

CHAPTER 93 ENVIRONMENTAL QUALITY REVIEW

[HISTORY: Adopted by the Common Council of the City of Rensselaer 12-31-1986 as L.L. No. 3-1986. Amendments noted where applicable.]

GENERAL REFERENCES

Planning Commission — See Ch. [39](#).

Zoning — See Ch. [179](#).

ARTICLE I General Provisions (§ 93-1 — § 93-5)**§ 93-1 Title.**

This chapter shall be known and may be cited as the "Environmental Quality Review Law of the City of Rensselaer, New York."

§ 93-2 Purpose.

It is the purpose of this chapter to establish a procedure whereby the City of Rensselaer may implement Article 8 of the New York State Environmental Conservation Law, providing for the environmental quality review of any action which may have a significant effect on the environment, and also to provide for the protection and beneficial use of the natural and man-made resources within the City of Rensselaer waterfront area by ensuring where and when possible and practicable that certain actions to be undertaken, approved or funded by a city agency be performed in a manner consistent with the policies and purposes of the City of Rensselaer Local Waterfront Revitalization Program.

§ 93-3 Statutory authority.

This chapter is adopted under the authority of Article 42 of the Executive Law of New York State, § 10 of the Municipal Home Rule Law of New York State, the State Environmental Quality Review Act

Editor's Note: See Environmental Conservation Law § 8-0101 et seq. and the State Environmental Quality Review Regulations.

§ 93-4 Applicability.

All appropriate agencies of the City of Rensselaer must comply with this chapter prior to directly undertaking, approving or funding any action when such action is classified as "Type I" or "unlisted" under Part 617 of Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York.

§ 93-5 Definitions.**A.**

As used in this chapter, the following terms shall have the meanings indicated:

ACTION

Either a Type I or unlisted action as defined in SEQR regulations at 6 NYCRR 617.2, or any directly undertaken, funded or approval action occurring within or affecting a critical environmental area designated pursuant to 6 NYCRR 617.4(j).

CAF

Coastal assessment form as adopted by the Common Council.

CITY

The City of Rensselaer.

CITY AGENCY

Any board, commission, department, office, body or officer of the City of Rensselaer.

COASTAL ZONE AREA

That portion of the New York State coastal area within the City of Rensselaer as delineated in the City of

Rensselaer Local Waterfront Revitalization Program.

COMMON COUNCIL

The Common Council of the City of Rensselaer.

EAF

Environmental assessment form statement as defined at 6 NYCRR 617.2(l).

EIS

Environmental impact statement as defined at 6 NYCRR 617.2(m).

LOCAL WATERFRONT REVITALIZATION PROGRAM (LWRP)

The local program to implement the New York State Coastal Management Program within the City of Rensselaer, as approved by the Secretary of State pursuant to the Waterfront Revitalization and Coastal Resources Act of 1981 (Article 42 of the Executive Law of New York State), a copy of which is on file in the City Clerk's office and available for inspection during normal business hours.

PART 617

The State Environmental Quality Review Regulations (Part 617 of Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York).

PLANNING COMMISSION

The City of Rensselaer Planning Commission.

SEQR

The State Environmental Quality Review Act (Article 8 of the Environmental Conservation Law, which is Chapter 43-B of the Consolidated Laws of the State of New York).

B.

All other terms used in this chapter shall have the same meaning as those defined in § 8-0113 of the Environmental Conservation Law and Part 617 of Title 6 NYCRR.

ARTICLE II Delegation of Responsibility (§ 93-6 — § 93-8)

§ 93-6 Review.

The City Planning Commission is assigned the responsibility to review and approve all matters relating to the use and development of the designated Coastal Zone Area.

§ 93-7 Scheduling.

The Secretary of the Planning Commission, or such other person as the Planning Commission may designate, shall assume the responsibility for the scheduling of all meetings, coordinating of all activities and recording and filing of all business pertaining to the matters described in § 93-6 of this Article.

§ 93-8 Annual report.

The Secretary, or such other person designated by the Planning Commission, shall prepare an annual report on the Planning Commission's activities relating to use and development of the Coastal Zone Area not later than April 1 of each year. Such report shall be submitted to the Mayor and Common Council and may include any recommendations pertaining to any changes necessary to more effectively implement the environmental quality review processes contained in this chapter. A copy of the annual report shall be filed with the Department of Environmental Conservation.

ARTICLE III Compliance (§ 93-9 — § 93-13)

§ 93-9 Compliance required.

No decision to carry out or approve or fund any action shall be made by the Common Council or by any other city agency until there has been full compliance with all requirements of this chapter and Part 617 of Title 6 NYCRR.

§ 93-10 **Type I actions.**

Consistent with Part 617 of Title 6 NYCRR and the criteria therein, the Type I actions listed in Section 617.12 and all directly undertaken, funded or approval actions occurring within or affecting a critical environment area designated pursuant to 6 NYCRR 617.4(j) are deemed likely to have a significant effect on the environment and are likely to but shall not necessarily require preparation of an environmental impact statement.

§ 93-11 **Type II actions.**

Consistent with Part 617 of Title 6 NYCRR and the criteria therein, the Type II actions listed in Section 617.13 are deemed not to have a significant effect on the environmental impact statement

§ 93-12 **Exempt actions.**

The following actions and activities shall be exempt from the requirement of this chapter:

A.
Actions defined as exempt actions in Section 617.2 of Title 6 NYCRR.

B.
Actions undertaken or fully approved or funded prior to the effective date of the State Environmental Quality Review Act.

C.
All normal street, highway and utility maintenance activities.

D.
The conducting of environmental engineering, economic feasibility or other studies and preliminary planning necessary for the formulation of a proposal for action without committing the city to approve, commence or engage in such action.

E.
The granting of approval to any part of an application which relates only to technical specifications and requirements, provided that no such partial approval shall entitle the applicant to commence the action until all requirements of this chapter and Part 617 of Title 6 NYCRR have been fulfilled.

§ 93-13 **Unlisted actions.**

Consistent with Part 617 of Title 6 NYCRR and the criteria therein, "unlisted actions" are defined as those actions which are not excluded or exempt nor listed as Type I or Type II actions in state or local SEQR regulations. Such actions may or may not have a significant effect on the environment and may or may not require the preparation of an environmental impact statement.

ARTICLE IV **Procedure for Initial Determination (§ 93-14 — § 93-20)****§ 93-14** **Application.**

For the purpose of determining whether any variance, approval or other action may have a significant effect on the environment, applicants for permits or other approvals, except for those actions initiated by the city, shall file a written statement with the responsible official or body setting forth the name of the applicant; the location of the property affected, if any; a description of the nature of the proposed action; and, as a supplement to the otherwise required information, a statement of the effect it may have on the environment. The statement shall be filed simultaneously with the application. The statement provided herein shall be upon an environmental assessment form prescribed by the responsible official or body and shall contain such additional relevant information as shall be required in the prescribed form. Such statement shall be accompanied by drawings, sketches and maps, if any, together with any other relevant explanatory material required by the city official or body having variance, approval or permit jurisdiction.

§ 93-15 **Notice.**

Upon receipt of a complete application and statement, the responsible official or body shall cause a notice to be posted on the signboard maintained by the city and may also cause such notice to be published in the official newspaper of the city, describing the nature of the proposed action and stating that written views thereon of any person shall be received by the responsible official or body not later than a date specified in such notice. Such notice shall also be sent to each member of the Planning Commission.

§ 93-16 **Written determination.**

The responsible official or body shall render a written determination, except where not required by this chapter, on such application within 15 calendar days following receipt of a complete application and statement, provided, however, that such period may be extended by mutual agreement of the applicant and the responsible official or body. The determination shall state whether such proposed action may or will not have a significant effect on the environment.

§ 93-17 **Referral to Planning Commission.**

Where any proposed action is not specifically governed by §§ [93-23](#) and [93-24](#), the responsible official or body shall so notify the Planning Commission within five calendar days following receipt of a complete application and statement. The Planning Commission shall review the proposed action and issue recommendation to the responsible official or body. The responsible official or body shall then render a written determination in accordance with this chapter, which determination shall be consistent with the recommendations of the Planning Commission, and shall file such determination with the required agencies provided in Part 617 of Title 6 NYCRR, Section 617.10.

§ 93-18 **Informal meetings.**

The responsible official or body or the Planning Commission may hold informal meetings or consult with any person for the purpose of aiding in making a determination on the application.

§ 93-19 **City-initiated actions.**

Actions as defined in Part 617 of Title 6 NYCRR, Section 617.12, initiated by the city shall, for the purpose of compliance with this chapter and Part 617 of Title 6 NYCRR, be under the jurisdiction of the Director of Planning and Development. No decision to carry out any such action shall be made until the Director of Planning and Development has rendered a written determination in accordance with §§ [93-27](#) through [93-29](#) of this chapter. Within these sections, for actions initiated by the city, the procedures which apply to the responsible official or body shall instead apply to the Director of Planning and Development.

§ 93-20 **Time requirements.**

The time limitations provided in this chapter shall be coordinated with, to the extent practicable, other time limitations provided by statute or local law, ordinance or regulation of the city.

ARTICLE V **Draft Environmental Impact Statement (DEIS) (§ 93-21 — § 93-24)**

§ 93-21 **General.**

If it is determined, in accordance with this chapter, that a proposed action may have a significant effect on the environment, the proposed action shall be reviewed and processed in strict accordance with the provisions of Part 617 of Title 6 NYCRR and as provided in this chapter.

§ 93-22 **Preparation.**

Following a determination that a proposed action may have a significant effect on the environment, the Director of Planning and Development, for actions initiated by the city, or the responsible official or body, shall prepare or cause to be prepared a draft environment impact statement in accordance with the provisions of Part 617 of Title 6 NYCRR. Refusal of the applicant to prepare such a draft shall cause the official or body to processing the application. Where the action involves an application for a variance, approval or other action, the full cost of preparing the draft environmental impact statement shall be borne by the applicant.

§ 93-23 **Notice of completion.**

Upon completion of a draft environmental impact statement, a notice of completion containing the information specified in Part 617 of Title 6 NYCRR shall be published in the official newspapers of the city. Copies of the draft environmental impact statement and the notice of completion shall be filed, circulated, sent and made available as required by Part 617 of Title 6 NYCRR.

§ 93-24 **Review.**

The draft environmental impact statement shall be reviewed by the Planning Commission, which shall determine if a public hearing on the draft environmental impact statement is necessary. If the Planning Commission determines that a public hearing is necessary, notice thereof shall be filed, circulated and sent in the same manner as the notice of completion and shall be published in the official newspapers of the city at least 14 calendar days prior to such public hearing. Such notice shall also state the place where substantive written comments on the draft environment impact statement may be sent and the date before which such comments shall be received. The public hearing shall commence no less than 15 nor more than 60 calendar days after the filing of the draft environmental impact statement except as otherwise provided where the Director of Planning and Development, for actions initiated by the city, or the responsible official or body, determines that additional time is necessary for public or other agency review of the draft environmental impact statement or where a different hearing date is required as appropriate under applicable law. If, on the basis of the draft environmental impact statement or a public hearing, the Planning Commission determines that an action will not have a significant effect on the environment, the proposed action may be processed without further regard to this chapter.

ARTICLE VI **Final Environmental Impact Statement (EIS) (§ 93-25 — § 93-30)****§ 93-25** **General.**

If it is determined, in accordance with review of the DEIS, that a proposed action will have a significant effect on the environment preparation of a final environmental impact statement shall be required and shall be reviewed and processed in strict accordance with the provisions of Part 617 of Title 6 NYCRR and as provided in this chapter.

§ 93-26 **Preparation.**

Except as otherwise provided in this chapter, the Director of Planning and Development, for actions initiated by the city, or the responsible official or body, shall prepare or cause to be prepared a final environmental impact statement in accordance with the provisions of Part 617 of Title 6 NYCRR, provided, further, that, if the action involves an application, the responsible official or body shall direct the applicant to prepare the final environmental impact statement. Such final environmental impact statement shall be prepared within 45 calendar days after the close of any public hearings or within 60 calendar days after the filing of the draft environmental impact statement, whichever last occurs; provided, however, that the responsible official or body may extend this time as necessary to complete the statement adequately or where problems identified with the proposed action require material consideration or modification.

§ 93-27 **Notice of completion.**

A notice of completion of a final environmental impact statement shall be prepared, published and filed in the same manner as provided in § 93-26 of this chapter and shall be sent to all persons to whom the notice of completion of the draft environment impact statement was sent. Copies of the final environmental impact statement shall be filed and made available for review in the same manner as the draft environmental impact statement.

§ 93-28 **Review.**

The final environmental impact statement shall be reviewed by the Planning Commission, which shall provide the Director of Planning and Development, for actions initiated by the city, or the responsible body or official, with written recommendations and comments concerning the final environmental impact statement within 15 calendar days after the filing date of the final environmental impact statement.

§ 93-29 **Filing.**

No decision to carry out or approve an action which has been the subject of a final environmental impact statement shall be made by the Common Council or any other board, department commission, officer or employee of the city having jurisdiction until after the filing and consideration of the final environmental impact statement, which decision shall be made within 30 calendar days of the filing of the final environmental impact statement.

§ 93-30 **Written determination.****A.**

When the Common Council or any other board, department commission, officer or employee of the city having jurisdiction decides to carry out or approve an action which may have a significant effect on the environment, the following findings shall be made in a written determination:

(1)

The action is consistent with social, economic and other essential considerations of city policy, to the extent practicable, from among the reasonable alternatives thereto, the action to be carried out or approved is one which minimizes or avoids adverse environmental effect, including the effects disclosed in relevant environmental impact statements.

(2)

All practicable means will be taken in carrying out or approving the action to minimize or avoid adverse environmental effects.

B.

For public information purposes, a copy of such determination shall be filed and made available as required in Part 617 of Title 6 NYCRR.

ARTICLE VII **Miscellaneous Provisions (§ 93-31 — § 93-33)****§ 93-31** **Maintenance of records.**

The City Clerk shall maintain files open for public inspection of all notices of completion, draft and final environmental impact statements and written determinations prepared or caused to be prepared by the city. Duplicates of all such files shall be maintained by the Planning Commission in the office of the Director of Planning and Development. The Director of Planning and Development shall also maintain for public review a copy of Article 8 of the New York State Environmental Conservation Law, as amended, and its implementing regulations, as included in Part 617 of Title 6 NYCRR.

§ 93-32 **Lead agency designation.**

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

§ 93-33 **Prior actions, modification of prior actions.**

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

[93a Appendix A](#)