and the nature and extent of the interest, as defined by Section 809 of the General Municipal Law of New York, of any state officer or any officer or employee of the City of Rochester or the County of Monroe in the owner-applicant or the subject property if known to the applicant.
- (d) The address or location of the subject property.
- (e) The present use and zoning classification of the subject property.
- (f) The proposed use or uses of the subject property and a description of the construction, reconstruction, remodeling, alteration or moving requiring the issuance of a certificate of design compliance.
- (g) The certificate of a registered architect or licensed professional engineer, or of an owner-designer, that the proposed construction, reconstruction, remodeling, alteration or moving complies with all the provisions of this chapter.
- (h) If site plan approval is not required in conjunction with the application for a certificate of design compliance, a site plan drawn to scale of not less than fifty (50) feet to the inch, on one (1) or more sheets, illustrating the proposed construction, reconstruction, remodeling, alteration or moving and including the following:
  - [1] Property boundary lines and dimensions of the property and any significant topographic or physical features of the property.
  - [2] The location, size, use and arrangement, including height in stories and feet; where relevant, floor area ratio, total floor area and coverage; and number and size of dwelling units, by number of bedrooms, of proposed buildings and existing buildings.
  - [3] Minimum yard dimensions and, where relevant, relation of yard dimensions to the height of any building or structure.

- [4] Location, dimensions, number and slope and gradient of all driveways, entrances, curb cuts, parking stalls, loading spaces and access aisles; total lot coverage of all parking, loading, driveway and aisle areas; and, where more than ten (10) parking and loading spaces are required, location of area for snow storage or indication of alternative disposal method.
- [5] Location, size, arrangement and sketch showing content and layout of all outdoor signs.
- [6] Location and height of fences or screen plantings, and the type or kind of building materials or plantings to be used for fencing or screening.
- [7] Location, designation and total area of all usable open space.
- [8] Any information necessary to determine that conditions imposed by any special approval granted pursuant to this chapter have been complied with.
  - (i) Scaled floor plans.
  - (j) Scaled elevations.
  - (k) Such other and further information and documentation as the Director of Zoning may deem necessary or appropriate to a full and proper consideration and disposition of the particular application. The Director may waive any of the application submission requirements of this subsection if in his or her opinion such full and proper consideration and disposition can be rendered without such information.

**2. Action on the application.**

**(a) Action by Director.**

- [1] Within twenty-one (21) days following receipt by the Director of a completed application, or such longer time as may be agreed to by the applicant, the Director shall cause such application and the attached plans to be reviewed for compliance with this section and shall inform the applicant whether the application has been granted, granted with conditions or denied. The failure of the Director to act within said twenty-one (21) days, or such longer time as may be agreed to by the applicant, shall be deemed to be a denial



- [2] In any case where an application is granted, the Director of Zoning shall issue a Certificate of Design Compliance which shall state on its face, in bold type that:

**"THIS CERTIFICATE DOES NOT SIGNIFY BUILDING CODE REVIEW OR APPROVAL NOR SUBDIVISION REVIEW OR APPROVAL NOR REVIEW OR APPROVAL OF ANY OTHER CITY CODE AND IS NOT AUTHORIZATION TO UNDERTAKE ANY WORK WITHOUT SUCH REVIEW AND APPROVAL WHERE THE SAME IS REQUIRED. SEE CHAPTERS 39 AND 128 OF THE ROCHESTER MUNICIPAL CODE FOR DETAILS.**

**"BEFORE ANY STRUCTURE TO WHICH THIS CERTIFICATE IS APPLICABLE MAY BE OCCUPIED OR USED FOR ANY PURPOSE, A CERTIFICATE OF OCCUPANCY MUST BE OBTAINED. SEE SECTION 115-25 OF CHAPTER 115 and CHAPTER 39 OF THE ROCHESTER MUNICIPAL CODE FOR DETAILS."**

- [3] In any case where an application is denied, the Director of Zoning shall state the specific reasons and shall cite the specific provisions of this chapter upon which such denial is based.
- [4] Disposition of copies: the Director of Zoning shall stamp each copy of the application and plans to reflect the action taken and shall return one (1) copy of each to the applicant and shall retain one (1) copy of each in City records for such period as he or she may deem necessary or as may be required by law.

(b) **Action by Preservation Board.**

If the Director shall decline to approve the application, or approve it subject to modification which is not acceptable to the applicant, or if any person is aggrieved by the action of the Director, such action shall not be deemed final administrative action or an action or failure to act pursuant to Section 115-33 of this chapter, but shall only be authorization for the applicant or the person aggrieved to refer the application to the Preservation Board for review and decision. Such referral shall be made by filing a written request with the Director within thirty (30) days of the action, specifying the grounds therefor. The Director shall promptly refer such request to the Preservation Board which shall review and act upon the application within twenty-one (21) days of receipt in the same manner and subject to the same standards and limitations as those made applicable to the Director by Subsection 5(a) above. The decision of the Preservation Board shall be final.

**E. Standards for denial of a Certificate of Design Compliance.**

**Applications for Certificates of Design Compliance shall not be disapproved pursuant to this section except on the basis that the proposal is not in keeping with the purpose, goals and objectives of a particular design district as set forth in this chapter. Such denial shall be based on specific written findings directed to one (1) or more of the following standards:**

- (1) The application is incomplete in specified particulars or contains or reveals violations of this chapter or other applicable regulations which the applicant has, after written request, failed or refused to supply or correct;**
- (2) The design unnecessarily, and in specified particulars, destroys, damages, detrimentally modifies or interferes with the enjoyment of significant natural, topographic or physical features of the site or the significant design features of the existing buildings and structures on the site;**
- (3) The design unnecessarily, and in specified particulars, obstructs views of or from significant structures or natural features;**
- (4) The design unnecessarily, and in specified particulars, is lacking amenity in relation to, or is incompatible with nearby structures of significance on or off the property;**
- (5) The roof pitch, fenestration, scale, massing, form, size, texture, color and materials employed by the design are, unnecessarily and in specified particulars, lacking in amenity in relation to or incompatible with nearby structures of significance on or off the property;**
- (6) The site design features are deficient in terms of the creation and preservation of open space; the retention of trees and shrubs to the extent possible; pedestrian access, automobile access and parking;**
- (7) The design of commercial building facades and appurtenances fails to form cohesive walls of enclosure along a street to ensure visual compatibility with the buildings, public ways and places to which such elements are visually related;**
- (8) Exterior building appurtenances, such as porches and decks, are lacking in visual compatibility with the buildings to which they are attached or other buildings in the area or with the character encouraged in the design district in so far as materials, texture, colors and design.**

**F. Effect of Issuance of Certificate of Design Compliance.**

The issuance of a Certificate of Design Compliance shall not authorize the establishment or extension of any use nor the development, construction, relocation, alteration or moving of any building or structure and shall not abrogate the requirements for any additional permits and approvals which may be required by the codes and ordinances of the city, including but not limited to a building permit, a certificate or occupancy and subdivision approval.

**G. Limitation on Certificates.**

A Certificate of Design Compliance shall become null and void six (6) months after the date on which it was issued unless within such period, a permit is issued, where necessary, and construction, reconstruction, remodeling, alteration or moving of a structure is commenced.

**Section 2.** Section 115-17 of the Municipal Code, Preservation Board, as amended is hereby further amended by amending subsection K thereof by renumbering subsections K(7) and (8) as subsections K(8) and (9), and by inserting therein the following new subsection K(7):

- (7) Subject to the provisions of subsection 115-24.1D2(b) of this chapter, to hear and decide on applications for Certificates of Design Compliance.

**Section 3.** Section 115-18 of the Municipal Code, relating to the Director of Zoning, as amended, is hereby further amended by amending subsection A thereof by renumbering subsections A(9) through (17) as subsections A(10) through (18) respectively, and by inserting therein the following new subsection A(9):

- (9) Certificate of Design Compliance. Subject to the procedures, standards and limitations set forth in Section 115-24.1 of this chapter, the Director shall review or cause to be reviewed, applications for Certificates of Design Compliance and shall approve, approve with conditions, or deny such applications.

**Section 4.** Section 48-5 of the Municipal Code, relating to Type II actions, as amended, is hereby further amended by adding thereto the following new subsection B(22):

- (22) The granting of Certificates of Design Compliance.

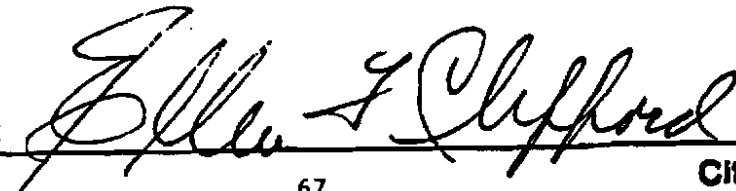
**Section 5.** This ordinance shall take effect immediately.

Passed by the following vote:

Ayes - President Curran, Councilmembers Childress Brown, Giess, King, Mains, Muldoon, Norwood, Padilla, Stevenson - 9.

Nays - None - 0.

Attest

  
\_\_\_\_\_

City Clerk

**DESIGN GUIDELINES**  
**HARBOR TOWN DESIGN DISTRICT (O-HTD)**

The Harbor Town Design District has been designated in order to create a unique village neighborhood atmosphere in the Lake Avenue corridor north of the Lake Ontario State Parkway and along Stutson Street and Latta Road; a unique maritime atmosphere along River Street north of Petten Street on both sides of the Genesee River and to protect significant physical, historic, topographic and natural features in the area. These basic guidelines for development in the area are intended for use in connection with the sections of the Zoning Ordinance which deal with the Harbor Town Design District (O-HTD).

**I. ARCHITECTURAL DEVELOPMENT:**

Architectural developments should be guided by an intent to protect the existing character in these neighborhoods through the appropriate use of scale, color, materials, and detailing for buildings facing the street corridors. Architectural developments should be harmonious with subarea development themes, goals, and objectives, so as to further create and reinforce an overall identity for the development area.

The commercial buildings are the areas of greatest concern for facade renovation. Strategies for restoration include the removal of materials which obscure the architectural integrity of building facades, the repair or replacement of deteriorated design details, and the addition of new architectural details in appropriate materials, as necessary, for the adaptation of older buildings to contemporary uses.

**A. Building Setbacks:**

New construction should complement existing conditions. In both residential and commercial areas the predominant existing setbacks on built up streets should be maintained. In commercial areas, new infill and additions to existing buildings should parallel the street, reinforce the street edge at corner lots and provide continuity along the street corridor.

**B. Fenestration:**

The proportion of window and door openings to total exterior facade is crucial to the perception of bulk and scale for individual buildings. The River Harbor district can utilize the sizing and placement of facade openings as a unifying treatment for the street wall. Development and redevelopment in the area should be guided toward a cohesive image.

The relationship of window and doorway openings to exterior walls in historic buildings should be preserved or restored wherever necessary. Where new windows or doorways are introduced, they should respect the existing facade pattern.

Openings on street-facing walls should not be greater than 50%, nor less than 30% of the total area of the facade. Glass curtain walls or spandrel glass are inappropriate, as are blank walls without windows.

Display windows are appropriate on the first story in commercial buildings, but only two-way glass should be used in windows. Mirrored or tinted glass generally is unacceptable.

Window openings for exterior walls, other than the street facade, should not be greater than 30% of the total area of the wall nor less than 15% of the wall area.

**C. Color and Materials:**

The predominant building material for commercial structures in the area is brick in yellow or brown tones. Historically, wood siding has been used on both commercial and residential buildings. New buildings should take their "spirit" from historic buildings, so that they are compatible with the color and materials used in nearby significant buildings.

The use of imitation stone, grooved plywood, galvanized steel, sheet aluminum, sheet plastic, and vinyl siding materials on commercial buildings is strongly discouraged. Acceptable materials include wood, brick, stone or cast iron. Detailing and trim elements, including doors, should conform to these standards.

Accent colors applied to wood trim, brick, or metal detailing are acceptable. Fluorescent colors are not appropriate and, in general, not in keeping with purposes for which the district was established. Original cast stone, stone or concrete trim should not be painted.

**D. Restoration:**

All restorations should follow the latest revision of the Secretary of the Interior's Standards for Rehabilitation and Guidelines for rehabilitating historic buildings.

Original facade openings should be retained or restored to original condition. Ground level windows and entrances should be given priority. Appropriate measures include the removal of unacceptable materials, uncovering transom windows, restoration of doorways, down-scaling signage, and replacement of lost or damaged details. The addition of new elements, such as lighting, awnings, ornament, hardware or signage is permitted where such additions do not detract from the historic character of the building.

**E. Scale and Bulk:**

Maximum building heights are delineated in the Zoning Ordinance; however, in the areas closest to the river or in other areas, where views to and from the river are possible, buildings of a height which obstructs these views are unacceptable. Views of historic or architecturally significant structures should also be carefully considered.

Existing rooflines range from complex gabled and domered residential rooflines to steeply sloped church roofs, to flat roofs with orthogonal rooflines. Due to the variety of roof forms in the area, specific development proposals will be reviewed on a case-by-case basis.

**II. SITE DEVELOPMENT**

Site developments should ensure the proper functioning of circulation systems, the safety of visitors, and a unified and consistent image for streetscape elements. Edge definitions for pedestrian, planting and parking zones should be clarified to enhance the overall pedestrian experience.

A. Private Planting:

A privately-owned and maintained planting zone may exist between the property line and the building, depending on the building setback. In residential areas, the setback may be planted with any types of flowering plants, trees, shrubs, ground covers or lawn. Grass lawn is preferable in residential areas. Where setback of commercial buildings from the public right-of-way is permitted or required, this area should be developed in a manner compatible with the public sidewalk and planting area along the frontage. Flowers, trees and shrubs are permitted. Trees should meet planting requirements for public plantings, including tree grates. Planter boxes and pots are acceptable in these private planting areas.

B. Parking Lots and Areas:

While efforts have been made to encourage pedestrian traffic in the development area, it is intended that it become a destination for many visitors. Therefore, adequate plans for parking lots and areas must be considered.

1. Access and Circulation Elements:

Access to off-street parking by way of secondary streets is encouraged. For off-street lots with direct access to Lake Avenue, definition of one exit and one entrance is encouraged. Interior landscaping with both shrubs and canopy trees is encouraged and should be considered. The plantings should meet all of the requirements for public plantings. Aisles and planting strips should be defined with curbing. Pedestrian walkways should be clearly defined and conflicts between pedestrian and vehicular traffic should be minimized.

2. Screening:

All off-street surface parking adjacent to the street must be screened from the view of pedestrians. Screen walls 3 to 4 ft. in height are encouraged. Such walls should be set back 5 ft. with the area between the wall and sidewalk planted with trees and other landscape elements. Tree plantings should conform to the standards for public plantings. The tree planting area may be covered in hard paving with tree grates or planted with trees, shrubs and ground covers. Evergreen vines are allowable for screen walls.

### III. SIGNAGE

Because of the strong impact of signage on the streetscape, protection must be afforded from inappropriate signage. Signs should harmonize with the building they serve and promote the use they serve imaginatively and effectively. While not dominating the surrounding visual environment, signs should be of a scale in keeping with the use and building they serve and the immediate neighborhood, as well.

A. Sign Materials:

1. Appropriate sign materials include brass, cast iron, steel and carved and painted wood. Other materials will be reviewed on a case-by-case basis.
2. In general interior lit and plastic signs are considered incompatible with the goals and purposes for which the district was established.
3. Neon signs on the interior of windows are acceptable; if permanent, they are treated as wall signs in Section 115-88 of the Zoning Ordinance.
4. The sign support structure should be durable but should be designed and colored to reduce its dominance or obtrusiveness.

B. Relationship To The Building:

1. Signs should be integrated closely with the architectural features of the building. The form, design materials, texture and color of the sign should maintain or complement the style, design and form of the building.
2. Signs and their support structures should not cover up or damage decorative features of the facade such as leaded glass transoms, cast iron or wooden pilasters, etc.
3. Where several businesses are located in/on one property, the signs should be coordinated, complement or balance one another and not compete with each other.

C. Relationship To The Area:

1. Size of the signs should be in keeping with the scale of nearby structures as well as the building they serve.
2. Existing or planned landscaping, on the site and nearby should be considered in locating the sign.
3. Visual clutter in signage should be avoided by refraining from the use of large signs, random placement of signs and excessive numbers of signs.
4. Signage should relate to pedestrian and low level vehicular traffic.

IV. STREET CORRIDOR

Street corridors should be developed to assist in reinforcing the overall character of the area by defining the relationship of buildings to public spaces and circulation systems. The street corridor developments should promote continuous street wall development where appropriate, protect street corridors from encroachment by buildings, and provide for on-street parking and service requirements. The standards presented in this category deal with the corridors bounded by lot lines on each side of the street.

A. Parking:

On-street parking should be metered parallel parking, except in residential areas, where demand does not require metering. Parallel parking with a narrowed planting zone can be considered for high demand areas.

B. Landscaping:

For the area streets, a planting zone should be established for street trees measuring a minimum of 3 feet from the face of the curb in areas with on-street parking and 10 feet from the curb in areas without on-street parking. The purpose of the planting zone is the separation of pedestrian and vehicular corridors. The planting zone should be grass in residential areas and "hard scape" paving in commercial areas. The width of the planting strip should be variable to accommodate the needs of parking conditions, i.e., the planting zone may narrow for parallel parking, but should conform to the minimum width.

In conjunction with shoreline redevelopment on the east side of River Street, a planting zone should be established in areas south of the Statson Street Bridge where the shore zone is too narrow to allow for front end parking. This planting zone should be hardscape paving, with tree grates provided as specified below.

All planting zones should include trees unless otherwise specified. Street trees shall be chosen from species with the following characteristics:

- Hardiness (plant zone 3)
- Tolerance to street conditions, including salt
- A maximum mature height of 40 to 60 feet
- A low maintenance schedule
- An open, airy growth habit that affords light shade in summer
- Seasonal interest

**B. Landscaping:**

Trees that drop substances harmful to the finish of parked automobiles should be avoided. Other undesirable characteristics for street trees include multi-stemmed or suckering trees, species with a low or compact habit of growth, those which produce an abundance of fleshy fruits, and species prone to disease or insect predation.

Examples of suitable choices include:

- Oaks (Red or White)
- Honeylocust
- Littleleaf Linden
- London Plane Tree

Poor choices are exemplified by:

- Norway Maple
- Pin Oak
- Conifers
- Crabapple

At the time of planting, young trees should be 3-1/2" caliper, with the lower side of the crown a minimum of 6' above grade to avoid hazards to pedestrians. Trees should be placed every 30 feet in the planting strip.

In commercial areas where the planting strip is hard pavement, trees should be provided with grates. Trees requiring grates are planted with the top of the root ball 5" below the pavement surface to allow for grate installation.

All new trees should be staked and guy-wired for a period of one year after planting.

**C. Paving:**

All sidewalk paving should be concrete scored in 6 foot squares, with tree pits at 30' on center. The use of asphalt sidewalks is unacceptable. Concrete walks should be dominant where driveways cross pedestrian paths.

Scoring or imprinting concrete, in coordination with subarea themes, is allowable. Specific emblems or insignia symbolizing the unique character of a subarea may be developed to enhance visitors' awareness of local history.



A concrete sidewalk should be established approximately 5 feet from the River Street Right-of-Way on the west side of the street. The planting zone should be 8 feet wide from the edge of the sidewalk to the street curb. A new concrete retaining wall should be installed from the Stutson Street Bridge abutment north about 280 feet to accommodate the grade change along River Street. A new sidewalk 6 feet wide should be constructed along the west side of the retaining wall from the bridge abutment to the lower level of River Street. The street corridor widths for improvements to this section of River Street are summarized below:

West Sidewalk		6'
Planting Zone		8'
Curbing	.5'	
Parallel Parking		8'
Travel Lane		10'
Curbing	.5'	
East Sidewalk		6'
Retaining Wall		2'

Where pedestrian corridors cross streets, curbs should be zeroed out and the crosswalk should be highlighted to increase pedestrian safety. A 10 foot brick strip should be provided on each side of the crosswalk. Curbing material set flush to the street should form the joint between asphalt paving and the brick strips. Crosswalks should correspond directly to the 6 foot sidewalk pavement widths, with brick strips corresponding to planting zone widths. On River Street, cobblestones are recommended in place of the brick.

**C. Lighting and Furniture:**

Consistent with the turn of the century time theme, antique style posts and lantern lighting should replace cobra lights on Lake Avenue, Stutson Street, Latta Road, and all minor cross streets in the redevelopment area. The materials for lighting fixtures should be cast iron or aluminum, such as those manufactured by Antique Street Lamps, Inc. or an equivalent quality.

The total height of post and luminaire should not exceed 15 feet. Finished colors for lightposts should be black or dark olive.

At the waterfront, and along River Street, the lighting should be pole lighting with an industrial character, such as the railroad fixture manufactured by Sternberg.

Street furnishings should be expressive of the turn-of-the-century time theme. Street furnishings include trash receptacles, drinking fountains, benches, bollards, and tree grates. These items should be located in planting zones such that pedestrian corridors remain unobstructed. Street furnishings must be compatible in design, color, and materials with light fixtures.

Benches should be of an historic style and could incorporate custom lettering or a logo for River Harbor or the design district. They should be provided at bus stops and as necessary at locations where pedestrians congregate. Trash receptacles should be placed near each bench.

Bollards should be used at all pedestrian crossings. A bollard and chain barrier should be placed between pedestrian accessways and the Consolidated Rail tracks on River Street, where the sidewalks parallel the railroad. Pipe railings should be installed with concrete retaining walls on River Street between Latta Road and Stutson Street, and at the Lighthouse Park. Similar pipe railings should be incorporated into the design specifications for a concrete bulwark along the west shore of the Genesee River. Bollards, chains, and pipe railings should be painted black.



**City of Rochester  
City Clerks Office  
Certified Ordinance**

Rochester, N.Y., \_\_\_\_\_

**TO WHOM IT MAY CONCERN:**

I hereby certify that the following is a true copy of an ordinance which was duly passed by the Council of the City of Rochester on September 11 19 90 and Approved by the Mayor of the City of Rochester, and was deemed duly adopted on September 13, 19 90 in accordance with the applicable provisions of law. (not disapproved, approved, re-passed after disapproval)

**Ordinance No. 90-370**

**Amending The Municipal Code By Adding  
A New Chapter Relating To Waterfront  
Consistency Review, as amended**

**BE IT ORDAINED**, by the Council of the City of Rochester as follows:

**Section 1.** The Municipal Code is hereby amended by adding a new Chapter 112 - Waterfront Consistency Review, which shall read in its entirety as follows:

**CHAPTER 112**

**WATERFRONT CONSISTENCY REVIEW ORDINANCE**

**Section 112-1. Purpose.**

The purpose of this chapter is to protect the public health, safety and general welfare in the City of Rochester, by providing a framework for governmental agencies to review actions proposed within the boundaries of the city's Local Waterfront Revitalization Program (LWRP). This framework will allow agencies to consider the policies and purposes contained in the city's LWRP when reviewing applications for actions or when directly approving, undertaking or funding agency actions located in the waterfront area. The framework will also ensure that such actions are consistent, to the maximum extent practicable, with said policies and purposes.

It is the intention of the City of Rochester that the preservation, enhancement and utilization of the natural and man-made resources of the city's unique coastal areas take place in a coordinated and comprehensive manner, in order to ensure a proper balance between natural resource protection and the need to accommodate population growth and economic development. Accordingly, this ordinance is

intended to achieve such a balance, by 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.

**Section 112-2. Authority.**

This ordinance is enacted under the authority of Section 20 of the General City Law and the Waterfront Revitalization and Coastal Resources Act of the State of New York (Article 42 of the Executive Law).

**Section 112-3. Definitions.**

When used in this Chapter, the following terms shall have the meanings ascribed to them:

**ACTION** - shall have the same meaning as in Section 48-3 of the Municipal Code Environmental Review, but shall be limited to those activities that constitute an unlisted or Type I action, as defined in Section 48-3.

**AGENCY** - any governmental agency, including but not limited to the City Council, departments, offices, commissions, boards, agencies, officers or other bodies of the City of Rochester.

**COASTAL AREA** - the New York State coastal waters and adjacent shorelands as defined in Article 42 of the Executive Law. The specific boundaries of the city's Coastal Area are shown on the Coastal Area Map on file in the office of the New York State Secretary of State and as delineated in the City of Rochester's Local Waterfront Revitalization Program (TASK I).

**COASTAL ASSESSMENT FORM (CAF)** - the form, contained in Appendix A, which shall be used by an agency to assist it in determining the consistency of an action with the city's LWRP.

**CONSISTENT TO THE MAXIMUM EXTENT PRACTICABLE** - that an action will not substantially hinder the achievement of any of the LWRP policy standards or conditions and, whenever practicable, will advance one or more of them.

**DIRECT ACTIONS** - an action planned and proposed for implementation by an agency itself, such as, but not limited to a capital project, or rule making, procedure making or policy making decisions or determinations.

**LOCAL WATERFRONT AREA (LWA)** - that portion of the New York State Coastal Area within the City of Rochester as delineated in the city's LWRP (TASK I).

**LOCAL WATERFRONT REVITALIZATION PROGRAM (LWRP) - the Local Waterfront Revitalization Program of the City of Rochester, as approved by the New York State Secretary of State, pursuant to the Waterfront Revitalization and Coastal Resources Act (Executive Law, Article 42), a copy of which is on file in the Office of the Clerk of the City of Rochester.**

**Section 112-4. Review of Actions.**

- A. Whenever a proposed action is located in the LWA, an agency shall, prior to approving, funding or undertaking the action, make a determination that it is consistent, to the maximum extent practicable, with the applicable LWRP policy standards and conditions set forth in Section 112-5 herein.**
- B. Whenever an agency receives an application for approval or funding of an action or as early as possible in the agency's undertaking of a direct action to be located in the LWA, the applicant, or in the case of a direct action, the agency, shall prepare a Coastal Assessment Form (CAF) to assist with the consistency review.**
- C. Prior to making its determination, the agency shall solicit and consider the recommendation of the Commissioner of the City of Rochester Department of Community Development or his/her designee, regarding the consistency of the proposed action, by referring a copy of the completed CAF to the Commissioner within ten (10) days of its submission to or completion by the agency.**
- D. After referral from an agency, the Commissioner shall consider whether the proposed action is consistent, to the maximum extent practicable, with the LWRP policy standards and conditions set forth in Section 112-5 herein. The Commissioner may require the applicant to submit all completed applications, EAF's and any other information or documentation deemed to be necessary in order to make the consistency determination.**
- E. The Commissioner shall render his/her written recommendation to the agency within ten (10) working days following the submission by the applicant of the required information, unless extended by mutual agreement of the Commissioner and the applicant, or in the case of a direct action, the agency. The recommendation shall indicate whether, in the opinion of the Commissioner, the proposed action is consistent, to the maximum extent practicable, or inconsistent with one or more of the applicable LWRP policy standards or conditions. The recommendation shall state the manner and extent to which any inconsistency affects the LWRP policy standards and conditions.**

The Commissioner shall, along with his/her consistency determination, make any suggestions to the agency concerning modification of the proposed action in order to make it consistent, to the maximum extent practicable, with LWRP policy standards and conditions, or to greater advance them.

In the event that the Commissioner's recommendation is not forthcoming within the specified time, the application shall be deemed to have received a recommendation that it is consistent to the maximum extent practicable.

- F. The agency shall make the determination of consistency based on the CAF, the recommendation of the Commissioner and such other information as is deemed to be necessary in its determination. The agency shall issue its determination within seven (7) days of receipt of the Commissioner's recommendation.
- G. Actions to be undertaken within the LWA 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 TASK III of the City of Rochester's LWRP. The LWRP is on file in the City Clerk's office and is available for inspection during normal business hours. Agencies which undertake direct actions shall also consult with TASK IV: USES AND PROJECTS of the LWRP in making their consistency determination. The action shall be consistent with the policy to:
- (1) Revitalize and redevelop deteriorating or underutilized institutional, commercial, recreational and residential areas and uses (POLICY 1, 1A, 1B, 1C, 1D, 1E, 1F, 1G);
  - (2) Encourage the development of water-dependent uses near coastal waters (POLICY 2, 2A);
  - (3) Ensure that development occurs where adequate public infrastructure is available to reduce health and pollution hazards (POLICY 5, 5A, 5B, 5C);
  - (4) Streamline development permit procedures (POLICY 6);
  - (5) Protect significant and locally important fish and wildlife habitats from human disruption and chemical contamination (POLICIES 7, 7A, 7B, 7C and 8);
  - (6) Maintain and expand commercial fishing facilities to promote commercial and recreational fishing opportunities (POLICY 9, 9A, 9B);
  - (7) Minimize flooding and erosion hazards through nonstructural means, carefully-selected, long-term structural measures and appropriate siting of structures (POLICIES 11, 11A, 11B, 12, 12A, 13, 13A, 14, 15 and 17, 17A);

- (8) Safeguard economic, social and environmental interests in the coastal area when major actions are undertaken (POLICY 18);
- (9) Maintain and improve public access to the shoreline and to water-related recreational facilities while protecting the environment (POLICIES 19, 19A, 19B, 19C, 19D, 20, 20A, 20B, 20C, 20D, 20E);
- (10) Encourage and facilitate water-dependent and water-enhanced recreational resources and facilities near coastal waters (POLICY 21, 21A, 21B, 21C);
- (11) Encourage the development of water-related recreational resources and facilities, as multiple-uses, in appropriate locations within the shorezone (POLICY 22, 22A, 22B);
- (12) Protect and restore historic and archeological resources (POLICY 23, 23A, 23B, 23C);
- (13) Protect and upgrade scenic resources (POLICY 25, 25A, 25B, 25C);
- (14) Protect surface and groundwaters from direct and indirect discharge of pollutants and from overuse (POLICIES 30, 31, 32, 33, 34, 36, 37 and 38);
- (15) Perform dredging and dredge spoil disposal in a manner Protective of natural resources (POLICY 35);
- (16) Handle and dispose of hazardous wastes and effluents in a manner which will not not adversely affect the environment nor expand existing landfills (POLICY 39); and,
- (17) Protect tidal and freshwater wetlands (POLICY 44).

H. If the agency determines that the action would cause a substantial hindrance to the achievement of the LWRP policy standards and conditions, such action shall not be undertaken unless the agency determines with respect to the proposed action that:

- (1) No reasonable alternatives exist which would permit the action to be undertaken in a manner which would not substantially hinder the achievement of such LWRP Policy standards and conditions, or which would not hinder the overall implementation of the LWRP;

- (2) The proposed action and any required mitigation measures would be undertaken in a manner which would minimize all adverse effects on natural and man-made resources within the LWRP, and would minimize the extent to which the implementation of LWRP policy standards and conditions are hindered; and,
- (3) The action will result in a significant and overriding city, regional or state-wide public benefit.

Such a finding by the agency shall constitute a determination that the action is consistent to the maximum extent practicable.

- I. Each agency shall maintain a file for each action which was the subject of a consistency determination, including any recommendations received from the Commissioner. Such files shall be made available for public inspection upon request.

**Section 112-6. Coordinated Review Required.**

The agency and the Commissioner of Community Development or designee shall coordinate the consistency determination process required by this chapter with the environmental review process required by Chapter 48 of the Municipal Code.

**Section 112-7. Severability.**

The provisions of this ordinance are severable. If any provision is found invalid, such finding shall not affect the validity of any Part or provision hereof other than the provision so found to be invalid.

**Section 2. This ordinance shall take effect immediately.**

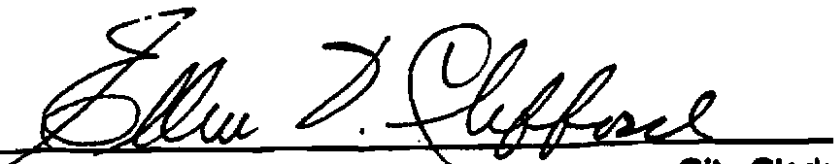
Passed by the following vote:

Ayes - President Curran, Councilmembers Childress Brown, Giess, King, Mains, Muldoon, Norwood, Padilla, Stevenson - 9.

Nays - None - 0.

Underlined material added.

Attest

  
\_\_\_\_\_

City Clerk



APPENDIX A

COASTAL ASSESSMENT FORM

A. INSTRUCTIONS (Please print or type all answers)

1. Applicants, or in the case of direct actions (city, town, village) agencies, shall complete this CAF for proposed actions which are subject to the consistency review law. This assessment is intended to supplement other information used by a (city, town, village) agency in making a determination of consistency.

2. Before answering the questions in Section C, the preparer of this form should review the policies and explanations of policy contained in the Local Waterfront Revitalization Program (LWRP), a copy of which is on file in the (city, town, village) clerk's office. A proposed action should be evaluated as to its significant beneficial and adverse effects upon the coastal area.

3. If any question in Section C on this form is answered "yes", then the proposed action may affect the achievement of the LWRP policy standards and conditions contained in the consistency review law. Thus, the action should be analyzed in more detail and, if necessary, modified prior to making a determination that it is consistent to the maximum extent practicable with the LWRP policy standards and conditions. If an action cannot be certified as consistent with the LWRP policy standards and conditions, it shall not be undertaken.

B. DESCRIPTION OF SITE AND PROPOSED ACTION

1. Type of (city, town, village) agency action (check appropriate responses):

(a) Directly undertaken (e.g. capital construction, planning activity, agency regulation, land transaction) \_\_\_\_\_

(b) Financial assistance (e.g. grant, loan, subsidy) \_\_\_\_\_

(c) Permit, approval, license, certification \_\_\_\_\_

(d) Agency undertaking action: \_\_\_\_\_

2. Describe nature and extent of action: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. Location of action  
\_\_\_\_\_  
Street or Site Description

4. Size of site \_\_\_\_\_

5. Present land use \_\_\_\_\_

6. Present zoning classification \_\_\_\_\_

7. Describe any unique or unusual land forms on the project site (i.e. bluffs, dunes, swales, ground depressions, other geological formations): \_\_\_\_\_  
\_\_\_\_\_

8. Percentage of site which contains slopes of 15% or greater: \_\_\_\_\_

9. Streams, lakes, ponds or wetlands existing within or contiguous to the project area:

(1) Name \_\_\_\_\_

(2) Size (in acres) \_\_\_\_\_

10. If an application for the proposed action has been filed with the (city, town, village) agency, the following information shall be provided:

(a) Name of applicant: \_\_\_\_\_

(b) Mailing address: \_\_\_\_\_

(c) Telephone number: Area Code ( ) \_\_\_\_\_

(d) Application number, if any: \_\_\_\_\_

11. Will the action be directly undertaken, require funding, or approval by a state or federal agency?

Yes \_\_\_ No \_\_\_ If yes, which state or federal agency? \_\_\_\_\_

C. COASTAL ASSESSMENT (Check either "Yes" or "No" for each of the following questions)

1. Will the proposed action be located in, or contiguous to, or have a potentially adverse effect upon any of the resource areas identified on the coastal area maps: YES NO

(a) Significant fish or wildlife habitats? \_\_\_\_\_

(b) Scenic resources of local or statewide significance? \_\_\_\_\_

(c) Important agricultural lands? \_\_\_\_\_

(d) Natural protective features in an erosion hazard area? \_\_\_\_\_

If the answer to any question above is yes, please explain in Section D any measures which will be undertaken to mitigate any adverse effects.

2. Will the proposed action have a significant effect upon: YES NO

(a) Commercial or recreational use of fish and wildlife resources? \_\_\_\_\_

(b) Scenic quality of the coastal environment? \_\_\_\_\_

(c) Development of future, or existing water dependent uses? \_\_\_\_\_

(d) Operation of the State's major ports? \_\_\_\_\_

(e) Land or water uses within a small harbor area? \_\_\_\_\_

(f) Stability of the shoreline? \_\_\_\_\_

(g) Surface or groundwater quality? \_\_\_\_\_

(h) Existing or potential public recreation opportunities? \_\_\_\_\_

(i) Structures, sites or districts of historic, archaeological or cultural significance to the (city, town, village), State or nation? \_\_\_\_\_

3. Will the proposed action involve or result in any of the following: YES NO

(a) Physical alteration of land along the shoreline, land under water or coastal waters? \_\_\_\_\_

(b) Physical alteration of two (2) acres or more of land located elsewhere in the coastal area? \_\_\_\_\_

(c) Expansion of existing public services or infrastructure in undeveloped or low density areas of the coastal area? \_\_\_\_\_

(d) Energy facilities not subject to Article VII or VIII of the Public Service Law? \_\_\_\_\_

(e) Mining, excavation, filling or dredging in coastal waters? \_\_\_\_\_

(f) Reduction of existing or potential public access to or along the shore? \_\_\_\_\_

(g) Sale or change in use of publicly-owned lands located on the shoreline or under water? \_\_\_\_\_

(h) Development within a designated flood or erosion hazard area? \_\_\_\_\_

(i) Development on a beach, dune, barrier island or other natural feature that provides protection against flooding or erosion? \_\_\_\_\_

(j) Construction or reconstruction of erosion protective structures? \_\_\_\_\_

(k) Diminished surface or groundwater quality? \_\_\_\_\_

(l) Removal of ground cover from the site? \_\_\_\_\_

4. Project YES NO

(a) If project is to be located adjacent to shore:

(1) Will water-related recreation be provided? \_\_\_\_\_

(2) Will public access to the foreshore be provided? \_\_\_\_\_

(3) Does the project require a waterfront site? \_\_\_\_\_

(4) Will it supplement a recreational or maritime use? \_\_\_\_\_

(5) Do essential public services and facilities presently exist at or near the site? \_\_\_\_\_

(6) Is it located in a flood prone area? \_\_\_\_\_

(7) Is it located in an area of high erosion? \_\_\_\_\_

- |  | <u>YES</u> | <u>NO</u> |
|--|------------|-----------|
| (b) If the project site is publicly owned:   |            |           |
| (1) Will the project protect, maintain and/or increase the level and types of public access to water-related recreation resources and facilities?..... | ___        | ___       |
| (2) If located in the foreshore, will access to those and adjacent lands be provided?.....   | ___        | ___       |
| (3) Will it involve the siting and construction of major energy facilities?.....   | ___        | ___       |
| (4) Will it involve the discharge of effluents from major steam electric generating and industrial facilities into coastal facilities?.....            | ___        | ___       |
| (c) Is the project site presently used by the community neighborhood as an open space or recreation area?.....   | ___        | ___       |
| (d) Does the present site offer or include scenic views or vistas known to be important to the community?.....   | ___        | ___       |
| (e) Is the project site presently used for commercial fishing or fish processing?.....   | ___        | ___       |
| (f) Will the surface area of any waterways or wetland areas be increased or decreased by the proposal?.....  | ___        | ___       |
| (g) Does any mature forest (over 100 years old) or other locally important vegetation exist on this site which will be removed by the project?.....    | ___        | ___       |
| (h) Will the project involve any waste discharges into coastal waters?.....  | ___        | ___       |
| (i) Does the project involve surface or subsurface liquid waste disposal?.....   | ___        | ___       |
| (j) Does the project involve transport, storage, treatment or disposal of solid waste or hazardous materials?.....                                     | ___        | ___       |
| (k) Does the project involve shipment or storage of petroleum products?.....   | ___        | ___       |
| (l) Does the project involve discharge of toxics, hazardous substances or other pollutants into coastal waters?.....                                   | ___        | ___       |
| (m) Does the project involve or change existing ice management practices?.....   | ___        | ___       |
| (n) Will the project affect any area designated as a tidal or freshwater wetland?.....   | ___        | ___       |
| (o) Will the project alter drainage flow patterns or surface water runoff on or from the site?.....  | ___        | ___       |
| (p) Will best management practices be utilized to control storm water runoff into coastal waters?.....   | ___        | ___       |
| (q) Will the project utilize or affect the quality or quantity of sole source or surface water supplies?.....  | ___        | ___       |
| (r) Will the project cause emissions which exceed federal or state air quality standards or generate significant amounts of nitrates or sulfates?..... | ___        | ___       |

D. REMARKS OR ADDITIONAL INFORMATION. (Add any additional sheets necessary to complete this form.)

If assistance or further information is needed to complete this form, please contact (city, town, village) clerk at \_\_\_\_\_.

Preparer's Name: \_\_\_\_\_ Telephone Number: (\_\_\_\_) \_\_\_\_\_

Title: \_\_\_\_\_ Agency: \_\_\_\_\_ Date: \_\_\_\_\_



**City of Rochester  
City Clerks Office  
Certified Ordinance**

Rochester, N.Y., \_\_\_\_\_

**TO WHOM IT MAY CONCERN:**

I hereby certify that the following is a true copy of an ordinance which was duly passed by the Council of the City of Rochester on September 11, 19 90 and Approved by the Mayor of the City of Rochester, and was deemed duly adopted on September 13, 1990 in accordance with the applicable provisions of law.

(not disapproved, approved, re-passed after disapproval)

**Ordinance No. 90-371**

**Amending Chapter 48 Of The Municipal Code, Environmental Review, With Respect To the Local Waterfront Revitalization Program And Waterfront Consistency Review**

**BE IT ORDAINED, by the Council of the City of Rochester as follows:**

**Section 1. Section 48-7 of the Municipal Code, Environmental Review process, as amended, is hereby further amended by amending subsection A(1) thereof to read in its entirety as follows:**

- (1) Determine whether the action is subject to this chapter, and whether it is located within the boundaries of the City of Rochester's Local Waterfront Revitalization Program (LWRP) area (see TASK I of the LWRP). If the action is an exempt, an excluded or a Type II action, the agency shall have no further responsibility under this chapter or Chapter 112, Waterfront Consistency Review Ordinance, except recordkeeping responsibilities. If the action is an unlisted or a Type I action, the requirements of this chapter shall apply. If such an unlisted or Type I action is located within the boundaries of the City's LWRP, the consistency review procedures and requirements of Chapter 112 shall also apply and be coordinated with the environmental review required by this chapter.**

**Section 2. This ordinance shall take effect immediately.**

**Passed by the following vote:**

**Ayes - President Curran, Councilmembers Childress Brown, Giess, King, Mains, Muldoon, Norwood, Padilla, Stevenson - 9.**

**Nays - None - 0.**

Attest

*Ellen S. Clifford*



**City of Rochester  
City Clerks Office  
Certified Ordinance**

Rochester, N.Y., \_\_\_\_\_

**TO WHOM IT MAY CONCERN:**

I hereby certify that the following is a true copy of an ordinance which was duly passed by the Council of the City of Rochester on September 11, 19 91 and Approved by the Mayor of the City of Rochester, and was deemed duly adopted on September 13, 1991 in accordance with the applicable provisions of law.

(not disapproved, approved, repealed after disapproval)

**Ordinance No. 91-416**

**Amending Chapter 39 Of The Municipal Code, Building Code, With Respect To Site Preparation, as amended**

**BE IT ORDAINED, by the Council of the City of Rochester as follows:**

**Section 1. Article IV of Chapter 39 of the Municipal Code, Building Code, relating to Conflicts and severability and containing Section 39-401 and 39-402, is hereby renumbered as Article V, with Section 39-401 and 39-402 renumbered as 39-501 and 39-502, respectively, and there is hereby added to Chapter 39 of the Municipal Code the following new Article IV:**

**ARTICLE IV**

**Section 39-400. Purpose.**

**It is the purpose of these regulations to protect health, safety, and welfare in the City of Rochester by regulating site preparation activities, including filling, grading, and stripping, so as to prevent nuisances from being created, including erosion, sedimentation or drainage.**

**Section 39-401. Title.**

**These regulations shall be known and may be cited as the "Regulations for the Issuance of Site Preparation Permits in the City of Rochester".**

**Section 39-402. Jurisdiction.**

**All site preparation, and associated activities requiring a Site Preparation Permit, shall be in conformance with the provisions set forth herein.**

**Section 39-403. Authority.**

The Director of the Bureau of Buildings shall serve as the agent of the Commissioner for the purpose of administering these regulations.

**Section 39-404. Definitions.**

As used in this Article, in addition to the terms defined in Section 39-201, the following terms shall have the meanings indicated:

**CERTIFICATE OF SUBSTANTIAL COMPLIANCE** - A signed statement by the Commissioner that specific construction has been inspected and found to comply with all grading plans and specifications.

**CITY ENGINEER** - The City Engineer of the City or an authorized representative.

**DIRECTOR** - The Director of the Bureau of Buildings of the City or an authorized representative.

**DRAINAGE** - The gravitational movement of water or other liquids by surface runoff or subsurface flow.

**EROSION** - The process by which the ground surface is worn away by action of wind, water, gravity, or a combination thereof.

**EXCAVATION OR CUT** - Any act by which soil or rock is cut into, dug, quarried, uncovered, removed, displaced, or relocated, and also included shall be the conditions resulting therefrom.

**FILLING** - Any activity which deposits natural or artificial material so as to modify the surface or subsurface conditions of land, lakes, ponds or watercourses.

**GRADING** - Any stripping, excavating, filling, stockpiling, or any combination thereof, and also included shall be the land in its excavated or filled condition.

**MULCHING** - The application of a layer of plant residus or other material for the purpose of effectively controlling erosion.

**PERMANENT SOIL EROSION CONTROL MEASURE** - Those control measures which are installed or constructed to control soil erosion and which are maintained after completion of the project.

**RATIONAL METHOD** - A method of estimating the runoff in a drainage basin at a specific point and time by means of the rational runoff formula.

**SEDIMENT** - Solid material, both mineral and organic, that is in suspension, is being transported, has been deposited, or has been removed from its site of origin by erosion.

**SITE PREPARATION** - Site preparation shall include, but is not limited to: filling, stripping of vegetation, grading, altering existing topography for any purposes whatsoever.

**SOIL** - All unconsolidated mineral or nonliving organic material of whatever origin which overlies bedrock.

**STRIPPING** - Any activity which removes or significantly disturbs the vegetative surface cover including clearing and grubbing operations.

**TEMPORARY SOIL EROSION CONTROL MEASURES** - Interim control measures which are installed or constructed for the control of soil erosion until permanent soil erosion control is effected.

**TOPSOIL** - The natural surface layer of soil, usually darker than subsurface layers, to a depth of at least six (6) inches within an undisturbed area of soils.

**WATERCOURSE** - Any natural or artificial stream, river, creek, ditch, channel, canal, conduit, culvert, drainage way, gully, ravine, or wash in which water flows in a definite direction or course, either continuously or intermittently, and which has a definite channel, bed, and banks, and any area adjacent thereto subject to inundation by reason of overflow, flood, or storm water.

**WETLANDS** - Areas of aquatic or semi-aquatic vegetation, or any areas which have been mapped as such by the New York State Department of Environmental Conservation under the New York State Freshwater Wetlands Act or the United States Department of the Interior, Fish and Wildlife Service for the National Wetlands Inventory.

**Section 39-405. Permit Requirement.**

**A. None of the following activities shall be commenced until a permit has been issued pursuant to the provisions of these regulations or a building permit or site plan approval including site preparation activities has been granted:**

- (1) Site preparation within wetlands;
- (2) Site preparation on slopes which exceed one and one half (1-1/2) feet of vertical rise for each ten (10) feet of horizontal distance, as determined by a topographical survey;
- (3) Site preparation within the floodplain of any watercourse;

- (4) Excavation which affects more than fifty (50) cubic yards of material within any parcel or any contiguous area;
- (5) Stripping which affects more than ten thousand (10,000) square feet of ground surface within any parcel or any contiguous area;
- (6) Grading which affects more than ten thousand (10,000) square feet of ground surface within any parcel or any contiguous area; or
- (7) Filling which exceeds a total of fifty (50) cubic yards of material within any parcel or contiguous area.

**Section 39-406. Permit Application, Review, Issuance and Compliance Procedures.**

- A. Prior to the commencement of any work requiring a permit under Section 39-405, six (6) copies of a permit application shall be filed with the Commissioner, and the application shall have been approved and a permit issued pursuant to the provisions of these regulations.
- B. At the time of filing an application for a site preparation permit, a fee of seven hundred fifty dollars (\$750.00) shall be made payable to the City Treasurer.
- C. The Director shall have the authority to recommend to the Commissioner that a permit application be approved or denied. The Director shall also have the authority to recommend the approval of a permit subject to conditions.
- D. Copies of the permit application shall be submitted to the City Engineer, who shall submit recommendations on the application to the Director within fifteen (15) business days of the date of filing. Failure by the City Engineer to comment within the fifteen (15) business day review period shall not restrict the Director from carrying out his or her responsibilities related thereto.
- E. The Director shall make a recommendation to grant or deny all permits within sixty (60) days after the date of filing of a complete application, unless the applicant and the Director consent to a time extension.
- F. [Prior to making a recommendation to grant a permit, the Director shall:
  - (1) Seek the concurrence of the Director of Zoning;



- (2) Seek the concurrence of the Director of Planning;
- (3) Seek the concurrence of the Director of Development Services;
- (4) Seek the concurrence of the City Engineer;
- (5) Seek the concurrence of the Director of Neighborhood Development; and
- (6) Seek the concurrence of the Rochester Pure Waters District if said District has jurisdiction.

G.] The Director shall recommend a reasonable time limit for the termination of the permit and may recommend any conditions which are deemed necessary to assure compliance with the provisions of these regulations. In no event shall the overall total time schedule for completion of the project exceed twelve (12) months.

[H]G. The Director shall cause inspections to be performed as required to assure compliance with the terms and conditions of the approved permits, and to submit written notification to the Commissioner of any violations of these terms or provisions.

[I]H. If at any time during the effective period of a permit, the terms of the permit are violated, the Commissioner may revoke the permit, in accordance with the procedures set forth in subsection 39-210H of the City Code.

**Section 39-407. Permit Application Materials.**

- A. The application for a permit regulated by these procedures shall be made to the Director, as agent for the Commissioner, in such form as the Commissioner and Director shall prescribe.
- B. The application shall be made by the owner or by an authorized agent including, but not limited to, an architect, engineer, occupant of the property, or contractor employed in connection with the proposed work.
- C. The application shall contain:
  - (1) A site plan prepared by a civil engineer, landscape architect, or land surveyor licensed and registered to practice in the State of New York. The site plan shall be prepared at a scale no smaller than one (1) inch to twenty (20) feet (1"-20') and shall indicate: existing and proposed contours at horizontal intervals not to

exceed ten (10) feet; the locations of all buildings and natural features including, but not limited to streams, water bodies and wetlands, structures or appurtenances; and the locations and descriptions of any utilities, easements and rights-of-way.

- (2) The site plan shall indicate all areas of vegetation, including areas of grass, brush, tree clusters and wood areas, caliper size of mature trees, and shall also indicate the areas where topsoil is removed and stockpiled and where topsoil is ultimately placed.
- (3) A description of the material used in filling operations, the total volume of material proposed to be deposited on site, and a listing of the points of origin of the proposed fill material which include:
  - (a) Name, address, and telephone numbers of the owner of the source material;
  - (b) Street address, town, village, city, county and tax account number of location of point of origin for source material; and
  - (c) A notarized affidavit signed by the owner of the source material which states that the material has been tested and found free of any hazardous waste and complies with the requirements set forth in subsection 39-408A(7). A copy of the test results, performed by an authorized testing agency, shall be included as part of the affidavit.
- (4) Proposed contours which shall be shown at a maximum interval of two (2) feet.
- (5) A time schedule which indicates:
  - (a) The anticipated commencement and completion dates; and
  - (b) The anticipated duration (in days) of the exposure of all major areas of site preparation before the installation of erosion and sediment control measures.
- (6) A performance bond or letter of credit in increments of ten thousand dollars (\$10,000.) for each five thousand (5,000) cubic yards or fractions of thereof, of material scheduled for placement on site. The bond shall not be released until it has been determined by the Director that the work has been completed in conformance with these regulations.

**Section 39-408. Standards for Application Approval.**

- A. In granting a permit under these regulations, the standards and considerations taken into account shall include, but are not limited, to the following:**
- (1) Excavation, filling, grading, and stripping shall be permitted to be undertaken only in such locations and in such manner as to minimize the potential for erosion and sedimentation and the threat to the health, safety, and welfare of neighboring property owners and the general public.**
  - (2) Site preparation and construction shall be fitted to the vegetation, topography, and other natural features of the site and shall preserve as many of these features as feasible.**
  - (3) The control of erosion and sedimentation, including dust control, shall be a continuous process undertaken as necessary prior to, during, and after site preparation and construction.**
  - (4) Mulching or temporary vegetation suitable to the site shall be used where necessary to protect areas exposed by site preparation, and permanent vegetation which is well adapted to the site shall be installed as soon as practical.**
  - (5) Where slopes are to be revegetated in areas exposed by site preparation, the slopes shall not be of such steepness that vegetation cannot be readily established or that problems of erosion or sedimentation may result.**
  - (6) Site preparation and construction shall not adversely affect the free flow of water or bring about flood conditions by encroaching on, blocking, or restricting watercourses, or drainage patterns.**
  - (7) All fill materials shall be of a composition suitable for the ultimate use of the fill, free of hazardous materials, contaminants, rubbish, organic or frozen material. It shall be free of any materials which may corrode, collapse, dissolve or cause voids, or present the potential for causing voids. Structural steel, steel reinforcing, conduit, piping or similar materials are not permitted to comprise the fill material. Demolition or construction debris of any type is prohibited.**

- (8) Fill material shall be compacted sufficiently to prevent problems of erosion[, and]. [w]Where the material is to support structures or roadways, it shall be compacted to within ninety-five percent (95%) of modified Proctor density with proper moisture control. Compaction tests shall be submitted to the Commissioner by an independent soils testing laboratory which verify the compaction results.
- (9) All topsoil which is excavated from a site shall be stockpiled and used for the restoration of the site, and such stockpiles, where necessary, shall be seeded or otherwise treated to minimize the effects of erosion. All fill shall be covered to a minimum depth of thirty (30) inches with clean earth free of boulders or rocks exceeding twelve (12) inches in diameter, and shall also be covered with topsoil to a minimum depth of six (6) inches. The final proposed grade elevations shall be taken from the finished top soil elevation.
- (10) Prior to, during, and after site preparation, an integrated drainage system shall be provided which at all times minimizes erosion, sedimentation, hazards of slope instability, and adverse effects on neighboring property owners.
- (11) The natural drainage system shall generally be preserved in preference to modifications of this system excepting where such modifications are necessary to reduce levels of erosion and sediment and adverse effects on neighboring property owners.
- (12) All drainage systems shall be designed to adequately handle estimated flows both within the site and from the entire upstream drainage basin, with the flow estimations to be calculated utilizing the Rational Method for a specified storm event.
- (13) Sufficient grades and drainage facilities shall be provided to prevent the ponding of water.
- (14) Drainage systems, plantings, and other erosion or sediment control devices shall be maintained as frequently as necessary to provide adequate protection against erosion and sediment and to insure that the free flow of water is not obstructed by the accumulation of silt, debris, or other material or by structural damage, so as to avoid the creation of flood conditions.

(15) Cuts and fills shall not endanger adjoining property, nor divert water onto the property of others.

(16) In the event that the removal of any trees, shrubs, vegetation and/or other organic material is necessary to conduct operations covered by this permit, all such material shall be removed off-site to an approved location prior to the commencement of fill or grading activities.

**Section 39-409. Denial of Permit.**

**A. Site Preparation Permits shall not be issued where:**

- (1) A nuisance will be established as defined by Section 59-23 of the Municipal Code;
- (2) The proposed work would cause hazards to the public safety, comfort, health, repose or welfare;
- (3) The work as proposed by the applicant will damage any public or private property or interfere with any existing drainage course in such a manner as to cause damage to any adjacent property or result in the depositing of debris or sediment on any public way or into any waterway or create an unreasonable hazard to persons or property;
- (4) The land area for which grading is proposed is subject to geological hazard to the extent that no reasonable amount of corrective work can eliminate or sufficiently reduce settlement, erosion, slope instability, or any other such hazard to persons or property; or
- (5) The land areas for which the grading is proposed may lie within the flood plain of any stream or watercourse unless a hydrologic report, prepared by a professional engineer, is submitted to certify that the proposed grading will have, in his opinion, no detrimental influence on the public welfare or upon the total development of the watershed.

**Section 39-410. Responsibility of Owner.**

**A. During grading and filling operations the owner shall be responsible for:**

- (1) The prevention of damage to any public utilities or services within the limits of grading and along any routes of travel of the equipment that are not part of the public right-of-way;

- (2) The prevention of damage to adjacent property. No person shall grade on land so close to the property line as to endanger any adjoining public street, sidewalk, alley, or any public or private property without supporting and protecting such property from settling, cracking, or other damage which might result;
- (3) Carrying out the proposed work in accordance with the approved plans and in compliance with all the requirements of the permit and Chapter 39; and
- (4) The prompt removal of all soil, miscellaneous debris, or other materials applied, dumped, or otherwise deposited on public streets, highways, sidewalks, or other public thoroughfares during transit to and from the construction site, where such spillage constitutes a public nuisance or hazard.

**Section 39-411. Minimum Design Standards for Erosion and Sediment Control.**

All grading plans and specifications including extensions or previously approved plans shall include provisions for erosion and sediment control in accordance with, but not limited to, accepted engineering standards and the guidelines as outlined in the document entitled, Guidelines for Erosion and Sediment Control in Urban Areas of New York State available from the Monroe County Soil and Water Conservation District.

**Section 39-412. Inspection.**

The requirements of these regulations shall be enforced by the Director. The Director shall cause the work to be inspected to assure compliance with the requirements of these regulations.

**Section 39-413. Project Closeout.**

A. A Certificate of Substantial Compliance shall be issued by the Director when all of the following have been submitted to the Director or verified as specified elsewhere in these regulations, including:

- (1) Written verification from a New York State licensed professional land surveyor, civil engineer, or landscape architect that the final grading and contours conform with the requirements of the approved site plan;
- (2) Required tests verifying soil compaction have been prepared by an independent soils testing lab and copies of the results have been submitted; and

- (3) Submission of the results of core samples taken from the site, which verifies that the material deposited on site complies with subsection 39-408A(7). Core sampling shall be performed by an approved independent testing laboratory and shall be taken at intervals not to exceed one (1) sample for each five thousand (5,000) square feet of site area affected by any filling, grading or stripping operation covered by these regulations. The exact locations of the samples shall be determined by the Director.

**Section 39-413. Applicability of Article II.**

Except where specific provisions relating to site preparation are established in this Article, the Administrative Regulations of Article II of this chapter shall apply to site preparation and permits, performance of work and enforcement.

Section 2. Section 39-211 of the Municipal Code, Stop-Work orders, as amended, is hereby further amended by adding the words "or performed under any permit" after the words "Whenever the Commissioner has reasonable grounds to believe that work on any building or structure" where they appear at the beginning of the first sentence of said section.

Section 3. Section 59-43 of the Municipal Code, Dumping, as amended, is hereby further amended by deleting the words "Chief of Police" in each place where they appear therein, and by inserting in their place the words "Director of Buildings".

Section 4. This ordinance shall take effect two weeks after the date of its adoption.

Bracketed material deleted; underlined material added.

Passed by the following vote:

Ayes - President Curran, Councilmembers Childress Brown, Giess, King, Mainz, Muldoon, Norwood, Stevenson - 8.

Nays - None - 0.

Attest

