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## City of Kingston, NY

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#### **CHAPTER 405. ZONING**

[**HISTORY:** Adopted by the Common Council of the City of Kingston 8-7-1984 by L.L. No. 3-1984, approved 8-28-1984, as Ch. 123 of the 1984 Code; amended in its entirety 4-25-1985, approved 4-26-1985. Subsequent amendments noted where applicable.]

## GENERAL REFERENCES

Zoning Board of Appeals See Ch. [122](#).

Billboards See Ch. [130](#).

Animals See Ch. [151](#).

Fences See Ch. [220](#).

Historic and Architectural Design Districts See Ch. [264](#).

## ARTICLE I. Purpose

### § 405-1. Purposes enumerated.

A. There is hereby established a new Comprehensive Zoning Plan for the City of Kingston, New York, which plan is set forth in the text and maps that constitute this chapter. Said plan is adopted for the purpose set forth in Subdivisions 24 and 25 of § 20 of Article 3 of Chapter 21 of the Consolidated Laws of the State of New York, **Editor's Note: For current provisions, see Article 2-A, § 20, Subdivisions 24 and 25, of the General City Law.** which, in the interest of the protection and promotion of the public health, safety and welfare, shall be deemed specifically to include the following, among others:

- (1) The facilitation of the efficient and adequate provision of streets, utilities and of other public facilities and services, including encouragement of flexibility in the design and development of land and buildings in such a way so as to promote these objectives.
- (2) The enhancement of the appearance of the City, particularly in terms of scale and design.
- (3) The prevention and reduction of traffic congestion and the provision of safe and adequate traffic access to uses generating large volumes of vehicles.
- (4) The maximum protection of residential areas and provision of privacy for families.
- (5) The gradual elimination of nonconforming uses.
- (6) The protection of business areas by discouraging their use for residential or industrial purposes and by limiting the size of buildings so as to prevent injury to business which would be caused by over congestion of traffic and parking.
- (7) The protection, enhancement, perpetuation and use of improvements and landscape features of special character or of historic, aesthetic or other cultural interest or value and of districts which include such improvements or features.
- (8) The accommodation of solar energy systems and equipment and access to sunlight necessary for such systems.

B. The above shall not in any way be construed to limit the purposes of this chapter.

## ARTICLE II. Terminology

### § 405-2. Word usage.

- A. Words and terms stated in the present tense include the future, and the singular includes the plural, unless the context requires otherwise.
- B. The masculine includes the feminine and neuter genders.
- C. The term "shall" is mandatory, not directory.
- D. The term "City" means the City of Kingston.
- E. The terms "Common Council," "Zoning Board of Appeals," "Planning Board," "Director of Planning," "Fire Officer," "Corporation Counsel," "City Clerk" and other designated boards and/or officers mean the respective boards and officers of the City of Kingston so designated.
- F. The term "person" includes an individual, corporation, partnership, firm or other combination of persons.
- G. The term "lot" includes "plot."
- H. The term "building" includes "structure."
- I. The terms "occupied" and "used" as applied to any land or building shall be construed as though followed by

the words "or intended, arranged or designed to be occupied or used."

J. Words not specifically defined shall have their ordinary dictionary meaning as in Webster's New International Dictionary.

K. Construction and building terms shall use New York State Uniform Fire Prevention and Building Code definitions.

### **§ 405-3. Definitions.**

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

#### **ACCESSORY BUILDING OR USE**

See "building, accessory" or "use, accessory."

#### **ADULT DAY-CARE FACILITY**

Any program which provides personal care, supervision and an organized program of activities, experiences and therapies during the day in a protective group setting, said program never to be overnight.

[Added 9-13-1988; approved 9-16-1988]

#### **ALLEY**

A narrow service way providing a secondary public means of access to abutting properties.

#### **AMBULATORY HEALTH-CARE FACILITY**

A building or portion thereof used for medical services, including diagnosis and treatment of human ailments, where no overnight accommodations are provided.

#### **AMUSEMENT GAME ARCADE**

A commercial enterprise containing three or more mechanical amusement devices. "Mechanical amusement device" shall mean any table, board, machine, device or apparatus fitted for use by the public, the operation of which is permitted, controlled, allowed or made possible by the deposit or insertion of any coin, plate, disk, slug or key into any slot, crevice or opening or by the payment of any fee or fees, and which operates or which may be operated for use as a game, contest or amusement or which may be used for any such game, contest or amusement, but which table, board, machine, device or apparatus does not contain a payoff device and which does not return or vend any article or merchandise or any money, coin, check or token. This does not include picture-taking and laminating machines, merchandise vending machines or electronic weight or reading machines.

#### **ARTIST LOFT**

A single residential unit, which unit is designed for and occupied as a combination of living, studio, work, and retail space, for not more than two persons living independently of any other family, separated from other units by a party wall or walls and having no less than 800 square feet per unit.

[Added 5-7-1996; approved 5-13-1996]

#### **AUCTION**

A business functioning primarily as a warehouse with periodic retail sales.

[Added 7-12-1988; approved 7-14-1988]

#### **AUDITORIUM**

Any indoor premises used for spectator presentations such as concerts, theatrical performances, lectures and similar cultural events, containing permanent or temporary seating.

#### **AUTOMOBILE LAUNDRY**

Any building or premises or portion thereof, the use of which is devoted to the business of washing or waxing automobiles for a fee, whether by automated cleaning devices or otherwise.

#### **AUTOMOBILE REPAIR, MAJOR**

General repair, rebuilding or reconditioning of engines, motor vehicles or trailers, such as collision service, body repair and frame straightening, painting and upholstery, vehicle steam cleaning and undercoating.

#### **AUTOMOBILE SERVICE OR GASOLINE STATION**

Any building, land area or other premises used or intended to be used for the retail dispensing or sales of automobile fuels, which activity may be accompanied by an accessory use such as sales of lubricants, tires, accessories or supplies, minor repairing of automobiles or a single-bay auto wash; provided, however, that automobile wrecking, major repairing of automobiles, parking or storing of automobiles for hire and the operation of more than one towing vehicle shall not be deemed permissible accessory uses of an automobile service station.

#### **AUTOMOBILE WRECKING**

The dismantling or disassembling of motor vehicles or trailers or the storage, sale or dumping of dismantled,

partially dismantled, obsolete or wrecked vehicles or their parts.

**BASEMENT**

A story in a building, the structural ceiling level of which is four feet or more above the average level of finished grade where such grade abuts the exterior wall of such building and the floor level of which is below finished grade at any point on the periphery of the building.

**BED-AND-BREAKFAST**

A residential establishment where rooms are rented to transient nonpermanent guests, on a short term basis, with breakfast being the only meal served to said guests.

[Added 6-7-1994; approved 6-13-1994]

**BILLBOARD**

A sign which directs attention to a business, commodity, service or entertainment conducted, sold or offered elsewhere than upon the lot on which such sign is situated.

**BOARDINGHOUSE AND/OR ROOMING HOUSE**

Any dwelling with 10 or fewer sleeping rooms in which persons, either individually or as families, are housed or lodged for hire or otherwise, without separate kitchen facilities, with or without meals. If there are more than 10 sleeping rooms, such building shall be considered a hotel.

**BUILDING**

Any combination of materials forming any construction, except where entirely underground so as to permit the use of the ground above the same as if no building were present; the term "building" shall include the term "structure" as well as the following:

- A. Solid or opaque fences or walls, other than retaining walls, projecting above the ground at least 6 1/2 feet.
- B. Receiving and transmitting radio and television antennas, except for such antennas installed on the roof of a building and extending no more than 15 feet above the highest level of the roof of such building.
- C. Pergolas, porches, outdoor bins and other similar structures.

**BUILDING, ACCESSORY**

A building detached from and subordinate to the principal building on a lot and used for purposes customarily incidental to those of the principal building.

**BUILDING AREA**

The total square footage of interior floor areas measured on a horizontal plane at the main grade level of the principal building and all accessory buildings, exclusive of uncovered porches, terraces and steps.

**CARPORT**

A roofed structure without walls used for the shelter of an automobile.

**CELLAR**

Any space in a building the structural ceiling level of which is less than four feet above the average finished grade where such grade abuts that exterior wall of such building which fronts on any street.

**CLUSTER DEVELOPMENT**

Residential development of land on which the permitted dwelling units are concentrated on portions of the property with the remainder set aside as permanent open space.

**CONDOMINIUM**

An individually owned dwelling unit or commercial or industrial establishment within a larger development with an interest in common areas and facilities that service the entire development.

**COOPERATIVE**

A residence, commercial or industrial establishment which is owned and operated by a mutual company, which also runs and operates all common areas and facilities and which company is operated for the benefit of persons or families who are entitled to occupancy of the individual units by reason of ownership of stock therein.

**COURT, DEPTH OF OUTER**

The linear average dimension measured from the unenclosed side of the court to the farthest wall thereof.

**COURT, INNER**

An open space enclosed on all sides by the exterior walls of a building.

**COURT, OUTER**

An open space enclosed on three sides by the exterior walls or a building.

**COURT, WIDTH OF OUTER**

The linear dimension of the unenclosed side of the court.

**COVERAGE**

That area of the lot that is covered by the building area.

**CURB LEVEL**

The established elevation of the street grade at the point that is opposite the center of the wall nearest to and facing the street line. Where a building is on a corner lot, the curb level is the average of the mean levels of the curb on the two intersecting streets. Where a front yard of 25 feet or more is provided or where there are two or more buildings on the lot, the curb level is the average level of the land immediately adjacent to the building prior to or after any excavation or fill, as may be determined by the Fire Officer.

**[Amended 12-16-1999 by L.L. No. 2-2000; approved 1-3-2000]**

**DAY-CARE CENTER**

A facility duly permitted by the New York State Department of Social Welfare for the daytime care of seven or more children for less than 24 hours each day, whether or not for compensation.

**DISCONTINUANCE**

Any cessation of a nonconforming use, whether such cessation is voluntary or involuntary, active or passive and irrespective of the circumstances giving rise to such cessation or the reasons therefor.

**DRINKING ESTABLISHMENT**

Any premises whose principal business is the sale and on-site consumption of alcoholic beverages.

**DRIVE-IN ESTABLISHMENT**

A premises catering primarily to the motoring public, whether or not serving pedestrians as well, and used for the sale to the public of any product and/or service, providing curb and/or window service.

**DWELLING, MULTIPLE**

A building or portion thereof containing three or more dwelling units.

**DWELLING, ONE-FAMILY**

A detached building containing one dwelling unit only.

**DWELLING, TWO-FAMILY and DWELLING, THREE-FAMILY**

A detached building containing two or three dwelling units, respectively.

**DWELLING UNIT**

A building or entirely self-contained portion thereof containing complete housekeeping facilities for only one family (including any domestic servants employed on the premises) and having no enclosed space (other than vestibules, entrances or other hallways or porches) or cooking or sanitary facilities in common with any other dwelling unit. A boardinghouse, convalescent home, dormitory, fraternity or sorority house, hotel, inn, lodging or rooming house, nursing or other similar home or other similar structure shall not be deemed to constitute a dwelling unit.

**DWELLING UNIT AREA**

An area enclosed within the outside walls of the dwelling unit, with a structural ceiling height of at least seven feet six inches, excluding porches, garages, terraces, steps, public hallways and similar public spaces and cellars and basement rooms used for storage, utility installations and other similar purposes.

**EMERGENCY SHELTER**

A not-for-profit, charitable, or religious organization providing boarding and/or lodging and ancillary services on its premises to primarily indigent, needy, or homeless persons.

**[Amended 6-5-2001; approved 6-11-2001]**

**FAMILY**

One or more persons occupying one dwelling unit as a nonprofit housekeeping unit. More than five persons, exclusive of domestic servants, not related by blood, marriage or adoption shall not be considered to constitute one family.

**FAMILY DAY-CARE HOME**

A home duly permitted by the New York State Department of Social Welfare in which care is provided for three to six children for less than 24 hours each day for compensation.

**FIRST STORY**

The ground or lowest story of a building entirely above the level of the ground around the building.

**FLOOR AREA**

The sum of the gross horizontal areas of the several floors of the building or buildings, measured from the interior faces of exterior walls or from the center line of walls separating two buildings.

A. In particular, the floor area of a building or buildings shall include:

- (1) Basement space.
- (2) Elevator shafts and stairwells at each floor.
- (3) Floor space for mechanical equipment.

(4) Penthouses.

(5) Attic space (whether or not a floor has actually been laid) providing structural headroom of seven feet six inches or more.

(6) Interior balconies and mezzanines.

(7) Enclosed porches.

(8) Accessory uses, not including space for accessory off-street parking.

B. However, the floor area of a building shall not include:

(1) Cellar space, except that cellar space used for retailing shall be included for the purpose of calculating requirements for accessory off-street parking spaces and accessory off-street loading berths.

(2) Elevator and stair bulkheads, accessory water tanks and cooling towers.

(3) Uncovered steps.

(4) Terraces, breezeways and open spaces.

(5) Accessory off-street parking spaces.

#### **FLOOR AREA, LIVABLE**

All spaces within the exterior walls of a dwelling unit exclusive of garages, breezeways, unheated porches, cellars, heater rooms and basements having a window area of less than 20% of the square foot area of the room. Usable floor area shall be deemed to include all spaces not otherwise excluded above, such as principal rooms, utility rooms, bathrooms, all closets and hallways opening directly into any rooms within the dwelling unit and all attic space having a clear height of at least five feet from finished floor level to pitch of roof rafter, with a clear height of seven feet six inches from finished floor level to ceiling level over 50% of the area of such attic space.

#### **FLOOR AREA RATIO (FAR)**

The ratio produced by the floor area of a building divided by its lot area.

#### **FRONTAGE**

The linear distance of a lot along the street line.

#### **GARAGE, PRIVATE**

An enclosed space for the storage of one or more motor vehicles, provided that no business, occupation or service is conducted for profit therein nor space therein for more than one car is leased to a nonresident of the premises.

#### **GARAGE, PUBLIC**

Any garage, other than a private garage, available to the public, operated for gain and which is used for temporary storage of automobiles or other motor vehicles.

#### **GRADE, FINISHED**

The natural surface of the ground or the surface of the ground after completion of any change in contour.

#### **GROUP CARE FACILITY**

See "agency community residence" under "institutional care residences."

#### **HEIGHT**

A. For buildings, the front wall of which is within five feet of the street, the height shall be the vertical distance, in feet and in stories, measured from curb level to the highest level of the roof surface of roofs the slope of which is not more than one inch vertical to one foot horizontal or the mean point between the eaves and the highest point of the roof if the roof is of any other type.

B. For buildings located in their entirety more than five feet from the street line, the height, in feet and in stories, shall be established by the Fire Officer in such a way that no building shall be prevented from attaining at least at one point the maximum height permitted in the district in which such building is proposed to be erected, such height to be measured above the elevation of the finished grade abutting such building at that point.

**[Amended 12-16-1999 by L.L. No. 2-2000; approved 1-3-2000]**

C. For one- or two-family dwellings, the height shall be the vertical distance from the average level of the

finished grade along the wall or walls of the building facing the street to the highest level of the roof surface of roofs the slope of which is not more than one inch vertical to one foot horizontal or the mean point between the eaves and the highest point of the roof if the roof is of any other type.

## **HISTORIC PRESERVATION**

The following series of definitions relate to historic districts and landmark preservation:

A. **COMMISSION** The Historic District and Landmark Preservation Commission of the City of Kingston.

B. **EXTERIOR ARCHITECTURAL FEATURE or EXTERIOR FEATURE** The architectural style, design, general arrangement and components of all of the outer surfaces of an improvement, as distinguished from interior surfaces, including, but not limited to, the kind, color and texture of the building material and the type and style of all windows, doors, lights, signs, other fixtures and plantings appurtenant to such improvement.

C. **LANDMARK OR HISTORIC DISTRICT** Any area which contains places, sites, structures or buildings which have a special character and ambience or historical value or aesthetic interest and which represents one or more periods or styles of architecture of an era of history, which cause such area to constitute a distinct section of the City and is so designated by the Common Council under the provisions of this chapter.

D. **LANDMARK** Any place, structure or building of historical value or aesthetic interest by reason of its antiquity or uniqueness of architectural design or as part of the development, heritage or cultural characteristics of the City, county, state or nation so designated by the Common Council under the provisions of this chapter.

E. **LANDMARK AND HISTORIC DISTRICT MAP** A map to be prepared and maintained by the Planning Department identifying the location of all landmarks, landmark sites and historic districts.

F. **LANDMARK SITE** A parcel or part thereof upon which is situated a landmark and any abutting parcel or part thereof constituting part of the premises on which the landmark is situated.

## **HOME OCCUPATION**

Any use customarily conducted entirely within a dwelling and carried on by the resident thereof, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes, such as dressmaking, home laundry and tutoring.

## **HOSPITAL**

A building used for diagnosis, treatment and care of human ailments.

## **HOTEL**

A building containing rooms designed to be used or which are used, rented or occupied for sleeping purposes by transient guests and where only a general kitchen and dining room may be provided within the building or in an accessory building. The word "hotel" includes the word "motel," "motor lodge," "motel hotel," "motor court," "inn," "tourist court" or similar names.

## **INSTITUTIONAL CARE RESIDENCES**

The following are a series of definitions of various types of residential uses that are designed to assist in the care and/or rehabilitation of persons who are wards of the state and which must be authorized by appropriate state agencies:

A. **AGENCY COMMUNITY RESIDENCE** A transitional or long-term noninstitutional residence for persons 21 years or over who do not require hospitalization but who are unable to function adequately in their own home or other completely independent living environment, which is operated by or sponsored by or subject to the approval of a public social service or mental hygiene agency or private, nonprofit agency authorized by the New York State Department of Social Services.

B. **AGENCY GROUP HOME** A noninstitutional home set up in theory, size, appearance and structure to bear the general character of a family unit in a relatively permanent household headed by a householder or householders for not less than seven nor more than 12 placed, committed or boarded minors under the age of 21, which is operated or sponsored by or subject to the approval of a public social service agency or private, nonprofit child caring agency, authorized by the New York State Department of Social Services.

C. **FAMILY CARE HOME** A private home authorized by the New York State Department of Social Services providing residential care for up to six mentally disabled persons who are no longer in need of inpatient care and treatment but who are not yet capable of functioning adequately in their own homes or in other living arrangements.

**D. INTERMEDIATE CARE FACILITY** A public or private home for adults, or other facility approved by the New York State Department of Health, to provide health-related care and services to persons who, because of their physical or mental condition, require institutional care and services but who do not require the level of service provided in a hospital or skilled nursing care facility.

#### **JUNKYARDS**

A lot, land or structure or part thereof used primarily for the collecting, storage and sale of wastepaper, rags, scrap metal or other material or for the collecting, dismantling, storage and salvaging of machinery or vehicles not in running condition and for the sale of parts thereof. The placing, parking, storing or permitting to be placed, parked or stored in view of any public highway of more than two dismantled or unregistered or inoperative motor vehicles on any piece of property for more than one day or, if on the premises of a legally established garage or repair shop, for a period of more than 30 days shall be deemed to constitute the operation of a "junkyard" on said premises.

#### **KENNEL or CATTERY**

Any establishment where dogs or cats are raised for the purpose of sale, breeding, training or exhibition or are boarded for a fee or are sheltered for humanitarian reasons.

#### **LAUNDROMAT**

A facility where the washing and drying of fabrics takes place by individuals and where no commercial/service cleaning or dry cleaning is done.

[Added 4-4-1989; approved 4-5-1989]

#### **LOADING SPACE**

An unobstructed, suitably surfaced area, no part of which is located on any street or public right-of-way, the principal use of which is to accommodate trucks while loading and unloading.

#### **LOT**

Any parcel of land, not necessarily coincident with a lot or lots shown on a map of record, which is occupied or which is to be occupied by a building and its accessory buildings, if any, or by a group of buildings having any land in common with the buildings accessory thereto, if any, together with the required open spaces appurtenant to such buildings or group of buildings.

#### **LOT AREA**

The total horizontal area included within the lot lines.

#### **LOT, CORNER**

A lot at the junction of, and abutting on two or more intersecting streets where the interior angle of intersection does not exceed 135°. Any lot adjoining a curved street at a point where the street line describes an arc subtended by an angle of 135° or less shall also be considered a corner lot.

#### **LOT DEPTH**

The horizontal distance between the midpoints of the front and rear lot lines measured in the general direction of the side lot lines.

#### **LOT, FLAG**

A lot located in such a position that it is to the rear of some other lot fronting on the same street and served by means of an accessway.

#### **LOT, INTERIOR**

A lot other than a corner lot or a through lot.

#### **LOT LINE**

A boundary of a lot other than a street line.

#### **LOT LINE, FRONT**

The street line along the principal street on which the lot abuts.

#### **LOT LINE, REAR**

The boundary opposite the front line, but should this be less than 10 feet in length or should the lot come to a point at the rear, the rear lot line shall be deemed to be a line parallel to the front line, not less than 10 feet in length, lying wholly within the lot, and farthest from the front line.

#### **LOT LINE, SIDE**

The lines separating the lot from the immediately adjacent lot.

#### **LOT OF RECORD**

A lot which is part of a subdivision recorded in the office of the City or County Clerk, or a lot or parcel described by metes and bounds which has been so recorded prior to the effective date of this chapter or any amendment thereof that would affect such lot.

#### **LOT, THROUGH**

A lot which is not a corner lot and which has two street lines.

**LOT WIDTH**

The distance between the side lot lines measured across the required front yard minimum setback line parallel with the street.

**MANUFACTURING**

Any process whereby the nature, size or shape of articles of raw materials is changed or where articles are assembled.

**MARINA**

Any premises containing one or more piers, wharves, docks, moorings, bulkheads, buildings, slips or basins and used primarily for the docking, mooring, storage and servicing of boats for compensation. Such premises may include incidental sale of marine supplies and food.

**MEMBERSHIP CLUB**

An unincorporated association of persons for a common social purpose, or an association incorporated under the Membership Corporations Law *Editor's Note: The Membership Corporations Law was repealed by L. 1969, c. 1066. For current provisions, see the Not-For-Profit Corporation Law.* and which association or membership corporation is not conducted for profit and is not a part of, related to or associated with a profit-making venture and which is managed by officers or directors, serving without pay and chosen or elected directly by members who form such an association or membership corporation.

**MOBILE HOME**

See "trailer."

**NONCONFORMING BUILDING**

A building which contains a use permitted in the district in which it is located, but which does not comply with one or more district regulations respecting lot area, width or depth; front, side or rear yards; or maximum height or lot coverage, but which lawfully existed prior to the enactment of this chapter or any revision or amendment thereto.

[Amended 12-16-1999 by L.L. No. 2-2000; approved 1-3-2000]

**NONCONFORMING LOT OF RECORD**

A lot of record which does not comply with lot area or dimension requirements for any permitted use in the district in which it is located, but which lawfully existed prior to the enactment of this chapter or any revision or amendment thereto.

[Amended 12-16-1999 by L.L. No. 2-2000; approved 1-3-2000]

**NONCONFORMING SIGN**

Any sign lawfully existing prior to the date of enactment of any provision of this chapter or any amendment thereto which it does not conform.

**NONCONFORMING USE**

A use, whether of a building or land or both, which does not conform to the regulations respecting permitted uses as set forth in this chapter for the district in which it is situated, but which lawfully existed prior to the enactment of this chapter or any revision or amendment thereto, and which is maintained after the effective date of this chapter or such revision or amendment.

**NURSERY**

An establishment where woody or herbaceous plants are grown for sale, including a structure for the sale of such merchandise.

**NURSERY SCHOOL or PRESCHOOL**

A place providing or designed to provide daytime care or instruction by an individual, association, corporation, institution or agency, whether or not for compensation or reward, for seven or more children from the ages of two to five years inclusive, away from their homes for more than 2 1/2 but less than 10 hours per day.

**OPEN SPACE**

An unoccupied space open to the sky on the same lot with a building.

**PARKING AREA/PARKING LOT**

An open area, other than a street, used for the temporary parking of more than four automobiles and available to the public, whether free, for compensation or as an accommodation for clients or customers.

**PARKING SPACE**

An area for the temporary storage of a motor vehicle, located in other than a public street or other public way and having a width of not less than nine feet and a length of not less than 18 feet and having a permanent means of access to a public street or public alley without requiring passage through another parking space.

**PARTY WALL**

A wall common to and separating two buildings, constructed of noncombustible material, with a fire-resistance rating of not less than two hours.

**PORCH or TERRACE**

An unenclosed portion of a residential structure, extending outward from an exterior wall, with or without a roof.

**PRINCIPAL USE**

The primary use of a lot. *Editor's Note: The definition of "private proprietary home for adults," which immediately followed this definition, was repealed 12-18-2002. See now "residential care/assisted-living facility."*

**PROFESSIONAL OFFICE**

An office for a person or persons whose vocation or occupation requires advanced training in a liberal art or science and whose service usually involves nonmanual work.

**PROPERTY LINE**

A lot line other than a street line.

**RECREATION VEHICLE**

A vehicle which is towed or self-propelled, on its own chassis or attached to the chassis of another vehicle, and designed or used for temporary living, recreation or sporting purposes. The term "recreation vehicle" shall include, but not be limited to, travel trailers, pickup campers, camping trailers, converted trucks and buses, boat and skimobile trailers and similar vehicles.

**RESIDENTIAL CARE/ASSISTED-LIVING FACILITIES**

A building or part thereof housing persons, on a twenty-four-hour basis, who, because of age, mental disability or other reasons, live in a supervised residential environment that provides personal care services. The occupants are capable of responding to an emergency situation without physical assistance of staff. This classification shall include, but not be limited to, the following: residential board and care facilities, assisted-living facilities, congregate-care facilities and convalescent facilities.

**[Added 12-18-2002]**

**RESTAURANT, FAST-FOOD**

Any establishment whose principal business is the sale of foods, frozen desserts or beverages to the customer in a ready-to-consume state, usually served in paper, plastic or other disposable containers, for consumption either within the restaurant building, elsewhere on the premises or for carry out for consumption off the premises.

**RESTAURANT, STANDARD**

Any establishment whose principal business is the sale of foods, frozen desserts or beverages in a ready-to-consume state to the customer and whose design or principal method of operation includes one or both of the following characteristics:

A. Customers, normally provided with an individual menu, are served their foods, frozen desserts or beverages by a restaurant employee at the same table or counter where said items are consumed.

B. A cafeteria-type operation where foods, frozen desserts or beverages generally are consumed within the restaurant building.

**SCHOOL**

An institution providing full-time day instruction and a comprehensive course of study in elementary and/or secondary education, which meets the requirements of the New York State Education Law.

**SHOPPING CENTER**

A tract of land, with buildings, planned as a whole, intended for three or more retail establishments, with common accessory parking on the same site.

**SIGN**

Any letter, word, model, banner, flag, pennant, insignia, device or representation designed or used as, or which is in the nature of, an announcement, direction or advertisement. The word "sign" does not include the flag, pennant or insignia of any nation, state, City or other political entity or signs devoted to prohibited trespassing. The following words and phrases shall have the meanings respectively ascribed to them herein particularly as they relate to sign regulations:

A. **ACCESSORY SIGN** Any sign related to a business or profession conducted, or to a commodity or service sold or offered, upon the premises where such sign is located.

B. **AWNING** A roof-like covering of canvas, fiberglass or other material attached to a metal or other frame and supported entirely from a building or other structure.

C. **FREESTANDING SIGNS** Those signs which are affixed to the ground and not attached to a building.

D. **FRONT FACE** The outer surface of a building which is visible from any public street or walkway. A building may have more than one front face.

E. **ICONIC SIGN** A sign which is a traditionally accepted pictorial symbol conveying the nature of the business, normally constructed in heavy relief or which is three-dimensional.

F. **INTERIOR SIGN** Any sign, except address numbers that are affixed to or painted on the interior of a window or door or located within three feet of the inside face of the window or face of the window or a door, which sign is designed to be visible from the exterior of the window or door.

G. **MOBILE SIGN** A sign not permanently affixed to a structure or to the ground and designed or intended to be moved from one location to another. (See also "temporary sign.")

H. **MARQUEE, CANOPY OR BALCONY SIGN** A sign which is part of, attached to or hung from a marquee, canopy or other covered structure projecting from and supported or partially supported by a building.

I. **PROJECTING (OVERHANGING) SIGN** A sign which is affixed to an exterior wall of the structure extending perpendicular or at an angle of more than 30° from the wall and with the sign surface plane (upon which the typography is displayed) perpendicular to or at an angle of more than 30° to the wall plane.

J. **ROOF SIGN** A sign which is erected, constructed or maintained on, partly above or as part of the roof of any building.

K. **SIGN AREA** The area of a sign shall be measured as follows:

(1) When such sign is on a plate or framed or outlined, all of the area of such plate or the area enclosed by such frame or outline shall be included.

L. When such sign consists only of letters, designs or figures engraved, painted, projected or in any manner affixed on a wall or a fascia panel integrated into the building design, the total area of such sign shall be deemed the area of the smallest triangle, rectangle or circle within which all of the matter of which such sign consists may be inscribed.

M. **TEMPORARY SIGN** A sign which is designed to advertise or announce a particular event or series of events, to solicit political support or to announce the availability for sale of a particular item or items which will be available for a limited period.

N. **WALL SIGN** A sign which is affixed to or painted on an exterior wall of the structure and with the sign surface plane (upon which the typography is displayed) in the same plane as the wall plane.

## **SITE PLAN**

A plan that indicates the proposed development and use of land or structures.

## **SKILLED NURSING HOME or CONVALESCENT HOME**

A facility operated for the purpose of providing lodging, board and nursing care to sick, invalid, infirm, disabled or convalescent persons for remuneration.

## **SPECIAL PERMIT USE**

A use of property that is basically appropriate to a given zoning district but which may be incompatible in some locations within the districts and therefore is not permitted by right everywhere within such district. A special permit use, therefore, is one which is allowable only when facts and conditions specified in the chapter as those upon which the use is permitted are found to exist.

## **STORY**

That part of any building, exclusive of cellars but inclusive of basements, comprised between the level of one finished floor and the level of the next higher finished floor or, if there is no higher finished floor, then that part of the building comprised between the level of the highest finished floor and the top of the roof beams.

## **STORY, HALF**

Any space partially within the roof framing, where the clear height of less than 50% of such space between the top of the floor beams and the structural ceiling level is seven feet six inches or more.

## **STREET**

Any public street, court, place, square, lane or way set aside or used as a right-of-way, which affords legal access to abutting property.

## **STREET LINE**

The dividing line between a lot and a street.

## **STRUCTURAL ALTERATION**

Any change in the supporting members of a building or an enlargement thereof, whether by extension or by an

increase in height, or moving from one location or position to another.

#### **SWIMMING POOL**

An outdoor water pool which is intended to be used for swimming or bathing. An outdoor water pool shall, for the purposes of this chapter, be construed to mean any swimming pool, tank, depression or excavation in any material, dike or berm which is constructed, erected, excavated or maintained, which will cause the retention of water to a greater depth than 18 inches or having a plane surface area of water greater than 100 square feet.

This definition includes in-ground as well as aboveground swimming pools.

#### **TOWNHOUSE (also ROW HOUSE)**

One of several units in a building, which unit is designed for and occupied exclusively as a residence for not more than one family living independently of any other family, separated from other units by a party wall or walls and erected on a lot intended to be held in the form of a condominium or in a single and separate ownership from any adjoining units.

#### **TRAILER or MOBILE HOME**

Any vehicle mounted on wheels, movable either by its own power or by being drawn by another vehicle, and equipped to be used for living or sleeping quarters or so as to permit cooking. The term "trailer" shall include such vehicles if mounted on temporary or permanent foundations with the wheels removed. "Trailer" includes travel trailers and recreation vehicles but does not include manufactured homes or modular homes built to Building Code standards.

#### **USABLE OPEN SPACE**

An unenclosed portion of the ground of a lot which is not devoted to driveways or parking spaces, which is free of structures of any kind, of which not more than 25% is roofed for shelter purposes (i.e., a pavilion) only, the minimum

**dimension of which is 40 feet and which is available and accessible to all occupants of the building or buildings on said lot for purposes of active or passive outdoor recreation. An accessory building roof space may be substituted for ground space, provided that such space is available and accessible to all said occupants by means of access other than stairs. USE**

The specific purpose for which land or a building is designed, arranged, intended or for which it is or may be occupied or maintained.

#### **USE, ACCESSORY**

A use customarily incidental and subordinate to the main use on a lot, whether such accessory use is conducted in a principal or accessory building.

#### **YARD**

A space on the same lot with a main or principal building, open, unoccupied and unobstructed by buildings or structures from the ground to the sky, except as otherwise provided in this chapter.

#### **YARD, FRONT**

An open, unoccupied space extending across the full width of the lot, between the front lot line and a line drawn parallel thereto.

#### **YARD LINE**

A line drawn parallel to a street or lot line at a distance therefrom equal to the respective yard dimension required by this chapter.

#### **YARD, REAR**

An open, unoccupied space extending across the full width of the lot between the rear lot line and a line drawn parallel thereto.

#### **YARD, REQUIRED**

Any yard measured between a line drawn parallel to a street or lot line at a distance equal to the respective minimum yard dimension required by this chapter.

#### **YARD, SIDE**

An open, unoccupied space between the building and the side line of the lot and extending from the front yard to the rear yard. Any lot line not a rear line or a street line shall be deemed a side line.

### **ARTICLE III. Zoning Districts and Map**

#### **§ 405-4. Districts enumerated.**

The City of Kingston is hereby divided into the following districts:

Title	Symbol
One-Family Residence	RRR
One-Family Residence	RR

Title	Symbol
One-Family Residence	R-1
Two-Family Residence	R-2
Three-Family Residence	R-3
Two-Story Multiple Residence	R-4
Three-Story Multiple Residence	R-5
Multiple Residence	R-6
Convenience Business	NB
Shopping Center	C-1
Central Commercial	C-2
General Commercial	C-3
Rondout District	RT
Light Manufacturing	M-1
General Manufacturing	M-2
Limited Office	O-1
Limited Office	O-2
Limited Office	O-3
<b>[Added 6-5-2001; approved 6-11-2001]</b>	
Residential Limited Commercial Mixed Use	RLC
Flood Hazard Overlay	
Waterfront Design Overlay	W Editor's Note: Former entries for Landmark Overlay-Stockade District (LS) and Landmark Overlay (L) were repealed 11-14-1989, approved 11-15-1989.
Landmark District <b>[Added 9-18-1986, approved 9-19-1986; 11-14-1989, approved 11-15-1989]</b>	L
Riverfront District	RF-R
Rondout Creek	
Hudson Riverfront District	RF-H
Mixed Use Overlay District <b>[Added 1-4-2005, approved 1-5-2005]</b>	

#### § 405-5. Zoning Map.

The boundaries of said districts are hereby established as shown on the Zoning Map, City of Kingston, New York, dated February 1982, which map accompanies and which, with all explanatory matter thereon, is hereby adopted and made a part of this chapter. Said map, indicating the latest amendments, **Editor's Note: A Table of Zoning Map Amendments is included at the end of this chapter.** shall be kept up-to-date in the office of the City Engineer for the use and benefit of the public.

#### **§ 405-6. District boundaries.**

In determining the boundaries of districts shown on the map, the following rules shall apply:

- A. Unless otherwise shown, the district boundaries shall be constructed to coincide with property lines, the center lines of streets, alleys, watercourses and the main track or tracks of railroads.
- B. Where a district boundary line is shown to be a certain specified distance from a street line, such boundary line shall be deemed to be parallel to such street line.
- C. Where such boundaries are indicated as approximately following the property lines of parks or other publicly or institutionally owned lands, such lines shall be construed to be such boundaries.
- D. In all cases where, on the effective date of this chapter, a district boundary divides a lot, other than a through lot, in one ownership, in such a way that 50% or more of such lot lies in the less restricted district, the regulations prescribed by this chapter for such less restricted district shall apply to such portion of the more restricted portion of said lot which lies within 30 feet of such district boundary. For purposes of this section, the more restricted district shall be deemed that district which is subject to regulations which prohibit the particular use intended to be made of said lot or which regulations set higher standards with respect to setback, coverage, yards, screening, landscaping and similar requirements.
- E. In all cases where a district boundary line is located not farther than 15 feet away from a lot line of record, the regulations applicable to the greater part of the lot may be deemed to apply to the entire lot.

#### **§ 405-7. Effect of establishment of districts.**

Following the effective date of this chapter:

- A. No building shall be erected, moved, altered, rebuilt or enlarged, nor shall any land or building be used, designed or arranged to be used for any purpose or in any manner, except in conformity with all regulations, requirements and/or restrictions specified in this chapter for the district in which such building or land is located
- B. No yard or open space required in connection with any building or use shall be considered as providing a required open space for any other building on the same or any other lot.
- C. No lot shall be formed from part of a lot already occupied by a building unless such building, all yards or open spaces connected therewith and the remaining lot comply with all requirements prescribed by this chapter for the district in which said lot is located. No permit shall be issued for the erection of a building on any new lot thus created unless such building and lot comply with all the provisions of this chapter.
- D. The minimum lot dimension or lot area regulations, or both, shall not apply to any lot with an area, width and/or depth of less than those prescribed herein, provided that:
  - (1) Such lot was under different ownership from that of any adjoining land on the effective date of this chapter, as amended.
  - (2) Such lot shall comply with all other applicable regulations prescribed by this chapter.
- E. Nothing contained in this chapter shall require any change in the plans, construction or designated use of a building complying with existing law, a permit for which shall have been duly issued and the construction of which shall have been started before the effective date of this chapter and the ground story framework of which, including the second tier of beams, shall have been completed within six months of the date of the permit, and which entire building shall have been completed in accordance with such plans as have been filed within one year from the effective date of this chapter.
- F. Any uses not specifically permitted shall be deemed to be prohibited. Any list of prohibited uses contained in any section of this chapter shall be deemed to be not an exhaustive list but to have been included for the purposes of clarity and emphasis and to illustrate, by example, some of the uses frequently proposed that are deemed undesirable and incompatible in the particular district.
- G. Prohibition of noxious uses. Regardless of any other provisions of this chapter, any use that is noxious or

offensive by reason of emission or odor, dust, noise, vibration, smoke, gas, fumes or radiation or which presents a hazard to public health or safety is prohibited.

H. Municipal and governmental uses by the City of Kingston. All municipal and governmental uses by the City of Kingston of land and/or buildings are hereby permitted in each and every district enumerated in Article [III](#) of this chapter.

#### **§ 405-8. Schedule Controlling Land and Buildings.**

To facilitate public understanding of this chapter and for the better administration thereof, the regulations establishing the permitted uses of land and buildings, the limitations on the size of lots, the percent of coverage of land by buildings and the location, arrangement, height and size of buildings, required open spaces and all other requirements, for each of the districts established by Article [III](#) of this chapter, are set forth in summary form in the schedule designated as the "Schedule Controlling Land and Buildings," which is annexed hereto. *Editor's Note: The Schedule Controlling Land and Buildings consists of two parts. The Schedule of Lot and Bulk Requirements is included at the end of this chapter. The Summary of Permitted Uses is on file in the office of the City Clerk. Such schedule is hereby adopted and declared to be a part of this chapter, is hereinafter referred to as the "Schedule" and may be amended in the same manner as any other part of this chapter.*

#### **ARTICLE IV. District Regulations**

##### **§ 405-9. RRR One-Family Residence District.**

In the RRR One-Family Residence District, the following regulations shall apply. (See also Article [V](#), Supplementary Regulations; all uses, except those with an asterisk, require site plan approval from the Planning Board in accordance with [§ 405-30](#).)

A. Uses permitted by right. A building may be erected, constructed, reconstructed, altered, arranged, designed or used, and a lot or premises may be used, for any of the following purposes by right and for no other:

- (1) \*One-family dwellings, not to exceed one such dwelling on each lot.
- (2) Cemeteries.
- (3) Places of worship, including parish houses and religious school buildings, and public and private schools and children's homes on land not less than five acres in size, including uses customarily accessory thereto, subject to the following requirements:
  - (a) Notwithstanding any other provisions contained in this chapter, no building shall exceed a height of 42 feet, nor shall the number of stories at any point along the periphery of such building exceed three.
  - (b) No building or part thereof shall be erected nearer than 50 feet to any street line or property line.
  - (c) The sum of all areas covered by all principal and accessory buildings shall not exceed 25% of the area of the lot.
  - (d) Any private school permitted under this subsection shall be a nonprofit organization within the meaning of the Internal Revenue Act and shall be registered effectively as such.
  - (e) All parking and service areas shall be screened from the view of all adjoining residential properties by an opaque fence, wall or hedge of a height not less than six feet nor more than 10 feet. The design and location of such screen shall be subject to approval by the Planning Board.
- (4) General hospitals and nursing and convalescent homes, meeting the requirements of the county or state agency having jurisdiction, intended primarily for the care and treatment of residents of the City of Kingston and adjacent municipalities, provided that:
  - (a) Such hospital does not care mainly for patients suffering from alcoholism, drug addiction or mental disorders.
  - (b) No new building for hospital or nursing or convalescent home purposes shall be erected nearer than its height or 60 feet, whichever is the greater distance, to any street or property line, nor shall any lot on which such facility is erected have an area of less than five acres, except that this provision shall not apply to lands owned by existing hospitals.
  - (c) Notwithstanding any other provisions contained in this chapter, no building shall exceed a height of 35 feet nor shall the number of stories at any point along the periphery of such building exceed three.

(d) The sum of all areas covered by principal and accessory buildings shall not exceed 25% of the area of the lot.

(5) Farms, truck gardens, greenhouses, nurseries and arboretums on lots having an area of at least five acres, including the sale on the premises of produce grown thereon, provided that:

(a) Except as hereinafter provided, any farm building, other than dwellings and buildings accessory thereto, and the heating plant of any greenhouse shall be distant at least 75 feet from any street line or property line.

(b) Farm buildings devoted to or intended for the housing of livestock, horses, rabbits, hares, guinea pigs, ducks, geese, live poultry or fowls of any kind shall be erected at least 200 feet from any street or property line.

(c) No odorous fertilizer shall be stored within a distance of 75 feet of any street or property line.

B. The following uses are subject to the issuance of a special permit by the Planning Board in accordance with the provisions of § [405-32](#) of this chapter:

(1) Radio, television and other electronic transmission stations and towers and public utility transmission lines, unit substations or other utility installations and disc antennas or devices of similar nature, provided that the establishment of the particular use in the area is necessary for the operation of the public utility system or required to supply utility service to the local area and the Planning Board determines that there is no other reasonable location in a less restricted district that can be utilized for the purpose.

(2) Cluster developments, subject to the requirements of § [405-35](#) of this chapter.

(3) Nursery or preschool educational establishments or day-care centers, subject to the following requirements:

(a) The applicant shall have obtained all licenses, certifications or approvals that may be required by federal, state or local law.

(b) For each child registered, there shall be a minimum of 35 feet of floor space exclusive of halls, bathrooms and kitchens.

(c) For each child enrolled, there shall be provided not less than 75 square feet of usable exterior open space. The Planning Board may authorize the substitution of interior space available for recreation purposes if it determines that the aggregate space to be provided is adequate.

(d) No permanently installed play equipment shall be located in any required front or side yard.

(e) Any outdoor play area shall be located either not nearer than 30 feet from any lot in an RRR through R-3 District or shall be screened therefrom by a device found sufficient by the Planning Board to ensure visual and auditory privacy to such adjacent properties.

(4) Libraries, museums and/or art galleries on lots having an area of not less than 20,000 square feet, provided that no building is erected nearer than 50 feet to any street or property line.

(5) Golf, tennis or swimming clubs, subject to the following requirements:

(a) The site shall have an area of not less than two acres.

(b) No building or part thereof and no parking or loading area shall be located within 150 feet of a street line or of a property line of a lot in an RRR through R-3 District.

(6) Family day-care homes, authorized by the New York State Department of Social Services.

(7) Agency group homes, agency community residences, intermediate care facilities or family care homes and adult care facilities, subject to the following requirements:

**[Amended 6-5-2001; approved 6-11-2001]**

(a) The special permit shall be reviewed every two years.

(b) Total occupants shall not exceed one for each 1,000 square feet of lot area.

(c) Said home shall not be located within 1,200 feet of any other lot on which another agency group home, agency community residence or boarding, lodging or rooming house or other similar use is located. Said distance shall be measured from those points on the periphery of the lots on which such houses are located or proposed to be located nearest to each other.

(d) Said home shall conform to and be maintained in harmony with the overall character and appearance of the surrounding neighborhood.

(e) Said home shall not erect any sign that identifies or advertises the use or occupancy of the home.

(f) Where residents are permitted to own or operate an automobile, one off-street parking space shall be provided for each resident for whom the facility is designed and each employee while on duty, and such parking shall not be located in any required yard.

(g) Said home shall be registered with the City Clerk, and the following information shall be filed and kept up-to-date:

[1] The name of the operating agency.

[2] The name(s) of resident supervisor(s).

[3] The maximum number of persons that will live in the facility.

[4] The appropriate licenses and certifications.

(8) Renting out of not more than two rooms by a resident family, provided that no sign advertising the availability of such rooms shall be displayed.

(9) Accessory apartments.

(a) Purpose and intent. It is the specific purpose and intent to allow accessory apartments on properties with large one-family houses, except where enforceable deed covenants prohibit the same, to provide the opportunity and encouragement for the development of small, rental housing units designed, in particular, to meet the special housing needs of single persons and couples with limited income, both young and old, and of relatives of families presently living in the City. Furthermore, it is the purpose and intent of this provision to allow the more efficient use of the City's existing stock of dwellings to provide economic support for present resident families of limited income and to protect and preserve property values.

(b) Owner occupancy required. The owner(s) of the one-family lot upon which the accessory apartment is located shall occupy at least one of the dwelling units on the premises. The special permit and any conditions shall apply to the property.

(c) Location and age. An accessory apartment may be located in the principal dwelling, provided that such principal dwelling existed prior to January 1, 1982, contains a minimum of 2,000 square feet of habitable space and conforms to the other requirements of this chapter, unless a variance therefor shall have been granted by the Zoning Board of Appeals.

(d) Apartment size. The minimum floor area for an accessory apartment shall be 300 square feet, but in no case shall it exceed 25% of the habitable area of the dwelling in which it is located or 600 square feet, whichever is less, unless, in the opinion of the Planning Board, a greater or lesser amount of floor area is warranted by the specific circumstances of the particular building.

(e) Number of accessory apartments and dwelling units per lot. There shall be no more than one accessory apartment nor a total of two dwelling units permitted per lot.

(f) Exterior appearance. The entry to such unit and its design shall be such that, to the degree reasonably feasible, the appearance of the building will remain as a one-family residence.

(g) Water and sewer service. Prior to the issuance of a building permit for the establishment of an accessory apartment in a principal dwelling building, approval of the proposed method of water supply and sewage disposal shall be obtained from the Ulster County Department of Health and the City Water Department.

(h) Off-street parking.

[1] Off-street parking spaces shall be provided based upon the total number of bedrooms in both the principal dwelling unit and the accessory apartment according to the following schedule:

Number of Bedrooms	Number of Required Spaces
0 to 3	3
4 or more	4

[2] Off-street parking shall be so arranged that no additional curb cut is necessary.

(10) Adult day-care centers.

**[Added 9-13-1988; approved 9-16-1988]**

C. Accessory uses shall be limited to the following:

(1) Off-street parking in accordance with requirements of § [405-34](#).

(2) Customary home occupations, provided that:

- (a) No display of goods or waste material therefrom is visible from the street or adjoining properties.
- (b) Such occupation is incidental to the residential use of the premises and is carried on in the main building by a resident thereof with not more than one assistant who does not reside on the premises.
- (c) Only customary household appliances and equipment are used.
- (d) Such occupation is carried on in an area not exceeding 30% of the area of one floor of the main building.
- (e) No obnoxious odors, noise or vibration emanates therefrom.

(3) A professional office or studio of an architect, artist, accountant, chiropractor, City planner, clergyman, dentist, electrologist, engineer, insurance broker, lawyer, musician, optometrist, osteopath, physician, real estate broker, surgeon or teacher, provided that:

- (a) Such office or studio is incidental to the residential use of the premises and is carried on by a resident thereof with not more than one assistant who does not reside on the premises.
- (b) Such office or studio shall occupy not more than 30% of the area of one floor of the main building. Studios where dancing or music instruction is offered to groups in excess of four pupils at one time or where concerts or recitals are held are prohibited.

(4) A garden house, toolhouse, playhouse, greenhouse or swimming pool, incidental to the residential use of the premises, shall be subject to the following requirements:

- (a) No part of a pool shall be nearer than five feet to any property line, except that in the case of corner lots no part of such pool shall be nearer than 10 feet to the property line of either street.
- (b) Swimming pool fencing shall be erected in accordance with the provisions of the New York State Uniform Fire Prevention and Building Code § 720.

**[Amended 12-16-1999 by L.L. No. 2-2000, approved 1-3-2000]**

(c) Any lighting used in conjunction with such pool.

(d) Should the owner abandon the pool, he shall arrange to fill in the depression. The Building Inspector shall be notified of the abandonment within 60 days so that an inspection of the site may be made and the records of the permit be marked accordingly.

(e) Subsections [C\(4\)\(b\)](#), [\(c\)](#) and [\(d\)](#) of the foregoing regulations shall apply to existing pools, within six months following adoption of this chapter.

(5) Private garages, including carports, for not more than three passenger automobiles of residents on the premises, including the leasing to a nonresident of the premises of space for not more than one automobile.

(6) The keeping of customary household pets, but excluding the commercial breeding or keeping of the same.

(7) Nonilluminated signs in accordance with the regulations of § [405-36](#).

(8) Fences, hedges or garden walls for permitted residential uses shall be limited to four feet in height in any front yard and 6 1/2 feet in height in any rear and side yard. For all other permitted uses, such fences or garden walls may be erected to greater heights if approved or so required by the Planning Board or by other provisions of this chapter. The height of a fence or wall shall be measured above the finished grade. Fences shall be permitted only on private property.

D. Lot and bulk requirements. All lot and bulk requirements for all districts are to be found in the schedule at the end of this chapter.

#### **§ 405-10. RR One-Family Residence District.**

In the RR One-Family Residence District, the following regulations shall apply. (See also Article [V](#), Supplementary Regulations; all uses except, those with an asterisk, require site plan approval from the Planning Board in accordance with § [405-30](#).)

A. Uses permitted by right. A building may be erected, constructed, reconstructed, altered, arranged, designed or used, and a lot or premises may be used, for any of the following purposes by right and for no other:

(1) \*One-family dwellings, not to exceed one such dwelling on each lot.

(2) Cemeteries.

(3) Places of worship, including parish houses and religious school buildings, and public and private schools and children's homes on land not less than five acres in size, including uses customarily accessory thereto, subject to the requirements of § [405-9A\(3\)](#).

(4) General hospitals and nursing and convalescent homes, meeting the requirements of the county or state agency having jurisdiction, intended primarily for the care and treatment of residents of the City of Kingston and adjacent municipalities, subject to the requirements of § [405-9A\(4\)](#).

(5) Farms, truck gardens, greenhouses, nurseries and arboretums on lots having an area of at least five acres, including the sale on the premises of produce grown thereon, subject to the requirements of § [405-9A\(5\)](#).

B. The following uses are subject to the issuance of a special permit by the Planning Board in accordance with the provisions of § [405-32](#) of this chapter:

(1) Radio, television and other electronic transmission stations and towers and public utility transmission lines, unit substations or other utility installations and disc antennas and other similar devices, subject to the requirements of § [405-9B\(1\)](#).

(2) Cluster developments, subject to the requirements of § [405-35](#) of this chapter.

(3) Nursery or preschool educational establishments or day-care centers, subject to the requirements of § [405-9B\(3\)](#).

(4) Libraries, museums and/or art galleries on lots having an area of not less than 20,000 feet, provided that no building is erected nearer than 25 feet to any street or property line.

(5) Golf, tennis or swimming clubs, subject to the requirements of § [405-9B\(5\)](#).

(6) Clubs and recreational uses.

(a) Annual membership clubs, other than golf, tennis or swimming clubs, incorporated pursuant to the provisions of the Not-For-Profit Corporation Law of the State of New York, catering exclusively to members and their guests, and private playgrounds, swimming pools, tennis courts and recreation buildings not

conducted as business enterprises, provided that the following shall be prohibited:

- [1] Outdoor entertainment, live or mechanical.
- [2] The use of outdoor public-address systems for any purpose.
- [3] Exterior lighting, other than that essential for the safety and convenience of the users of the premises.
- [4] An artificially illuminated sign or signs in excess of 12 square feet.

(b) No building erected under the provisions of this subsection shall be located nearer than 50 feet to any street or property line.

(7) Family day-care homes authorized by the New York State Department of Social Services.

(8) Agency group homes, agency community residences, intermediate care facilities or family care homes and adult care facilities, subject to the requirements of § [405-9B\(7\)](#).

**[Amended 6-5-2001; approved 6-11-2001]**

(9) Renting out of not more than two rooms by the resident family, provided that no sign advertising the availability of such rooms shall be displayed.

(10) Accessory apartments in accordance with the requirements of § [405-9B\(9\)](#).

(11) Adult day-care centers.

**[Added 9-13-1988; approved 9-16-1988]**

C. Accessory uses shall be limited to the following:

(1) Off-street parking in accordance with the requirements of § [405-34](#).

(2) Customary home occupations, subject to the requirements of § [405-9C\(2\)](#).

(3) A professional office or studio, subject to the requirements of § [405-9C\(3\)](#).

(4) A garden house, toolhouse, playhouse, greenhouse or swimming pool, incidental to the residential use of the premises, shall be subject to the requirements of § [405-9C\(4\)](#).

(5) Private garages, including carports, for not more than three passenger automobiles of residents on the premises, including the leasing to a nonresident of the premises of space for not more than one such automobile.

(6) The keeping of customary household pets, but excluding commercial breeding or keeping of the same.

(7) Nonilluminated signs in accordance with the requirements of § [405-36](#).

(8) Fences, hedges or garden walls limited as in § [405-9C\(8\)](#).

(9) Buildings used for noncommercial horticultural or agricultural purposes, provided that no greenhouse heating plant shall be operated within a distance of 25 feet and no fertilizer shall be stored within a distance of 50 feet of any street or property line.

D. Lot and bulk requirements. All lot and bulk requirements for all districts are to be found in the schedule at the end of this chapter.

**§ 405-11. R-1 One-Family Residence District.**

In the R-1 One-Family Residence District, the following regulations shall apply. (See also Article [V](#), Supplementary Regulations; all uses, except those with an asterisk, require site plan approval from the Planning Board in accordance with § [405-30](#).)

A. Uses permitted by right. A building may be erected, constructed, reconstructed, altered, arranged, designed or used, and a lot or premises may be used, for any of the following purposes by right and for no other:

- (1) \*One-family dwellings, not to exceed one such dwelling on each lot.
- (2) Cemeteries.
- (3) Places of worship, including parish houses and religious school buildings, and public and private schools and children's homes on land not less than five acres in size, including uses customarily accessory thereto, subject to the requirements of § [405-9A\(3\)](#).
- (4) General hospitals and nursing and convalescent homes meeting the requirements of the county and state agency having jurisdiction, intended primarily for the care and treatment of residents of the City of Kingston and adjacent municipalities, subject to the requirements of § [405-9A\(4\)](#).
- (5) Farms, truck gardens, greenhouses, nurseries and arboretums on lots having an area of at least five acres, including the sale on the premises of produce grown thereon, subject to the requirements of § [405-9A\(5\)](#).

B. The following uses are subject to the issuance of a special permit by the Planning Board in accordance with the provisions of § [405-32](#) of this chapter:

- (1) Radio, television and other electronic transmission stations and towers and public utility transmission lines, unit substations or other utility installations and disc antennas or devices of a similar nature, subject to the requirements of § [405-9B\(1\)](#).
- (2) Nursery or preschool educational establishments or day-care centers, subject to the requirements of § [405-9B\(3\)](#).
- (3) Libraries, museums and/or art galleries on lots having an area of not less than 20,000 square feet, provided that no building is erected nearer than 25 feet to any street or property line.
- (4) Golf, tennis or swimming clubs, subject to the requirements of § [405-9B\(5\)](#).
- (5) Annual membership clubs, other than golf, tennis or swimming clubs, incorporated pursuant to the provisions of the Not-For-Profit Corporation Law of the State of New York, catering exclusively to members and their guests, and private playgrounds, swimming pools, tennis courts and recreation buildings not conducted as business enterprises, subject to the requirements of § [405-10B\(6\)](#).
- (6) Family day-care homes authorized by the New York State Department of Social Services.
- (7) Agency group homes, agency community residences, intermediate care facilities or family care homes and adult care facilities, subject to the requirements of § [405-9B\(7\)](#).

**[Amended 6-5-2001; approved 6-11-2001]**

- (8) Renting out of not more than two rooms by the resident family, provided that no sign advertising the availability of such rooms shall be displayed.
- (9) Accessory apartments in accordance with the requirements of § [405-9B\(9\)](#).
- (10) Adult day-care centers.

**[Added 9-13-1988; approved 9-16-1988]**

- (11) Residential care/assisted-living facilities. The special permit shall not be issued or renewed for a period longer than one year.

**[Added 12-18-2002, approved 12-23-2002]**

C. Accessory uses shall be limited to the following:

- (1) Off-street parking in accordance with the requirements of § [405-34](#).
- (2) Customary home occupations, subject to the requirements of § [405-9C\(2\)](#).
- (3) A professional office or studio, subject to the requirements of § [405-9C\(3\)](#).

- (4) A garden house, toolhouse, playhouse, greenhouse or swimming pool incidental to the residential use of the premises and subject to the requirements of § [405-9C\(4\)](#).
- (5) Private garages, including carports, for not more than three passenger automobiles of residents on the premises, including the leasing to a nonresident of the premises of space for not more than one such automobile.
- (6) The keeping of customary household pets, but excluding the commercial breeding or keeping of the same.
- (7) Nonilluminated signs in accordance with the requirements of § [405-36](#).
- (8) Fences, hedges or garden walls limited as in § [405-9C\(8\)](#).

D. Lot and bulk requirements. All lot and bulk requirements for all districts are to be found in the schedule at the end of this chapter.

**§ 405-12. R-2 Two-Family Residence District and R-3 Three-Family Residence District.**

In the R-2 Two-Family Residence District and R-3 Three-Family Residence District, the following regulations shall apply. (See also Article [V](#), Supplementary Regulations; all uses, except those with an asterisk, require site plan approval from the Planning Board in accordance with § [405-30](#).)

A. Uses permitted by right. A building may be erected, constructed, reconstructed, altered, arranged, designed or used and a lot or premises may be used for any of the following purposes by right and for no other:

- (1) \*One-family dwellings, not to exceed one such dwelling on each lot.
- (2) \*Two-family dwellings (in the R-3 District, three-family dwellings are permitted).
- (3) Cemeteries.
- (4) Places of worship, including parish houses and religious school buildings, and public and private schools and children's homes on land not less than five acres in size, including uses customarily accessory thereto, subject to the requirements of § [405-9A\(3\)](#), except that principal structures may be erected within 20 feet of any side or rear lot line, and the sum of all areas covered by all principal and accessory buildings shall not exceed 60% of the area of the lot.
- (5) General hospitals, nursing homes and convalescent homes meeting the requirements of the county and state agency having jurisdiction, intended primarily for the care and treatment of residents of the City of Kingston and adjacent municipalities, subject to the requirements of § [405-9A\(4\)](#).

**[Amended 12-18-2002, approved 12-23-2002]**

- (6) Farms, truck gardens, greenhouses, nurseries and arboretums on lots having an area of at least five acres, including the sale on the premises of produce grown thereon, subject to the requirements of § [405-9A\(5\)](#).

B. The following uses are subject to the issuance of a special permit by the Planning Board in accordance with the provisions of § [405-32](#) of this chapter:

- (1) Radio, television and other electronic transmission stations and towers and public utility transmission lines, unit substations or other utility installations and disc antennas or devices of a similar nature, subject to the requirements of § [405-9B\(1\)](#).
- (2) Rooming houses and boardinghouses, subject to the following requirements:

**[Amended 3-7-1995, approved 3-15-1995]**

- (a) No rooming house or boardinghouse which furnishes rooming or boarding accommodations for hire within the same shall exist or be maintained within the City without a special permit, which shall be issued by the Planning Board of the City of Kingston, as hereinafter provided.
- (b) No special permit shall be issued hereunder and any special permit heretofore or hereafter issued shall be subject to revocation, unless the applicant or holder of such permit fully complies with the following requirements:

[1] The applicant shall be the individual owner of such premises.

[2] At the time of the issuance of such special permit and at all times when said premises are used as a rooming house or boardinghouse, the owner thereof shall maintain his residence in and shall actually reside in said premises or there shall be a permanent resident of the City of Kingston who shall be the resident agent responsible for the management of the rooming house or boardinghouse.

[3] The maximum number of roomers or boarders shall be 12 and the maximum number of rooms shall be 10.

[4] There shall be no more than two people occupying a room as a roomer or boarder, and such room shall have a minimum of 80 square feet of floor space per occupant.

[5] Rooming houses and boardinghouses legally operating with a special permit at the time of the adoption of this chapter, as amended, which may be nonconforming uses under this chapter shall be entitled to the issuance of a special permit under compliance with all of the provisions of this chapter, except Subsections [B\(2\)\(b\)\[1\]](#), [\[2\]](#), [\[3\]](#) and [\[4\]](#) of this subsection, upon applications made prior to and for the permit year December 31, 1994. After said date, no special permit shall be issued to any applicant unless such applicant fully complies with all of the provisions of this chapter, including said Subsections [B\(2\)\(b\)\[1\]](#), [\[2\]](#), [\[3\]](#) and [\[4\]](#) of this subsection.

[6] All rooming houses and boardinghouses shall be heated by a central heating plant or permanently installed electric baseboard panel heating. No portable heating units are allowed.

[7] No cooking or storage of foodstuffs shall be permitted in any room other than a kitchen.

[8] In all parts of such building, artificial lighting shall be provided by means of electric current and each electric circuit shall be provided with a circuit breaker or fuse which shall meet the requirements of the New York Board of Fire Underwriters. Each new application shall be accompanied by a New York Board of Fire Underwriters' certificate. This certificate shall not be more than one year old. Thereafter, on renewal applications, a current New York Board of Fire Underwriters' certificate shall be required at least once each five years. Any fees involved in obtaining this current New York Board of Fire Underwriters' certificate shall be borne by the applicant.

[9] No sinks shall be installed or used in any sleeping room, but basins shall be permitted for personal washing and shaving. Such basins, however, shall not be used for washing of clothes and dishes or any unsanitary purposes.

[10] Bathroom facilities shall be maintained for the owner-occupant separate and apart from bathroom facilities for the roomers and boarders.

[11] The owner or resident agent of every rooming house and boardinghouse shall change supplied bed linens and towels therein at least once each week or prior to the letting of any room to any occupant. The owner or resident agent shall be responsible for the maintenance of all supplied bedding in a clean and sanitary manner.

[12] All garbage and kitchen wastes in every rooming house and boardinghouse shall be immediately deposited in suitable covered receptacles which shall be disposed of as needed in such a way as not to be or become offensive or unsanitary.

[13] All sleeping rooms shall be numbered with raised figures not less than three inches in height placed on the outside of the door to each room, and no two rooms shall bear the same number.

[14] Each and every floor on which rooms are occupied by roomers and boarders shall be equipped with a fire extinguisher in good working condition readily accessible for use at all times and approved by the Fire Prevention Bureau of the City of Kingston.

[15] No room shall be occupied by roomers or boarders in the third floor or attic of any dwelling unless the building complies fully with the New York State Multiple Residence Law. In a wood-frame dwelling, no room shall be occupied by roomers or boarders in the third floor or attic.

[16] Off-street parking must be provided on the premises at the rate of one space per occupant based on

maximum possible occupancy, plus one space for each employee.

[17] All rooming houses and boardinghouses with special permits shall be subject to inspections at all reasonable hours by properly authorized representatives of the City of Kingston. Failure to comply with this provision shall constitute grounds for immediate revocation of the permit.

[18] Every rooming house and boardinghouse and every part of the premises shall be at all times kept clean and free from dirt, filth and rubbish and in a sanitary condition. Cleaning and renovation shall be secured as may be ordered by the Building Safety Division of the Fire Department.

**[Amended 12-16-1999 by L.L. No. 2-2000, approved 1-3-2000]**

[19] No sign shall be erected that identifies or advertises the use of the rooming house or boardinghouse for such purpose.

[20] Said use shall conform and be maintained in harmony with the overall character and appearance of the surrounding neighborhood.

[21] No rooming house or boardinghouse permitted pursuant to this subsection shall be located less than 1,200 feet from an existing rooming house or boardinghouse.

[22] No rooming house or boardinghouse permitted pursuant to this subsection shall be located less than 1,200 feet from an existing bed and breakfast.

(c) Any person maintaining such a rooming house or boardinghouse shall keep upon such premises a register showing the names of all persons residing or living in or upon said premises, as well as the room occupied by each and shall exhibit the same to any member of the Police Department or the Fire Department of the City or his deputy, or any member of the Building Safety Division of the Fire Department of the City of Kingston, at any reasonable time upon demand, and the failure to so exhibit the same shall constitute a violation and be punished in accordance with § [405-52](#).

**[Amended 12-16-1999 by L.L. No. 2-2000, approved 1-3-2000]**

(d) For rooming houses and boardinghouses only, there shall be an annual special permit fee of \$200 per building plus a charge per room of \$20 for each room over four rooms per building which is used as an accommodation for hire. The fee for any special permit required by the provisions of this chapter shall be at the levels fixed from time to time by resolution of the Common Council of the City of Kingston or by local law.

(e) No special permit shall be issued or renewed for a longer period than one year, and all permits shall expire one year following the date of issuance. All applications, properly filled out, must be filed with the Planning Board of the City of Kingston at least 30 days prior to the expiration of the previous special permit or 30 days before the applicant intends to commence operations. The fee for the issuance of a special permit hereunder or for subsequent renewals thereof is hereby established for the whole or part of the calendar year.

(f) Every applicant of a rooming house or boardinghouse shall submit with his application to the Planning Board the following information which is to be filed both with the City Clerk and the Fire Officer:

**[Amended 12-16-1999 by L.L. No. 2-2000, approved 1-3-2000]**

[1] The name, address and phone number of the owner or operating agency of the rooming house or boardinghouse.

[2] The name, address and phone number of the permanent resident of the City of Kingston who shall be the resident agent responsible for the management of said rooming house or boardinghouse.

[3] A description of the property by street number, the number of apartments in each rooming house or boardinghouse, the number of rooms in each apartment, the number of rooms for sole occupancy and the maximum possible occupancy.

[4] The number of persons occupying each room and/or apartment.

[5] A plan or diagram of the lot containing the rooming house or boardinghouse and of each floor in the building, showing all dimensions, doors, windows, closets, water closets, bathrooms, staircases and means of exit.

[6] Proof of annual inspection by the Ulster County Department of Health.

(3) Nursery or preschool educational establishments or day-care centers, subject to the requirements of § [405-9B\(3\)](#).

(4) Libraries, museums and/or art galleries on lots having an area of 20,000 square feet, provided that no building is erected nearer than 25 feet to any street or property line.

(5) Golf, tennis or swimming clubs, subject to the requirements of § [405-9B\(5\)](#).

(6) Annual membership clubs, other than golf, tennis or swimming clubs, incorporated pursuant to the provisions of the Not-For-Profit Corporation Law of the State of New York, catering exclusively to members and their guests, and private playgrounds, swimming pools, tennis courts and recreation buildings not conducted as business enterprises, subject to the requirements of § [405-10B\(6\)](#).

(7) Family day-care homes authorized by the New York State Department of Social Services.

(8) Agency group homes, agency community residences, intermediate care facilities or family care homes and adult care facilities, subject to the requirements of § [405-9B\(7\)](#).

**[Amended 6-5-2001, approved 6-11-2001]**

(9) Renting out of not more than two rooms by resident families, provided that no sign advertising the availability of such rooms shall be displayed.

(10) Adult day-care centers.

**[Added 9-13-1988, approved 9-16-1988]**

(11) Residential care/assisted-living facilities. The special permit shall not be issued or renewed for a period longer than one year.

**[Added 12-18-2002, approved 12-23-2002]**

C. Accessory uses shall be limited to the following:

(1) Off-street parking in accordance with the requirements of § [405-34](#).

(2) Customary home occupations, subject to the requirements of § [405-9C\(2\)](#).

(3) A professional office or studio of an architect, artist, public accountant, chiropractor, City planner, clergyman, dentist, electrologist, engineer, insurance broker, lawyer, musician, optometrist, osteopath, physician, real estate broker, surgeon or teacher, subject to the requirements of § [405-9C\(3\)](#).

(4) A garden house, toolhouse, playhouse, greenhouse or swimming pool, incidental to the residential use of the premises, shall be subject to the requirements of § [405-9C\(4\)](#).

(5) Private garages, including carports, for not more than three passenger automobiles of residents on the premises, including the leasing to a nonresident of the premises of space for not more than one such automobile.

(6) The keeping of customary household pets, but excluding the commercial breeding or keeping of the same.

(7) Nonilluminated signs in accordance with the requirements of § [405-36](#).

(8) Fences, hedges or garden walls limited as in § [405-9C\(8\)](#).

D. Lot and bulk requirements. All lot and bulk requirements for all districts are to be found in the schedule at the end of this chapter.

**§ 405-13. R-4 Two-Story Multiple Residence District and R-5 Three-Story Multiple Residence District.**

In the R-4 Two-Story Multiple Residence District and the R-5 Three-Story Multiple Residence District, the following regulations shall apply. (See also Article V, Supplementary Regulations; all uses, except those with an asterisk, require site plan approval from the Planning Board in accordance with § 405-30.)

A. Use permitted by right. A building may be erected, constructed, reconstructed, altered, arranged, designed or used, and a lot or premises may be used, for any of the following purposes by right and for no other:

- (1) \*One-family dwellings, not to exceed one such dwelling on each lot.
- (2) \*Two-family dwellings.
- (3) \*Three-family dwellings.
- (4) Dwellings for four or more families, including townhouses. In addition to the provisions of the Lot and Bulk Schedule and § 405-30, such uses shall be subject to the following restrictions:
  - (a) Length of building. No building shall exceed a length of 160 feet.
  - (b) Distance between buildings. The following minimum distances between buildings shall be observed:
    - [1] Between a principal building, other than a one-family dwelling, and a one-story accessory building, 20 feet.
    - [2] Between any two other buildings, a distance equal to the average height of such buildings at the points where such buildings are nearest one to the other.
- (5) Office use in multiple dwellings, except that not more than one professional office or studio, other than accessory to a use otherwise permitted, shall be permitted for each 25 dwelling units or major fraction thereof on the lot. Such office or studio shall be only on the street floor of any building and on the floor immediately above the street floor only if there is access to such office or studio from other than a public hall.
- (6) Cemeteries.
- (7) Places of worship, including parish houses and religious school buildings, and public and private schools and children's homes on land not less than five acres in size, including uses customarily accessory thereto, subject to the requirements of § 405-9A(3), except that principal structures may be erected to within 20 feet of any side or rear lot line, and the sum of all areas covered by all principal and accessory buildings shall not exceed 60% of the area of the lot.
- (8) General hospitals, nursing homes and convalescent homes meeting the requirements of the county or state agency having jurisdiction, intended primarily for the care and treatment of residents of the City of Kingston and adjacent municipalities, subject to the requirements of § 405-9A(4).

**[Amended 12-18-2002, approved 12-23-2002]**

(9) Farms, trucks gardens, greenhouses, nurseries and arboretums on lots having an area of at least five acres, including the sale on the premises of produce grown thereon, subject to the requirements of § 405-9A(5).

B. The following uses are subject to the issuance of a special permit by the Planning Board in accordance with the provisions of § 405-32 of this chapter:

- (1) Radio, television and other electronic transmission stations and towers and public utility transmission lines, unit substations or other utility installations and disc antennas or devices of a similar nature, provided that the establishment of the particular use in the area is necessary for the operation of the public utility system or required to supply utility service to the local area.
- (2) Rooming houses and boardinghouses, subject to the requirements of § 405-12B(2).
- (3) Nursery or preschool educational establishments, or day-care centers, subject to the requirements of § 405-9B(3).
- (4) Libraries, museums and/or art galleries on lots having an area of 20,000 square feet, provided that no building is erected nearer than 25 feet to any street or property line.

(5) Golf, tennis or swimming clubs, subject to the requirements of § [405-9B\(5\)](#).

(6) Annual membership clubs, other than golf, tennis or swimming clubs, incorporated pursuant to the provisions of the Not-For-Profit Corporation Law of the State of New York, catering exclusively to members and their guests, and private playgrounds, swimming pools, tennis courts and recreation buildings not conducted as business enterprises, subject to the requirements of § [405-10B\(6\)](#).

(7) Family day-care homes.

(8) Agency group homes, agency community residences, intermediate care facilities or family care homes, adult care facilities and emergency shelters subject to the requirements of § [405-9B\(7\)](#).

(9) Renting out of not more than two rooms by resident families, provided that no sign advertising the availability of such rooms shall be displayed.

(10) Adult day-care centers.

**[Added 9-13-1988; approved 9-16-1988]**

(11) Residential care/assisted-living facilities. The special permit shall not be issued or renewed for a period longer than one year.

**[Added 12-18-2002, approved 12-23-2002]**

C. Accessory uses shall be limited to the following:

(1) Off-street parking in accordance with the requirements of § [405-34](#).

(2) Customary home occupations, subject to the requirements of § [405-9C\(2\)](#).

(3) A garden house, toolhouse, playhouse, greenhouse or swimming pool, incidental to the residential use of the premises, shall be subject to the requirements of § [405-9C\(4\)](#).

(4) The keeping of customary household pets, but excluding the commercial breeding or keeping of the same.

(5) Nonilluminated signs in accordance with the requirements of § [405-36](#).

(6) Fences, hedges or garden walls limited as in § [405-9C\(8\)](#).

D. Lot and bulk requirements. All lot and bulk requirements for all districts are to be found in the schedule at the end of this chapter. The only distinctions between R-4 and R-5 Districts are permitted density and height.

#### **§ 405-14. R-6 Multiple Residence District.**

In the R-6 Multiple Residence District, the following regulations shall apply. (See also Article [V](#), Supplementary Regulations; all uses, except those with an asterisk, require site plan approval from the Planning Board in accordance with § [405-30](#).)

A. Uses permitted by right. A building may be erected, constructed, reconstructed, altered, arranged, designed or used, and a lot or premises may be used, for any of the following purposes by right and for no other:

(1) \*One-family dwellings, not to exceed one such dwelling on each lot.

(2) \*Two-family dwellings.

(3) \*Three-family dwellings.

(4) Dwellings for four or more families, including townhouses, in addition to the provisions of the Lot and Bulk Schedule and § [405-30](#), Site development plan approval, and such uses shall be subject to the restrictions in § [405-13A\(4\)](#).

(5) Cemeteries.

(6) Places of worship, including parish houses and religious school buildings, and public and private schools and children's homes on land not less than five acres in size, including uses customarily accessory thereto, subject to the requirements of § [405-13A\(7\)](#).

(7) General hospitals, nursing homes and convalescent homes meeting the requirements of the county or state agency having jurisdiction, intended primarily for the care and treatment of residents of the City of Kingston and adjacent municipalities, subject to the requirements of § [405-9A\(4\)](#).

**[Amended 12-18-2002, approved 12-23-2002]**

B. The following uses are subject to the issuance of a special permit by the Planning Board in accordance with the provisions of § [405-32](#) of this chapter:

(1) Professional offices and/or restaurants within a residential structure, limited as follows:

(a) Not more than two floors in parts thereof may be used for such purposes.

(b) Such uses shall be accessible by means other than a public hall leading to residential uses.

(c) Not more than 1/3 of the floor space of a structure may be used for such purposes.

(d) Restaurants shall have a minimum service area of 1,000 square feet.

(e) Drive-in restaurants or restaurants that provide window service or restaurants that have only counter service are not permitted.

(2) Radio, television and other electronic transmission stations and towers and public utility transmission lines, unit substations or other utility installations and disc antennas and other similar devices, subject to the requirements of § [405-13B\(1\)](#).

(3) Rooming houses and boardinghouses subject to the requirements of § [405-12B\(2\)](#).

(4) Nursery or preschool educational establishments, or day-care centers, subject to the requirements of § [405-9B\(3\)](#).

(5) Libraries, museums and/or art galleries on lots having an area of 10,000 square feet.

(6) Golf, tennis or swimming clubs, subject to the requirements of § [405-9B\(5\)](#).

(7) Annual membership clubs, other than golf, tennis or swimming clubs, incorporated pursuant to the provisions of the Not-For-Profit Corporation Law of the State of New York, catering exclusively to members and their guests, and private playgrounds, swimming pools, tennis courts and recreation buildings not conducted as business enterprises, subject to the requirements of § [405-10B\(6\)](#).

(8) Family day-care homes authorized by the New York State Department of Social Services.

(9) Agency group homes, agency community residences, intermediate care facilities or family care homes, adult care facilities and emergency shelters, subject to the requirements of § [405-9B\(7\)](#).

(10) Renting out of not more than two rooms by resident families, provided that no sign advertising the availability of such rooms shall be displayed.

(11) Adult day-care centers.

**[Added 9-13-1988; approved 9-16-1988]**

(12) Residential care/assisted-living facilities. The special permit shall not be issued or renewed for a period longer than one year.

**[Added 12-18-2002, approved 12-23-2002]**

C. Accessory uses shall be limited to the following:

(1) Off-street parking in accordance with the requirements of § [405-34](#).

(2) Customary home occupations, subject to the requirements of § [405-9C\(2\)](#).

(3) A garden house, toolhouse, playhouse, greenhouse or swimming pool, incidental to the residential use of

the premises and subject to the requirements of § [405-9C\(4\)](#).

(4) The keeping of customary household pets, but excluding the commercial breeding or keeping of the same.

(5) Nonilluminated signs in accordance with the requirements of § [405-36](#).

(6) Fences, hedges or garden walls limited as in § [405-9C\(8\)](#).

D. Lot and bulk requirements. All lot and bulk requirements for all districts are to be found in the schedule at the end of this chapter.

#### **§ 405-15. NB Neighborhood Commercial District.**

In the NB Neighborhood Commercial District, the following regulations shall apply. (See also Article [V](#), Supplementary Regulations; all uses, except those with an asterisk, require site plan approval in accordance with § [405-30](#).)

A. Purpose. The purpose of this district is to permit and limit the location of businesses and services that are designed to serve day-to-day recurring needs of residents in the immediate vicinity.

B. Uses permitted by right. A building may be erected, altered, arranged, designed or used, and a lot or premises may be used, for any of the following purposes by right and for no other:

(1) Retail stores limited to the sale of groceries, sundries, printed material and packaged beverages, with a maximum of 8,000 square feet of selling space. Such stores shall be permitted to operate only between 6:00 a.m. and 11:00 p.m.

(2) Banks, including drive-in windows.

(3) Personal service stores, such as, but not limited to, barbershops, beauty parlors, tailors and dry-cleaning stores, provided that no dry cleaning is done on the premises.

(4) Residences when combined with another permitted use or special permit use, provided that a separate entrance is provided for the section of a structure devoted to residential uses.

(5) Places of worship, including parish houses and religious school buildings, including uses customarily accessory thereto, subject to the requirements of § [405-9A\(3\)](#).

(6) Laundry establishments.

#### **[Added 4-4-1989; approved 4-5-1989]**

C. The following uses are subject to issuance of a special permit by the Planning Board in accordance with the provisions of § [405-32](#) of this chapter:

(1) Radio, television and other electronic transmission stations and towers and public utility transmission lines, unit substations or other utility installations and disc antennas and other similar devices, provided that the establishment of the particular use in the area is necessary for the operation of the utility system or required to supply utility service to the local area .

(2) Nursery schools or preschool educational establishments or day-care centers, subject to the requirements of § [405-9B\(3\)](#).

(3) Funeral parlors.

(4) Public or quasi-public community centers, including meeting rooms, recreation facilities, counseling and similar services.

(5) Libraries, museums and art galleries.

(6) Art or craft studios or studios for teaching the performing arts, provided that where there is music, any classes or group work must be concluded by 8:00 p.m.

(7) A business or professional office, where such use is scaled primarily to serve the immediate neighborhood.

(8) An annual membership club in accordance with § [405-10B\(6\)](#).

(9) Renting out of not more than two rooms by resident families, provided that no sign advertising the availability of such rooms shall be displayed.

(10) Adult day-care centers.

**[Added 9-13-1988; approved 9-16-1988]**

D. Accessory uses shall be limited to the following:

(1) Off-street parking in accordance with the requirements of § [405-34](#).

(2) Customary home occupations, other than those uses otherwise permitted in this district, subject to the requirements of § [405-9C\(2\)](#).

(3) A garden house, toolhouse, playhouse, greenhouse or swimming pool, incidental to the primary use of the premises, subject to the requirements of § [405-9C\(4\)](#).

(4) The keeping of customary household pets, but excluding the commercial breeding or keeping of the same.

(5) Nonilluminated signs in accordance with the requirements of § [405-36](#).

(6) Fences, hedges or garden walls limited as in § [405-9C\(8\)](#).

E. Lot and bulk requirements. All lot and bulk requirements for all districts are to be found in the schedule at the end of this chapter.

**§ 405-16. C-1 Shopping Center District.**

In the C-1 Shopping Center District, the following regulations shall apply. (See also Article [V](#), Supplementary Regulations; all uses, except those with an asterisk, require site plan approval from the Planning Board in accordance with § [405-30](#).)

A. Purpose of district. It is the intent of this district to provide for a range of commercial uses in large, planned units at a low density.

B. Uses permitted by right. A building may be erected, altered, arranged, designed or used, and a lot or premises may be used, for any of the following purposes by right and for no other:

(1) Retail stores.

(2) Banks, including drive-in windows.

(3) New or used automobiles sales establishments.

(4) Service businesses, such as, but not limited to, barbershops, beauty parlors, tailors and custom dressmakers, jewelry repair, shoe repair, travel agents, appliance repair, duplicating businesses and job printing establishments having not more than 10 persons employed therein.

(5) Business, professional and governmental offices.

(6) Automotive service establishments, auto rental, gasoline filling stations and incidental motor vehicle storage, repair or service. Where vehicles are stored for repair, they must have a valid registration and may remain for only one week.

(7) Theaters and assembly halls; commercial recreation such as ice skating, bowling alleys and billiard halls; and restaurants.

(8) Outlets and pickup stations for laundries and cleaning establishments dealing directly with the public. Except as specified hereinafter, the washing of wearing apparel on the premises is prohibited. Cleaning of wearing apparel or household effects on the premises is permitted only if noncombustible solvent is used, except for the incidental removal of spots with combustible solvent, and only if not more than five horsepower in electric motive power is used. Self-service automatic laundry establishments are permitted, provided that such establishment shall contain not more than a total of 30 machines used for clothes washing or drying.

(9) A newspaper plant, including incidental publishing.

- (10) Art or craft studios or studios for teaching the performing arts.
  - (11) Funeral parlors.
  - (12) Libraries, museums and art galleries.
  - (13) Manufacturing, assembling, converting, altering, finishing, cleaning or any other processing of products where goods so produced or processed are to be sold at retail, exclusively on the premises, provided that:
    - (a) An area fully concealed from all streets and equal to not more than 20% of the area devoted to retail sales is so used.
    - (b) Except in connection with newspaper printing, electrical power not exceeding a total of 10 horsepower in electric motive power shall be used exclusively, except that an installation of 10 horsepower or less using fuel other than electricity may be used upon a finding by the Fire Officer that said installation shall be free of nuisance characteristics and will have no adverse effect on neighboring uses.
- [Amended 12-16-1999 by L.L. No. 2-2000, approved 1-3-2000]**
- (c) Not more than 10 persons are engaged in such production, handling or processing.
  - (14) Public and private off-street parking lots and parking garages. Unless accessory to and on the same lot with a use otherwise permitted, such garages and parking lots shall be limited to use by passenger automobiles exclusively.

C. The following uses are subject to issuance of a special permit by the Planning Board in accordance with the provisions of § [405-32](#) of this chapter:

- (1) Radio, television and other electronic transmission stations and towers and public utility transmission lines, unit substations or other utility installations and disc antennas and similar devices.
- (2) Hospitals for the care and treatment of human beings.
- (3) Hotels (including rooming houses and boardinghouses), motels and clubs without restrictions as to general use and commercial activities.
- (4) Amusement game arcades, provided that:
  - (a) It shall be located at least 1,500 feet from school buildings, school playgrounds and church buildings.
  - (b) If combined with other uses, it shall be located in a separate room and separated from other uses on the premises and from pedestrian circulation to and from such other uses. The room shall be arranged so that there is a management attendant within the room or such that management attendants outside the room can easily see and supervise the interior of the room.
  - (c) Adequate space shall be provided for each machine so as to allow its use without overcrowding. A minimum width of two feet shall be provided per machine where the machine is designed for use by one player and 3 1/2 feet where the machine is designed for use by two players. The depth of the space in front of the machine shall be at least five feet and there shall be a minimum aisle width beyond this five feet of an additional three feet.
  - (d) All code requirements shall also be complied with.
  - (e) Off-street parking, in addition to that otherwise required for the uses on the premises, shall be provided in the amount of one space per two amusement game machines.
  - (f) Readily visible signs shall be installed, with their location, size and text shown in the plans submitted to the Planning Board, indicating that the use of machines by persons under 16 years of age shall not be permitted during normal school hours and, where the premises are used primarily for the serving or consumption of liquor, that the use of amusement machines by persons under the age of 19 is prohibited at all times.
- (5) Adult use establishments. Editor's Note: See § [405-46.1](#), Adult uses.

**[Added 8-6-1996; approved 8-12-1996]**

D. Accessory uses shall be limited to the following:

- (1) Off-street parking in accordance with the requirements of § [405-34](#).
- (2) Signs in accordance with requirements of § [405-36](#).
- (3) Fences, hedges or garden walls limited as in § [405-9C\(8\)](#).

E. Lot and bulk requirements. All lot and bulk requirements for all districts are to be found in the schedule at the end of this chapter.

**§ 405-17. C-2 Central Commercial District.**

In the C-2 Central Commercial District, the following regulations shall apply. (See also Article [V](#), Supplementary Regulations; all uses, except those with an asterisk, require site plan approval from the Planning Board in accordance with § [405-30](#).)

A. Purpose. The purpose of this district is to provide for and encourage a variety of retail businesses, business and professional offices, service businesses, entertainment and cultural establishments and related activities such as parking and pedestrian spaces, all designed to serve the City and the region; to encourage the concentration of retail and service uses to achieve continuity of frontage devoted to such purposes which will strengthen and complement one another. Further, it is a purpose of this district to protect the major public investment made and to be made toward revitalization of the business area, a vital part of the City's tax base, by conserving the value of land and buildings and conserving Kingston's historical heritage.

B. Uses permitted by right. A building may be erected, altered, arranged, designed or used, and a lot of premises may be used, for any of the following purposes by right and for no other:

- (1) Retail stores.
- (2) Banks, including drive-in windows.
- (3) Service businesses, such as, but not limited to, barbershops, beauty parlors, tailors and dry-cleaning stores, custom dressmakers, jewelry repair, shoe repair, travel agents, auto rental offices, appliance repair and duplicating businesses and job printing establishments having not more than 10 persons engaged therein.
- (4) Business, professional and governmental offices.
- (5) Theaters and assembly halls.
- (6) Restaurants.
- (7) Art or craft studios or studios for teaching the performing arts.
- (8) Libraries, museums and art galleries.
- (9) Manufacturing, assembling, converting, altering, finishing, cleaning or any other processing of products where goods so produced or processed are to be sold at retail, exclusively on the premises, in accordance with the requirements of § [405-16B\(13\)](#).
- (10) Public and private off-street parking lots and parking garages. Unless accessory to and on the same lot with a use otherwise permitted, such garages and parking lots shall be limited to use by passenger automobiles exclusively.

C. The following uses are subject to issuance of a special permit by the Planning Board in accordance with the provisions of § [405-32](#) of this chapter:

- (1) Radio, television and other electronic transmission stations and towers and public utility transmission lines, unit substations or other utility installations and disc antennas and similar devices.
- (2) Hospitals for the care and treatment of human beings.
- (3) Hotels, motels (including rooming houses and boardinghouses) and uses accessory thereto, including

restaurants and swimming pools.

(4) Clubs without restrictions as to general use and commercial activities.

(5) Automotive service establishments, gasoline filling stations and incidental motor vehicle storage and repair or service. Where vehicles are stored for repair, they must have a valid registration and may not remain for more than one week.

(6) Amusement game arcades in accordance with the requirements of § [405-16C\(4\)](#).

(7) Drinking establishments.

(8) Adult use entertainments. *Editor's Note: See § [405-46.1](#), Adult uses.*

**[Added 8-6-1996; approved 8-12-1996]**

D. Accessory uses shall be limited to the following:

(1) Off-street parking in accordance with the requirements of § [405-34](#).

(2) Signs in accordance with requirements of § [405-36](#).

(3) Fences, hedges or garden walls limited as in § [405-9C\(8\)](#).

E. Lot and bulk requirements. All lot and bulk requirements for all districts are to be found in the schedule at the end of this chapter.

**§ 405-18. C-3 General Commercial District.**

In the C-3 General Commercial District, the following regulations shall apply. (See also Article [V](#), Supplementary Regulations; all uses, except those with an asterisk, require site plan approval from Planning Board in accordance with § [405-30](#).)

A. Purpose. The purpose of this district is to provide for a wide range of commercial and limited industrial uses along major arterials and to accommodate uses that benefit from large numbers of motorists, that need fairly large parcels of land and that may involve characteristics such as trucking and noise that are objectionable to residential areas and certain nonresidential areas. This district can accommodate less intensive development in areas where continuity of pedestrian-oriented frontage is not critical.

B. Uses permitted by right. A building may be erected, altered, arranged, designed or used, and a lot or premises may be used, for any of the following purposes by right and for no other:

(1) Retail stores.

(2) Banks, including drive-in windows.

(3) New or used automobile sales establishments.

(4) Service businesses, such as, but not limited to, barbershops, beauty parlors, tailors and custom dressmakers, jewelry repair, shoe repair, travel agents, appliance repair, duplicating businesses and job printing establishments.

(5) Business, professional and governmental offices.

(6) Automotive services establishments, auto rental, gasoline filling stations and incidental motor vehicle storage, repair or service. Where vehicles are stored for repair, they must have a valid registration and may remain for only one week.

(7) Theaters; assembly halls; commercial recreation, such as ice skating, bowling alleys and billiard halls; and restaurants.

(8) Laundries and cleaning establishments.

(9) Newspaper plants, including incidental publishing.

(10) Art or craft studios or studios for teaching the performing arts.

(11) Funeral parlors.

(12) Manufacturing, assembling, converting, altering, finishing, cleaning or any other processing of products where goods so produced or processed are to be sold at retail, exclusively on the premises, in accordance with the provisions of § [405-16B\(13\)](#).

(13) Research laboratories.

(14) Storage or repair garages.

(15) New or used trailer sales.

(16) Wholesale storage, distribution and warehousing facilities, including the sale or storage of food and building materials, but excluding secondhand lumber and junkyards, automobile dismantling plants or the storage of used parts of automobiles or other machines or vehicles or of dismantled or junked automobiles.

(17) Public and private off-street parking lots and parking garages. Unless accessory to and on the same lot with a use otherwise permitted, such garages and parking lots shall be limited to use by passenger automobiles exclusively.

(18) Building, plumbing and electrical contractors.

**[Added 6-6-1989; approved 6-8-1989]**

C. The following uses are subject to issuance of a special permit by the Planning Board in accordance with the provisions of § [405-32](#) of this chapter:

(1) Radio, television and other electronic transmission stations and towers and public utility transmission lines, unit substations or other utility installations and disc antennas and similar devices.

(2) Hospitals for the care and treatment of human beings.

(3) Membership clubs without restrictions as to general use and commercial activities.

(4) Hotels or motels (including rooming houses or boardinghouses) and uses accessory thereto, including restaurants and swimming pools.

(5) Animal hospitals, provided that no building, runway or exercise pen is located within 200 feet of any residence district boundary or within 50 feet of any street line; and provided, further, that any animals shall be kept within fully enclosed buildings between the hours of 8:00 p.m. and 8:00 a.m.

(6) A car wash.

(7) Amusement game arcades in accordance with requirements of § [405-16C\(4\)](#).

(8) Drinking establishments.

(9) Auctions.

**[Added 7-12-1988; approved 7-14-1988 Editor's Note: This ordinance also provided that the special permit be renewable every two years. ]**

(10) Adult use entertainments. Editor's Note: See § [405-46.1](#), Adult uses.

**[Added 8-6-1996; approved 8-12-1996]**

D. Accessory uses shall be limited to the following:

(1) Off-street parking in accordance with the requirements of § [405-34](#).

(2) Signs in accordance with requirements of § [405-36](#).

(3) Fences, hedges or garden walls limited as in § [405-9C\(8\)](#).

E. Lot and bulk requirements. All lot and bulk requirements for all districts are to be found in the schedule at the end of this chapter.

#### **§ 405-19. RT Rondout District.**

In the RT Rondout District, the following regulations shall apply. (See also Article [V](#), Supplementary Regulations; all uses, except those with an asterisk, require site plan approval in accordance with § [405-30](#).)

A. Purpose of district. The purpose of the Rondout District is to permit and encourage the use, rehabilitation and adaptation of existing structures in this unique area in accord with their original character; to apply current standards for use, parking, height, yards, etc., only when or in a way that they can be met without undue difficulty or where essential to the public welfare; and to ensure that new construction will be compatible with the established character of existing development in the district. Further, it is recognized that the nature of existing buildings, lot layout, topography and other physical features in the district are such that adherence to rigid regulations may prove difficult. Therefore, procedures to permit appropriate flexibility of development have been established.

B. Uses permitted by right. A building may be erected, reconstructed, altered, arranged, designed or used, and a lot or premises may be used, for any of the following purposes by right in each of the two subareas designated, subject to the conditions established.

(1) Broadway/West Strand area. Buildings existing as of the date of adoption of this chapter, as well as buildings subsequently erected, which have direct frontage on Broadway between Spring Street and Dock Street and on the West Strand may be used for the following purposes and no other:

(a) Permitted first-floor uses. Only the following uses shall be permitted on the first floor of any structure:

[1] Retail stores and banks.

[2] Personal service establishments, such as, but not limited to, barbershops, tailors and laundries.

[3] Professional, governmental and business offices.

[4] Libraries, museums and art galleries.

[5] Restaurants.

[6] Theaters, dance and art studios, membership clubs and other places of assembly.

[7] Assembling, finishing, processing or producing of goods to be sold at retail, primarily on the premises, such as, but not limited to, bakeries, leather goods, picture framing and jewelry making.

(b) Permitted uses on other floors. Only the following uses shall be permitted on floors above the first floor of any structure:

[1] Any use permitted under Subsection [B\(1\)\(a\)\[2\]](#), [\[3\]](#), [\[4\]](#), [\[5\]](#), [\[6\]](#) and [\[7\]](#) as set forth above.

[2] Residential dwelling units which have separate bathroom and kitchen facilities within each unit for the exclusive use of the occupant. Such dwelling units shall not be located on the same floor as or any floor below any other permitted use.

(2) Remainder of district. New and existing buildings may be used for the following purposes and no other:

(a) One-, two- or three-family dwellings.

(b) The professional office, studio or home occupation of a resident of the building, if limited to no more than 30% of the floor area of the building and employing no more than one nonresident.

(c) Places of worship, including parish houses and religious school buildings, and public and private schools, including uses customarily accessory thereto, subject to the requirements of § [405-9A\(3\)](#).

C. The following uses are permitted, subject to the issuance of a special permit by the Planning Board in accordance with provisions of § [405-32](#) of this chapter, in those parts of the district outside of the Broadway/West Strand area as defined in Subsection [B\(1\)](#) above. Such permit shall only be issued, including any specific conditions as may be deemed appropriate, upon a finding by the Planning Board that the proposed use will be

compatible with the adjacent neighborhood in terms of the building location, design, scale and color; the affect of traffic generated by the use; and, in the case of an existing building, the nature of any exterior modifications to the building and the suitability of the building for the proposed use.

- (1) The use of an existing structure for the uses and in the manner described in Subsection [B\(1\)](#) above, Broadway/West Strand Area. The Planning Board shall only issue such permit if it determines that, in addition to complying with the standards set forth above, the building was originally designed to accommodate a nonresidential use or is located on one of the following street segments: Abeel Street, between Wurts and Hone Street, and Wurts Street, between Abeel and Hunter.
- (2) The conversion of an existing building to accommodate more than three dwelling units.
- (3) The construction of a new building to accommodate more than three dwelling units.
- (4) Uses not fully enclosed in a structure, such as marinas or outdoor markets, but excluding outdoor storage or automobile repairs.
- (5) Accessory apartments in accordance with the provisions of § [405-9B\(9\)](#).
- (6) Renting out of not more than two rooms by resident families, provided that no sign advertising the availability of such rooms shall be displayed.
- (7) Drinking establishments.

D. Accessory uses shall be limited to the following:

- (1) Off-street parking in accordance with the requirements of § [405-34](#).
- (2) Signs in accordance with the requirements of § [405-36](#).
- (3) A garden house, toolhouse, playhouse, greenhouse or swimming pool, incidental to a permitted or special permit use and subject to the requirement of § [405-9C\(4\)](#).
- (4) Keeping of customary household pets, but excluding the commercial breeding or keeping of the same.
- (5) Fences, hedges or garden walls limited as in § [405-9C\(8\)](#).

E. Building permit referral. Prior to the issuance of a building permit for new construction, demolition of an existing building or modification to the exterior of an existing building, the application for such permit shall be referred to the Kingston Landmark Preservation Commission. The purpose of such referral is to elicit timely advice and comments, if any, from this body concerning the impact of the proposed action on the character of the surrounding area. Such comments, including any recommended modifications to the proposal, shall be considered advisory only and shall not be binding on the applicant. The Fire Officer shall refer such application to the Kingston Landmark Preservation Commission within five days of receipt and shall not issue a building permit for at least 30 days thereafter, unless comments have been received from that body. This referral shall not in any way replace or eliminate the requirements for referral or approval as set forth elsewhere in these regulations.

**[Amended 8-2-1988, approved 8-5-1988; 12-16-1999 by L.L. No. 2-2000, approved 1-3-2000]**

F. Lot and bulk requirements. All lot and bulk requirements for all districts are to be found in the schedule at the end of this chapter.

#### **§ 405-20. M-1 Light Manufacturing District.**

In the M-1 Light Manufacturing District, the following regulations shall apply. (See also Article [V](#), Supplementary Regulations; all uses require site plan approval from the Planning Board in accordance with the provisions of § [405-30](#).)

A. Purpose. The purpose of this district is to provide areas for a wide range of industrial activity that conforms to a high level of performance standards, that can be located in close proximity to residential, institutional and commercial areas without objectionable influence and that can serve as a buffer in some cases between more objectionable industrial activities and residential and/or certain commercial areas.

B. Uses permitted by right. A building may be erected, reconstructed, altered, arranged, designed or used, and

a lot or premises may be used, for any of the following purposes by right and for no other:

- (1) Office buildings for business and professional offices.
- (2) Manufacturing, assembling, converting, altering, finishing, cleaning or any other processing and incidental storage of products or materials, provided that only oil, gas or electricity is used as a fuel, except that an installation using other fuel may be used upon a finding by the Fire Officer that such installation shall be free of nuisance characteristics and will have no adverse effect on neighboring uses.

**[Amended 12-16-1999 by L.L. No. 2-2000, approved 1-3-2000]**

- (3) Research design and development laboratories.
- (4) Buildings, plumbing and electrical contractors.
- (5) Wholesale storage distribution and warehousing facilities.
- (6) Restaurants and drinking establishments.
- (7) Animal hospitals and the boarding and/or breeding of animals, provided that no outdoor runs shall be permitted within 200 feet of any residence district boundary; and provided, further, that all animals shall be kept within fully enclosed buildings between the hours of 8:00 p.m. and 8:00 a.m.
- (8) Automobile repair and motor vehicle service stations.

C. The following uses are subject to the issuance of a special permit by the Planning Board in accordance with the provisions of § [405-32](#) of this chapter.

- (1) Radio, television and other electronic transmission stations and towers and public utility transmission lines, unit substations and other utility installation and disc antennas and similar devices.
- (2) Auctions.

**[Added 7-12-1988; approved 7-14-1988 Editor's Note: This ordinance also provided that the special permit be renewable every two years. ]**

D. Accessory uses shall be limited to the following:

- (1) Off-street parking in accordance with the requirements of § [405-34](#). If off-street parking is indoors, it shall be underground or as a part of the main building.
- (2) Signs in accordance with the requirements of § [405-36](#).
- (3) Fences, hedges or garden walls limited as in § [405-9C\(8\)](#).
- (4) Open storage in accordance with the requirements of § [405-39](#).
- (5) Clinics, cafeterias and recreational facilities for the exclusive use of company employees and officers.

E. Lot and bulk requirements. All lot and bulk requirements for all districts are to be found in the schedule at the end of this chapter.

**§ 405-21. M-2 General Manufacturing District.**

In the M-2 General Manufacturing District, the following regulations shall apply. (See also Article [V](#), Supplementary Regulations; all uses require site plan approval from the Planning Board in accordance with the provisions of § [405-30](#).)

- A. Purpose. The purpose of this district is to provide opportunities for industrial and related activities which are not likely to meet the high performance standards of the M-1 District and which involve a heavy dependence upon trucks and potentially noisy or otherwise objectionable industrial activity.
- B. Uses permitted by right. A building may be erected, reconstructed, altered, arranged, designed or used, and a lot or premises may be used, for any of the following purposes by right and for no other:

- (1) Office buildings for business and professional offices.

(2) Manufacturing, assembling, converting, altering, finishing, cleaning or any other processing and incidental storage of products or materials, provided that only oil, gas or electricity is used as a fuel, except that an installation using other fuel may be used upon a finding by the Fire Officer that such installation shall be free of nuisance characteristics and will have no adverse effect on neighboring uses.

**[Amended 12-16-1999 by L.L. No. 2-2000, approved 1-3-2000]**

(3) Research development and design laboratories.

(4) Building, plumbing and electrical contractors.

(5) Wholesale storage, distribution and warehousing facilities, including facilities for storage of petroleum products and coal.

(6) Restaurants and drinking establishments.

(7) Animal hospitals and the boarding and/or breeding of animals, provided that no outdoor runs shall be permitted within 200 feet of any residence district boundary; and provided, further, that all animals shall be kept within fully enclosed buildings between the hours of 8:00 p.m. and 8:00 a.m.

(8) Automobile repair and motor vehicle service stations.

C. The following uses are subject to the issuance of a special permit by the Planning Board in accordance with the provisions of § [405-32](#) of this chapter.

(1) Radio, television and other electronic transmission stations and towers and public utility transmission lines, unit substations and other utility installations and disc antennas and similar devices.

(2) Outdoor storage within M-2 General Manufacturing Districts will be a use subject to the issuance of a special permit by the Planning Board.

**[Added 4-14-1992; approved 4-15-1992]**

D. Accessory uses shall be limited to the following:

(1) Off-street parking in accordance with the requirements of § [405-34](#).

(2) Signs in accordance with requirements of § [405-36](#).

(3) Fences, hedges or garden walls limited as in § [405-9C\(8\)](#).

(4) Open storage in accordance with the requirements of § [405-39](#).

(5) Clinics, cafeterias and recreation facilities for the exclusive use of company employees and officers.

E. Lot and bulk requirements. All lot and bulk requirements for all districts are to be found in the schedule at the end of this chapter.

**§ 405-22. O-1 Limited Office District.**

In the O-1 Limited Office District, the following regulations shall apply. (See also Article [V](#), Supplementary Regulations; all uses require site plan approval from the Planning Board in accordance with the provisions of § [405-30](#) of this chapter.)

A. Purpose. The purpose of this district is to provide opportunities for the location of business and professional offices and various accessory and supporting uses in areas that are not necessarily appropriate for either residential or commercial activity, where such office and related activities can be established in an attractive environment and also serve as a transition between other uses.

B. Uses permitted by right. A building may be erected, reconstructed, altered, arranged, designed or used, and a lot or premises may be used, for any of the following purposes by right and for no other:

(1) Business and professional offices.

(2) Truck and freight terminals. Editor's Note: Former Subsection B(10), which provided for the removal of accumulated storage of junk, and which immediately followed this subsection, was repealed 4-14-1992, approved 4-15-1992.

C. The following uses are subject to the issuance of a special permit by the Planning Board in accordance with the provisions of § [405-32](#) of this chapter:

(1) Radio, television and other electronic transmission stations and towers and public utility transmission lines, unit substations and other utility installations and disc antennas and similar devices, provided that it is clearly demonstrated that the establishment of the particular use in the area is necessary for the operation of the public utility system or required to provide utility service to the local area.

D. Accessory uses shall be limited to the following:

- (1) Off-street parking in accordance with requirements of § [405-34](#).
- (2) Incidental research, design and development laboratories.
- (3) Clinics, cafeterias and recreational facilities for the exclusive use of employees and officers.
- (4) Signs in accordance with requirements of § [405-36](#).
- (5) Fences, hedges or garden walls limited as in § [405-9C\(8\)](#).

E. Lot and bulk requirements. All lot and bulk requirements for all districts are to be found in the schedule at the end of this chapter.

#### **§ 405-23. O-2 Limited Office District.**

In the O-2 Limited Office District, the following regulations shall apply. (See also Article [V](#), Supplementary Regulations; all uses, except those marked with an asterisk, require site plan approval from the Planning Board in accordance with the provisions of § [405-30](#) of this chapter.)

A. Purpose. The purpose of this district is to provide flexibility in the approach to development in certain areas that adjoin business districts or major arterials by permitting office, residential and/or mixed-use development.

B. Uses permitted by right. A building may be erected, reconstructed, altered, arranged, designed or used, and a lot or premises may be used, for any of the following purposes by right and for no other:

- (1) Business and professional offices.
- (2) \*One-family dwellings, not to exceed one such dwelling on each lot.
- (3) \*Two-family dwellings.
- (4) \*Three-family dwellings.
- (5) Dwellings for four or more families, including townhouses. In addition to the provisions of Lot and Bulk Schedule *Editor's Note: The Lot and Bulk Schedule is included at the end of this chapter.* and § [405-30](#), Site development plan approval, such uses shall be subject to the restrictions included in § [405-13A\(4\)](#).
- (6) Municipal parks and playgrounds, including customary recreational, refreshment and service buildings and, without limitation, any other governmental use of the City of Kingston.
- (7) Cemeteries.
- (8) Places of worship, including parish houses and religious school buildings, and public and private schools and children's homes on land not less than five acres in size in accordance with the provisions of § [405-13A\(7\)](#).
- (9) General hospitals, nursing homes and convalescent homes meeting the requirements of the county and state agency having jurisdiction, intended primarily for the care and treatment of residents of the City of Kingston and adjacent municipalities, subject to the requirements of § [405-9A\(4\)](#).

#### **[Amended 12-18-2002, approved 12-23-2002]**

(10) Mixed-use buildings. Buildings with mixed uses are subject to the following requirements:

- (a) All lot and bulk and parking requirements for each use shall be satisfied.

(b) Separate entrances and exits shall be provided for residential and nonresidential portions of the building.

(11) Funeral homes.

**[Added 4-27-1993 by L.L. No. 2-1993; approved 4-28-1993]**

C. The following uses are subject to the issuance of a special permit by the Planning Board in accordance with the provisions of § [405-32](#) of this chapter:

(1) Radio, television and other electronic transmission stations and towers and public utility transmission lines, unit substations or other utility installations and disc antennas and similar devices, provided that the establishment of the particular use in the area is necessary for the operation of the public utility system or required to supply utility service to the local area.

(2) Rooming houses and boardinghouses, subject to the requirements of § [405-12B\(2\)](#).

(3) Nursery or preschool educational establishments or day-care centers, subject to the requirements of § [405-9B\(3\)](#).

(4) Libraries, museums and/or art galleries, provided that no building is erected nearer than 25 feet to any street or property line.

(5) Golf, tennis or swimming clubs, subject to the requirements of § [405-9B\(5\)](#).

(6) Annual membership clubs, other than golf, tennis or swimming clubs, incorporated pursuant to the provisions of the Not-For-Profit Corporation Law of the State of New York, catering exclusively to members and their guests, and private playgrounds, swimming pools, tennis courts and recreation buildings not conducted as business enterprises, subject to the requirements of § [405-10B\(6\)](#).

(7) Family day-care homes authorized by the New York State Department of Social Services.

(8) Agency group homes, agency community residences, intermediate-care facilities or family care homes, and adult care facilities, subject to the requirements of § [405-9B\(7\)](#).

**[Amended 6-5-2001; approved 6-11-2001]**

(9) Accessory apartments in accordance with § [405-9B\(9\)](#).

(10) Adult day-care centers.

**[Added 9-13-1988; approved 9-16-1988]**

(11) Emergency shelters, subject to the requirements of § [405-46.3](#).

**[Added 6-5-2001; approved 6-11-2001]**

(12) Residential care/assisted-living facilities. The special permit shall not be issued or renewed for a period longer than one year.

**[Added 12-18-2002, approved 12-23-2002]**

D. Accessory uses shall be limited to the following:

(1) Off-street parking in accordance with the provisions of § [405-34](#).

(2) Incidental research, design and development laboratories.

(3) Clinics, cafeterias and recreational facilities for the exclusive use of employees and officers.

(4) A garden house, toolhouse, playhouse, greenhouse or swimming pool, incidental to the residential use of the premises, shall be subject to the requirements of § [405-9C\(4\)](#).

(5) The keeping of customary household pets, but excluding the commercial breeding or keeping of the same.

(6) Signs in accordance with the requirements of § [405-36](#).

(7) Fences, hedges or garden walls limited as in § [405-9C\(8\)](#).

E. Lot and bulk requirements. All lot and bulk requirements for all districts are to be found in the schedule at the end of this chapter.

**§ 405-23.1. O-3 Limited Office District.**  
**[Added 6-5-2001; approved 6-11-2001]**

In the O-3 Limited Office District, the following regulations shall apply. (See also Article [V](#), Supplementary Regulations; all uses, except those marked with an asterisk, require site plan approval from the Planning Board in accordance with the provisions of § [405-30](#) of this chapter.)

A. Purpose. The purpose of this district is to provide flexibility in the approach to development in certain areas that are predominantly commercial/office but will accommodate mixed uses such as commercial, office and multifamily residential in nature while maintaining the predominant use of the area.

B. Uses permitted by right. A building may be erected, reconstructed, altered, arranged, designed or used, and a lot or premises may be used for any of the following purposes by right and for no other:

(1) Three-family residential.

(2) Business and professional offices.

(3) Municipal parks and playgrounds, including customary recreational, refreshment and service buildings and, without limitation, any other governmental use of the City of Kingston.

(4) Places of worship, including parish houses and religious school buildings, and public and private schools and children's homes on land not less than five acres in size in accordance with the provisions of § [405-13A\(7\)](#).

(5) Retail stores and banks.

(6) Personal service establishments, such as, but not limited to, barbershops, tailors and laundries.

(7) Professional, governmental, and business offices.

(8) Libraries, museums, and art galleries.

(9) Restaurants.

(10) Theaters, dance and art studios, membership clubs, and other places of assembly.

(11) Assembling, finishing, processing or producing of goods to be sold at retail, primarily on the premises, such as, but not limited to, bakeries, leather goods, picture framing and jewelry making.

(12) Hotels or motels and uses accessory thereto, including restaurants and swimming pools.

C. The following uses are subject to the issuance of a special permit by the Planning Board in accordance with the provisions of § [405-32](#) of this chapter:

(1) Dwellings for four or more families, including townhouses. In addition to the provisions of Lot and Bulk Schedule *Editor's Note: The Lot and Bulk Schedule is included at the end of this chapter.* and § [405-30](#), Site development plan approval, such uses shall be subject to the restrictions included in § [405-13A\(4\)](#).

(2) General hospitals, nursing homes, convalescent homes and residential care/assisted-living facilities, meeting the requirements of the county and state agency having jurisdiction, intended primarily for the care and treatment of residents of the City of Kingston and adjacent municipalities, subject to the requirements of § [405-9A\(4\)](#). A special permit for a residential care/assisted-living facility shall not be issued or renewed for a period longer than one year.

**[Amended 12-18-2002, approved 12-23-2002]**

(3) Animal hospitals, provided that no building, runway or exercise pen is located within 200 feet of any

residence district boundary or within 50 feet of any street line; and provided, further, that any animals shall be kept within fully enclosed buildings between the hours of 8:00 p.m. and 8:00 a.m.

(4) Drinking establishments.

(5) Rooming houses and boardinghouses subject to the requirements of § [405-12B](#) (2).

(6) Nursery or preschool educational establishments or day-care centers, subject to the requirements of § [405-9B\(3\)](#).

(7) Libraries, museums, and/or art galleries on lots having an area of 20,000 square feet, provided that no building is erected nearer than 25 feet to any street or property line.

(8) Golf, tennis, or swimming clubs, subject to the requirements of § [405-9B\(5\)](#).

(9) Annual membership clubs, other than golf, tennis or swimming clubs, incorporated pursuant to the provisions of the Not-For-Profit Corporation Law of the State of New York, catering exclusively to members and their guests, and private playgrounds, swimming pools, tennis courts and recreation buildings not conducted as business enterprises, subject to the requirements of § [405-10B\(6\)](#).

(10) Family day-care homes authorized by the New York State Department of Social Services.

(11) Agency group homes, agency community residences, intermediate care facilities or family care homes, and adult care facilities subject to the requirements of § [405-9B\(7\)](#).

(12) Emergency shelters subject to the requirements of § [405-46.3](#).

(13) Adult day-care centers.

(14) Mixed use buildings. Buildings with mixed uses are subject to the following requirements:

(a) All lot and bulk and parking requirements for each use shall be satisfied.

(b) Separate entrances and exits shall be provided for residential and nonresidential portions of the buildings.

(c) Uses allowed shall be from those listed under § [405-23.1B](#), [C](#), and D.

(15) Manufacturing, assembling, converting, altering, finishing, cleaning, or any other processing of products where goods so produced or processed are to be sold at retail, exclusively on the premises, in accordance with requirements of § [405-16B\(13\)](#).

D. Accessory uses shall be limited to the following:

(1) Off-street parking in accordance with the requirements of § [405-34](#).

(2) Customary home occupations, subject to the requirements of § [405-9C\(2\)](#).

(3) A professional office or studio of an architect, artist, public accountant, chiropractor, City planner, clergyman, dentist, electrologist, engineer, insurance broker, lawyer, musician, optometrist, osteopath, physician, real estate broker, surgeon or teacher, subject to the requirements of § [405-9C\(3\)](#).

(4) A garden house, toolhouse, playhouse, greenhouse, or swimming pool, incidental to the residential use of the premises shall be subject to the requirements of § [405-9C\(4\)](#).

(5) Private garages, including carports, for not more than three passenger automobiles of residents on the premises, including the leasing to a nonresident of the premises of space for not more than one such automobile.

(6) The keeping of customary household pets, but excluding the commercial breeding or keeping of the same.

(7) Nonilluminated signs in accordance with the requirements of § [405-36](#).

(8) Fences, hedges, or garden walls limited as in § [405-9C\(8\)](#).

(9) Incidental research design and development laboratories.

(10) Clinics, cafeterias, and recreational facilities for the exclusive use of employees and officers.

E. Lot and bulk requirements. All lot and bulk requirements for all districts are to be found in the schedule at the end of this chapter.

**§ 405-24. RLC Residential Limited Commercial Mixed-Use District.**

In the RLC Residential Limited Commercial Mixed-Use District, the following regulations shall apply. (See also Article V, Supplementary Regulations; all uses, except those with an asterisk, require site plan approval from the Planning Board in accordance with the provisions of § 405-30 of this chapter.)

A. Purpose. The purpose of this district is to provide flexibility in the approach to development in certain areas that are predominantly residential but which are historically mixed-use areas and may continue to accommodate mixed uses by permitting office, residential, limited business and/or mixed-use development.

B. Uses permitted by right. A building may be erected, reconstructed, altered, arranged, designed or used, and a lot or premises may be used, for any of the following purposes by right and for no other:

(1) \*One-family dwellings, not to exceed one such dwelling on each lot.

(2) \*Two-family dwellings.

(3) \*Three-family dwellings.

(4) Dwellings for four or more families, including townhouses. In addition to the provisions of the Lot and Bulk Schedule *Editor's Note: The Lot and Bulk Schedule is included at the end of this chapter.* and § 405-30, Site development plan approval, such uses shall be subject to the restrictions included in § 405-13A(4).

(5) Business and professional offices, provided that such development does not comprise more than 10% of the gross floor area on the lot.

(6) Municipal parks and playgrounds, including customary recreational, refreshment and service buildings and, without limitation, any other governmental use of the City of Kingston.

C. The following uses are subject to the issuance of a special permit by the Planning Board in accordance with the provisions of § 405-32 of this chapter:

(1) Banks.

(2) Retail sales, personal and business services, except gasoline stations and the sale of new or used motor vehicles and building supplies, provided that such uses do not constitute more than 10% of the gross floor area on the lot.

(3) Radio, television and other electronic transmission stations and towers and public utility transmission lines, unit substations or other utility installations and disc antennas and similar devices, provided that the establishment of the particular use in the area is necessary for the operation of the public utility system or required to supply utility service to the local area.

(4) Nursery or preschool educational establishments or day-care centers, subject to the requirements of § 405-9B(3).

(5) Libraries, museums and/or art galleries, provided that no building is erected nearer than 25 feet to any street or property line.

(6) Restaurants.

(7) Family day-care homes authorized by the New York State Department of Social Services.

(8) Agency group homes, agency community residences, intermediate-care facilities or family care homes, and adult care facilities, subject to the requirements of § 405-9B(7).

**[Amended 6-5-2001; approved 6-11-2001]**

(9) Accessory apartments in accordance with § [405-9B\(9\)](#).

(10) Mixed-use buildings. Buildings with mixed uses are subject to the following requirements:

(a) All lot and bulk and parking requirements for each use shall be satisfied.

(b) Separate entrances and exits shall be provided for residential and nonresidential portions of the building.

(c) No nonresidential use shall be above a residential use.

(11) Adult day-care centers.

**[Added 9-13-1988; approved 9-16-1988]**

D. Accessory uses shall be limited to the following:

(1) Customary home occupations, subject to the requirements of § [405-9C\(2\)](#).

(2) Off-street parking in accordance with provisions of § [405-34](#).

(3) A garden house, toolhouse, playhouse, greenhouse or swimming pool, incidental to the residential use of the premises, shall be subject to the requirements of § [405-9C\(4\)](#).

(4) The keeping of customary household pets, but excluding the commercial breeding or keeping of the same.

(5) Signs in accordance with the requirements of § [405-36](#).

(6) Fences, hedges or garden walls limited as in § [405-9C\(8\)](#).

(7) Other customary accessory uses, structures or buildings, provided that such uses are clearly incidental to the primary use.

E. Lot and bulk requirements. All lot and bulk requirements for all districts are to be found in the schedule at the end of this chapter.

#### **§ 405-25. RF-R Rondout Creek and RF-H Hudson Riverfront Districts.**

*Editor's Note: See also the proposed map of districts.*

**[Added 7-7-1992; approved 7-8-1992]**

A. Purpose of districts. The purpose of the Riverfront District RF-R Rondout Creek and RF-H Hudson Riverfront District is to afford priority to water dependent uses, achieve public access to the coastal area, control development, create distinct Hudson River and Rondout Creek waterfront districts and to implement the policies and purposes of the City of Kingston Local Waterfront Revitalization Program. Further, it is the purpose of the districts to provide opportunities for permanent public views and access to the Hudson River and Rondout Creek and to encourage the phase out of certain uses which are incompatible with and detract from the Hudson River and Rondout Creek waterfront areas.

B. Uses permitted by right in the RF-R and RF-H Districts. A building may be erected, reconstructed, altered, arranged, designed or used, and a lot or premises may be used, for any of the following purposes by right and for no other:

(1) The manufacture, assembly or repair of marine products such as boats, sails and hardware. The open storage prohibition of § [405-30](#) (elimination of certain nonconforming uses) shall not apply here.

(2) Charter boat operation.

(3) Mariculture and aquaculture activities.

(4) Fishing/marine supply stores.

(5) Wholesale and retail fish stores.

(6) Community centers when part of coastal public access, urban cultural park or recreational access.

(7) Municipal parks, playgrounds and beaches.

(8) Scientific, historic, artistic and educational activities and uses which, by their nature, require access to coastal waters.

(9) Structures needed for navigational purposes.

C. Zoning use incentives.

(1) In order to recognize that the Kingston waterfront area is attractive for a variety of uses which are not water dependent while at the same time achieving the goals of the Kingston Local Waterfront Revitalization Program, the following uses are allowed in the RF-R Rondout Creek District and RF-H Hudson Riverfront District by special permit whenever the owner dedicates meaningful, permanent public access along and where appropriate, across the property to the dry shore area. The Planning Board shall have the authority to waive the requirement to provide meaningful permanent public access when the property does not have direct water frontage. Further, any of the uses permitted by right as listed in Subsection [B](#) above may be allowed in conjunction with any of the uses listed below:

**[Amended 10-3-2000; approved 10-13-2000]**

(a) Restaurants.

(b) Hotels and bed-and-breakfasts.

(c) Retail stores.

(d) Offices.

(e) Dwellings for one or more families, including townhouses in accordance with provisions of the Lot and Bulk Schedule, and § [405-30](#), Site development plan approval. Such uses shall be subject to the restriction in § [405-13A\(4\)](#). Further, any of the uses permitted by right as listed in Subsection [B](#) above may be allowed in conjunction with this use.

(2) "Meaningful, permanent public access" is defined as safe and unobstructed access to and along the dry, nontidal or nonsubmerged shore areas for all members of the public to attempt to provide a continuous public access system to and along the waterfront and/or public rights-of-way. Such access shall be in the form of a permanent easement or the granting of fee title to the City of Kingston. Access may be regulated by reasonable conditions in a management plan submitted by the applicant and approved by the Planning Board as part of the final site plan approval.

D. Special permit uses. The following uses are permitted in both the RF-R Rondout Riverfront District and the RF-H Hudson Riverfront District subject to the issuance of a special permit by the Planning Board, in accordance with provisions of § [405-32](#) of this chapter:

(1) Annual membership clubs other than tennis, marinas or swimming clubs, incorporated pursuant to the provisions of the Not-For-Profit Corporation Law of the State of New York, catering exclusively to members and their guests and private playgrounds, swimming pools, tennis courts and recreation buildings not conducted as business enterprises, subject to the requirements of § [405-10B\(6\)](#). Such clubs shall not contain transient or permanent dwelling units.

(2) Mass transit. Historic and/or alternative modes of transport; structures that facilitate public access; and are set back from the waterfront.

(3) Flooding and erosion protective structures.

(4) Structures needed for public educational, recreational activities and boat launches.

(5) Marinas and related uses such as sale of marine supplies, services, fuel, equipment or annual membership clubs which are water dependent. The following standards shall apply to all new marina project proposals as well as projects for expansion of existing marinas:

(a) In general, all new marina proposals or expansion of existing marinas shall, as appropriate, include sufficient parking, parklike surroundings, toilet facilities, and marine pumpout facilities.

(b) In evaluating proposals for new marina construction, the City of Kingston will favor those proposals which involve alternative ways of providing for the needs of boaters. In order of preference, these alternatives are:

- [1] Dry stack facilities with the minimum number of wet slips needed to provide efficient operation;
- [2] Rehabilitation and alteration of existing marinas;
- [3] Open water facilities;
- [4] Upland basin marinas through excavation, provided that water quality and other environmental considerations can be maintained; or
- [5] Any combination of these four approaches.

(c) The Planning Board shall require a secured bond or money in escrow that will be sufficient to hire an independent contractor to complete any conditions imposed or to effect any limitations or to restore the project area to its original condition in the event of a failure by the applicant to comply with the conditions or limitations of the special permit. The amount of bonds or escrow posted shall be as approved by the Planning Board.

(d) To the extent feasible, marina basins shall be designed for maximum tidal flushing and circulation due to both river/creek currents and the action of wind while maintaining safe levels of wave action within the protected basin. Minimum design criteria to promote a flushing include:

- [1] Basin and channel depths shall not be deeper than the prevailing depths in the water body to which they connect.
- [2] Basin and channel depths shall gradually increase toward open water or basin entrances.
- [3] Openings shall be provided at the opposite ends of enclosed basins to establish flow-through circulation. Only one opening must be navigable. The other opening or openings shall be as large as practicable to promote circulation. Culverts or other enclosed conduits may be used in place of open channels.
- [4] The configuration chosen shall minimize or prevent the formation of stagnant water zones that tend to collect debris or cause shoaling or flushing problems.

(e) Marinas shall be located in areas where minimal physical attributes required by marinas already exist and where minimal initial and subsequent maintenance dredging will be required. Such physical attributes include natural depths at or exceeding minimal navigable depths, low rates of sediment transport and sufficient tidal action to promote flushing. Dredging shall be limited to the minimum dimensions necessary for the project. The City may authorize dredging or other marina activities only on a seasonally restricted basis in the Rondout Significant Fish and Wildlife Habitat. Marinas shall not be permitted in areas that would require frequent maintenance dredging that would harm aquatic life or would prevent the relocation of benthic organisms. Such areas would include those which would require maintenance dredging more often than once every five years.

(f) Applicants must demonstrate that there is an adequate water supply to serve all of the projects needs.

(g) Sewage pumpout facilities shall be provided at new marinas and expansion of existing marinas at a minimum rate of one pumpout station for every 100 wet slips, or fraction thereof.

(h) Adequate rest room facilities for the exclusive use of marina patrons will be required to discourage any overboard discharge of sewerage from boats and to protect water quality. The number of toilets required for any given marina shall be determined by the nature and size of the marina and by its specific site locations.

(i) The applicant must demonstrate adequate capacity to properly dispose of or treat all sanitary wastes generated by the project.

(j) An ample number of signs must be provided to identify the location of public rest rooms and of pumpout facilities. Signs must also fully explain the procedures and rules governing the use of the pumpout facilities. Pumpout facilities shall be available to all boaters, regardless of whether they are patrons of the marina.

(k) Dedicated parking spaces shall be provided at a minimum rate of 0.60 spaces/slip plus whatever additional spaces are required for employees and required by this Code for separate retail activities on premises.

(l) Rainfall runoff becomes polluted with oils, greases, organic and inorganic wastes and other potentially harmful substances. It is the intent of the City of Kingston to limit, to the extent feasible, the introduction of these contaminants into the waters surrounding the City. Therefore, new parking areas shall utilize porous pavements or other approved measures to reduce rainfall runoff. New marina projects must incorporate best management practices in their design, including, but not limited to, the following:

[1] Maximize pervious land surface and vegetative cover to minimize stormwater runoff and to prevent polluted waters from reaching adjacent waters and wetlands. Direct runoff away from adjacent waters and wetlands to the extent feasible by site grading or other methods.

[2] Runoff from parking lot maintenance, fueling and washdown areas must be provided and treated in a manner that prevents oils, grease and detergents from reaching adjacent waters and wetlands. Accepted treatment methods include oil and grease filtering catch basins, retention areas and exfiltration systems.

(m) Trash receptacles shall be plentiful and convenient to encourage the proper disposal of trash and waste. A maximum spacing of 100 feet between receptacles shall be maintained on all piers and docks.

(n) The underwater positions of piers and docks, including piles, shall not be constructed using creosote-treated lumber.

(o) All marinas shall institute spill prevention emergency response plans. Automatic cutoffs for hoses in the event of an accident are mandatory.

E. Accessory uses in both the RF-R and RF-H Districts shall be limited to the following:

(1) Parking.

(a) Off-street parking in accordance with the requirements of § [405-34](#).

(b) No parking shall be located within 10 feet of the waterfront in the RF-R Rondout Creek District except where public access is provided and there it shall be 25 feet. No parking shall be located within 25 feet of the waterfront in the RF-H Hudson Riverfront District.

(2) Signs in accordance with the requirements of § [405-36](#).

(3) A garden house, toolhouse, playhouse, greenhouse or swimming pool incidental to a permitted or special use, subject to the requirements of § [405-9C\(4\)](#).

(4) Keeping of customary household pets, but excluding the commercial breeding or keeping of the same.

(5) Fences, hedges or garden walls limited as in § [405-9C\(8\)](#).

F. Lot and bulk requirements. All lot and bulk requirements for all districts are to be found in the schedule at the end of this chapter. The exceptions to these requirements are as follows:

(1) Bulk regulations. The following regulations shall apply to all construction within the RF-R Rondout Riverfront District:

(a) Building height and setback

[1] No building or structure shall be erected within 10 feet of the Rondout Creek, Abeel Street or East Strand except for a marina building, fuel service building or dock, or a marina service building requiring direct connection to the waterfront to service boats. Such buildings shall not exceed 15 feet in height.

[2] No portion of a building or structure, other than a water dependent use, shall be erected from within 11 to 25 feet of the Rondout Creek and exceed 25 feet in height.

[3] No building or structure shall be erected to a height in excess of 35 feet (maximum 2 1/2 stories) from 25 to 100 feet of the Rondout Creek.

[4] Beyond 100 feet from the Rondout Creek, building height with structural parking within the building may be increased to a height of 42 feet (maximum of 3 1/2 stories) above grade. Further, maximum height shall in no case exceed 65 feet above mean high tide level. The maximum length of elevation parallel to the waterfront shall be reduced 25% if height is increased above the permitted height.

(2) Bulk regulations. The following regulations shall apply to all construction within the RF-H Hudson Riverfront District:

(a) Building height and setback.

[1] No building or structure shall be erected within 10 feet of the Hudson River or North Street, except for a marina building, fuel service building or dock, a marina service building requiring direct connection to the waterfront to service boats. Such building shall not exceed 15 feet in height.

[2] No portion of a building or structure, other than a water dependent use, shall be erected from within 11 to 50 feet of the Hudson River and exceed 25 feet in height.

[3] No building or structure shall be erected to a height in excess of 42 feet (maximum 3 1/2 stories) from 50 feet to within 100 feet of the Hudson River.

[4] Beyond 100 feet from the Hudson River, building height with structural parking within the building may be increased to a height of 55 feet above grade. Further, maximum height should in no case exceed 65 feet above mean high tide level.

[5] "Height" shall be defined as the vertical distance from grade to the level of the highest point of the roof if the roof is flat or mansard, or to the mean level between the eaves and the highest point of the roof if the roof is of any other type. Where the roofs are of varying height, the arithmetic average height of the roofs shall be used.

(b) Floor area ratio (FAR). When a FAR applies to construction within this district, area devoted to structured parking shall not be regarded as contributing to the total floor area.

**§ 405-26. Flood Hazard Overlay District.**  
**[Amended 8-4-1987; approved 8-10-1987]**

A. Purpose and objectives.

(1) It is the purpose of this section to promote the public health, safety and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

(a) Regulate uses which are dangerous to health, safety and property due to water or erosion hazards or which result in damaging increases in erosion or in flood heights or velocities.

(b) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction.

(c) Control the alteration of natural floodplains, stream channels and natural protective barriers which are involved in the accommodation of floodwaters.

(d) Control filling, grading, dredging and other development which may increase erosion or flood damages.

(e) Regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

(f) Qualify for and maintain participation in the National Flood Insurance Program.

(2) Purpose. The objectives of this section are:

(a) To protect human life and health.

(b) To minimize expenditure of public money for costly flood control projects.

(c) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at

the expense of the general public.

(d) To minimize prolonged business interruptions.

(e) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines and streets and bridges located in areas of special flood hazard.

(f) To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas.

(g) To provide that potential buyers/developers are notified that property is in an area of special flood hazard.

(h) To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

B. Definitions. For purposes of this section, the following words or phrases shall be interpreted so as to give them meanings they have in common usage and to give this section its most reasonable application:

**APPEAL**

A request for a review by the Zoning Board of Appeals for an interpretation of any provision of this section or a request for a variance.

**AREA OF SHALLOW FLOODING**

A designated AO or VO Zone on a community's Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet, where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate and where velocity flow may be evident.

**AREA OF SPECIAL FLOOD HAZARD**

The land in the floodplain within a community subject to a one-percent or greater chance of flooding in any given year. This area may be designated as Zones A, AE, AH, AO, A1 through A99, V, VO, VE and V1 through V30. It is also commonly referred to as the "base floodplain" or "one-hundred-year floodplain."

**BASE FLOOD**

The flood having a one-percent chance of being equaled or exceeded in any given year.

**BASEMENT**

That portion of a building having its floor subgrade (below ground level) on all sides.

**BREAKAWAY WALL**

A wall that is not part of the structural support of the building and is intended, through its design and construction, to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system.

**BUILDING**

Any structure built for support, shelter or enclosure for occupancy or storage.

**CELLAR**

The same meaning as "basement."

**COASTAL HIGH-HAZARD AREA**

The area subject to high-velocity waters, including, but not limited to, hurricane wave wash. The area is designated on a FIRM as Zones V1 through V30, VE, VO or V.

**DEVELOPMENT**

Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within the area of special flood hazard.

**ELEVATED BUILDING**

A nonbasement building built to have the lowest floor elevated below the ground level by means of fill, solid foundation perimeter walls, pilings, columns or shear walls.

**FLOOD BOUNDARY AND FLOODWAY MAP (FBFM)**

An official map of the City of Kingston published by the Federal Emergency Management Agency as part of a riverine community's Flood Insurance Study. The FBFM delineates a regulatory floodway along watercourses studied in detail in the Flood Insurance Study.

**FLOOD or FLOODING**

A general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters.

(2) The unusual and rapid accumulation or runoff of surface waters from any source.

**FLOOD HAZARD BOUNDARY MAP (FHBM)**

An official map of the City of Kingston, issued by the Federal Emergency Management Agency, where the boundaries or the areas of special flood hazard have been defined but no water surface elevation is provided.

**FLOOD INSURANCE RATE MAP (FIRM)**

The official map on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the City. These areas of special flood hazard are incorporated on the Zoning Map as an overlay district.

**FLOOD INSURANCE STUDY**

The official report provided by the Federal Emergency Management Agency containing flood profiles, as well as the Flood Boundary and Floodway Map and the water surface elevations of the base flood.

**FLOODPROOFING**

Any combination of structural and nonstructural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

**FLOODWAY**

The same meaning as "regulatory floodway."

**FLOOR**

The top surface of an enclosed area in a building, including basement, i.e., the top of the slab in concrete slab construction or the top of wood flooring in wood frame construction.

**FUNCTIONALLY DEPENDENT USE**

A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding and ship repair. The term does not include long-term storage, manufacture, sales or service facilities.

**HIGHEST ADJACENT GRADE**

The highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

**LOWEST FLOOR**

The lowest level, including basement or cellar, of the lowest enclosed area. An unfinished or flood-resistant enclosure, usable solely for the parking of vehicles, building access or storage in an area other than a basement, is not considered a building's "lowest floor," provided that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this section.

**MANUFACTURED HOME**

A structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term also includes park trailers, travel trailers and similar transportable structures placed on a site for 180 days or longer and intended to be improved property.

**MEAN SEA LEVEL**

For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum to which base flood elevations shown on the City's Flood Insurance Rate Map are referenced.

**MOBILE HOME**

The same meaning as "manufactured home."

**NATIONAL GEODETIC VERTICAL DATUM (NGVD)**

As corrected in 1929, a vertical control used as a reference for establishing varying elevations within the floodplain.

**NEW CONSTRUCTION**

Structures for which the start of construction commenced on or after the effective date of this section.

**START OF CONSTRUCTION**

The initiation, excluding planning and design, of any phase of a project or physical alteration of the property, and shall include land preparation, such as clearing, grading and filling; installation of streets and/or walkways; excavation for a basement, footings, piers or foundations; or the erection of temporary forms. It also includes the placement and/or installation on the property of accessory buildings (garages or sheds), storage trailers and building materials. For manufactured homes, the term "actual start" means affixing the manufactured home to its permanent site.

**STRUCTURE**

A walled and roofed building, a manufactured home or a gas or liquid storage tank that is principally above ground.

**SUBSTANTIAL IMPROVEMENT**

Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure either before the improvement or repair is started or, if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, "substantial improvement" is considered to commence when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not include, however, either:

- (1) Any project for the improvement of a structure to comply with existing state or local building, fire, health, sanitary or safety code specifications which are solely necessary to assure safe living conditions; or
- (2) Any alteration of a structure or contributing structure on the National Register of Historic Places or a State Inventory of Historic Places.

## **VARIANCE**

A grant of relief from the requirements of this section which permits construction or use in a manner that would otherwise be prohibited by this section.

### **C. General provisions.**

(1) **Applicability.** The provisions of this section apply to all areas of special flood hazard within the jurisdiction of the City of Kingston as identified as the Flood Hazard Overlay District. The areas of special flood hazard are identified by the Federal Emergency Management Agency in a scientific and engineering report entitled the "Flood Insurance Study for the City of Kingston, New York, Ulster County" (1984), which study, with accompanying Flood Insurance Rate Maps and Flood Boundary-Floodway Maps and any revision thereto, is hereby adopted by reference and declared to be a part of this section. The Flood Insurance Study is on file in the office of the City Engineer.

(2) **Interpretation, conflict with other laws.**

(a) This section is adopted in response to revisions to the National Flood Insurance Program, effective October 1, 1986, and shall supersede all previous laws adopted for the purpose of establishing and maintaining eligibility for flood insurance.

(b) In their interpretation and application, the provisions of this section shall be held to be minimum requirements adopted for the promotion of the public health, safety and welfare. Whenever the requirements of this section are at variance with the requirements of any other lawfully adopted rules, regulations or ordinances, the most restrictive, or that imposing the higher standards, shall govern.

(3) **Penalties for noncompliance.** Noncompliance with the terms of this section shall be dealt with in accordance with § [405-52](#) of this chapter. In addition, any structure found not compliant with the requirements of this section for which the developer and/or owner has not applied for and received an approved variance under Subsection [E](#) will be declared noncompliant, and notification will be sent to the Federal Emergency Management Agency.

(4) **Warning and disclaimer of liability.** The degree of flood protection required by this section is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This section does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This section shall not create liability on the part of the City of Kingston or any officer or employee thereof or the Federal Emergency Management Agency, for any flood damages that result from reliance on the section or any administrative decision lawfully made thereunder.

### **D. Administration.**

#### **[Amended 12-16-1999 by L.L. No. 2-2000, approved 1-3-2000]**

(1) **Local administrator.** The Fire Officer is hereby appointed to administer and implement this section by granting or denying development permit applications in accordance with its provisions.

(2) **Development permit.** A development permit shall be obtained before the start of construction or any other development within the area of special flood hazard as established in Subsection [C](#) above. Application for a development permit shall be made on forms furnished by the Fire Officer and may include, but not be limited to: plans, in duplicate, drawn to scale and showing the nature, location, dimensions and elevations of the area in question; existing or proposed structures; fill; storage of materials; drainage facilities; and the location

of the foregoing.

(a) Application stage. The following information is required where applicable:

[1] The elevation, in relation to mean sea level, of the proposed lowest floor, including basement or cellar, of all structures.

[2] The elevation, in relation to mean sea level, to which any nonresidential structure will be floodproofed.

[3] When required, a certificate from a licensed professional engineer or architect that the utility floodproofing will meet the criteria in Subsection [E\(1\)\(c\)](#).

[4] A certificate from a licensed professional engineer or architect that the nonresidential floodproofed structure will meet the floodproofing criteria in Subsection [E\(2\)](#) below.

[5] A description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

(b) Construction stage. Upon placement of the lowest floor or floodproofing by whatever means, it shall be the duty of the permit holder to submit to the Fire Officer a certificate of the elevation of the lowest floor, or floodproofed elevation, in relation to mean sea level. The elevation certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by the same. When floodproofing is utilized for a particular building, the floodproofing certificate shall be prepared by or under the direct supervision of a licensed professional engineer or architect and certified by the same. Any further work undertaken prior to submission and approval of the certification shall be at the permit holder's risk. The Fire Officer shall review all data submitted. Deficiencies detected shall be cause to issue a stop-work order for the project unless immediately corrected.

(3) Duties and responsibilities of the Fire Officer. The duties and responsibilities of the Fire Officer shall include, but not be limited to:

(a) Permit application review. He shall:

[1] Review all development permits to determine that the permit requirements of this section have been satisfied.

[2] Review all development permit applications to determine that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required.

[3] Review all development permit applications to determine if the proposed development adversely affects the area of special flood hazard. For the purposes of this section, "adversely affects" means physical damage to adjacent properties. An engineering study may be required of the applicant for this purpose.

[a] If there is no adverse effect, then the permit shall be granted, consistent with the provisions of this section.

[b] If there is an adverse effect, then flood damage mitigation measures shall be made a condition of the permit.

[4] Review all development permits for compliance with the provisions of Subsection [E\(1\)\(e\)](#), Encroachments.

(b) Use of other base flood data and floodway data. When base flood elevation data has not been provided in accordance with Subsection [C\(1\)](#) above, the Fire Officer shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, including data developed pursuant to Subsection [E\(1\)\(d\)](#), in order to administer Subsection [E\(3\)](#).

(c) Information to be obtained and maintained. He shall:

[1] Obtain and record the actual elevation, in relation to mean sea level, of the lowest floor, including basement or cellar, of all new or substantially improved structures, and whether or not the structure

contains a basement or cellar.

[2] For all new or substantially improved floodproofed structures:

[a] Obtain and record the elevation, in relation to mean sea level, to which the structure has been floodproofed; and

[b] Maintain the floodproofing certifications required in Subsection [E\(1\)](#) and [\(2\)](#).

[3] Maintain for public inspection all records pertaining to the provisions of this section, including variances, when granted, and certificates of compliance.

(d) Alteration of watercourses. He shall:

[1] Notify adjacent communities and the New York State Department of Environmental Conservation prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Regional Director, Federal Emergency Management Agency, Region II, 26 Federal Plaza, New York, New York 10278.

[2] Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.

(e) Interpretation of FIRM boundaries.

[1] The Fire Officer shall have the authority to make interpretations when there appears to be a conflict between the limits of the federally identified area of special flood hazard and actual field conditions.

[2] Base flood elevation data established pursuant to Subsection [C](#) and/or Subsection [D\(3\)\(b\)](#), when available, shall be used to accurately delineate the areas of special flood hazard.

[3] The Fire Officer shall use flood information from any other authoritative source, including historical data, to establish the limits of the area of special flood hazards when base flood elevations are not available.

(f) Stop-work orders.

[1] All floodplain development found ongoing without an approved permit shall be subject to the issuance of a stop-work order by the Fire Officer. Disregard of a stop-work order shall be subject to the penalties described in §§ [405-26C\(3\)](#) and [405-52](#) of this chapter.

[2] All floodplain development found noncompliant with the provisions of this section and/or the conditions of the approved permit shall be subject to the issuance of a stop-work order by the Fire Officer. Disregard of a stop-work order shall be subject to the penalties described in §§ [405-26C\(3\)](#) and [405-52](#) of this chapter.

(g) Inspections. The Fire Officer and/or the developer's engineer or architect shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions and enable said Officer to certify that the development is in compliance with the requirements of either the development permit or the approved variance.

(h) Certificate of compliance.

[1] It shall be unlawful to use or occupy or to permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a certificate of compliance has been issued by the Fire Officer stating that the building or land conforms to the requirements of this section.

[2] All other development occurring within the designated flood hazard area will have, upon completion, a certificate of compliance issued by the Fire Officer.

[3] All certificates shall be based upon the inspections conducted subject to Subsection [D\(3\)\(g\)](#) above and/or any certified elevations, hydraulic information, floodproofing, anchoring requirements or encroachment analysis which may have been required as a condition of the approved permit.

#### E. Provisions for flood hazard reduction.

(1) General standards. In all areas of special flood hazard the following (general) standards are required:

##### (a) Anchoring.

[1] All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.

[2] All manufactured homes shall be installed using methods and practices which minimize flood damage. Manufactured homes must be elevated and anchored to resist flotation, collapse or lateral movement. Manufactured homes shall be elevated to or above the base flood elevation or two feet above the highest adjacent grade when no base flood elevation has been determined. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

##### (b) Construction materials and methods.

[1] All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

[2] All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

##### (c) Utilities.

[1] Electrical, heating, ventilation, plumbing and air-conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. When designed for location below the base flood elevation, a professional engineer's or architect's certification is required.

[2] All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.

[3] New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters.

[4] On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

##### (d) Subdivision proposals.

[1] All subdivision proposals shall be consistent with the need to minimize flood damage.

[2] All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.

[3] All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.

[4] Base flood elevation data shall be provided for subdivision proposals and other proposed developments which contain at least 50 lots or five acres (including proposals for manufactured home parks and subdivisions greater than either 50 lots or five acres).

##### (e) Encroachments.

[1] All proposed development in riverine situations where no flood elevation data is available (unnumbered A Zones) shall be analyzed to determine the effects on the flood-carrying capacity of the areas of special flood hazard set forth in Subsection [D\(3\)\(a\)3](#). This may require the submission of additional technical data to assist in the determination.

[2] In all areas of special flood hazard in which base flood elevation data is available pursuant to Subsection [D\(3\)\(b\)](#) or [E\(1\)\(d\)4](#), and no floodway has been determined, the cumulative effects of any

proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one foot at any point.

[3] In all areas of the special flood hazard where floodway data is provided or available pursuant to Subsection [D\(3\)\(b\)](#), the requirements of Subsection [E\(3\)](#) shall apply.

(2) Specific standards. In all areas of special flood hazard where base flood elevation data has been provided as set forth in Subsection [C\(1\)](#) or [D\(3\)\(b\)](#), the following standards are required:

(a) Residential construction. New construction and substantial improvements of any resident structure shall:

[1] Have the lowest floor, including basement or cellar, elevated to or above base flood elevation.

[2] Have fully enclosed areas below the lowest floor that are subject to flooding designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria:

[a] There shall be provided a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;

[b] The bottom of all such openings shall be no higher than one foot above the lowest adjacent finished grade; and

[c] Openings may be equipped with louvers, valves, screens or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.

(b) Nonresidential construction. New construction and substantial improvement of any commercial, industrial or other nonresidential structure, together with attendant utility and sanitary facilities, shall either: have the lowest floor, including basement or cellar, elevated to or above the base flood elevation or be floodproofed so that the structure is watertight below the base flood level, with walls substantially impermeable to the passage of water. All structural components located below base flood level must be capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.

[1] If the structure is to be elevated, fully enclosed areas below the base flood elevation shall be designed to automatically (without human intervention) allow for the entry and exit of floodwaters for the purpose of equalizing hydrostatic flood forces on exterior walls. Designs for meeting this requirement must either be certified by a licensed professional engineer or a licensed architect or meet the following criteria:

[a] There shall be provided a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;

[b] The bottom of all such openings shall be no higher than one foot above the lowest adjacent finished grade; and

[c] Openings may be equipped with louvers, valves, screens or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.

[2] If the structure is to be floodproofed:

[a] A licensed professional engineer or architect shall develop and/or review structural design, specifications and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice to make the structure watertight, with walls substantially impermeable to the passage of water, with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and

[b] A licensed professional engineer or licensed land surveyor shall certify the specific elevation to which the structure is floodproofed.

[3] The Fire Officer shall maintain on record a copy of all such certificates noted in this section.

**[Amended 12-16-1999 by L.L. No. 2-2000; approved 1-3-2000]**

(c) Construction standards for areas of special flood hazard without base flood elevations. New construction or substantial improvements of structures, including manufactured homes, shall have the lowest floor, including basement, elevated to or above the base flood elevation as may be determined in Subsection [D\(3\)\(b\)](#) or two feet above the highest adjacent grade where no elevation data is available.

[1] New construction or substantial improvements of structures, including manufactured homes, shall have the lowest floor, including basement, elevated to at least two feet above the highest adjacent grade next to the proposed foundation of the structure.

[2] Fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically (without human intervention) allow for the entry and exit of floodwaters for the purpose of equalizing hydrostatic flood forces on exterior walls. Designs for meeting this requirement must either be certified by a licensed professional engineer or a licensed architect or meet the following criteria:

[a] There shall be provided a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;

[b] The bottom of all such openings shall be no higher than one foot above the lowest adjacent finished grade; and

[c] Openings may be equipped with louvers, valves, screens or other coverings or openings, provided that they permit the automatic entry and exit of floodwaters.

(3) Floodways. Located within areas of special flood hazard are areas designated as floodways (see definition, Subsection [B](#)). The floodway is an extremely hazardous area due to high-velocity floodwaters carrying debris and posing additional threats from potential erosion forces. When floodway data is available for a particular site as provided by Subsection [C\(1\)](#) and [D\(3\)\(b\)](#), all encroachments, including fill, new construction, substantial improvements and other development, are prohibited within the limits of the floodway, unless a technical evaluation demonstrates that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

#### F. Variance procedure.

##### (1) Appeals Board.

(a) The Zoning Board of Appeals shall hear and decide appeals and requests for variances from the requirements of this section.

(b) The Zoning Board of Appeals shall hear and decide appeals when it is alleged there is an error in any requirement, decision or determination made by the Fire Officer in the enforcement or administration of this section.

##### **[Amended 12-16-1999 by L.L. No. 2-2000; approved 1-3-2000]**

(c) Those aggrieved by the decision of the Zoning Board of Appeals, or any taxpayer, may appeal such decision to the Supreme Court pursuant to Article 78 of the Civil Practice Laws and Rules (as provided by law).

(d) In passing upon such applications, the Zoning Board of Appeals shall consider all technical evaluations, all relevant factors, standards specified in other subsections of this section and:

[1] The danger that materials may be swept onto other lands to the injury of others.

[2] The danger to life and property due to flooding or erosion damage.

[3] The susceptibility of the proposed facility and contents to flood damage and the effect of such damage on the individual owner.

[4] The importance of the services provided by the proposed facility to the community.

[5] The necessity to the facility of a waterfront location, where applicable.

[6] The availability of alternative locations for the proposed use which are not subject to flooding or

erosion damage.

[7] The compatibility of the proposed use with existing and anticipated development.

[8] The relationship of the proposed use to the Comprehensive Plan and floodplain management program of that area.

[9] The safety of access to the property in times of flood for ordinary emergency vehicles.

[10] The costs to local governments and the dangers associated with conducting search and rescue operations during periods of flooding.

[11] The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site.

[12] The costs of providing governmental services during and after flood conditions, including search and rescue operations, maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems and streets and bridges.

(e) Upon consideration of the factors of Subsection [F\(1\)\(d\)](#) above and the purpose of this section, the Zoning Board of Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this section.

(f) The Fire Officer shall maintain the records of all appeal actions, including technical information, and report any variances to the Federal Emergency Management Agency upon request.

**[Amended 12-16-1999 by L.L. No. 2-2000; approved 1-3-2000]**

(2) Conditions for variances.

(a) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of 1/2 acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, provided that the items identified in subsection [F\(1\)\(d\)](#) above have been fully considered. As the lot size increases beyond 1/2 acre, the technical justification required for issuing the variance increases.

(b) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the contributing structures procedures set forth in the remainder of this section.

(c) Variances may be issued by the City for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use, provided that:

[1] The criteria of Subsections [A](#), [D](#), [E](#) and [F](#) of this section are met.

[2] The structure or other development is protected by methods that minimize flood damage during the base flood and create no additional threat to public safety.

(d) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(e) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(f) Variances shall only be issued upon receiving written justification of:

[1] A showing of good and sufficient cause.

[2] A determination that failure to grant the variance would result in exceptional hardship to the applicant.

[3] A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety or extraordinary public expense, create nuisances, cause fraud on or victimization

of the public [as identified in Subsection [E\(1\)](#)] or conflict with existing local laws or ordinances.

(g) Any applicant to whom a variance is granted for a building with the lowest floor below the base flood elevation shall be given written notice that the cost of flood insurance will be commensurate with the increased risk resulting from the lowest floor elevation.

**§ 405-27. Waterfront Design Overlay District.**  
**[Amended 7-7-1992; approved 7-8-1992]**

The Waterfront Design Overlay District and underlying zoning shall be eliminated and replaced with the RF-R Rondout Creek District and RF-H Hudson Riverfront District in accordance with the attached map *Editor's Note: The map is on file in the office of the City Clerk. For provisions regarding the RF-R and RF-H Districts, see §§ [405-25](#) and [405-31](#), outlining the same. Editor's Note: Former § 405-25, LS Landmark Overlay -Stockade District, was repealed 11-14-1989, approved 11-15-1989. For current provisions, see Ch. [264](#), Art. [I](#), Historic and Architectural Design Districts, and Art. IX of this chapter; former § [405-26](#), Landmark and historic districts outside Stockade Area, was repealed 11-14-1989, approved 11-15-1989. For current provisions, see Ch. [264](#), Art. [I](#), Historic and Architectural Design Districts, and Art. IX of this chapter.*

**§ 405-27.1. Mixed Use Overlay District.**  
**[Added 1-4-2005, approved 1-5-2005]**

A. Purposes and principles.

(1) The Mixed Use Overlay Zoning Districts are intended to implement a City of Kingston Comprehensive Plan Element for the areas known as the "Stockade and Midtown Mixed Use Overlay Zoning Districts." (See attached maps. *Editor's Note: Said maps are included at the end of this chapter.* )

(2) According to the Comprehensive Plan Element, the creation of the Mixed Use Overlay Zoning District has two underlying purposes.

(a) The first purpose is to adaptively reuse existing commercial and industrial buildings to provide rental multifamily housing, including affordable housing, to the present and future residents of the City of Kingston.

(b) The second purpose is to encourage mixed-use, mixed-income, pedestrian-based neighborhoods.

B. Proposals within the Mixed Use Overlay Zoning Districts are intended to be based on the following guidelines:

(1) Affordable housing.

(a) Guidelines to provide affordable housing pertains to individual proposals to adaptively reuse commercial and industrial buildings for five or more residential units.

(b) Of the five or more overall housing units created by individual proposals to adaptively reuse commercial and industrial buildings for residential purposes, 20% of those units will be dedicated for affordable housing.

(c) The rental of affordable housing units will be calculated as not exceed 30% of a household's income.

(d) The maximum income for a household to occupy an affordable housing unit will be 80% of the Ulster County median income, with adjustments for family size and be updated yearly.

(e) Affordable housing units should be dispersed throughout the proposed housing project and be indistinguishable from market rate units.

(f) Affordable housing units are phased in during the overall construction process.

(g) Affordable housing units should remain affordable for the length of time the building in question contains residential units or remains residential.

(h) Final choice of the tenants to occupy the affordable housing units lies with the owners of the adaptively reused commercial and industrial buildings or their representatives. Owners of the adaptively reused commercial and industrial buildings or their representatives can choose a potential tenant from a pool of income eligible tenants as kept by the Kingston Office of Community Development and/or the Kingston

Housing Authority. In the case that the owners of the adaptively reused commercial and industrial buildings or their representatives identify a potential tenant to occupy an affordable housing unit, apart from the pool kept by the Kingston Office of Community Development and/or the Kingston Housing Authority, that potential tenant must be judged income eligible by the Kingston Office of Community Development or the Kingston Housing Authority before he or she occupies the affordable housing unit.

(i) The Kingston Office of Community Development will be responsible for ensuring the long-term affordability of the residential units within the Mixed Use Overlay Zoning Districts. This includes ensuring that 20% of the units within the appropriate adaptively reused commercial and industrial buildings are dedicated to affordable housing.

(2) Mixed-use, mixed-income, pedestrian-based neighborhoods.

(a) The adaptive reuse of buildings should encourage residential uses above retail or commercial uses.

(b) The safety, comfort and interest of pedestrians should be integrated into the adaptive reuse site plans.

C. Definitions. As used in this section, the following terms shall have the meanings indicated:

**AFFORDABLE HOUSING UNIT**

A dwelling unit available at a cost of no more than 30% of the gross household income of households at or below 80% of the Ulster County Medium Income.

**QUALIFIED AFFORDABLE HOUSING TENANT**

An individual or family with household incomes that do not exceed 80% of the medium income with adjustments for household size.

D. The following uses are subject to the issuance of a special permit by the Planning Board in accordance with the provisions of § [405-32](#) of this chapter:

(1) The conversion of existing commercial or industrial buildings, or sections of them, into residential apartments and work/live spaces of which some will be dedicated as affordable housing. Such uses will be subjected to § [405-30](#), Site development plan approval.

(2) Site and building enhancements that promote a mixed-use, mixed-income, pedestrian-based neighborhood. Such uses will be subjected to § [405-30](#), Site development plan approval.

E. Provision of affordable units. The Planning Board shall deny any permit for development under this zoning chapter if the applicant for special permit approval does not comply, at a minimum, with following requirements for affordable units:

(1) At least 20% of the residential units in the adaptive reuse of commercial or industrial buildings, of five or more units, shall be established as affordable housing units for rental to qualified affordable housing tenants.

F. Provisions applicable to affordable housing.

(1) Siting of affordable units. Affordable housing units should be dispersed throughout the proposed adaptive reuse project.

(2) Minimum design and construction standards for affordable units. Affordable housing units within the market rate units shall be integrated with the rest of the development and be indistinguishable from market rate units in design, appearance, construction and quality of materials.

(3) Timing of construction of affordable units. Affordable housing units shall be provided coincident to the development of market rate units.

G. Development standards applicable to the adaptive reuse of commercial and industrial buildings that promote a mixed-use, mixed-income, pedestrian-based neighborhood. Intent: The safety, comfort and interest of pedestrians relates to the extent to which buildings face streets and public open spaces with entrances, windows and usable outdoor space.

(1) Street level building spaces shall be limited to commercial activities with residential spaces allowed at the second or above floors.

(2) Primary entrances of buildings shall face a street or small park.

- (3) Sheltering elements shall be included as part of the adaptive reuse site plans.
- (4) Shade trees shall be essential features of adaptive reuse site plans.
- (5) Human-scale lighting shall be essential features of adaptive reuse site plans.
- (6) Small parks should be encouraged as part of the adaptive reuse site plans.
- (7) Reinforce pedestrian connections between building and street, between buildings and through parking lots as part of the adaptive reuse site plans.
- (8) Minimize the dominance of parking, screen parking lots from the street and make parking lots cooler as part of the adaptive reuse site plans.

## **ARTICLE V. Supplementary Regulations**

### **§ 405-28. Obstruction to vision at street intersections.**

- A. At all street intersections, no obstruction to vision (other than existing buildings, posts, columns or trees) exceeding 30 inches in height above street level shall be erected or maintained on any lot within the triangle formed by the street lines of such lot and a line drawn between points along such street lines 25 feet distant from their point of intersection.
- B. The Fire Officer is hereby empowered to order removal of any such structure or growth which, in his opinion, does cause a danger to traffic.

**[Amended 12-16-1999 by L.L. No. 2-2000; approved 1-3-2000]**

### **§ 405-29. Trailers.**

The storage or parking and use of a trailer by any persons is hereby prohibited in each and all of the districts enumerated in Article [IV](#) of this chapter, except that:

- A. Storage or parking of trailers may be conducted in garages, provided that such trailer is not placed in use and the doors thereof are kept securely locked.
- B. Storage and parking of one trailer on a residential lot may be permitted, provided that such trailer is not placed in use, is secured in place within the required setback lines of the residential district and the doors thereof are kept securely locked. Notwithstanding the provisions hereinbefore contained in this chapter, a trailer parked on the premises of a City resident may be occupied for a period not exceeding 48 hours by a guest of the resident, provided that said trailer's location complies with setback requirements of Chapter [405](#) and is not less than 10 feet from any building or other vehicle. Upon application to the Building Safety Division of the Fire Department, the resident may apply for a permit to allow said guests to remain on the premises for an additional period of 144 hours. Upon receiving such application, the Fire Officer shall make the necessary inspections and issue or deny such permit.

**[Amended 12-16-1999 by L.L. No. 2-2000; approved 1-3-2000]**

- C. A temporary permit for the placing and use of a trailer on a lot may be issued by the Fire Officer in connection with any construction for which a building permit has been issued. Such permit shall be for a period of not greater than six months but may be renewed at the discretion of the Fire Officer if work on said construction is processed diligently.

**[Amended 12-16-1999 by L.L. No. 2-2000; approved 1-3-2000]**

### **§ 405-30. Site development plan approval.**

- A. Site development plan approval by the Planning Board shall be required for:
  - (1) The erection or enlargement of all buildings in all districts other than one-, two- or three-family residences, except as for those covered in Subsection [A\(4\)](#) below.
  - (2) All uses of land where no building is proposed and where a building permit or certificate of occupancy is not required.
  - (3) Any change in use or intensity of use which will affect the characteristics of the site in terms of parking, loading, drainage, access or utilities.

(4) The erection or enlargement of all structures, including one-, two- or three-family residences, in all L Landmark Districts and in the RT Rondout District.

(5) Any application for a special permit.

B. In all cases where any amendment of any such plan is proposed, the applicant must also secure the approval of the amendment by the Planning Board. No building permit may be issued for any building within the purview of this section until an approved site development plan or amendment of any such plan has been secured by the applicant and presented to the Fire Officer. No certificate of occupancy may be issued for any building or use of land within the purview of this section unless the building is constructed or used, or the land is developed or used, in conformity with an approved site development plan or an amendment of any such plan. The Fire Officer shall certify on each site development plan or amendment to a site development plan whether or not the plan meets the requirements of this chapter, other than those enumerated in sections of this chapter regarding site development plan approval.

**[Amended 12-16-1999 by L.L. No. 2-2000; approved 1-3-2000]**

C. Objectives. In reviewing site plans, consideration shall be given to the public health, safety and welfare; the comfort and convenience of the public in general, or the residents or users of the proposed development and of the immediate neighborhood in particular; and the appropriate conditions and safeguards as may be required to further the expressed intent of this chapter and the accomplishment of the following objectives, in particular:

(1) That the site plan is in conformance with such relevant portions of the Comprehensive Plan of the City that may be in existence.

(2) That the design of all structures is compatible with that of surrounding structures. Compatibility shall be determined by a review of proposed use of materials, scale, mass, height, color, texture and location of the structure or structures on the site.

(3) That all proposed traffic accessways are adequate but not excessive in number; adequate in width, grade, alignment and visibility; not located too near street corners or other places of public assembly; and meet other similar safety considerations.

(4) That adequate off-street parking and loading spaces are provided to prevent the parking in public streets of vehicles of any persons connected with or visiting the use and that the interior circulation system is adequate to provide safe accessibility to all required off-street parking lots, loading bays and building services.

(5) That all playground, parking and service areas are reasonably screened, at all seasons of the year, from the view of adjacent residential lots and streets and that the general landscaping of the site is such as to enhance the character of the City and is in character with that generally prevailing in the neighborhood.

(6) That all existing trees over eight inches in diameter, measured three feet above the base of the trunk, shall be retained to the maximum extent possible.

(7) That all plazas and other paved areas intended for use by pedestrians use decorative pavements and plant materials so as to prevent the creation of expanses of pavement.

(8) That all outdoor lighting is of such nature and so arranged as to preclude the diffusion of glare onto adjoining properties and streets.

(9) That the drainage system and the internal water and sewer systems are adequate and that all connections to City systems are in accordance with City standards.

(10) That the site plan and building design accommodate the needs of the handicapped and are in conformance with the state standards for construction concerning the handicapped.

(11) That the site plan and building design maximize the conservation of energy.

D. Procedure.

(1) Presubmission.

(a) Prior to the submission of a formal site development plan, the applicant shall meet in person with the

Planning Board and/or its designated representative to discuss the proposed site development plan in order to determine which of the subsequent requirements may be necessary in developing and submitting the required site development plan.

(b) Where the site is within an L Landmark District, the applicant should also meet in person with the Kingston Historic Landmark Preservation Commission and/or its designated representative in order to determine the extent to which the proposed development may conform or conflict with the standards of the Commission and this chapter and to discuss the possible diminution or elimination of any conflicts.

(2) Within six months following the presubmission conference, the site plan and any related information shall be submitted to the Planning Director (PD) in two copies. The site plan shall be accompanied by a fee in accordance with the schedule of fees of the City of Kingston. If not submitted within this six-month period, another presubmission conference may be required.

(3) The PD shall certify on each original or amended site plan whether or not the application is complete in accordance with Subsection [E](#) below or as may be modified during the presubmission conference and whether the plan meets the requirements of all the provisions of this chapter, other than those of this section regarding site plan review. The PD shall act to certify the application or return it to the applicant for completion or revision within 30 days of submission by the applicant.

(4) Following certification by the PD, the application shall be forwarded to the Planning Board at least 10 days prior to its next regular meeting, which shall be considered the official submission date.

(5) Simultaneously with its submission to the Planning Board, the certified application may be forwarded to the Chief of Police, Fire Chief, Health Department, Superintendent of Public Works, Plumbing Inspector and, where required, to the County Planning Board, County Highway Department and any other agency that the Building Safety Division of the Fire Department deems appropriate.

**[Amended 12-16-1999 by L.L. No. 2-2000; approved 1-3-2000]**

(6) The Planning Board may hold a public hearing on the site plan if it determines that the matter is of wide public interest. If such a hearing is held, it shall be held within 62 days of the official submission date of the application, and notice shall be given at least five days prior to the date of such hearing by publication in the official City newspaper.

**[Amended 12-16-1999 by L.L. No. 2-2000; approved 1-3-2000]**

(7) The Planning Board shall act to approve or disapprove with conditions any such site plan within 62 days after the public hearing or, if no hearing is held, within 62 days of the official submission date. The time within which the Planning Board must render its decision may be extended by mutual consent of the applicant and the board. Conditional approval by the Planning Board shall include written findings upon any site plan element found contrary to the provision or intent of this chapter. In reviewing the application, the Planning Board shall consider whether a proposed plan will conform to the intent and requirements of this chapter and/or what revisions are appropriate. In reviewing site plans, the Planning Board shall comply with the provisions of the State Environmental Quality Review Act. The decision of the Planning Board shall be filed in the office of the City Clerk within five business days of the rendering of the decision. All conditions must be satisfied prior to issuance of a building permit.

**[Amended 12-16-1999 by L.L. No. 2-2000; approved 1-3-2000]**

(8) Amendments to a previously approved site plan shall be acted upon in the same manner as the original site plan.

(9) Following approval of the site plan by the Planning Board, the applicant shall file with the City Clerk a performance bond to cover the full cost of any required improvements in an amount set by the Planning Board upon advice of the City Engineer. If the value of improvements is less than \$25,000, unless the Planning Board determines that improvements of lesser costs are important to the health and welfare of the City or the immediate area, the Planning Board may waive the bonding requirements. Said bond shall be in a form satisfactory to the Corporation Counsel of the City of Kingston and may be in cash or in the form of surety company bonds and, if a surety company bond, shall be in the amount of 100% of the estimated cost or, if a cash bond, 50% of the estimated cost, as certified by the City Engineer, of proposed screening and landscaping, including planting and maintenance thereof for a minimum of one year and a maximum of

three years at the discretion of the Planning Board, stormwater drainage systems, public and private streets and drives, water and sanitary sewer systems, outdoor lighting and off-street parking areas, loading areas, means of vehicular access and egress to and from the site onto public streets and recreation areas, including playgrounds and garbage collection stations and fire alarm systems (if any). Said bond shall be conditioned upon the property owner's or developer's completing said work enumerated herein and set forth on the approved site plan in a manner satisfactory to the City Engineer of the City of Kingston and upon the proper functioning of said systems for a period of one year from their completion. In default thereof, said bond or deposit shall be forfeited, and the City shall use the amount thereof to complete any incomplete portion of said work or to make repairs as are necessary to assure proper functioning of said improvements; provided, however, if any amount of money remains after the City has completed said work, such excess money will be returned to the surety or the person putting up the required deposit. Said surety bond or cash deposit may be reduced by resolution of the Planning Board upon the certification of the City Engineer that one or more particular items required by the Planning Board have been satisfactorily completed. If a fifty-percent cash bond has been posted, such reduction shall be in the ratio that the completed item or items bear to the total estimated costs of the required improvements. The installation of all improvements shall be under the direct supervision of a registered architect or professional engineer.

E. Time limit on validity of approval. Approval of a site plan by the Planning Board shall be valid for a period of 120 days from the date thereof for the purpose of obtaining a building permit. Failure to secure a building permit during this period shall cause the site plan approval to become null and void. Upon application, the Planning Board may extend the time limit on the validity of the approval to not more than two years from the date of the original approval.

F. Required submissions. All maps submitted must be at a scale of not less than 30 feet to the inch. Where the site is within an L Landmark Overlay District, an additional copy of such information and letters, and a copy of any additional data required by the Planning Board, must be submitted at the same time to the Kingston Historic Landmark Preservation Commission. The information to be submitted, and which in total constitutes a site development plan, follows.

(1) Legal data.

(a) The names of all owners of record of all adjacent property and the lot, block and section number of the property, all as shown on the City's Official Assessment Maps.

(b) Existing zoning and special district boundaries.

(c) Boundaries of the property, building or setback lines, if different from those required in the Building Zone Ordinance, and lines of existing streets and lots as shown on the City's Official Assessment Maps. Reservations, easements and areas dedicated to public use, if known, shall be shown.

(d) A survey showing all lengths shall be in feet and decimals of a foot, and all angles shall be given to the nearest minute or closer if deemed necessary by the surveyor. The error of closure shall not exceed 1 to 10,000.

(e) A copy of any covenants or deed restrictions that are intended to cover all or any part of the tract.

(2) Existing facilities.

(a) A drawing showing the location of existing buildings.

(b) The location of existing water mains, culverts and drains on the property, with pipe sizes, grades and directions of flow.

(3) Topographic data.

(a) Existing contours with intervals of five feet or less, referred to a datum satisfactory to the Board.

(b) The location of existing watercourses, marshes, wooded areas, rock outcrops, single trees with a diameter of eight inches or more, measured three feet above the base of the trunk, and other significant existing features.

(4) Development data.

- (a) The name of development, data, North point, scale and the name and address of the record owner, engineer, architect, land planner or surveyor preparing the site development plan.
- (b) The proposed use or uses of land and buildings and the proposed location of buildings.
- (c) All means of vehicular ingress and egress to and from the site onto public streets.
- (d) The location and design of any off-street parking areas or loading areas.
- (e) The location of all proposed waterlines, valves and hydrants and of all sewer lines or alternative means of water supply and sewage disposal and treatment.
- (f) The proposed location, direction, power and time of proposed outdoor lighting.
- (g) The proposed screening and landscaping shown on a planting plan prepared by a qualified landscape architect or architect.
- (h) The proposed stormwater drainage system.
- (i) All proposed lots, easements and public and community areas. All proposed streets with profiles indicating grading and cross-sections showing the width of roadways, locations and widths of sidewalks and the location and size of utility lines, according to the standards and specifications contained in the street improvement specifications of the Department of Public Works, City of Kingston. All lengths shall be in feet and decimals of a foot, and all angles shall be given to the nearest 10 seconds or closer if deemed necessary to the surveyor. The error of closure shall not exceed 1 to 10,000.
- (j) All proposed grades.

G. Waiver of required information. Upon findings by the Planning Board that, due to special conditions peculiar to a site plan, certain information normally required as part of the site plan is inappropriate or unnecessary or that strict compliance with said requirements may cause extraordinary and unnecessary hardships, the Board may vary or waive the provision of such information, provided that such variance or waiver will not have detrimental effects on the public health, safety or general welfare or have the effect of nullifying the intent and purpose of the site plan submission, Official Map, Master Plan or this chapter.

H. Any person or persons jointly or severally aggrieved by any decision of the Planning Board concerning review of a site plan may bring a proceeding to review in a manner provided by Article 78 of the Civil Practice Law and Rules in a court of record on the ground that such decision is illegal, in whole or in part.

**§ 405-31. Development incentives for the RF-R Rondout Creek District and RF-H Hudson Riverfront District.  
[Added 7-7-1992; approved 7-8-1992]**

A. Purpose. It is recognized that the waterfront encompasses a unique resource within the City of Kingston, containing both a significant opportunity for the achievement of public amenities and a major potential for water related development. To provide an incentive which will further encourage the most appropriate use and development of the City's waterfront in a manner designed to achieve adopted planning objectives and to further the policies and purposes of the Kingston Local Waterfront Revitalization Program, the City of Kingston may allow, only by application for a special permit and following a public hearing held on notice duly given in the same manner as required by law for zoning amendments, an increased floor to area ratio and/or building height, as set forth below. The public hearing shall be held by the City of Kingston. An advisory report from the Planning Board shall be provided to the City Council for its consideration, in the acceptance or rejection of any application per this section. City Council approval shall be in a form acceptable to the Corporation Counsel of the City of Kingston.

B. The incentive features, and the general guidelines for Planning Board and City Council action are described as follows:

- (1) The specific public benefit features for which incentive density increases may be granted include the provision of funds, services or goods toward the following objectives. The specific public benefit feature, for which an incentive density increase is being sought, must be closely associated with the impact of the development and, to the extent possible, adjacent or near to the project site. Further, the City Council shall make the decision on whether to accept any particular incentive feature being proposed and shall have the

authority to impose any and all conditions on the acceptance of the incentive feature as deemed appropriate and in the best interest of the City of Kingston.

(a) Provision of improved public access accessible to persons other than occupants, to waterfront properties, along the water's edge, including pedestrian walkways, open space areas and promenades which all designed to form a continuous public right-of-way through the entire RF-R and RF-H Districts. Where public access is provided, the following guidelines shall be used: access should be in the form of a permanent easement or the granting of fee title to the City of Kingston. The access shall be at least 12 feet wide from the street to the shoreline, and at least 10 feet wide along the shoreline for the entire width of the property in the RF-R District. The access shall be at least 15 feet wide from the street to the shoreline, and at least 20 feet wide along the shoreline for the entire width of the property in the RF-H District. Paving suitable for pedestrian use, at least six feet wide in the RF-R District and at least 10 feet wide in the RF-H District, should be provided for the entire length of the access easement and to a standard approved by the Kingston City Engineer.

(b) New construction or restoration of deteriorated bulkheading, not associated with the project, where the need is identified by the City.

(c) Expansion of affordable housing opportunities within the LWRP waterfront area, and as defined by the City's housing program.

(d) Provision of pedestrian access to the Kingston Lighthouse.

(e) Rehabilitation of the Kingston Trolley or railroad travel to and along the waterfront, as described in the Urban Cultural Park Master Plan. Specifically, rehabilitation of the trolley tracks which extend along the peninsula bordering the lagoon.

(f) Provision of improvements to Block Park as identified by the City.

(g) Provision of improvements, including street lighting, plantings and reconstruction, which are not otherwise within the City's authority to require by law.

(h) Acquisition, creation and/or development of Island Dock as public park land.

(i) Improvements to West Strand Park as identified by the City.

(j) Provision of additional public parking beyond that required by the uses within a given project, to serve the Rondout Creek and Hudson River waterfront areas.

(k) Building and site work relative to restoration of railing lines and beds in the Kingston Point and Hutton Brick Yard area.

(l) Delaware Avenue improvements as identified by the City.

(m) Reopening of North Street from its current terminus just north of Kingston Point to the City boundary.

(n) Removal of sunken barges from the Rondout Creek, including prior environmental and historical study.

(o) Provision of public fishing areas with fully equipped fishing cleaning stations.

(p) Improvements to the Rondout Lighthouse.

**[Added 4-1-2003, approved 4-2-2003]**

(2) Funds may be provided to a Riverfront Trust Fund for the following specific items. The Riverfront Trust Fund shall be administered by the City of Kingston or its designee. This trust fund shall be restricted to the use of such funds only for the specific purpose for which they are provided.

(a) Improvements or additional construction associated with the Maritime Museum.

(b) Production of a Waterfront Design Master Plan for the entire LWRP area, incorporating design standards and planning objectives to be determined by the City of Kingston.

- (c) National Register nomination work within the RF-R and RF-H Districts.
- (d) Preparation of a Harbor Management Plan for the Rondout Creek.
- (e) Construction of facilities associated with the Trolley Museum.
- (f) Contribution to the upgrading of the Kingston sewage treatment plant on the East Strand.
- (g) Upgrading of Hasbrouck Park as identified by the City.
- (h) Ponckhockie Neighborhood improvements as identified by the City.
- (i) Improvements to the Rondout Lighthouse.

**[Added 4-1-2003, approved 4-2-2003]**

(3) In determining the specific amount of density incentive increase that may be granted, if any, the Planning Board and the City Council, in each case shall take into consideration the following:

- (a) Maximum density increase shall not exceed 20% in the RF-R Rondout Creek District and in the RF-H Hudson Riverfront District.
- (b) Consideration shall be given to the number, extent and combination of incentive features to be provided.
- (c) The need for such features in the City at the time of the application.
- (d) The degree of compatibility of such incentive features with the neighborhood in which they are located, taking into consideration the potential effects of noise, traffic, fumes, vibrations or other such characteristics on surrounding streets and properties, the visual impact of the resultant density increase and/or incentive feature applied for, and the impact of the proposed development upon access to light, air and vistas known to be important to the community.
- (e) The consistency of such incentive features with the City's comprehensive planning and capital improvement program objectives as set forth in this chapter and in related studies and plans prepared for the City, or as otherwise promulgated and declared by the City Council.
- (f) The quality of design of the proposed development as determined by the Planning Board in accordance with its review under Chapter [405](#) Zoning of the Code of the City of Kingston. In considering the quality of design of projects, the Planning Board will include consideration of the following factors:
  - [1] The quality and extent of view from the adjacent streets through the property to the water.
  - [2] The design and relationship of development to the waterfront as viewed from the water.
  - [3] The design and function of any public access easement or other access provided to the shoreline, including new bulkheading or docking facilities.
- (g) To assist the Planning Board and the City Council in determining the appropriate amount of density increase, if any, to grant as an incentive for the applicants provision of the proposed public benefit features, the applicant shall submit an estimate of the cost of providing the proposed features and the value of the density increase requested. The Planning Board may also engage its own independent experts to either separately prepare such analysis or to review those prepared by the applicant. The reasonable cost of such expert assistance shall be reimbursed to the City by the applicant.
- (h) No incentive density increase shall be granted for the construction of any improvement which would otherwise be required by law.
- (i) In addition to the foregoing guidelines, the Planning Board and the City Council may take into account other considerations bearing upon the purposes and objectives of any density increase.

(4) Financing for projects proving significant infrastructure improvements or major amenities, as described in the foregoing guidelines. The City shall be encouraged to enter into creative financing arrangements with

project sponsors. Such arrangements may include tax increment financing, tax abatements and/or use of the Kingston Revolving Loan Fund, but are not limited to these alternatives.

C. Elimination of certain nonconforming uses.

(1) The following uses are deemed objectionable and incompatible with the purpose of the RF-R and RF-H Riverfront Districts. These uses are neither water dependent nor water related.

- (a) Open storage of scrap metal, auto parts or land junk.
- (b) Open storage of building materials, including raw materials.
- (c) The excavation or processing of raw materials.

(2) Such uses shall not be permitted to increase the land area devoted to such activities.

(3) Operations or uses which exceed those allowed under existing zoning will be brought into compliance within 30 days following notification by the Fire Officer.

**[Amended 12-16-1999 by L.L. No. 2-2000; approved 1-3-2000]**

(4) Any uses within the RF-R and RF-H Riverfront Districts which are considered to be contaminating the water or land, shall be reviewed by both the Fire Officer and an official of the New York State Department of Environmental Conservation. If such uses are judged to be a source of ongoing environmental contamination, then appropriate notification and action shall be taken, including issuance of a cease and desist order terminating such use immediately.

**[Amended 12-16-1999 by L.L. No. 2-2000; approved 1-3-2000]**

(5) Sites determined to be subject to ongoing contamination under existing uses shall be required to undergo environmental cleanup. Property owners will be notified promptly of a finding of contamination. A cleanup plan shall be submitted within 45 days to the New York State Department of Environmental Conservation and the City Department of Planning and Department of Engineering. Cleanup shall be complete within one year.

**[Amended 12-16-1999 by L.L. No. 2-2000; approved 1-3-2000]**

(6) The Fire Officer, in cooperation with the New York State Department of Environmental Conservation, will provide monthly status reports to the City Council setting forth schedules, commitments and agreements until such time as any uses not in conformity with the zoning districts have been phased out with the appropriate certification by the New York State Department of Environmental Conservation.

**[Amended 12-16-1999 by L.L. No. 2-2000; approved 1-3-2000]**

(7) Existing nonconforming uses shall be surrounded by an opaque fence at least eight feet in height, located no closer than six feet to the street or property line. The area between the fence and property or street lines shall be planted with trees, no further than 25 feet on center, or a species whose height at maturity is at least 20 feet and of a species which does not shed its leaves. Such screening shall be erected and planted within one year from the date of adoption of this section. The Planning Board shall have the authority to adjust these specifications as it deems necessary or desirable for effective visual screening.

D. Off-street parking.

(1) General. All structures and land uses hereafter erected, enlarged, moved, created, changed in intensity or substantially altered within the RF-R or RF-H Riverfront Districts shall be in accordance with § [405-34](#) of the Kingston Zoning Code, except as otherwise specified in this section.

(2) Parking lot landscaping. All off-street parking and loading areas shall be curbed and landscaped with appropriate trees, shrubs and other plant materials and ground cover. In addition to the requirements of § [405-34](#), at least one tree, not less than three inches caliper at the time of planting, shall be provided within such parking area for each 10 parking spaces. All parking areas shall be fully screened from the waterfront and from public thoroughfares. Raised planting islands, at least eight feet in width, shall be provided between rows of parking.

(3) Parking space ratios and parking standards. Refer to § [405-34](#) of the Kingston Zoning Code.

E. Siting and facility related guidelines. The following guidelines shall be required of all development actions within the RF-R and RF-H Zoning Districts. The Planning Board shall specifically incorporate the following guidelines in its review of proposed development activity:

(1) Developments such as roadways, all utility powerlines and incompatible signs shall be prohibited from shorelines in order to maintain the attractive quality of the shoreline and to retain views to and from the shoreline.

(2) Structures should be clustered or oriented so as to retain the quality and extent of views from the adjacent public streets through the property to the Hudson River and Rondout Creek as well as the quality of views of the development from the water, save open space, and provide visual organization to a development.

(3) Sound existing structures (especially historic buildings) shall be incorporated into the overall development scheme whenever possible.

(4) Appropriate architectural scales, forms and materials shall be utilized to ensure that buildings and structures are compatible with and add interest to the landscape. More specifically, the design of all structures is to be compatible with that of the surrounding structures and neighborhoods. Compatibility shall be determined by a review of proposed use of materials, scale, mass, height, color, texture and location of the structures on the site.

(5) All outdoor lighting is to be of such a nature and so arranged as to preclude the diffusion of glare onto adjoining properties, streets and the waterfront.

(6) All development proposed within the RF-H Hudson Riverfront District shall provide a scenic landscape protection buffer. While it is recognized that Kingston's Hudson River waterfront includes abandoned industrial sites as well as natural areas, it is the purpose of this scenic landscape protection buffer to protect and enhance, to the maximum extent possible, the scenic qualities of the Hudson River Local Waterfront Revitalization Program area by maintaining, creating and continuing the vegetative corridor of the Mid-Hudson River region. All non-water-dependent development proposed within the RF-H Hudson Riverfront District shall provide, at a minimum, a fifty-foot scenic landscape protection buffer. The scenic landscape protection buffer may incorporate the permanent public access that is identified in other parts of the RF-H Zoning District regulations. The following specific provisions shall apply to all uses within the RF-H Hudson Riverfront District:

(a) Proposed development shall avoid excessive or unnecessary grading, indiscriminate earth moving or clearing of property and removal of trees and vegetation which would disfigure natural land forms.

(b) If the scenic landscape protection buffer area already has mature trees, the preservation of such trees is required. If predevelopment buffer vegetation is insufficient, additional trees and shrubs with a variety of species appropriate for the local climate and environment shall be required. While complete vegetative screening is not required, sufficient plant material shall be provided to protect, enhance and continue the vegetative corridor of the Mid-Hudson River region.

(c) Within the scenic landscape protection buffer there shall be no development, clearing, grading or construction activity with the following exceptions:

[1] Minimum land area necessary for provision of waterfront access roadway easements, water, sanitary sewer, storm drainage, electrical, telephone, natural gas, cable, etc., service lines, provided that they run approximately perpendicular to the waterfront. Permission for easement and right-of-way disturbance and clearing for such services shall be more favorably considered when such activity is consolidated with vehicular access routes.

[2] Pedestrian trails, boardwalks, bicycle paths, etc., designed to fulfill the requirements of permanent public access as defined in other parts of the RF-H Zoning District regulations.

[3] Lighting fixtures if, for safety reasons, cannot be placed outside the buffer area and only when electric utility lines serving these fixtures are underground or are otherwise out of sight and the necessary easements can be established and constructed without reducing the screening and visual softening capacity of the vegetative buffer.

[4] The addition of planting, earth forms or other visual buffers which, in the opinion of the Kingston Planning Board, would better achieve the purposes set out in these siting and facility related guidelines for protection of scenic and visual resources.

(d) Visual Landscape Buffer Plan.

[1] As part of all site development plan submittals under § [405-30](#) of the Kingston Zoning Regulations, the applicant shall prepare and submit a comprehensive Visual Landscape Buffer Plan. Such plan shall include, at a minimum, information about existing and proposed vegetation, color of structures and landscaping proposed in order to protect, enhance and continue the vegetative corridor of the Mid-Hudson River region. Building color and landscaping shall be an integral part of the plan. The plan shall include, but not be limited to, the following:

[a] The name and address of the applicant and owner, if not the same.

[b] A detailed narrative description, with accompanying maps, sketches, photographs, simulations, etc., of how the proposed development will provide a scenic buffer and blend into the landscape along the waterfront. Such information shall include a description of existing and proposed vegetation, proposed color of buildings and proposed landscaping.

[c] An attached sketch or plan of the area on a scale of not less than one inch equals 60 feet, clearly labeled "Visual Landscape Buffer Plan."

[d] The condition of the existing trees and vegetation with respect to disease and potential for creating hazardous conditions.

[e] Location, size and species of trees to be preserved.

[f] Location, size and species of any trees proposed to be removed.

[g] Location, size and species of proposed trees and other vegetation to be planted.

[h] Topographic contours at two-foot intervals in the United States Coast and Geodetic Survey datum of mean sea level.

[i] A detailed horticultural, vegetative and administrative management plan for ongoing maintenance of all aspects and components of the scenic landscape protection buffer.

[2] The plan shall address the functional aspects of landscaping such as drainage, erosion prevention, wind barriers, provisions for shade, energy conservation, sound absorption, dust abatement and reduction of glare.

(e) Plant material shall be selected for interest in its structure, texture and color and for its ultimate growth. Plants that are indigenous to the area and others that will be hardy, harmonious to the design and of attractive appearance shall be used.

(f) If any new plant material, planted as a result of development with the scenic landscape protection buffer, dies after planting, it shall be replaced with healthy plants.

[1] The applicant shall file with the governing agency a performance bond to cover the full cost of any required replacement plants, in an amount set by the governing agency.

[2] Said bond shall be in a form satisfactory to the Corporation Counsel of the City of Kingston and may be in cash or in the form of a surety company bond in the amount of 100% of the estimated cost of replacement of the plantings. In default of the herein above provision, said bond or deposit shall be forfeited and the City shall use the amount thereof to complete any incomplete portion of said work.

(7) Proposed structures shall be in scale and harmonious with permanent neighboring developments.

(8) All development within the RF-H Hudson Riverfront District shall incorporate in addition to vegetation, other means to protect and enhance the scenic landscape of the Mid-Hudson River region, such as building color. The use of building color should allow proposed buildings to blend into the background of the landscape as much as possible.

(9) Parking areas shall be treated with such things as building wall extensions, segmented parking areas with elevation differences, plantings, berms or other means so as to minimize the impact of parked vehicles on the view from the Hudson River and from public ways and adjacent land uses.

(10) Project features which may have negative impacts upon adjacent properties, such as parking lots, service entrances, loading zones, mechanical equipment, etc., shall be visually buffered from the adjacent properties.

(11) Monotony of design in single and multiple building projects shall be avoided. Variation of detail, form and siting shall be used to provide visual interest. In multiple building projects, variable siting of individual buildings may be used to prevent a monotonous appearance.

#### **§ 405-31.1. RF-R District development standards.**

**[Added 2-1-2005, approved 2-2-2005]**

##### A. General.

(1) Purpose. In keeping with the Local Waterfront Revitalization Plan developed by the City, these standards were created to protect the existing historical development along the Rondout Creek waterfront, and promote new development which enhances the visual appearance of the City. It is intended to act as a tool for developers and planners to help streamline the design approval process by specifying the desired development characteristics upfront during the design process.

(2) This section applies to all new development and redevelopment within the RF-R Rondout Creek District. In the event of a conflict between this section and other portions of the Zoning Code, the Zoning Enforcement Officer (ZEO) will determine which requirement governs. Improvements under these standards are subject to applicable Americans with Disabilities Act Accessibility Guidelines (ADAAG).

(3) Incentives. New development and redevelopment within the RF-R District may qualify for incentives as outlined in § [405-31](#).

(4) All proposed work within the RF-R District must make reasonable attempts to preserve, protect and incorporate existing topography and meaningful vegetation into any proposed development plans.

(5) All proposed work within the RF-R District must preserve, protect and incorporate the exterior facades of existing historic structures into any proposed development plans. "Historic structures" are defined in this section as any construction which is listed on, or is eligible to be listed on, the National Historic Register.

(6) All proposed work within the RF-R District must preserve, protect and incorporate the original forms and shapes of existing roofs on historic structures into any proposed development plans.

##### (7) Waivers.

(a) The Planning Board is hereby empowered and authorized to waive or vary any design standards or requirements in this section for new development within the RF-R Rondout Creek District by a majority plus one vote. Any such waiver may be exercised in the event of the following:

[1] The nonconforming elements meet the spirit and intent of the design goals contained herein as defined by the Planning Board; and

[2] The specific standards or requirements are not appropriate to a particular development or project.

(b) The Planning Board shall also have the authority to impose reasonable and appropriate conditions on the grant of any waiver to protect the district.

(8) In addition to the site plan review requirements in § [405-30](#), new site development plans in the RF-R District are required to submit the following:

(a) Site plan which specifies all proposed demolition and construction work and includes:

[1] The location, diameter and species of all existing trees on the property which have a caliper of eight inches or more. These trees should be preserved as much as reasonably possible and incorporated into any site development designs. Existing vegetation clusters, such as bushes and large shrubs, should also

be preserved as much as reasonably possible, especially along the waterfront, and indicated on design drawings.

[2] Existing structures and pedestrian paths on adjacent properties that are within 50 feet of all property lines.

(b) Building elevations, at minimum scale of 1/8 inch equals one foot, of all facades, which specifies all proposed demolition and construction work and includes:

[1] Exterior materials, changes or transitions in materials, surface lighting, surface signs, street number, awnings and similar facade accessories.

[2] Proposed alterations or changes to existing facades, if any.

[3] Partial elevation of any existing street facades within 100 feet of the proposed building, shown to scale, alongside the proposed street facade.

(c) Samples of proposed facade, roofing and sign materials.

(d) Site plan indicating exterior lighting photo metrics, spread and intensity.

(e) Perspective color renderings illustrating what the proposal would look like if viewed from the street and from the Rondout Creek (if located on waterfront property).

(f) Photographs of the site and surrounding area that includes all existing elements required to be shown on the site plans.

## B. Site planning and landscaping standards.

(1) All new development with water frontage along the Rondout Creek must comply with the clustered development pattern as follows:

(a) New construction must locate the front facade of the building at, or as close as possible to, the front setback line. Alternately, the Planning Board may require that the front facade align with the facade of an existing building on an adjacent property. This front facade must be placed at the front setback line, with the primary entry facing the street. (1 in Figure 1 *Editor's Note: Figure 1 is included at the end of this chapter.* ).

(b) New construction must locate a side facade of the building at, or as close as possible to, a side setback line. If there is an existing building nearby on an adjacent property, the new construction should be located nearest that side. The intent of this provision is to cluster buildings together in groups, while leaving open, undeveloped areas clustered in groups as well to preserve open space and public views of the creek. (2 in Figure 1).

(c) The overall width of the proposed building or buildings on the lot must not exceed 60% of the total width of the front setback line. (3 in Figure 1).

(d) Development proposals which are merged from multiple properties, or consist of multiple buildings, must cluster the structures together to form areas of denser development. (4 in Figure 1).

(e) Development along the waterfront must attempt to work in conjunction with other buildings on the site and adjacent properties to create public plazas or similar exterior spaces. (5 in Figure 1). *Editor's Note: Figure 1 is included at the end of this chapter.*

(2) All new development with water frontage along the Rondout Creek must provide a continuous pedestrian esplanade along the width of the property adjacent to the waterway. This esplanade must link to the esplanade(s) on adjacent properties, and must also be linked to a public right-of-way by a waterfront access path. The pedestrian esplanade and waterfront access paths should be open to public access during the hours from dawn to 9:00 p.m. (6 in Figure 1).

(a) The waterfront access paths to and from the public street may be provided through the ground floor interior of a building on the site and be restricted during business closing hours.

(b) Waterfront access paths should be identified as a throughway to and from the water with a City-approved

sign and provide a view of the water from street level (1 in Figures 2 and 3). See Figure 19 for sign specifications. *Editor's Note: Figures 2, 3 and 19 are included at the end of this chapter.*

(c) Waterfront access paths should be differentiated from adjacent outdoor areas such as patios or plazas with a visual or physical separation of materials or plantings. They should be maintained and kept clear of tables, displays and other obstructions during public access hours. (2 in Figure 3).

(d) Waterfront access paths may be provided along a side property line so that it is a shared access arrangement with the neighboring property. Such paths would meet the waterfront access requirements of both properties simultaneously. Waterfront access paths located along the property line between adjacent buildings are hereby referred to in this section as "gateways." (3 in Figure 3). *Editor's Note: Figure 3 is included at the end of this chapter.*

(e) Trees should be incorporated (existing) or added (new) along waterfront access paths no less than once every 40 feet (4 in Figure 3). City-approved tree grates should be used at new tree locations when incorporated into paving (3 in Figure 4 *Editor's Note: Figure 4 is included at the end of this chapter.* ).

(f) At least one public bench and trash receptacle should be provided no less than every 200 feet along a waterfront access path or pedestrian esplanade. (2 in Figure 2 *Editor's Note: Figure 2 is included at the end of this chapter.* ).

(g) Waterfront access paths and pedestrian esplanades should be illuminated with City-approved lamps at least once every 50 feet (3 in Figure 2). See § [405-31.1H](#) for exterior lighting and lamp requirements.

(h) These pedestrian ways must meet all requirements of the Americans with Disabilities Act, including the transitions from one property to another.

(3) The primary building facade and public entry must always face the street and be parallel to the front lot line. The building width along the front facade should be maximized to increase front facade exposure wherever possible (1 in Figure 4).

(4) New development must work together with adjacent properties to coordinate shared parking, service and delivery areas, where possible. Such areas would share a common curb-cut (1 in Figure 7 *Editor's Note: Figure 7 is included at the end of this chapter.* ).

(5) Sidewalks must be provided along the full width of the property adjoining a public street, and provide direct access to the primary entry (2 in Figure 4).

(6) All off-street parking, loading dock and trash storage facilities must be located at the side of the lot. No parking, loading dock or trash storage facilities are permitted closer to the street than the front facade of the building. No parking, loading dock or similar services are permitted within 25 feet of the water on waterfront properties, or 10 feet from the rear lot line on non-waterfront properties.

(a) Off-street parking, loading docks and trash storage facilities must be screened from view from the public street, waterway and pedestrian access paths as directed by the Planning Board. Screening must be accomplished with landscaping, existing vegetation or other methods as approved by the Planning Board. (2 in Figures 6 and 7 *Editor's Note: Figures 6 and 7 are included at the end of this chapter.* ).

(b) Off-street parking requirements.

[1] The amount of off-street parking required for new development is intentionally reduced in the RF-R Zone waterfront properties to limit the visual impact of large parking areas visible along the creek. This reduction assumes that much of the parking will be accommodated with on-street parking and in shared public lots in the area. This requires fewer parking spaces to be provided on the property for site plan approval. However, new site development plans must illustrate that they have the area to accommodate regular parking requirements as per § [405-34J](#) should it later be determined that the original number of spaces is insufficient. This reserve parking area should be left undeveloped in its natural vegetative state, or landscaped as green space (1 in Figure 6).

[2] Required number of off-street parking spaces in RF-R District waterfront properties:

[a] Handicapped spaces: as required by law.

[b] All other spaces: twenty-five-percent reduction from parking space ratios required in § [405-34J](#).

(c) In order to reduce the amount of parking lot along the waterway, off-street parking areas required in the RF-R Zone are intended to be temporary. If sufficient public parking is made available in the future around the project area, the Planning Board may later require that the off-street parking area near the water be removed or reduced. Service and delivery drives may remain, however.

(d) Off-street parking and similar paved areas must be designed in regular, rectangular shapes which efficiently minimize the amount of impervious surface area. Such impervious surface area should be properly drained to eliminate water runoff towards the creek.

(e) Off-street parking areas must be limited to individual areas of no more than 20 spaces per grouping. Individual groups must be separated by meaningful landscaped areas which include trees and ground cover as directed by the Planning Board (4 in Figure 7 *Editor's Note: Figure 7 is included at the end of this chapter.* ).

(f) Off street parking on waterfront properties must be oriented along a north-south axis (perpendicular to the creek) to limit exposure along the waterway whenever possible (3 in Figures 6 and 7).

(7) Properties in the RF-R District are limited to one curb-cut access per property, unless otherwise approved by the Planning Board. Curb-cut and driveways widths must only be as wide as necessary to accommodate the needed travel lanes. Curb-cut radiuses must be no larger than five feet (1 in Figure 7).

(8) No development will be permitted beyond the water's edge except as necessary for the creation of docks, marinas, boat ramps and similar maritime function access.

(a) Habitable spaces, including sheds, marina offices or enclosures permanently docked or constructed beyond the water's edge for the purposes of commercial business are prohibited.

(b) Marine vessels along the waterway of Rondout Creek intended for commercial use, display or educational purposes, excluding those with a valid City or state docking lease, are required to obtain a special permit and may not dock or be moored for more than 30 days in any six-month period unless otherwise provided by the special permit. Consideration for issuance of said permit shall include, but not be limited to, general aesthetics, public health and safety, maintenance, etc.

(c) Elements permanently constructed beyond the water's edge must not extend higher than 15 feet above mean high-tide level.

(d) No lighting fixtures may be located beyond the water's edge except those used for pedestrian safety and walkway illumination. See § [405-31.1H](#) for lighting standards.

(9) Installation or replacement of bulkhead will be designed by a professional engineer and submitted to the Planning Board and City Engineer for review and approval, and shall conform visually in scale and height with nearby bulkhead. Where the promenade is adjacent to the bulkhead, the bulkhead structure shall have a twelve-inch-by-twelve-inch, wooden cap beam to match the design in TR Gallo Park.

### C. Height, scale and massing.

(1) New construction in the RF-R District must comply with the height, scale and massing requirements illustrated in Figure 8 *Editor's Note: Figure 8 is included at the end of this chapter.* for either waterfront or non-waterfront properties.

(a) Minimum building height.

[1] Two-story minimum building height is required along the front facade facing the street in both waterfront and non-waterfront properties. The majority of the building mass should be placed at the front of the site to maximize front facade exposure, however the building height may step down to lower levels in the rear (1 in Figure 8). Corner lots may place a majority of the building mass at the corner. Maximum building height is 35 feet within 100 feet of the creek, and 42 feet beyond 100 feet.

[2] The City may elect to waive the two-story height requirement in some instances where it would obstruct existing views of the creek.

(b) The second floors of new construction must provide habitable space measuring at least 12 feet in depth

measured back from the front facade (2 in Figure 8). No false facades are permitted. Maximum parapet height is four feet unless otherwise required by state or federal codes.

(c) No portion of the facade may extend more than 40 feet in length horizontally without a facade transition. A "facade transition" is defined as a change in the entire plane of the facade where it steps (forward or backward) at least 24 inches. Such transitions should not occur more than once in a four-foot span along the facade (3 in Figure 8).

(d) No portion of the roofline may extend more than 40 feet in length horizontally without a roofline transition. A "roofline transition" is defined as a change in the height of the roofline where it steps (up or down) at least 24 inches. Such transitions should not occur more than once in a four-foot span along the facade (4 in Figure 8).

(e) Facade and roofline transitions should be used to highlight important areas of the facade, such as a building entry (5 in Figure 8).

(2) Small scale building materials similar to those recommended in § [405-31.1F\(2\)](#) are required as the primary building material along the front facade and waterfront facade of all new construction.

(3) Areas of blank wall larger than an eight-foot radius circle are not permitted on the front or waterfront facades of new construction (6 in Figure 8 *Editor's Note: Figure 8 is included at the end of this chapter.* ). Areas of blank wall larger than a sixteen-foot radius circle are not permitted on the side facades of new construction. "Blank wall" is defined as an area of facade which does not contain any decorative articulation of materials which measure at least two inches in depth, or openings such as windows and doors.

#### D. Roofs.

(1) Mansard roofs, shed roofs, fake roof fronts, built-out roof frames which are hung from the facade and similar applied designs are prohibited as primary roof types.

(2) New construction with a flat roof is required to be capped by an architectural cornice design that is a sculptural expression of the primary facade material, wood or simulated wood design, at the top of all facades. This articulated parapet or cornice design must be at least 12 inches tall on one-story facades and at least 24 inches tall on facades of two or more stories. Maximum parapet height is four feet unless otherwise required by state or federal codes.

(3) New construction with a sloped roof must have a minimum roof pitch of no less than 5:12 on primary roof areas (not including dormers, entry canopies or similar secondary roof elements) or a maximum pitch of 12:12.

(a) The tallest portion of the roof must be orientated to place at least one gable-end facing the street.

(b) Roof overhangs at the eave and gable ends must be at least eight inches deep.

(4) New roof construction must be designed so as to divert the fall of rain and snow away from pedestrian areas such as walkways and doors.

(5) Air-handling units, condensers, satellite dishes and other equipment placed on the roof must be located and screened from view so as not to be readily visible from the street or waterway. The Planning Board may require that roof-mounted equipment be visually minimized with painted colors and finish complementary to the overall building design.

(6) See Materials List in Figure 14 for approved roof materials. *Editor's Note: Figure 14 is included at the end of this chapter.*

#### E. Facade composition and fenestration.

(1) The front and waterfront facades of new commercial construction must be organized in a base - middle - top configuration as illustrated in Figure 10. *Editor's Note: Figure 10 is included at the end of this chapter.*

(a) The base level consists of the most open and sculptural facade expression at the first floor. The amount of door and window openings should equal between 75% to 90% of the facade in this area (1 Figure 10).

[1] Individual window openings in the facade cannot exceed 12 feet in width, and must be separated from each other by at least 18 inches of facade. Window glass area cannot exceed five feet in width without being separated by at least six inches of mullion.

[2] Window frames must be recessed at least five inches back from the plane of the facade. The primary entry doorway to the street must be recessed at least 12 inches back from the plane of the facade, and should express the greatest amount of facade articulation.

[3] The base should be capped by a cornice element or other transition having a change in depth, materials and color which differentiates it from the upper levels. The cornice element should be designed to accommodate the desired facade lettering or signs for the property. See § [405-31.1G](#), Signs and sign lighting.

(b) The middle level consists of the upper floors, and has a lower fenestration level than the first floor. The amount of window openings should equal between 25% to 50% of the facade in this area (2 in Figure 10).

[1] Individual window openings in the facade at this level cannot exceed six feet in width, and must be separated from each other by at least 24 inches of facade. Window glass area at this level cannot exceed three feet in width without being separated by at least four inches of mullion.

[2] Window frames must be recessed at least two inches back from the plane of the facade.

(c) The top level consists of the roof or cornice of the building (3 in Figure 10). See § [405-31.1D](#), Roofs.

(2) The front and waterfront facades of new commercial construction must express structural elements and bay divisions on the exterior facade with the use of pilasters, recessed archways and similar relief. Such relief must measure at least two inches in depth. This facade expression may be required by the Planning Board on side facades which have blank wall areas as defined in § [405-31.1C\(3\)](#).

(3) The front and waterfront facades of new construction with masonry exteriors are required to visually express the structural lintels over windows, doors, archways and similar openings (4 in Figure 10). See Materials List in Figure 14 for a listing of approved lintel materials. *Editor's Note: Figures 10 and 14 are included at the end of this chapter.*

(a) The rhythm of facade elements across the front or waterfront facade must be arranged in an easily recognizable pattern, such as a repeating or symmetrical layout. Breaks or fluctuations to the facade pattern should be reserved to highlight areas of special interest, such as entry points to the building. (1 in Figure 11 *Editor's Note: Figure 11 is included at the end of this chapter.* ).

(b) New construction adjacent to or added to existing historic structures should match the rhythm of facade elements of the existing building (2 in Figure 11).

(4) The proportion of facade elements such as windows, window divisions and bays must have a vertical orientation (taller than they are wide) of at least x wide to 1 .75x tall. The proportions of individual elements should be used consistently throughout the design, such that all windows and their divisions are generally of the same proportion (3 in Figure 11).

(a) New construction adjacent to or added to existing historic structures should match or be compatible with the proportion of facade elements of the existing building (4 in Figure 11).

(b) Horizontally proportioned elements (wider than they are tall) must be used sparingly. Strong horizontal influences such as overly bold fascias, strip windows or banding designs of brick are prohibited.

(c) The proportion of structural facade elements, such as columns, pilasters and posts, must be designed accordingly with the weight they appear to be carrying (1 in Figure 12 *Editor's Note: Figure 12 is included at the end of this chapter.* ).

## F. Materials and colors.

(1) All proposed work within the RF-R District must present, protect and maintain the use of existing exterior materials of historic structures whenever possible. If replacement is necessary, replace with like materials which have the same basic forms and proportions.

(a) Existing exterior materials removed for demolition should be salvaged for use in patching or as new exterior material in additions whenever possible.

(b) Additions to existing historic structures must use exterior materials which match the basic form, proportions and material of the original building. Exact material matches for color and texture are not required.

(c) The covering or concealing of existing historic exterior materials with new materials is prohibited. The Planning Board may require that newer existing exterior materials be removed to reveal historical surfaces underneath, if appropriate.

(2) Smaller scale materials are required on front and waterfront facades of all new construction. See Materials List in Figure 14 for recommended materials. *Editor's Note: Figure 14 is included at the end of this chapter.*

(a) When using more than one material on the exterior facade, one material must be used as the primary theme with others used only sparingly to complement or accent the design. The use of a variety of design styles or materials across the facades of the same building is prohibited.

(b) When making a transition from one material to the next, the change must occur at hard-edge or depth transition in the facade which creates a surface for one material to terminate into before the next one begins, as illustrated in Figure 13. *Editor's Note: Figure 13 is included at the end of this chapter.*

(c) Special designs or decorative patterns created in the exterior materials are encouraged.

(3) All exterior colors must be of a natural, muted shade. Brighter, more vibrant colors, if used, must be reserved for minor accents and highlights only. All exterior colors, including paint, dyes, awnings, signs and lights, must be approved by the Planning Board.

(a) When using more than one color on the exterior facade, one color must be used as the primary theme with others used only sparingly to complement or accent the design.

(b) When making a transition from one color to the next, the change must occur at hard-edge or change in depth in the facade which creates a surface for one color to terminate into before the next one begins (1 in Figure 13).

#### G. Signs and sign lighting.

(1) All new signs, facade lettering and sign lighting must be approved by the Planning Board.

(2) Installing new signs which cover or obscure architectural features of existing historic structures is prohibited. Installing new signs which are incompatible with the architectural style, scale, location, materials or color of an existing historic structure is prohibited.

(3) All properties must display their street number on the front facade next to or above the primary entry. Street numbers should be sized according to the lettering size chart in Figure 15, *Editor's Note: Figure 15 is included at the end of this chapter.* and should contrast well with their background.

(4) Commercial properties are permitted one instance of a surface-mounted signboard or applied facade lettering per commercial tenant.

(a) The allowable size of lettering on signboards or applied facade lettering is specified in Figure 15, Lettering Size Chart, based on the distance from the street to the front facade.

(b) The allowable size of signboards is specified in Figure 16, Sign Layout, based on the size of the lettering. *Editor's Note: Figure 16 is included at the end of this chapter.*

(c) New commercial construction must design the front facade specifically to accommodate an area or areas for surface-mounted signs or applied facade lettering. The applied facade lettering or signboard should be framed by the architecture of the facade itself whenever possible. Areas of the facade specifically designed for signs and lettering should be sized roughly according to Figure 16, Sign Layout. However, the Planning Board permits flexibility in the length of this area to allow businesses with longer names to replace businesses with shorter names.

[1] Continuous, uninterrupted fascia designs meant only as a backdrop to sign placements are not permitted.

[2] Commercial properties with multiple tenants must coordinate the size, placement and design of signs and street numbers so as to present a consistent appearance.

[3] Signs or lettering which is mounted on the vertical, horizontal or sloped surfaces of the building roof or on roof fascias are not permitted.

(5) Sign text or applied lettering must be limited to the name of the business and an optional brief description of the nature of the business or slogan only. Business logos, if used, must be sized according to Figure 16, Sign Layout.

(6) Businesses which are not immediately visible from the road may, in addition to a surface-mounted or applied facade lettering sign, have one freestanding sign placed near the road. Freestanding signs must be sized and placed according to Figure 17, Freestanding Signs. **Editor's Note: Figure 17 is included at the end of this chapter.**

(a) If this property contains more than one business, those businesses must share a common freestanding sign.

(b) Street address numbers should be included on all freestanding signs (1 in Figure 17).

(c) Businesses which utilize a freestanding sign must limit the size of their facade signs or lettering and the lettering on the freestanding sign to that allowed for a building which is 21 feet from the street.

(7) In addition to the signs allowed in this section, commercial properties are permitted to have window lettering.

(8) All signs should be clear and legible. The lettering used should contrast well with the background color and have a width-to-height ratio which is roughly square. Stretched fonts and multicolored text are prohibited unless expressly part of the business logo design.

(9) Sign lighting, if used, must be provided only from shielded, downward facing lamps which direct light only around the immediate sign surface as illustrated in Figure 18. **Editor's Note: Figure 18 is included at the end of this chapter.** Bare bulbs must not be readily visible from the public way. Illumination levels on the surface of the sign face should not exceed two footcandles. Illuminated signs are encouraged to utilize light-colored lettering on a dark background to reduce glare.

(a) Internally lit signs are prohibited.

(b) Laser-light, pulsing, flashing or LED (light emitting diode) signs are prohibited.

(c) Neon signs may be permitted with approval, provided that the neon tubes comprise the sign lettering only.

(d) Sign lighting must be turned off by 10:00 p.m., or at the close of business, whichever is later.

(10) Temporary signs.

(a) A single temporary sign advertising a special event or announcement is permitted no more than four times a calendar year for any commercial business, provided they are limited to a maximum of six square feet (each side), are located on the business premises and are displayed for no more than seven consecutive days.

(b) Temporary signs, such as those provided for announcing public election candidates, real estate for sale, contracting work or similar purposes are permitted, provided they are no larger than 12 square feet (each side) and are removed immediately after the completion of the event. Temporary signs announcing new commercial construction projects must not exceed 32 square feet.

(c) Sign trailers, signs on wheels or signs placed on vehicles are prohibited.

(d) Temporary signs must be located in accordance with the setbacks for freestanding signs.

(e) Banners, streamers, balloons, blimps and similar advertising devices are prohibited.

(11) Preexisting businesses which do not currently conform to these sign requirements must submit new sign designs for approval within three years of the date of adoption of this section.

#### H. Exterior lighting.

(1) All exterior lighting used for signs, walkways, docks, parking lots, canopies, security and facade lighting should be full cut-off or recessed fixtures which project light downward only, with no exposed bulbs readily visible from the public way. The light from these fixtures should not spill over into adjacent properties, and provide only as much illumination as required on the target surfaces as specified in Figure 21. **Editor's Note:** Figure 21 is included at the end of this chapter.

(a) Sidewalk lighting fixtures along the street must be of Style A or B and must not exceed 22 feet or 12 feet in height respectively.

(b) Esplanade, waterfront access path or other walkway lighting must be of Style B and not exceed 12 feet in height.

(c) Parking and security lighting must not exceed 18 feet in height.

(d) Facade lighting must be shielded and mounted so as to only distribute light directly up or down along the plane of the facade.

(e) Landscape lighting may be directed upwards with Planning Board approval only, provided that the fixtures are fully shielded and no bare bulbs are readily visible from the public way. Landscape lighting should not exceed two feet in height.

(f) Dock lighting must be shielded, directed downward and not exceed three feet in height.

(2) Internally lit canopies and awnings are prohibited.

(3) Metal halide and incandescent lamps are recommended for typical exterior uses. Mercury vapor, low-pressure sodium and high-pressure sodium can be used with Planning Board approval only. Neon and laser lights are prohibited.

### **§ 405-31.2. Broadway Overlay District Design Standards.** **[Added 11-12-2008 by L.L. No. 4-2008]**

#### A. General.

(1) Purpose. These standards were created to protect the existing historic development patterns and aesthetics within the Broadway Overlay District and promote new development which enhances the visual appearance of the City. They are intended to act as a tool for property owners, developers and planners to help streamline the design approval process by specifying the desired development characteristics up front during the design process. Figures illustrating many of the concepts herein are included at the end in Appendix 1. **Editor's Note:** Appendix 1 is included at the end of this chapter.

(2) Applicability. This section applies to all new development, redevelopment, facade work or other exterior improvements which require a building permit; work involving the addition or modification of exterior commercial signage, material colors and lighting or other exterior work within the Broadway Overlay District.

(3) Severability. Should any section, paragraph, sentence, clause, word or provision of this section be declared void, invalid or unenforceable, for any reason, such decision shall not affect the remaining provisions of this chapter.

(4) In the event of a conflict between this section and other portions of the Zoning Code, the Zoning Enforcement Officer (ZEO) will determine which requirement governs. Improvements under these standards are subject to applicable Americans with Disabilities Act Accessibility Guidelines (ADAAG).

(5) The City Council is authorized to appoint or establish a designated board, hereinafter referred to as the "Review Board," to review proposals governed by this section and to enforce compliance with the provisions of these design standards.

(6) Prior to the commencement of any work governed by this section, documentation of the proposed work shall be submitted to the Review Board for assessment of compliance with this section. The Review Board is authorized optionally to refer the applicant's proposal to other local agencies, including, but not limited to, the Zoning Board of Appeals, Heritage Area Committee or other design review body for comments and recommendations prior to making a decision.

(7) The Review Board is required to issue a decision to approve, or deny with design recommendations, a proposal based on its compliance with this section within a period of 60 days from the date of submission. Failure to issue a decision within the time period shall constitute approval of design considerations covered by this section, unless such time period is extended by motion of the Board.

(8) All proposed work within the Broadway Overlay District must preserve, protect and incorporate the exterior facades of existing historic structures into any proposed development plans. Historic structures are defined in this section as any construction which is listed on, or is eligible to be listed on, the National Historic Register, NYS Historic Register and City of Kingston list of designated properties.

(9) All proposed work within the Broadway Overlay District must preserve, protect and incorporate the original forms and shapes of existing roofs on historic structures into any proposed development plans.

(10) All proposed work within the Broadway Overlay District must make reasonable attempts to preserve, protect and incorporate existing buildings and/or their facades into any proposed development plans through renovation and adaptive reuse.

(11) Waivers.

(a) The Review Board is hereby empowered and authorized to waive or vary any design standards or requirements in this section within the Broadway Overlay District by a majority-plus-one vote. Any such waiver must be accompanied by a written findings statement outlining the reasons such waiver is merited, and may be exercised in the event of the following:

[1] The nonconforming elements meet the spirit and intent of the design goals contained herein as defined by the Review Board; and

[2] The specific standards or requirements are not appropriate to a particular development or project.

(b) The Review Board shall also have the authority to impose reasonable and appropriate conditions on the grant of any waiver to protect the district.

(12) In addition to any required site plan application submissions, new site development plans in the Overlay District are required to submit the following:

(a) Site plan which specifies all proposed demolition and construction work and includes:

[1] Existing structures and pedestrianways on adjacent properties that are within 50 feet of all property lines.

(b) Building elevations, at a minimum scale of 1/8 inch equals one one foot, of all facades, which specifies all proposed demolition and construction work and includes:

[1] Exterior materials, changes or transitions in materials, surface lighting, surface signs, street number, awnings and similar facade accessories.

[2] Proposed alterations or changes to existing facades, if any.

[3] Elevations of new buildings being proposed must include the full facades of any adjacent structures within 50 feet of the site along Broadway for context.

(c) Samples of any new proposed facade, roofing and sign materials.

(d) Site plan indicating exterior lighting photometrics, spread and intensity.

(e) A perspective color rendering illustrating what the proposal would look like if viewed from the street as a pedestrian.

(f) Photographs of the site and surrounding area, including all existing elements required to be shown on the site plans and existing buildings within 50 feet of the proposed project site.

(13) Facade alteration or renovation proposals in the Overlay District are required to submit the following:

(a) Building elevations, at a minimum scale of 1/8 inch equals one foot, of all facades, which specifies all proposed demolition and construction work and includes:

[1] Exterior materials, changes or transitions in materials, surface lighting, surface signs, street number, awnings and similar facade accessories.

[2] Proposed alterations or changes to existing facades, if any.

(b) Samples of any new proposed facade, roofing and sign materials.

(c) Photographs of the site and surrounding area, including all existing elements required to be shown on the site plans and existing buildings within 50 feet of the proposed project site.

(14) Signage or exterior lighting proposals in the Overlay District are required to submit the following:

(a) Drawings of the proposed sign or copy change, at a minimum scale of one inch equals one foot, of all signs or lettering, which includes some context of the building facade where it is proposed to be mounted.

(b) Other sign information regarding illumination methods, hours of illumination and mounting method.

(c) Photographs of the site or building which include the proposed sign or lighting mounting location, any existing signs or lighting and the adjacent properties.

(d) Documentation, such as cut-sheets from the manufacturer, of any proposed lighting or light fixture, which includes photos, illustrations and performance data of the lamp.

B. Site planning, parking and landscaping standards. All new development within the Overlay District must comply with the following:

(1) New construction must align the front facade of the building at, or as close as possible to, the front facade of an existing building on an adjacent property. In the case of a discrepancy of setbacks, the new building should align with at least one of the neighboring buildings, or as directed by the Review Board (1 in Figure 1).

(2) New construction should attempt to work with any preexisting building patterns found in adjacent or nearby buildings with regards to massing, height, scale and form.

(3) New construction should place as much of the building width at the front of the lot as possible to maximize front facade exposure and maintain the street wall. The front facade should be kept parallel to the street (2 in Figure 1).

(4) The use of landscaping methods, such as low walls, hedges and tree rows, should be used to help maintain and reinforce a consistent street wall in areas where there are no building facades to define it (3 in Figure 1).

(5) The primary entry on all new construction should be easily identifiable, scaled appropriately to the size of the building and should always face the street. In cases where the primary building entry should also be visible from an on-site parking area adjacent to the building, the entry may be placed at the corner of the structure so that it is may be visible from both the street and the parking area (4 in Figure 1).

(6) New construction located at corner intersections should place a majority of the building mass at the corner and/or wrap the corner by continuing facade elements such as the cornice on all street elevations.

(7) All required off-street parking areas should be located at the side or rear of the building. No parking areas are allowed between the front facade of the building and the curb (5 in Figure 1).

(8) All on-site parking, vehicle loading or service areas located within sight of the street must be screened from view using architectural or landscaping methods as directed by the Review Board.

- (9) On-site parking areas, vehicle loading or service areas should connect to any existing service alleys or adjacent parking areas, if available, to allow alternate means of egress (6 in Figure 1).
- (10) Proposed on-site parking areas should be located next to any adjacent existing parking lots if possible to provide shared parking opportunities which can serve neighboring buildings simultaneously. Such shared arrangements should share a single curb cut and/or provide direct access from one lot to the other, as directed by the Review Board.
- (11) Large parking areas in excess of 30 spaces must provide landscaped islands and buffers which break up the visual expanse of paved area as directed by the Review Board. Such medians should include grass, plantings and trees which are spaced a minimum of 30 feet on center (7 in Figure 1).
- (12) Properties are limited to no more than one curb-cut access to the main street, unless otherwise approved by the Review Board. Curb cuts should only be as wide as necessary to accommodate needed travel lanes. Curb-cut radiuses must be no larger than five feet (9 in Figure 1).
- (13) Larger developments which may include multiple buildings within the same city block should include pedestrian paths, access routes or plazas through the site which are publicly accessible.
- (14) City-approved tree grates should be used at new tree locations when incorporated into paving (1 in Figure 2).
- (15) These pedestrian and parking areas must meet all requirements of the Americans with Disabilities Act, including transitions from one property to another.

C. Height, scale and massing. New construction in the Overlay District must comply with the following height, scale and massing requirements:

- (1) Two-story minimum building height is required on front facades facing Broadway.
  - (a) The City may elect to waive the two-story facade height requirement in some instances where it is deemed inappropriate or where it may create an undue financial burden on the applicant.
  - (b) The second floor facade area of new construction must provide habitable space measuring at least 12 feet in depth measured back from the front facade. No false facades are permitted as a means of meeting the two-story minimum requirement.
- (2) The majority of the building mass should be placed at the front of the site to maximize front facade exposure and maintain the street wall; however the building height may step down to lower levels in the rear. Corner lots should place a majority of the building mass or height at the corner to visually anchor the block.
- (3) The height of new buildings should coordinate common heights and facade lines with immediately adjacent buildings (1 in Figure 3).
- (4) Structures with sloping roof designs should align the gable end of the facade to face the street to maximize facade exposure.
- (5) For the purposes of determining effective facade height on buildings with sloping roofs, the height of structures with gable ends facing the street should be measured by the vertical distance from the ground to the peak of the roof. Structures which have their roof ridge running parallel to the street should be measured by the vertical distance from the ground to the lowest part of the roof.
- (6) Maximum parapet height is four feet unless otherwise required by state or federal codes.
- (7) No portion of the roofline may extend more than 50 feet in length horizontally without a roofline transition. A "roofline transition" is defined as a change in the height of the roofline where it steps (up or down) at least 24 inches. Such transitions should not occur more than once in a four-foot span along the facade (2 in Figure 3).
- (8) Facade and roofline transitions should be used to highlight important areas of the facade such as a building entry, the center of the facade, or the symmetrical ends (2 in Figure 3).
- (9) Most of the existing building facades within the district are composed of base, middle and top levels which

are readily discernable from each other, and new facade designs should be compatible with that framework (1 in Figure 4).

(a) The base level should roughly align with those on nearby buildings (3 in Figure 3) and often rests on a small plinth or watertable which creates a transition between it and the ground.

(b) The top level is created by a roof or cornice which is designed to provide a visual cap to the building overall and creates a noticeable transition between the building and the sky (3 in Figure 4).

(10) New facade designs should be in keeping with the scale of adjacent buildings. The use of an overall facade composition which breaks the building down into smaller and regular portions, such as bays defined by groups of windows, helps to achieve this (5 in Figure 3 and Figure 4).

(11) Small-scale building materials similar to those recommended in Table 1 **Editor's Note: Table 1 immediately follows Subsection E.** are required as the primary building material along the front facade of all new construction.

(12) Areas of blank wall larger than an eight-foot diameter circle are not permitted on the front facades of new construction (6 in Figure 4). Such blank wall is defined as an area of facade which does not contain any decorative articulation of materials which measure at least two inches in depth, or openings such as windows and doors.

#### D. Roofs.

(1) Flat roofs with parapets and gable roofs are historically the most common roof forms found within the district, and new construction should be compatible with that framework. Mansard roofs, shed roofs, fake roof fronts, built-out roof frames which are hung from the facade and similar applied designs are prohibited as primary roof types.

(2) New construction with a flat roof is required to be capped by an architectural cornice design that is a sculptural expression of the primary facade material, wood or simulated wood design, at the top of the front facade(s). This articulated parapet or cornice design must be at least 12 inches tall on one-story facades and at least 24 inches tall on facades of two or more stories. The size, depth and relief of any proposed cornice should be compatible with those found on nearby buildings of the same height and include suitable depth to create noticeable shadows (4 in Figure 3 and Figure 4). Maximum parapet height is four feet unless otherwise required by state or federal codes.

(3) New construction with a sloped roof must have a minimum roof pitch of no less than 5:12 on primary roof areas (not including dormers, entry canopies or similar secondary roof elements) or a maximum pitch of 12:12.

(a) The tallest portion of the roof must be orientated to place at least one gable end facing the street.

(b) Roof overhangs at the eave and gable ends must be at least eight inches deep.

(4) New roof construction must be designed so as to divert the fall of rain and snow away from pedestrian areas, such as walkways and doors.

(5) Air-handling units, condensers, satellite dishes and other equipment placed on the roof must be located and screened from view so as to not be readily visible from the street or waterway. The Review Board may require that roof-mounted equipment be visually minimized with painted colors and finish complementary to the overall building design and set back or screened to be out of the sheet viewshed whenever feasible, as directed by the Review Board.

(6) See materials list in Table 1 **Editor's Note: Table 1 immediately follows Subsection E.** for approved roof materials.

#### E. Facade composition and fenestration.

(1) The front facades of new flat roof construction must be organized in a general base - middle - top configuration (Figures 3 and 4).

(a) The base level consists of the most open and sculptural facade expression at the first floor. The amount

of door and window openings should be the greatest here, typically between 75% and 90% of the facade, in this ground floor area.

[1] Individual window openings in the facade cannot exceed 12 feet in width and must be separated from each other by at least 18 inches of facade. Window glass area cannot exceed five feet in width without being separated by at least six inches of mullion.

[2] Window frames must be recessed at least three inches back from the plane of the facade. Flush or curtain wall windows designs are not permitted.

[3] The primary entry doorway to the street must be recessed between 12 inches and 48 inches back from the plane of the facade, expressing the greatest amount of facade depth (6 in Figure 3).

[4] The base level should be crowned by an entablature element or other transition having a change in depth, materials and color which differentiates it from the upper levels. The entablature element should be designed to accommodate facade lettering or signs for the property. See Subsection [G](#), Signs and lighting.

(b) The middle level consists of the upper floors, and has a lower fenestration level than the first floor. The amount of facade articulation and openings should be less here than that found at the ground floor, typically between 25% and 50% of the facade in this area (4 in Figures 3 and 4).

[1] Individual window openings in the facade at this level cannot exceed six feet in width, and must be separated from each other by at least 24 inches of facade. Window glass area at this level cannot exceed three feet in width without being separated by at least four inches of mullion.

[2] Window frames must be recessed at least two inches back from the plane of the facade.

(2) The front facades of new construction with masonry exteriors are required to visually express the structural lintels over windows, doors, archways and similar openings (6 in Figure 4). See materials list in Table 1 [Editor's Note: Table 1 immediately follows Subsection E](#), for a listing of approved lintel materials.

(3) The rhythm of facade elements across the front facade must be arranged in an easily recognizable pattern, such as a repeating or symmetrical layout. Breaks or fluctuations to the facade pattern should be reserved to highlight areas of special interest, such as entry points to the building (1 in Figure 5).

(a) New construction directly adjacent to or added to existing structures should be compatible with the rhythm of facade elements of the existing building.

(4) The proportion of facade elements, such as windows, window divisions and bays, must have a vertical orientation (taller than they are wide) of at least  $x$  wide to  $1.5x$  tall. The proportions of individual elements should be used consistently throughout the design, such that all windows and their divisions are generally of the same proportion (2 in Figure 5).

(a) New construction directly adjacent to or added to existing structures should be compatible with the proportion of facade elements of the existing building.

(b) Horizontally proportioned elements (wider than they are tall) must be used sparingly. Strong horizontal influences, such as overly bold fascias, strip windows or repeatedly banding designs of brick are prohibited.

(c) The proportion of structural facade elements, such as columns, pilasters and posts, must be designed accordingly with the weight they appear to be carrying.

## F. Materials and colors.

(1) All proposed work within the Overlay District must preserve, protect and maintain the use of original exterior materials of historic structures whenever possible. If replacement is necessary, replace with like materials which have the same basic forms and proportions.

(a) Existing exterior materials removed for demolition should be salvaged for use in patching or as new exterior material in additions whenever possible.

(b) Additions to existing historic structures must use exterior materials which match the basic form,

proportions and material of the original building. Exact material matches for color and texture are not required.

(c) The covering or concealing of existing historic exterior materials with new materials is prohibited. The Review Board may require that newer existing exterior materials be removed to reveal historical surfaces underneath, if appropriate.

(2) All proposed work within the Overlay District must make reasonable attempts to preserve, protect and maintain the original design and exterior materials on existing front facades whenever possible. If replacement is necessary, replace with like materials which have the same basic forms and proportions.

(a) Any renovations or alterations to an existing facade should include reasonable attempts to remove any modern day cladding, panels, signboards or similar additions which are concealing the original building design underneath. The Review Board may require that newer existing exterior materials be removed to reveal original surfaces underneath, if appropriate.

(b) Original facade materials and designs should be repaired and preserved whenever possible in lieu of replacement or covering with new materials. The removal or covering of original exterior materials with new materials is prohibited unless it can be demonstrated that repairing the original construction would be creating undue financial hardship in the opinion of the Review Board, and approved by the Review Board.

(3) Smaller scale materials are required on front facades of all new construction. See materials list in Table 1 **Editor's Note: Table 1 immediately follows Subsection E.** for recommended materials.

(4) When using more than one material on the exterior facade, one material must be used as the primary theme with others used only sparingly to complement or accent the design. The use of a variety of design styles or materials across the facades of the same building is prohibited.

(5) When making a transition from one material to the next, the change must occur at hard-edge or depth transition in the facade which creates a surface for one material to terminate into before the next one begins (1 in Figure 6).

(6) Special designs or decorative patterns created in the exterior materials are encouraged.

(7) All exterior colors must be of a natural, muted shade. Brighter, more vibrant colors, if used, must be reserved for minor accents and highlights only. All exterior colors must be approved by the Review Board.

(8) When using more than one color on the exterior facade, one color must be used as the primary theme with others used only sparingly to complement or accent the design.

(9) When making a transition from one color to the next, the change must occur at hard-edge or change in depth in the facade which creates a surface for one color to terminate into before the next one begins (1 in Figure 6).

**Table 1  
Materials List**

<b>Building Element</b>	<b>Recommended Materials</b>	<b>Prohibited Materials</b>
Facade	Common red brick	Multicolored/multi-toned brick
	Bare, multicolored/multi-tone (approved color)	Imitation brick siding, asphalt siding
	Painted (approved color)	Plain C.M.U. (bare or painted)
	Special masonry units (C.M.U.)	

**Table 1  
Materials List**

<b>Building Element</b>	<b>Recommended Materials</b>	<b>Prohibited Materials</b>
	Textured C.M.U.	Unfinished, lumber grade wood
	Colored (dyed) C.M.U.	Metal, aluminum or vinyl siding
	Split-faced C.M.U.	Mirrored or highly reflective siding or panels
	Natural stone	Imitation stone
	Wood clapboard or shingle	Wood paneling
	Finished grade (painted or stained approved color)	Plywood, T-111,
	Composite, MDO/MDF board, synthetic wood	Composite, MDO/MDF board
	PVC (approved color)	E.I.F.S./stucco
	Fibre reinforced cement siding/hardi-plank	
Windows	Anodized aluminum frame/storefront	Bare aluminum
	Approved color	Reflective flashing
	Wood, vinyl clad, PVC frame	Mirrored, colored or dark tinted glass below 70% VLT*
	Approved color	
	Clear, etched, tinted, frosted or stained glass	
	Expressed lintels over openings	
	Brick, limestone, colored or bare concrete	
Roof	Asphalt shingle (approved color)	Light or reflective materials
	Imitation slate	
	Natural slate	
	Standing seam metal	
	Small seam width, approved color	
	Dark, nonreflective PVC, modified bitumen	
	Aluminum eave guard	

**Table 1  
Materials List**

<b>Building Element</b>	<b>Recommended Materials</b>	<b>Prohibited Materials</b>
	Parapet and chimney caps	
	Stone, limestone or precast concrete	
	Metal flashing (approved color)	
Other/Miscellaneous	Canvas awning	Plastic, vinyl or other synthetic awnings
	3 color maximum, approved colors	Reflective flashing
	Concrete, brick, paver or stone sidewalks	Asphalt sidewalks/walkways
	Stamped concrete	
	Wood/synthetic wood porches, boardwalks, ramps	

**NOTES:**

**All exterior materials and colors must be approved by the Review Board.**

**\* VLT = Visible Light Transmission.**

PVC = Polyvinyl Chloride.

**G. Signs and lighting.**

(1) All new signs, facade lettering and lighting must be approved by the Review Board.

(2) Applicability. All applicable provisions of § [405-36](#), Signs, apply, except as otherwise specified in this section. In the event of a conflict between this section and § [405-36](#), this section shall prevail. Any specifics not covered in this section are governed by § [405-36](#).

(a) Preexisting conforming signs. Preexisting signs which were in conformance with the prior City sign regulations before the date of adoption of these standards may remain as-is and are not required to be modified or removed to be in conformance with this section, until such time as they are changed. Any preexisting sign which is modified, changed in name or business use, enlarged, reconstructed, extended, moved or structurally altered after the effective date of this section are required to be brought into compliance with all applicable provisions of this section.

(b) Preexisting nonconforming signs. Preexisting signs which were not in conformance with the prior City sign regulations before the date of adoption of this section shall be considered nonconforming, and must be modified or removed to be in compliance with this section within 90 days of written notice by the City.

(c) Nonconforming signs. Any sign or accessory signs, such as banners, flags, balloons or similar devices, which are placed on display after the effective date of this section that do not meet the requirements of this section due to design or lack of maintenance are considered nonconforming and must be modified or removed to be in compliance with this section within 90 days of written notice by the City.

(d) Modifications to signs. Any preexisting sign which is modified, changed in name or business use, enlarged, reconstructed, extended, moved or structurally altered after the effective date of this section are required to be brought into compliance with all applicable provisions of this section.

(e) New signs. No sign or other device shall be erected, established, constructed, reconstructed, enlarged, extended, moved, or structurally altered after the effective date of this section without application for and issuance of a permit, except as otherwise provided for herein, and must be in compliance with all applicable provisions of this section.

(3) The definition of "sign" for this section shall be amended to include any architectural devices, design or treatment, such as painting, striping, lighting or similar methods designed for the purposes of attracting the attention of the public in a manner similar to advertising, and the reviewing board has the authority to regulate in kind.

(4) Noncommercial signs or messages are permitted to be substituted for any sign expressly allowed under the time, place and manner of these regulations.

(5) Permitted commercial signs. No commercial sign is permitted within the Overlay District unless otherwise noted below:

(a) Lettering or signboards. Commercial properties are permitted one instance of surface-applied facade lettering or a surface-mounted signboard per commercial tenant, per street frontage. Such lettering or signboard size should be determined by the lettering size chart in Table 2. **Editor's Note: Table 2 immediately follows Subsection [G\(7\)\(f\)](#).**

(b) Projecting signs. In addition to other permitted signs listed in this section, businesses with a preexisting projecting sign (hung perpendicular to the building facade) are permitted to maintain a projecting sign, provided that it conforms to or is brought into conformity with, these standards within six month of the adoption of these standards.

(c) Street addresses. All properties must display their street number on the front facade next to, above or reasonably close to the primary entry or incorporated into approved signage. Street numbers should be sized according to the lettering size chart in Table 2.

(d) Window lettering. In addition to other permitted signs listed in this section, commercial properties are permitted to have window lettering. Such lettering should be sized according to the lettering size chart in Table 2 (2 in Figure 7).

(e) Window signs. In addition to any other permitted signs listed in this section, commercial properties are permitted to have window signs, provided that the total area of all such window signs per facade does not exceed 20% of the window glass area of that facade. Such signs may consist of notices, posters, neon beer signs and similar commercial devices. Standard business operational signs such as "hours of operation," "closed" and similar signs shall not count toward this total area.

(f) Awning sign. In addition to any other permitted signs listed in this section, text on pedestrian awnings is permitted, provided that the text is limited to the business name, slogan and/or street address only. The text height must be located on the vertical front edge of the awning only, and must not exceed six inches in height (Figure 15).

(g) Menu sign. In addition to any other permitted signs listed in this section, a wall mounted menu sign is permitted adjacent to the main entry for restaurants and similar establishments, but in lieu of a plaque sign, provided that the total sign area does not exceed four square feet (Figure 17).

(h) Plaque sign. Businesses located in the upper floors or rear of a multi-tenant building are permitted one surface-mounted plaque sign per tenant, which is no larger than one square foot in area, located near the primary building entry for the purposes of identifying the additional or secondary tenant spaces. An additional one square foot of plaque sign may be permitted to accommodate the building street address information and/or official building name. Individual plaque signs should be designed in matching style, though no more than three tenant plaque signs are permitted at a given entryway.

[1] Directory sign. In lieu of a plaque sign, businesses are permitted a single surface-mounted directory sign for listing four or more tenants, located near the common building entry. Such directory must not exceed six square feet in area, although an additional one square foot may be permitted to accommodate the building street address information and/or official building name.

(i) Pedestrian sidewalk signs. Signs designed to identify multiple commercial properties which are in the

immediate vicinity yet do not have direct access or visibility to pedestrians from Broadway may be permitted by the Review Board. Such signs shall be no larger than seven feet tall, four feet long, one foot wide and should occur no more than once per block of Broadway. The sign must accommodate at least 10 business names and an area directional map for its selected vicinity which graphically indicates the location of the sign and the businesses listed (Figure 16).

(j) Freestanding signs pursuant to § [405-36F](#).

(k) Preexisting painted advertisements, such as those seen on the blank sides of older brick buildings. Such existing advertisements, typically for a product or company which no longer exists, may be restored. New painted advertisements are prohibited.

(6) Prohibited commercial signs.

(a) Cabinet, box or otherwise hollow signs and letters are prohibited unless they are recessed into the facade or otherwise framed by facade features so it appears fully recessed and are internally illuminated in accordance with the lighting standards of this section.

(b) Portable signs, vehicle signs, sign trailers, signs on wheels or similar signs placed on vehicles are prohibited. Signs normally appearing on commercial vehicles owned by the advertised business are exempt from this provision, except such vehicles may not be parked on lands not related to the business for extended periods of time for the sole purposes of acting as off-premises advertising.

(c) Banners, pennants, streamers, balloons, blimps and similar advertising devices are prohibited. Banners designed as an integral part of street lampposts or other public amenities may be permitted by special permit to announce special events.

(d) Animated, moving, rotating, oscillating, pulsing, flashing, electronic reader board, such as "time and temperature" signs or otherwise changing signs are prohibited, excluding traditional barbershop poles used for said business.

(e) Continuous, uninterrupted fascia designs or illuminated canopies meant only as a backdrop to commercial sign placements are not permitted.

(f) Commercial billboards, off-site, nonaccessory or similar commercial signs in excess of 100 square feet in area within the Overlay District are prohibited.

[1] Any preexisting commercial billboard which is prohibited by this section is hereby given an amortization period from the date of adoption of this section before it must be removed as follows:

Fair Market Value on Date of Notice of Removal Requirement	Years Allowed
Under \$1,999	3
\$2,000 to \$3,999	4
\$4,000 to \$5,999	6
\$6,000 to \$7,999	7
\$8,000 to \$9,999	9
\$10,000 and over	10

(g) All other signs prohibited in § [405-36](#).

(7) Sign sizing, design and mounting requirements.

(a) The allowable size of sign lettering is specified in Table 2, Lettering Size Chart. *Editor's Note: Table 2 immediately follows Subsection G(7)(f).* The allowable size of signboards is based on the size of the allowed lettering using the diagram illustrated in Figure 8. *Editor's Note: Figure 8 is included at the end of this chapter.*

[1] The diagram in Figure 8 illustrates how the overall size of the signboard is limited to that required for

the business name, the business description or motto, an optional logo and the empty spaces between. All of these elements are a function of the maximum letting size X.

[2] Once the overall size of the board is determined, the actual layout and arrangement of text can be changed to accommodate the desired look (Figures 12, 13 and 18).

(b) Sign text or applied lettering must be limited to the name of the business and an optional brief description of the nature of the business or slogan only. Business logos, if used, should be sized roughly according to the diagram in Figure 8, Signboard Sizing.

(c) Commercial properties with multiple tenants must coordinate the size, placement and design of signs and street numbers so as to present a consistent appearance.

(d) Surface applied facade lettering which is framed by the architectural features of the facade is preferred to signboards and should be utilized whenever appropriate (Figures 10 and 11).

(e) Installing new signs which cover or obscure architectural features of existing structures is prohibited. Installing new signs which are incompatible with the architectural style, scale, location, materials or color of an existing facade is prohibited.

(f) New commercial construction must design the front facade specifically to accommodate an area or areas for applied facade lettering or surface-mounted signs. The applied facade lettering or signboard should be framed by the architecture of the facade itself whenever possible (1 in Figure 7; Figures 10, 11 and 12). Areas of the facade specifically designed for signs and lettering should be sized roughly according to the diagram in Figure 8, Signboard Sizing. However, the Review Board permits flexibility in the length of this area to allow businesses with longer names to later replace businesses with shorter names.

**Table 2 Lettering Size Chart**

<b>Type of Sign</b>	<b>Maximum Lettering Size X (name / business description or street number)</b>
Lettering applied directly to facade	18 / 9 (lettering size x = 16)
Signboard applied to facade	14 / 7
Projecting sign	8 / 4 (up to a maximum of 5 square feet each side)
Window lettering	8 / 4

**NOTES:**

Maximum lettering height for letters applied to the facade and for signboards. To determine the maximum size of an allowable signboards, see Figure 8, Signboard sizing. Any additional text, such as a business description or street number, is always half the height of that permitted for the business name.

(g) Signs or lettering which are mounted on the vertical, horizontal or sloped surfaces of the building roof or on roof fascias are not permitted.

(h) All signs should be clear and legible. The lettering used should contrast well with the background color and have a width-to-height ratio which is roughly square. Stretched fonts and multicolored text are prohibited unless expressly part of the business logo design.

(8) Other signs.

(a) Sandwich board sign. In addition to any other permitted signs listed in this section, sandwich board signs advertising a sale, menu or similar information are permitted to be displayed on the sidewalk immediately in front of the business during operating hours, provided that they are limited to a maximum of six square

feet each side.

(b) Special event. In addition to any other permitted signs listed in this section, a single temporary sign advertising a special event or announcement is permitted no more than four times a calendar year for any commercial business, provided that they are limited to a maximum of six square feet (each side), are located on the business premises and are displayed for no more than seven consecutive days.

(c) Temporary signs, such as those provided for announcing public election candidates, real estate for sale, contracting work or similar purposes are permitted, provided that they are no larger than 12 square feet (each side) and are removed immediately after the completion of the event. Temporary signs announcing new commercial construction projects must not exceed 32 square feet.

(d) Gasoline service station signs.

[1] In lieu of a permitted facade-mounted wall sign or channel lettering, gasoline service stations are permitted a canopy sign not to exceed 16 square feet in area, inclusive of any colored striping or banding effects along the canopy.

[2] In addition to other permitted signs in this chapter, gasoline service stations are permitted one monument sign. Such sign shall be no larger than eight feet tall, five feet long (measured perpendicular to the road) and one foot wide (measured parallel to the road). Copy or sign information may only appear on the long sides. Monument signs must be located at or near the primary vehicle entrance to the property no closer than 15 feet from the edge of the road, or otherwise placed so as not to obstruct vehicular sight lines. Such signs shall consist of the business name, brief description or motto, street address, and may include pricing information.

(9) Sign lighting.

(a) Signs may be illuminated either internally or externally as specified in this section.

[1] External sign lighting must be provided only from shielded, downward facing lamps which direct light only around the immediate sign surface (Figures 9, 10 and 12). Bare bulbs must not be readily visible from the public way. Illumination levels on the surface of the sign face should generally not be overly bright or distracting. The Review Board shall have the authority to require after-installation changes to the sign lighting if, in their opinion, it does not meet the requirements of this section.

[2] Internally illuminated cabinet or box signs or internally illuminated channel lettering is permitted only when:

[a] The cabinet is recessed into the facade or otherwise framed by architectural features so it appears to be recessed (Figure 18).

[b] The lettering or logo itself is the only portion of the sign which is translucent or illuminated while any remaining background or sign area is opaque and does not emit light (Figure 18).

[c] The color of the illuminated lettering is soft or muted, complementing or matching building colors and uniform throughout a property with multiple tenants.

[d] Approved by super majority vote (majority plus one) of the Reviewing Board.

[3] Surface-applied facade lettering which is opaque, yet is illuminated by silhouette or backlight is permitted, provided that the source of lighting and associated wiring is fully concealed behind the individual letters.

(b) Illuminated neon signs may be permitted with Review Board approval, provided that the neon tubes comprise the sign lettering only.

(c) Illuminated signs are encouraged to utilize light-colored lettering on a dark background to reduce glare.

(d) All lighting must be generally white or of a muted color with a diffused, nonintermittent light source as approved by the Review Board. All lighting shall not interfere with the comfort and safety of the general traffic and nearby residences.

(e) Gasoline service station canopy signs may be directly or indirectly illuminated; however, the canopy roof or its perimeter edge may not be translucent or otherwise illuminated outside of the sign area.

(f) Sign lighting must be turned off by 10:00 p.m., or at the close of business, whichever is later.

#### H. Exterior lighting.

(1) New streetlighting provided along Broadway should match the fixtures currently being installed in other areas along the public way.

(2) All exterior lighting used for signs, walkways, parking lots, security and facade lighting should be full cut-off or recessed fixtures which project light downward only, with no exposed bulbs readily visible from the public way. The light from these fixtures should not spill over into adjacent properties and provide only as much illumination as required on the target surfaces (Figure 9).

(a) Parking and security lighting must not exceed 18 feet in height.

(b) Facade lighting must be shielded and mounted so as to only distribute light directly up or down along the plane of the facade.

(c) Landscape lighting may be directed upwards with Review Board approval only, provided that the fixtures are fully shielded and no bare bulbs are readily visible from the public way. Landscape lighting should not exceed two feet in height.

(3) Internally lit canopies and awnings are prohibited.

(4) Metal halide and incandescent lamps are recommended for typical exterior uses. Mercury vapor, low-pressure sodium, high-pressure sodium, neon and laser lights can be used with Review Board super majority (majority vote plus one) approval only.

(5) Gasoline service station lighting must be achieved by fully recessed, shielded fixtures which emit light directly downward onto the pumping area only, so that the light source itself is reasonably kept from view when observed from the public way or adjacent parcels. Alternately, the underside of arched, vaulted or otherwise concave canopies may be indirectly illuminated by means of up-lighting from fixtures mounted on the canopy supports, providing a general illumination to the pumping area by means of diffused reflection.

**Table 3**  
**Recommended Lighting Levels**

<b>Lighting Use</b>	<b>Maximum Footcandles (horizontal)</b>	<b>Average Footcandles (horizontal)</b>	<b>Minimum Footcandles (horizontal)</b>	<b>Uniformity Ratio</b>
Parking lot	5.0	3.0	1.0	4:1
Security	5.0	3.6	2.0	4:1
Facade	0.5	-	-	-
Landscaping	0.5	-	-	-

#### **§ 405-32. Special permits.**

On application and after public notice and hearing, the Planning Board may authorize, by resolution, the issuance of a special permit only for those uses in a district where this chapter requires such a permit. In authorizing the issuance of a special permit, the Board shall take into consideration the public health, safety and welfare and shall prescribe appropriate conditions and safeguards to insure the accomplishment of the following objectives. Unless otherwise provided, all special permits shall be valid for a period determined by the Board.

##### A. Objectives.

(1) That all proposed structures, equipment or material shall be readily accessible for fire and police protection.

(2) That the proposed use is of such location, size and character that, in general, it will be in harmony with the appropriate and orderly development of the district in which it is proposed to be situated and will not be detrimental to the orderly development of adjacent properties in accordance with the zoning classification of such properties.

(3) That, in addition to the above, in the case of any use located in or directly adjacent to a residential district:

(a) The location and size of such use, the nature and intensity of operations involved in or conducted in connection therewith, its site layout and its relation to access streets shall be such that both pedestrian and vehicular traffic to and from the use and the assembly of persons in connection therewith will not be hazardous or incongruous with said residential district or conflict with the normal traffic of the neighborhood.

(b) The location and height of buildings, the location, nature and height of walls and fences and the nature and extent of screening and landscaping on the site shall be such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings or diminish the value thereof.

B. Procedure. The procedure for a special permit shall be the same as set forth in the General City Law § 27-b.

**[Amended 12-16-1999 by L.L. No. 2-2000; approved 1-3-2000]**

C. Application. Every application for a special permit shall be submitted in two copies and shall contain the relevant items outlined in § [405-30F](#), as determined during the presubmission conference.

D. In authorizing the issuance of a special permit, it shall be the duty of the Planning Board to attach such conditions and safeguards as may be required in order that the results of its action may, to the maximum extent possible, further the general objectives of this chapter. The Board may require that special permits be periodically renewed. Such renewal shall be granted following due public notice and hearings and may be withheld only upon a determination that such conditions as may have been prescribed by the Board in conjunction with the issuance of the original permit have not been, or are no longer being, complied with. In such cases, a period of 60 days shall be granted the applicant for full compliance prior to the renovation of said permit. Any use for which a special permit may be granted shall be deemed to be a conforming use in the district in which such use is located, provided that:

(1) The provision in this chapter under which such permit was issued is still in effect.

(2) Such permit was issued in conformity with the provisions of this chapter.

(3) Such permit shall be deemed to affect only the lot or portion thereof for which such permit shall have been granted.

(4) All applicable provisions of this chapter not otherwise varied by the special permit approval are adhered to.

E. No special permit shall be authorized for any activity in an L Landmark Overlay District until such application shall have been referred to the Landmark Preservation Commission in accordance with the site plan procedure outlined in § [405-30D](#).

F. Any person or persons, jointly or severally aggrieved by any decision of the Planning Board concerning review of a special permit, may bring a proceeding to review in a manner provided by Article 78 of the Civil Practice Law and Rules in a court of record on the ground that such decision is illegal, in whole or in part.

**§ 405-33. Restrictions on public garages and service stations.**

A. No driveway to or from any public garage or automobile service station shall be within 200 feet (measured along the street line on that side of the street on which such public garage or automobile service station has its main frontage and on which such driveway would cross) of the boundary line of any residence district or of any school, church, park, playground, hospital, public library, institution for dependents or children or any place of public assembly designed for the simultaneous use of 100 persons or more, regardless of the district where either premises is located.

B. No service station building and no gasoline or oil pump or service appliance, unless within a building, shall

be within 15 feet of any street line.

C. There shall be no opening in the walls or roof of any public garage, except chimney openings and emergency fire doors, within 15 feet of any property line, unless equipped with wire glass and metal sash and frames.

D. All automobile parts, wrecked or damaged motor vehicles or similar articles shall be stored within an approved enclosed area. Major repair work may be carried on outdoors where it is impracticable to do such work within a building, but in no case shall any vehicles requiring such work be stored outdoors for a period exceeding 30 days. Gasoline or oil sales, changing of tires and other similar automobile servicing shall not be considered to be major repair work.

E. No automobile service station and no gasoline or oil pump or automotive service appliance, unless within a building, shall be permitted to be established on a lot that is within 1,000 feet of another lot on which there is an existing automobile service station or outdoor gasoline or oil pump or automotive appliance or of another lot for which a building permit has been issued for the erection of such a station, pump or service appliance. This requirement shall in no way be construed to cause any existing use to become nonconforming, except that if such a use has been discontinued for any reason for a period of over one year or has been changed to or replaced by a conforming use, such use shall be subject to the provisions of Article [VI](#) hereof.

#### **§ 405-34. Off-street parking and loading.**

A. Landscaping. Whenever a parking area containing three or more spaces faces a street or a property line, a planting area of a minimum width of three feet with plantings at least three feet high planted three feet on center shall be provided between the parking area and the street line or property line. The planting plan for this strip shall be approved by the Planning Board as part of the site plan review. Further, not more than 12 parking spaces shall be permitted in a continuous row, and not more than 24 spaces shall be permitted in a single parking area without being interrupted by landscaping approved by the Planning Board. However, if a parking area is located in a side or rear yard, the Planning Board shall have the authority to waive the landscaping requirement of not having more than 12 parking spaces in a continuous row without being interrupted by landscaping.

#### **[Amended 6-6-1995; approved 6-8-1995]**

B. Screening. Where a parking area for three or more vehicles abuts a residential property, it shall be screened from view by landscaping an opaque fence or wall or other means approved by the Planning Board.

C. Two or more uses on the same lot. Except as specified in Subsection [D](#), where two or more different uses occur on a single lot, the total amount of parking facilities to be provided shall be the sum of the requirements, if any, for each individual use on the lot.

D. Joint use of parking areas.

(1) In the case of two or more establishments on the same lot or on contiguous lots, the Planning Board may approve the joint use of parking areas with a total capacity of not less than 50% of the sum of the spaces required for cars and using the same driveways giving access thereto, provided that the same Board finds that the proposed capacity will substantially meet the intent of the requirements by reason of variation in the probable time of maximum use by patrons or employees among such establishments.

(2) Joint use of parking areas shall be subject to the following requirements:

(a) If a use is enlarged or changed, the Planning Board shall have the discretion to require full compliance for each separate use upon finding that conditions justifying joint use no longer exist.

(b) Such area shall be sufficient to provide the total number of parking and loading units required collectively of the participating owners.

(c) An agreement for the construction, use and maintenance of such joint parking and loading area, and the cost thereof, shall be entered into by all participating owners on a basis deemed equitable by the Planning Board, and the continuance of such agreement and such proper maintenance shall be guaranteed by a covenant filed with the site plan and attached to the deed of each participating property binding each participating owner and his successors in interest for the life of the joint use of the facility and a bond in an amount sufficient to cover maintenance and repair as estimated by the City Engineer and satisfactory to the

Corporation Counsel as to form and adequacy of guaranty, which covenant and bond shall run for a period of not less than 20 years.

(d) Upon findings that the foregoing conditions have been met and where the joint parking facility adjoins or straddles a joint lot line, the Planning Board may, for the period covered by such agreement and bond, waive temporarily the requirements for side yards, including landscaping along property lines.

#### E. Layout and location of off-street parking facilities.

(1) The plans for new buildings or the enlargement of floor areas in existing buildings or the conversion to additional dwelling units shall show specifically the location and size of off-street parking facilities required to comply with any applicable requirements hereof and the means of access to such space from the public streets or highways.

(a) Access shall consist of at least one fifteen-foot-wide lane for parking areas with fewer than 20 spaces and at least two ten-foot-wide lanes for parking areas with more than 20 spaces.

(b) No entrance or exit to any off-street parking area with a capacity of more than four spaces shall be located within 50 feet of any street intersection nor exceed a grade in excess of 6% within 25 feet of any street line nor 10% at any other point. All points of ingress or egress shall be appropriately signed unless such signing is considered unnecessary by the Planning Board.

(c) Where the topography of a site is such that a potential safety hazard for parked vehicles exists, the Planning Board may require barriers or other safety devices to be incorporated into the design of the parking area.

(2) Each required space, exclusive of drives and aisles, shall be not less than 18 feet long nor less than nine feet wide and shall be served by an aisle between rows of parking spaces not less than 22 feet wide. The minimum aisle space may be reduced for angle parking, but in no case shall the aisle space be less than 16 feet. All spaces shall be clearly marked. Except as may be otherwise provided, required off-street parking facilities may be enclosed in a structure or may be located in the open, provided that such required parking facilities are graded, surface drained and maintained to the extent necessary to avoid nuisances of dust, erosion or excessive water from across public ways; or paved with asphalt, oil and chip or other material that is equivalent in durability. Upon a determination by the Planning Board that the required number of parking spaces would be greatly in excess of the need of a particular use on a given lot, said Board may waive the requirement that all such spaces be surfaced to the extent that it may deem the number required to exceed the actual need.

(3) Off-street parking areas shall be adequately illuminated for convenience and safety, but no lighting in parking areas shall cause glare on adjoining property.

(4) Off-street parking spaces in residential districts shall not project nearer to the street on which the principal building fronts than the required front yard setbacks for such building.

#### **[Added 7-7-1987; approved 7-8-1987]**

(5) Compact car parking, up to a maximum of 30% of the required parking, shall be allowed with the approval of the Planning Board. Such compact car spaces shall be not less than eight feet wide and 16 feet long. Minimum aisle width shall not be less than 22 feet wide.

#### **[Added 7-7-1987 approved 7-8-1987; amended 7-7-1992, approved 7-8-1992]**

F. Connections between abutting parking areas. Where appropriate, the Planning Board may require paved connections between abutting parking areas in different ownerships so as to facilitate the flow of traffic.

G. Operation and maintenance of off-street parking facilities. Required off-street parking facilities shall be maintained throughout the life of any use or structure which said facilities are designed to serve. Required parking areas developed for specific structures and uses shall be reserved at all times for the use of those persons who are employed at, or making use of, such structures and uses, except when dedicated to, and accepted by, the City as public parking areas.

H. Waiver of parking requirements. All or portions of the on-site off-street parking requirements may be waived

by the Planning Board, provided that:

- (1) The proposed use is within 400 feet of a municipally operated off-street parking facility or privately owned and operated parking area.
- (2) The Planning Board shall, at the time of its approval of a site development plan, certify on such plan that the municipally operated off-street parking facility or, in the case where a nearby private parking area is to be utilized, the private parking facility has adequate capacity for storage of passenger vehicles generated by activities proposed to be conducted on the subject lot in addition to those generated by any other lots already serviced by such off-street parking facility. In determining the existence of such adequate capacity, the Planning Board shall consider the need for preventing frequent parking on the street by persons visiting or connected with each use which is proposed to be served by such off-street municipal or private parking facility.
- (3) Where a private facility is to be utilized, the applicant shall provide assurance that such facility will be available for the life of the proposed use.

I. Effect of parking requirements on existing uses.

- (1) Structures and land uses in existence, or for which building permits shall have been approved as of the effective date of this chapter, shall not be subject to the requirements for off-street parking spaces set forth in this chapter, provided that any parking facilities now existing and serving such structures or uses shall not in the future be reduced, except to the extent that they exceed such requirements.
- (2) In the event that it is proposed to expand any use not now meeting the parking requirements, the applicant shall be required to provide additional facilities so that the use, as expanded, shall meet fully all parking requirements.

J. Parking space ratios.

- (1) Residential and related uses.

**[Amended 12-18-2002, approved 12-23-2002]**

Use	Minimum Parking
1- or 2-family residence	2 spaces per dwelling unit
Multifamily dwelling	1 space for each studio or efficiency apartment; 1.5 spaces for each 1-bedroom apartment; 2.0 spaces for each 2-bedroom or larger apartment; for dwellings designed to be occupied at least 90% by persons 62 years of age or older, 0.5 spaces per apartment, plus an additional 10% of the total required spaces for visitor parking in all cases
Church or place of worship	1 space per 4 seats
Elementary or junior high school	1.25 spaces per staff member
High school	1 space per staff member, plus 1 space for each 5 seats in the largest assembly hall
College or university	1 space per staff member, plus 0.75 spaces per student, plus 1 space for each 5 seats in the largest assembly hall
Day-care center or nursery school	1 space per staff member, plus 1 space for each classroom
Museum, art gallery, library or cultural center	1 space per 300 square feet of gross floor area

<b>Use</b>	<b>Minimum Parking</b>
Golf, swimming or country club	1 space per member or member family
Membership club or lodge	1 space per 5 members or 1 space for each 4 seats in the largest assembly hall or meeting area or 1 space per 100 square feet of space in the largest meeting room, whichever is greatest
Community center floor area	1 space per 300 square feet of gross
Hospital	1.5 spaces per each patient bed
Convalescent home, skilled nursing home, residential care/assisted-living facility	1 space per 3 beds, plus 1 space for each staff member on the largest shift
Kennel, animal hospital	1.25 spaces per employee or 1 space for each 200 square feet of gross floor area, whichever is greater
Group home or agency community residence	1 space per full-time staff member, plus 1 space for each 3 resident children or 1 space for each adult in facilities where residents may drive
Rooming house or boarding-house	1 space per roomer and/or boarder, plus 1 space for each employee

## (2) Commercial and office uses.

<b>Use</b>	<b>Minimum Parking</b>
Professional office in a residence	3 spaces per office in addition to that which is required for the residential use
Home occupation	2 spaces in addition to that which is required for the residential use
Office buildings, other than medical or dental office	1 space per 300 square feet of gross floor area
Medical or dental office	4 spaces per doctor or dentist, plus 1 for each 2 employees
Theater	1 space per 4 seats or 1 space for each 100 square feet of gross floor area, whichever is greater
Conference center or training facility	1 space per 4 seats in the largest assembly hall or meeting area, plus 1 space for each 4 seats in classroom facilities
Bank or post office	3 spaces per teller or service window
Hotel or motel	1 space per guest room, plus 1 space per 600 square feet of space outside of guest rooms, corridors and equipment storage areas
Retail sales	1 space for each 300 square feet of floor area

<b>Use</b>	<b>Minimum Parking</b>
Personal service establishment	1 space per 200 square feet of customer service area
Restaurant (standard)	1 space per 3 seats or 1 space for each 100 square feet of gross floor area, whichever is greater
Fast-food restaurant	1 space per 3 seats or 1 space for each 75 square feet of floor area, whichever is greater
Drive-in food establishment (donut shops, ice cream, etc.)	1 space per 50 square feet of gross floor area
Drinking establishment or discotheque	1 space per 1.5 persons permitted under maximum occupancy or 1 space for each 100 square feet of gross floor area, whichever is greater
Bowling alley	4 spaces per alley
Indoor tennis facility	5 spaces per court
Racquetball facility and similar court games	2.5 spaces per court
Dry cleaning or hand laundry	1 space for each 300 square feet of gross floor area
Funeral parlor	1 space for each 3 seats provided therein or 1 space for each 60 square feet of space available for public use, whichever is greater
Marina <b>[Added 7-7-1992; approved 7-8-1992]</b>	0.60 cars per slip

## (3) Industrial and heavy commercial uses.

<b>Use</b>	<b>Minimum Parking</b>
Light manufacturing use	1 space for each 300 square feet of gross floor area or 1 space per employee, based on the number of employees during the largest shift, whichever is greater
Lumber and building equipment sales and storage	1.25 spaces per employee
Wholesale, storage and warehousing	1 space for each 3,000 square feet of gross floor area or 1 space for each employee on the largest shift, whichever is greater
Printing plant	1 space for each 400 square feet of gross floor area
Car wash	1 space for each employee, excluding storage lanes
Motor vehicle sales	10 spaces or 1 space per each 300 square feet of sales area, whichever is greater
Gas station	1 space for each 100 square feet of gross floor area

Use	Minimum Parking
Outdoor industrial use (coal, coke, fuel oil, junkyards, etc.)	10 spaces or 1 space for each 5,000 square feet of gross floor area, whichever is greater

(4) All other uses not mentioned or variations of above uses: as determined by Planning Board to be needed to prevent frequent parking on the street. Where the Planning Board determines the number of parking spaces, the decision of said Board shall be based upon standards set forth herein for uses with similar characteristics and previous experience with similar uses.

K. Off-street loading facilities.

(1) Required off-street loading facilities shall be required in the following ratio:

Use	Square Feet of Gross Floor Area or Major Fraction Thereof (in 1,000's)		
	1 Berth	2 Berths	Plus 1 Berth For Each Additional
Office, research and development	50	100	100
Retail, personal, service, restaurant	25	100	25
Manufacturing, printing	10	20	25
Wholesale and distribution	5	10	20
Public institutional	10	50	50
Other uses not mentioned	As determined by the Planning Board		

(a) Where the Planning Board determines the number of loading berths, the decision of said Commission shall be based upon standards set forth herein for uses with similar characteristics and previous experience with similar uses.

(b) Any land which is developed as a unit under single ownership and control shall be considered a single lot for the purpose of these loading requirements.

(2) Size of spaces. Each required loading berth shall be at least 15 feet wide, 45 feet long and 14 feet high.

(3) Location and access. Said loading berths may be provided in the principal building or in any side or rear yards. No off-street loading berths shall be located in any front yard. Unobstructed access, at least 10 feet wide, to and from a street shall be provided. Such access may be combined with the access driveway to a parking lot, provided that said driveway has a minimum width of 25 feet. All loading berths shall be on the same lot as the use to which they are accessory. No entrance or exit for any loading area shall be located within 50 feet of any street intersection.

(4) Joint facilities. Required loading berths, open or enclosed, may be provided in spaces designed to serve jointly two or more adjacent establishments, provided that the number of required berths in such joint facilities shall not be less than the aggregate of all such requirements.

**§ 405-35. Cluster developments.**

The Planning Board may approve cluster developments in RRR or RR Districts according to the procedures and requirements specified below. The purpose of such development is to provide flexibility in design and development of land in such a way as to promote the most appropriate use of land, to facilitate the adequate and

economical provision of streets and utilities and to preserve the natural and scenic qualities of open space.

A. The maximum number of single-family lots that may be approved in a cluster development shall be computed by subtracting from the total gross area a fixed percentage of 20% of said area and dividing the remaining 80% of the area by 10,000 square feet in a RRR Zone and 6,000 square feet in a RR Zone, which will result in a gross density that is no higher than would occur under conventional development in the particular zoning district. In computing the maximum number of lots that may be created, any lands which are subject to flooding or which are occupied by public utility easements in such a manner as to prevent their use and development shall not be considered part of the total gross area.

B. The minimum area of a cluster development shall be 10 acres and shall be in single ownership or under unified control.

C. Prior to the issuance of a building permit in a cluster development, a site plan shall be submitted to and approved by the Planning Board in accordance with § [405-30](#) and the following conditions:

(1) Said site plan shall include areas wherein such structures may be located, the height and spacing of buildings, open spaces and landscaping, off-street open and enclosed (if any) parking spaces and streets, driveways and other physical features relevant to the proposed plan.

(2) Said site plan shall include a statement setting forth the nature of all proposed modifications of existing zoning provisions.

(3) Said site plan shall be subject to review and public hearing by the Planning Board in the manner prescribed in the General City Law §§ 32 and 33 (subdivision regulations).

D. In order to assure proper maintenance of common lands, a cluster development shall be organized as one of the following:

(1) A home association approved by the Federal Housing Administration, for mortgage insurance as a planned unit development, and the City Council;

(2) A home association approved by the Corporation Counsel and City Council; or

(3) Any other arrangements such as a cooperative or condominium approved by the Corporation Counsel and City Council as satisfying the intent of this chapter. Whenever a home association is proposed, the Corporation Counsel shall retain the right to review and approve the Articles of Incorporation of said home association and to require whatever conditions deemed necessary to ensure that the intent and purpose of this chapter are carried out.

#### **§ 405-36. Signs.**

A. Purposes. The purposes of this section are to regulate and control the location, size, type and design of existing and proposed signs in order to:

(1) Enhance and protect the City's physical appearance and property values.

##### **[Amended 12-2-1997]**

(2) Encourage the most effective and functional use of signs as directional, informational and advertising devices.

(3) Preserve the historic and architectural heritage of the City.

(4) Eliminate and prevent the erection of signs that cause distractions or obstructions that create hazards to traffic safety.

(5) Prevent dangers to public safety from unsafe, improperly constructed or located signs.

(6) Enhance the City's ability to attract sources of economic development and growth.

##### **[Added 12-2-1997]**

B. Required permits and administrative procedures.

(1) Sign permits.

(a) Signs shall not hereafter be erected, structurally altered, enlarged or relocated within the City, except as specifically exempted in Subsection [C](#) below, unless a permit has been obtained from the Fire Officer. Such permit shall only be issued following submission, review and approval of an application in accordance with the requirements set forth below and payment of the fee in accord with the City's adopted schedule therefor.

**[Amended 12-16-1999 by L.L. No. 2-2000, approved 1-3-2000]**

(b) The Fire Officer shall not issue a permit for those signs requiring approval by the Planning Board, unless such approval has been granted. Furthermore, any type of sign within the Stockade District or any designated Landmark Overlay District or landmark site shall be subject to approval by the Landmark Preservation Commission, in accord with the procedures set forth in Article [IX](#), prior to issuance of a permit.

**[Amended 12-16-1999 by L.L. No. 2-2000, approved 1-3-2000]**

(c) A permit shall not be issued for any type of new sign if any other sign exists on the premises which does not conform to all requirements of this chapter, unless such existing sign was granted and is still entitled to a legally valid variance. This provision shall not apply to the repainting or refurbishing of an existing sign.

(2) Form of application. Application for a sign permit shall be made on a form designed for that purpose and provided by the Fire Officer and shall include but not be limited to:

**[Amended 12-2-1997; 12-16-1999 by L.L. No. 2-2000, approved 1-3-2000]**

(a) A scale drawing of the sign which shows content and proposed location of the sign on the premises, property lines, structure locations and other signage on the property.

(b) A scaled drawing, with appropriate notes, describing the content, colors and construction of the sign and, where appropriate, the method of attachment to the building.

(c) A description or sample of the predominant material of which the proposed sign will be made.

(d) A description of the proposed method, if any, of sign illumination.

(3) Review by Fire Officer. The Fire Officer shall review all sign applications with respect to all quantitative factors and, in the case of those types of signs requiring no other review, approve, disapprove or approve with modifications the permit therefor within 30 days of receipt of the application.

(4) Review by Planning Board or Landmark Preservation Commission.

**[Amended 12-16-1999 by L.L. No. 2-2000, approved 1-3-2000]**

(a) In the case of a sign that requires approval of either the Planning Board or the Landmark Preservation Commission, the Fire Officer shall refer the application, including a finding as to compliance with all quantitative factors, to the appropriate body at least 15 days prior to its next regular meeting. The Planning Board or Landmark Preservation Commission shall act to approve, disapprove or approve with modifications within 30 days of receipt of the application. In their review, the Planning Board and the Landmark Preservation Commission shall be guided by the design guidelines set forth in Subsection [D](#) below as well as any other applicable standards.

(b) After approval or approval with conditions by the Planning Board or Landmark Preservation Commission of those signs requiring such approval, the Fire Officer shall issue a permit therefor in accordance with all applicable requirements.

C. Exemptions to sign permit requirements. The following signs do not require a permit:

- (1) Memorial plaques, cornerstones, historical tablets and the like.
- (2) Signs not visible from outside the lot upon which they are situated.
- (3) Nameplates which do not in total exceed six square feet on one property.

(4) Identification signs posted in conjunction with door bells or mailboxes, not exceeding a total of 30 square inches in surface area.

(5) Not more than one address sign, with a surface area of two square feet or less, per street frontage, which indicates the numerical address (in numbers or script) of the premises on which it is situated and the name of the occupant.

(6) One sign advertising the sale, lease or rental of the premises upon which it is located, which shall not exceed four square feet and, if freestanding, shall not be located nearer than 15 feet to a street or property line.

(7) Cautionary, directional, regulatory, warning or informational signs of a noncommercial nature, which are in the public interest, such as, but not limited to, "danger," "no trespassing," "exit," "entrance," "parking," "one way," "no entrance," etc. Such signs shall not exceed two square feet each.

(8) Interior signs, including temporary signs announcing sales and special events.

D. Design guidelines for signs. The following design guidelines shall be used by the Planning Board and Landmark Preservation Commission in those cases where their review and approval of proposed signs is required. Application of the guidelines shall consider the specific sign location and the character of the area in which it is proposed.

(1) Signs mounted on buildings should not cover openings or architectural details and should be located within areas designed to house signs, if such exist.

(2) Signs should be located no higher above the ground than is necessary for viewing from adjacent streets. When freestanding signage is being considered, monument style signage should be encouraged over pole style, if plausible.

**[Amended 12-2-1997]**

(3) Signs should be of regular shape and should be designed with respect to the shape and proportion of the space within which they will be located and the facade to which they will be applied.

(4) The size of signs should relate to the vantage point of the intended observer and the length of time available for viewing; signs intended for pedestrians on the sidewalk need not be as large as those to be seen from passing cars.

(5) Signs should include the minimum information necessary to convey the intended message so as to avoid clutter and confusion.

(6) Multiple signs should be avoided where one will do.

(7) A sign would not obstruct or impair the visual effectiveness of neighboring signs.

(8) Colors and materials which are discordant with the general character of the adjacent area should be avoided.

(9) Generally, signs on the same building should be placed within the same horizontal band and be of similar height.

(10) Wherever possible, signs should be integrated with fences, walls or buildings rather than freestanding.

(11) Sign material should be durable and require little maintenance.

(12) Signs should be subordinate to the streetscape.

**[Added 12-2-1997]**

(13) Signs in a particular area should create a unifying element and exhibit visual continuity.

**[Added 12-2-1997]**

(14) Where establishments share a parcel or zoning lot, a master sign plan should be prepared which

addresses visual unity, shape, color, materials, type of lettering and signage.

**[Added 12-2-1997]**

E. General regulations and restrictions. The following general regulations and restrictions shall apply in all districts:

(1) Nonaccessory signs and billboards shall be prohibited in all districts except as provided in Subsection [L](#) and [M](#) below.

**[Amended 12-2-1997]**

(2) Standard methods of constant illumination shall be permitted on any sign, provided that the illumination shall be concentrated upon the area of the sign so as to prevent direct glare upon the street or adjacent property.

(3) Except for clocks and customary time and temperature devices, no sign shall contain intermittent, moving or flashing illumination.

(4) Signs with visible moving, flashing, revolving or rotating parts are prohibited.

(5) No sign shall be erected in such a manner as to obstruct free and clear vision for drivers; interfere with, mislead or confuse traffic; or be located where, by reason of its position, shape or color such sign may interfere with, obstruct the view of or be confused with any authorized traffic sign, signal or device by making use of the words "STOP," "LOOK," "DANGER" or any other word, phrase, symbol or character or red, green or amber illumination or reflection.

(6) Mobile signs shall be permitted upon submission by the owner of the sign of an application for a temporary permit. However, if located anywhere within a lot or premises in a residential district for seven consecutive days or any 15 days within the same calendar year or in any other district for 30 consecutive days or 45 days within the same calendar year, such sign shall be subject to all provisions of this chapter, including those as to size, location, illumination and construction, as if they were permanent.

F. Freestanding signs.

(1) Where a building is set back at least 20 feet from the street, one freestanding sign shall be permitted on each frontage of a property on a public street. However, not more than one such sign shall be located within 200 feet of the same intersection. No part of any freestanding sign or its support shall be located within six feet of any building or extend beyond any street line.

**[Amended 12-2-1997]**

(2) The area of freestanding signs shall not exceed the following:

(a) Residential and RT Rondout Districts: six square feet.

**[Amended 4-14-1992; approved 4-15-1992]**

(b) NB Neighborhood Commercial District: 20 square feet.

(c) C-1, C-2 and C-3 Commercial Districts: 50 square feet, except that signs with an area between 50 and 100 square feet may be permitted upon review and approval by the Planning Board.

(d) Industrial districts: 50 square feet.

(e) Shopping centers. A shopping center with a contiguous area of 25 acres or more, in single ownership, in which all buildings are set back at least 100 feet from a public street, shall be permitted the following signs in addition to all others permitted herein:

[1] A sign not to exceed an area of 400 square feet at or near each entrance; and

[2] One freestanding tower sign not to exceed 1,000 square feet in area or 40 feet in height.

(3) No part of any freestanding sign shall be located higher than 20 feet above grade.

#### G. Roof signs.

(1) One roof sign shall be permitted only on a one-story building located in the C-1, C-2 and C-3 Commercial Districts.

(2) Roof signs shall not exceed an area of 30 square feet per sign face. A second roof sign may be permitted subject to review and approval by the Planning Board.

(3) The bottom of a roof sign shall be no higher than two feet above the top of the building wall closest to and parallel to the sign. The total height of the sign shall not exceed six feet.

#### H. Wall signs.

(1) One wall sign shall be permitted on each wall for each nonresidential use in a structure.

(2) Wall signs shall not project more than 12 inches from the wall to which they are affixed.

(3) Wall signs shall not extend beyond the face of the wall in any direction and shall not extend above the bottom of the sill of second-story windows or 15 feet above grade level. However, when a ground floor commercial or industrial use also occupies other floors or where a commercial or industrial use occupies one or more floors other than the ground floor, a wall sign shall be permitted higher than 15 feet above grade level but no higher than the ceiling level of the commercial or industrial use.

(4) In commercial districts, the aggregate area, in square feet, of all signs on any wall shall not be greater than two times the length, in feet, of such wall.

#### **[Amended 12-2-1997]**

(5) In manufacturing districts, the aggregate area, in square feet, of all signs on any wall shall not exceed 50 square feet.

(6) In Residential Limited Commercial Mixed-Use Districts (RLC), the aggregate area, in square feet of all wall signs shall not exceed four feet.

#### **[Added 9-1-1992; approved 9-2-1992]**

#### I. Overhanging signs.

(1) Each establishment in the C-2 Central Commercial District and the RT Rondout District shall be permitted one overhanging sign from each frontage on a right-of-way. No more than one sign may be located on each frontage. Overhanging signs will be allowed in the RLC Residential Light Commercial District only along Broadway and East Strand.

#### **[Amended 9-1-1992; approved 9-2-1992]**

(2) The distance between the faces of overhanging signs shall not exceed six inches; however, internally illuminated signs shall have a dimension between faces of no more than 12 inches.

(3) Overhanging signs shall comply with the following dimensions in each district as specified:

Dimension	C-2 Broadway*	Other Areas	RT
Area per sign face (squarefeet)	18**	12	12
Maximum distance of outer sign edge from building (inches)	72	54	54

NOTES: \* These provisions shall only apply to signs attached to the wall of a building fronting on the Broadway between Delaware Avenue and Albany Avenue.

Dimension	C-2 Broadway*	Other Areas	RT
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\*\* Signs with a face area of more than 18 but no more than 30 square feet may be permitted subject to review and approval by the Planning Board.

(4) The bottom edge of an overhanging of such sign shall be no less than eight feet nor more than 15 feet above the ground and shall not extend into any access drive which is intended for use by service or emergency vehicles.

(5) No part of an overhanging sign shall extend within two feet of the curblines of any public street or right-of-way.

(6) Except for the RLC Zone, when a ground floor commercial or industrial use also occupies other floors or where a commercial or industrial use occupies one or more floors other than the ground floor, an overhanging sign shall be permitted higher than 15 feet above grade level but no higher than the ceiling level of the commercial or industrial use. Signs with a face area of 30 square feet or less shall be permitted. Signs with a face area of more than 30 but no more than 50 square feet may be permitted subject to review and approval by the Planning Board. The maximum distance of an outer sign edge from a building shall not exceed 72 inches.

**[Amended 9-1-1992, approved 9-2-1992]**

(7) Such signs shall be removed when no longer applicable to the premises.

J. Marquee, canopy and balcony signs. Signs may be hung from or attached to the underside of or affixed to the edge of a marquee, canopy or balcony, either parallel or perpendicular to the face of the building to which attached. Such sign shall not exceed an area of 12 square feet and shall not extend above or beyond the front or side edge of the marquee, canopy or balcony in any direction. The bottom edge of such sign shall be at least eight feet above the ground.

K. Iconic signs. Iconic signs such as barber poles, eyeglasses, mortar and pestle, etc., which are traditional in nature shall be permitted as long as they comply with the pertinent regulations pertaining to size and location herein.

L. Temporary signs. The erection, installation or maintenance of temporary signs, as defined herein, is hereby prohibited, except for the following:

(1) A temporary sign, not exceeding 15 square feet in area, which is erected by a municipal, charitable, political or nonprofit organization is permitted for a period not to exceed 30 days.

(2) A single temporary sign, not exceeding 32 square feet in area, which announces anticipated occupancy of a site or building or identifies the contractors, architects, engineers, etc., on a building under construction, shall be permitted until a building is completed and a certificate of occupancy is issued.

(3) Temporary signs made of cardboard, paper, canvas or similar impermanent materials may not be placed on the exterior of any building, except that banners for special announcements, such as grand openings, for businesses, with a limit of 30 days for placement on said exterior of any building may be placed on the exterior of any building. All banners must be dated.

**[Amended 12-7-2004, approved 12-9-2004]**

M. Billboards. Billboards shall be permitted in C-1, C-2 and C-3 Commercial Districts, provided that they consist of signs of an area not more than 325 square feet, excluding supports, which shall be at least six feet from all property boundaries of the property on which they are erected.

N. Unsafe, abandoned and unlawful signs.

**[Amended 12-16-1999 by L.L. No. 2-2000; approved 1-3-2000]**

(1) Upon a finding by the Fire Officer that any sign regulated herein is unsafe or insecure or is a menace to the public or has been erected in violation of the provisions of this chapter or advertises, identifies or pertains

to an activity no longer in existence, except as provided hereinafter, the Fire Officer shall give written notice to the permittee thereof. This provision shall not apply to seasonal activities during the regular period in which they are closed.

(2) If the permittee fails to remove or alter the sign so as to comply with the standards herein set forth within 14 days after such notice, such sign may be removed or altered to comply by the Fire Officer at the expense of the permittee or owner of the property on which it is located. The Fire Officer shall refuse to issue a permit to any permittee or owner who refuses to pay costs so assessed. The Fire Officer may cause any sign which is an immediate peril to persons or property to be removed summarily and without notice.

O. Existing signs and nonconforming signs.

(1) Any existing sign that was in place prior to the date of adoption of this chapter shall be subject to the following requirements:

(a) The Fire Officer shall review any preexisting sign and determine whether the sign conforms to the requirements of this chapter.

**[Amended 12-16-1999 by L.L. No. 2-2000; approved 1-3-2000]**

(b) Where a sign was constructed prior to the adoption of this chapter and was conforming to the existing ordinance at that time or was to have been granted and still is entitled to a legally valid variance and upon a determination that the existing sign is in good condition and does not pose any safety hazards, it shall be considered a conforming sign.

(2) A sign preexisting the date of adoption of this chapter, and determined to be nonconforming in accordance with Subsection [O\(1\)](#) above, shall not be physically altered. The relettering, painting or decorating of such sign shall be permitted, but any such sign once removed for purposes other than relettering, painting or decorating shall be deemed permanently removed and may be replaced only in accordance with the provisions of this chapter.

P. Signs in residential districts. The following nonartificially illuminated signs may be permitted in residential districts, limited as follows:

(1) One nameplate or professional sign with an area of not over three square feet.

(2) One sign advertising the sale or rental of the premises on which such sign is situated, with an area of not over four square feet, provided that such sign is located on the front wall of a building or, if freestanding, then not nearer than 15 feet to any street or property line.

(3) One bulletin board or other announcement sign for educational or religious institutions with an area of not over 24 square feet.

**§ 405-37. Supplementary lot, yard and bulk regulations.**

A. Street access.

(1) No building shall be erected on a lot that does not have direct access to a public street or indirect access to a public street via a private street or way approved by the Planning Board.

(2) All buildings and structures shall be so located as to provide safe and convenient access for servicing, fire and police protection and off-street parking and/or loading.

B. Side yards. For purposes of side yard requirements, attached dwellings on adjacent lots may be considered one building occupying one lot.

C. Corner lots. On a corner lot, one yard other than the front yard shall be deemed to be a rear yard, and the other or others shall be deemed to be side yards.

D. Through lots. On a through lot (a lot that goes through from one street to another) front yards are required on both streets.

E. Location of accessory uses.

(1) Unless otherwise required, all accessory uses permitted in this chapter shall be located either within the principal building or in any side or rear yard. Unless otherwise specified, and except as provided hereinafter, such uses shall be located not nearer than six feet to an adjoining property line.

**[Amended 9-1-1992; approved 9-2-1992]**

(2) Any accessory building attached to the principal building by means other than a breezeway or roofed passageway, with open or latticed sides, shall be considered as part of the principal building and shall comply with all requirements of this chapter that are applicable to the principal building.

**§ 405-38. Satellite dish antennas.**

**[Added 9-8-1994, approved 9-12-1994; amended 6-2-1998; approved 6-4-1998]**

A. Findings and purpose. The Common Council of the City of Kingston has become concerned about the effect dish antennas could have on the welfare and safety of the City. The Common Council finds that, unless regulated, dish antennas can be installed in a manner which would have an adverse impact on the use and enjoyment of surrounding properties including a diminution of property values. If improperly installed, dish antennas could create a safety hazard. The intent and purpose of this section is to establish a procedure and criteria to avoid the adverse impacts of the installation and maintenance of dish antennas and to preserve the character, safety and general welfare of the municipality.

B. Definitions. For purposes of this section, the terms used herein are defined as follows:

**DISH ANTENNAS**

Satellite antennas, parabolic dishes, hemisphere dishes or other similar antennas, the purpose of which is to send, transmit or receive television, radio and/or microwave or other similar signals.

**[Amended 12-16-1999 by L.L. No. 2-2000, approved 1-3-2000]**

C. Special permit required. Installation of a dish antenna, measuring greater than 24 inches in diameter or any size if located in a Historic District, shall be subject to the issuance of a special permit by the Planning Board in accordance with provisions of § [405-32](#).

D. General requirements.

(1) A dish antenna shall be considered an accessory structure requiring compliance with all minimum setback and other requirements of this chapter.

(2) No more than one dish antenna shall be erected, constructed, installed or maintained on a single lot or premises.

(3) No dish antenna shall be located on any trailer or portable device.

(4) All dish antennas shall be ground mounted. When ground mounting is not feasible, roof mounting may be permitted. If roof mounting is permitted, efforts shall be made to locate the dish antenna on the rear area of roof.

(5) All dish antennas shall be located in rear yards. When a rear yard is not accessible, or it would be substantially impractical, detrimental to the character of the neighborhood or cause significant economic injury to the property owner to locate the dish antenna in the rear yard, and a side yard meets all requirements of this chapter, a dish antenna may be located in the side yard.

(6) All dish antennas shall be screened from the roadway and adjoining property owners with fencing or foliage, or a combination thereof, as determined by the Planning Board.

(7) A dish antenna nor any part of the antenna, including any platform or structure upon which it is mounted or affixed, shall be elevated to or reach a height of more than eight feet above the natural grade of the subject premises. In no event shall the natural grade be changed by any means in order to increase the elevation of the dish antenna.

(8) The diameter or width of a dish antenna shall not exceed 10 feet.

(9) The use of any illumination for a dish antenna is strictly prohibited.

E. Waiver of requirements. The Planning Board may waive any of the requirements in this section upon a sufficient showing of excessive cost or inability to attain reasonable reception.

F. Commercial use. When a dish antenna is to be used for commercial purposes, the Planning Board, in its discretion, may waive any of the requirements in this section, and issue a special permit in accordance with the provisions of Article [IV](#) of this chapter.

G. Unsafe, unlawful and unsightly dish antennas. Whenever it shall appear to the Fire Officer that any satellite antenna has been constructed or erected or is maintained in violation of this section, or is unsafe and insecure, or has been allowed to deteriorate in appearance and/or maintenance, or is in such condition as to be a menace to the safety of the public, the Fire Officer shall cause to be issued a notice in writing to the owner, informing such person of the violation and directing to make appropriate repairs or alterations thereto within a reasonable time, as specified in the notice. Upon failure to comply with such notice, the Fire Officer may cause such dish antenna or such part thereof to be removed and may charge the expense of such removal to the person so notified. However, nothing herein shall prevent the Fire Officer from taking such precautionary measures as may be necessary in case of imminent danger to the public or adjoining property.

**[Amended 12-16-1999 by L.L. No. 2-2000; approved 1-3-2000]**

H. Penalties for offenses. Any neglect, failure or refusal to comply with any provisions of the section shall be deemed a violation thereof, such violation punishable by a fine of not more than \$100 for each violation. A violation shall be deemed committed upon each day that a violation occurs or is committed.

**§ 405-39. Open storage.**

**[Amended 4-4-1995 by L.L. No. 3-1995; approved 4-21-1995]**

No unenclosed storage, except parking of operable motor vehicles which are validly inspected and which are validly registered with valid current license plates shall be permitted in any district of the City of Kingston.

**§ 405-40. Landscaping requirements.**

A. Required landscaping.

(1) All portions of improved multifamily and nonresidential properties which are not used for buildings, structures, off-street parking and loading, permitted outdoor storage, driveways, walkways or similar purposes shall be appropriately landscaped with grass, shrubs, trees and other ground cover in such a manner as to minimize erosion and stormwater runoff and to maintain or improve the aesthetics of such development.

(2) Landscape strips shall be provided along all property lines of multifamily and nonresidential uses. Such landscape strips shall comply with the following minimum standards as well as all applicable requirements set forth elsewhere in this chapter:

(a) Said landscape strips shall be at least three feet wide and include evergreen planting and other landscaping of such type, height, spacing and arrangement as, in the judgment of the Planning Board, will effectively screen the activity on the lot from neighboring uses. New trees shall have a caliper of not less than three inches from the base and shall be at least six feet high when planted.

(b) Unless specifically required elsewhere in this chapter, an opaque wall or fence of location, height, design and materials approved by the Planning Board may be substituted for part or all of the required landscape strips.

(c) Where the existing topography and/or existing landscaping provides adequate screening, the Planning Board may waive or modify the planting and/or landscape requirements of this chapter.

B. Maintenance. All fences, trees, plantings, shrubbery or other screening required by direction of the City Council, the Zoning Board of Appeals, the Planning Board or by the Zoning Ordinance shall be maintained at all times at least to the same quality required of said items at the time they were initially installed.

C. Penalties. If, after 30 days' notice, such fences, trees, plantings, shrubbery or other screening is not erected, replaced, repaired or maintained by or on behalf of such owner, the City Council may authorize the Department of Public Works to perform the necessary work and provide for the assessment of all costs and expenses so incurred by the City in connection with any action taken against the land on which such screening facilities are located. The costs and expenses so incurred shall be certified to the Tax Assessor and shall become a municipal lien against the property.

**§ 405-41. Exceptions and modifications.**

A. Exceptions to yard requirements in RRR, RR, R-1, R-2 and R-3 Districts. Cornices or cantilevered roofs may project not more than two feet, and belt courses, windowsills and other ornamental features may project not more than six inches into a required yard. Paved terraces, steps and walks (other than such as are needed for access to the buildings on the lot) shall not project to within 15 feet of a street line or four feet of a property line.

B. Exceptions to yard requirements in the R-4, R-5, R-6 and RT Districts.

(1) Cornices or cantilevered roofs may project not more than two feet, and belt courses, windowsills and other ornamental features may project not more than six inches, into a required yard. Paved terraces, steps and walks (other than such as are needed for access to the buildings on the lot) shall not project to within 15 feet of a street line or four feet of a property line.

(2) Except where a side or rear yard abuts a one-family residence district boundary (RRR, RR or R-1), garages so designed as to allow the use of the roof thereof as part of the grounds may be erected in side or rear yards, but not nearer than four feet to any property line, provided that the average height of any wall thereof which faces a side or rear lot line is not in excess of 6 1/2 feet above the average level of such lot line. The side yard provision may be eliminated, but not reduced, along any portion of one lot line where a building erected on an adjoining lot is built to the lot line, provided that in such event the second side yard shall be increased to a minimum width of two times the width otherwise required.

C. Exceptions to front yard. The front yard or setback shall meet the minimum required within each district, except that if a lot is between two lots with structures, each located nearer to the street than the required front yard, the front yard on the subject lot need not exceed the average of those on the two adjoining lots.

D. Height exceptions. The height limitations of this chapter shall not apply to:

(1) Spires, belfries, cupolas and domes not for human occupancy; monuments, transmission towers, chimneys, derricks, conveyors, flagpoles, radio towers, television towers and television aerials, provided that any television or radio aerial shall not be located nearer than a distance equal to its height above the roof or other permanent structure to which it is attached to any overhead electric transmission line carrying more than 220 volts.

(2) Bulkheads, elevator penthouses, observation towers, monitors, fire towers, hose towers, cooling towers, water towers, grain elevators or other structures where a manufacturing process requires greater height, provided that any such structures that are located on any roof and that exceed in height the limits in the particular district shall not in the aggregate occupy more than 20% of the horizontal area of the roof and are set back one foot from the edge of the roof for each additional foot in height greater than the specified height.

(3) All mechanical equipment necessary to operate building services, which equipment is located on the roof of a structure, shall be screened in a manner approved by the Planning Board. Where solar heating devices are located on a roof, required screening may be modified to assure necessary access to the sun.

**§ 405-42. Dumpsters.**

**[Amended 12-16-1999 by L.L. No. 2-2000; approved 1-3-2000]**

All dumpsters shall have a permit from the Fire Officer and shall be located so as to be out of view from the street or adjoining residential property.

**§ 405-43. Newspaper vending machines.**

Newspaper vending machines may be located in a public way, provided that they do not interfere with pedestrian or vehicular movement, and provided that a special permit is secured from the Planning Board.

**§ 405-44. Barbed wire fencing.**

Any barbed wire fencing shall be subject to the prior approval of the Zoning Board of Appeals, which is authorized to impose reasonable restrictions and limitations regarding height, materials and facing.

**§ 405-45. Bed-and-breakfast establishments.**

**[Added 6-7-1994; approved 6-13-1994]**

A. Requirements.

(1) The bed-and-breakfast shall be the primary residence of the owner-operator, with no other use allowed.

(2) The maximum length of stay for any guest shall be seven consecutive days. In no way may the establishment be used as a boarding/rooming house, as provided in § [405-12\(B\)\(2\)](#).

(3) No cooking facilities shall be permitted in any of the rented rooms.

(4) Two off-street parking spaces shall be established, on premises, for the residence with an additional off-street parking space for each room to be let.

(5) The maximum number of rooms which may be rented is four, unless it can be shown that the structure and/or parcel is of sufficient size to contain more rooms while meeting the purpose of this article.

(6) One, non-illuminated sign, free standing or attached, shall be permitted, not to exceed two square feet and shall not include the words "hotel" or "motel."

(7) Manual outward modification of the structure may be made only if such changes are compatible with the character of the area or neighborhood and the intent of the zoning district in which it is located.

(8) The architectural integrity and arrangement of existing interior spaces must be maintained and the number of guests rooms shall not be increased except as may be required to meet health, safety and sanitation requirements.

#### B. Permitted zones; use variance.

(1) Bed-and-breakfasts may be permitted by special permit in the following zones and target areas: RT, RLC, RF-R, RF-H, and the Broadway and Albany Avenue area in their entirety. Said special permit shall be subject to annual renewal.

(2) In all zones, except those listed in Subsection [B\(1\)](#) of this section, a bed-and-breakfast may be permitted by a use variance when not allowed by right and when all other conditions can be satisfied.

(a) When a use variance is required, a site plan review shall be required.

(b) Said site plan review shall require a mandatory public hearing, and an annual renewal of licensing by the Planning Board. Annual renewals of licensing shall also require a public hearing.

(c) No bed-and-breakfast permitted pursuant to this subsection shall be located less than 1,200 feet from an existing bed-and-breakfast.

(d) No bed-and-breakfast permitted pursuant to this subsection shall be located less than 1,200 feet from an existing rooming house and boardinghouse.

**[Added 3-7-1995; approved 3-15-1995]**

#### § 405-46. Artist lofts.

**[Added 5-7-1996; approved 5-13-1996]**

A. When an action will result in one building containing one or more artist lofts, the artist loft shall be subject to the issuance of a special permit by the Planning Board. The special permit shall be issued for one year initially and then renewed up to three years maximum. Upon any change in occupancy the permit shall expire.

#### B. Development standards.

(1) Artist loft may exist on the first floor structure only if they meet all of the following conditions:

(a) That artist loft is arranged in such a fashion that the residential portion is located on the second floor of the building.

(b) That retail functions occur on the first floor of the artist loft.

(c) That the appearance of the loft from the street shall be consistent with the retail nature of the surrounding area.

(d) That the entrance to the artist loft, including retail, studio and residential area, is exclusive and shall not be shared with any other artist loft in the building.

- (2) Each artist loft shall be separated from other artist lofts or other uses within a particular building. Access to artist lofts may be provided from common access areas, halls or corridors.
- (3) Each artist loft must be individually equipped with an enclosed bathroom containing a three fixture bathroom sink, water closet, shower or tub and appropriate venting.
- (4) Each artist loft must be individually equipped with a kitchen.
- (5) Each artist loft must contain a usable floor area of no less than 800 square feet.
- (6) No more than 25% of the usable floor area of the artist loft may be devoted to residential space. In no event may said residential area exceed 500 square feet.
- (7) Direct access between living and working areas must be provided, and no separate access/egress to the residential area is permitted except for emergency access/egress.

#### C. Other requirements.

- (1) In order to ensure that the use is consistent with the other commercial uses, artist lofts shall not be used for mercantile, classroom, instructional uses with more than two pupils at any one time. Storage of flammable liquids or hazardous materials; welding; or any open-flame work. Further, the creation of art shall be so conducted as not to cause noise, vibration, smoke, odors, humidity, heat, cold, glare, dust, dirt or electrical disturbance which is perceptible by the average person located within the first floor space or any other commercial or residential unit within the structure or beyond any lot line.
- (2) No more than one person per 300 square feet of residential floor area may reside within an artist loft. No more than two persons may reside within an artist loft.
- (3) Only one nonresident employee may be employed within an artist loft. This requirement may be waived for artist lofts that occur on the first floor of a structure that provide retail space on the first floor.
- (4) Other than in a first-floor retail-oriented area, articles offered for sale within an artist loft must include those produced by the artist occupying said artist loft and may be offered with other like items.
- (5) One flush-mounted, nonilluminated sign, maximum of two square feet, attached adjacent to or near the street entrance door to the artist loft may be used to identify the artist. Where two or more artist lofts occur within the same building, the signs must be placed in an orderly fashion in relation to each other and must be part of a coherent directory in which signs are ordered in a horizontal fashion. Where five or more units are developed within one building, interior, directory signage shall be located in lieu of individual signs on the building exterior.
- (6) Residential and work space shall not be rented separately or used by persons other than those people legally residing within the artist loft.

#### **[Amended 10-3-2000; approved 10-13-2000]**

- (7) A minimum of one off-street parking space per artist loft must be provided on-site.

#### D. Procedures.

- (1) Renewal of special permits. All special permits for artist lofts shall be subject to renewals by the Planning Board. Such renewal shall be based upon a written statement from the Fire Officer that said artist loft is in conformity with the terms of its special permit and with the terms of this chapter pertaining to said use.

#### **[Amended 12-16-1999 by L.L. No. 2-2000; approved 1-3-2000]**

- (2) Procedures for the renewal of special permit.

- (a) Prior to the expiration date of the special permit, the owner or manager of the building shall file a request for renewal with the Planning Department, which must be accompanied by a renewal fee as set by the Common Council. If the owner or manager fails to apply for a renewal prior to the date of the expiration of the special permit, the special permit shall lapse, and the use of artist loft shall be terminated within 90 days.

(b) When a request for renewal is received by the Planning Department, the Fire Officer shall be notified and shall contact the owner or manager of the building and to arrange for an appointment for inspection and shall issue a report of compliance with the terms of this subsection, the special permit and site plan based on that inspection. The report shall also indicate if all loft entities and appliances are well-maintained and in working order.

**[Amended 12-16-1999 by L.L. No. 2-2000; approved 1-3-2000]**

(c) If the Fire Officer issues a report indicating compliance with the terms of this subsection, the special permit and the site plan and indicates that all loft entities and appliances are well-maintained and in working order, the Planning Board shall schedule a public hearing for the renewal.

**[Amended 12-16-1999 by L.L. No. 2-2000; approved 1-3-2000]**

(d) If the Fire Officer issues a report indicating noncompliance with the terms of this subsection, the special permit or site plan, and further finds that any loft structure and appliances are not well-maintained and are not in working order, the building owner or manager shall, within the time specified will, rectify all noncomplying elements and shall reapply for an appointment for inspection with the Building Safety Division of the Fire Department, subject to an additional inspection fee. If such application for an appointment for an inspection is not received within the specified time, the special permit shall expire and all residential uses subject to said special permit shall be terminated. If the Building Safety Division of the Fire Department issues a report indicating compliance, the Planning Board shall schedule a public hearing for renewal. If the Fire Officer issues a report indicating noncompliance with the terms of this subsection, the special permit and final site plan and further finds that all apartment entities and appliances are not well-maintained and are not in working order, the use as an artist loft shall be terminated.

**[Amended 12-16-1999 by L.L. No. 2-2000; approved 1-3-2000]**

(e) In the event that any renewal of a special permit is denied by the Planning Board, the holder of such permit shall have the right to appeal the denial following an Article 78 proceeding.

#### **§ 405-46.1. Adult uses.**

**[Added 8-6-1996; approved 8-7-1996]**

##### **A. Findings, purposes and considerations.**

(1) In March of 1996, the Common Council of the City of Kingston commissioned a study of the potential detrimental effects to the City if adult uses were to be established in close proximity to sensitive land uses. At the present time there are no land uses in the City that could be classified as adult uses. Said uses are, essentially, any businesses that provide for the sale of sexually orientated goods, services and entertainment in which the establishment is not customarily open to the general public, but excludes minors by reason of age.

(2) In April 1996, Greenplan completed its study of adult uses for the City. After careful review of the Adult Use Study: City of Kingston Common Council, the Common Council does hereby find that adult uses could result in potential adverse effects on the City's residential areas, schools, places of worship, parks and other designated open space areas, as well as its historic and scenic resources and civic and cultural facilities.

(3) The Common Council of the City of Kingston also finds and declares that there are some uses, such as adult uses, which, due to their very nature, have serious objectionable characteristics. The objectionable characteristics of these uses are further heightened by their concentration in any one area thereby having deleterious effects on other adjacent areas. Special regulation of these uses is necessary to ensure that these adverse effects will not contribute to the blighting and the downgrading of the surrounding neighborhoods or land uses. This section is being enacted to accomplish the primary purposes of preventing a concentration of these uses in any one area and restricting their accessibility to minors.

(4) Ulster County and its surrounding communities have experienced an increase in the establishment of adult uses. Based upon recent studies evaluating the nature and extent of adverse secondary effects caused by adult uses in commercial and residential areas, the Common Council of the City of Kingston hereby finds that adult uses have negative secondary impacts such as increased crime rates, depreciation of property values and a deterioration of community character and quality of life.

(5) It is further declared that the location of adult use establishments near residential zoning districts, schools, places of religious worship, parks, playgrounds, playing fields or other areas where our youth may regularly assemble is of great concern to the City of Kingston, as is the general atmosphere encompassing the operation of such adult uses.

(6) It is further recognized that the Kingston Police Department's resources would be strained to adequately address the potential increased demand for crime prevention. The proliferation of such uses could dangerously affect the welfare of the entire community through the degradation of the community's retail areas, as well as the potential decline in property values and overall quality of the neighborhood.

(7) This section is required to prevent such deleterious secondary effects. It is the purpose and intent of this section to provide for the orderly regulation of adult uses in the City of Kingston by establishing certain minimum standards of the conduct of this type of business to protect the public order and general welfare of the residents of the City of Kingston.

B. Definitions. As used in this section, the following terms shall have the meanings indicated:

**ADULT BOOKSTORE or ADULT VIDEO STORE**

An establishment having as a substantial or significant portion of its stock-in-trade adult material such as books, magazines, other periodicals, films, slides and videotapes in which the establishment is customarily not open to the public generally but excludes any minor by reason of age.

**ADULT ENTERTAINMENT CABARET**

A public or private establishment which presents topless or bottomless dancers, strippers, male or female impersonators, exotic dancers or other similar entertainment and which establishment is not customarily open to the public generally but excludes any minor by reason of age.

**ADULT THEATER**

A theater that customarily presents motion pictures, films, videotapes or slide shows that are not open to the public generally but excludes any minor by reason of age.

**MESSAGE ESTABLISHMENT**

Any establishment having a fixed place of business where massages are administered for pay, including, but not limited to, massage parlors, sauna baths and steam baths. This definition shall not be construed to include a hospital, nursing home or medical clinic or the office of a physician, surgeon, chiropractor, osteopath or duly licensed physical therapist or barbershop or beauty salon where massages are administered only to the face, scalp, neck or shoulders. This definition shall exclude health clubs which have facilities for physical exercise such as tennis courts, racquet ball courts or exercise rooms which do not receive their primary source of revenue through the administering of massages as well as those individuals holding New York State Department of Education licenses as a masseuse or masseur, who may also practice in a private residence in the City of Kingston.

C. Restrictions. An adult use establishment shall be permitted in a C-1 (Shopping Center), C-2 (Central Commercial) or C-3 (General Commercial) Zoning District subject to the following restrictions:

(1) No adult use establishment shall be allowed within a one-thousand-foot radius of another existing adult use establishment whether within the City of Kingston or in a neighboring community. The one-thousand-foot radius shall be measured in a straight line from the nearest point of the wall of the portion of the building in which an adult use business is conducted to the nearest point on the property of the area in question.

(2) No adult use establishment shall be located within a five-hundred-foot radius of any zoning district which is zoned to allow residential use. For measurement purposes, the distance between an adult use and residential zoning district shall be measured in a straight line, without regard to intervening structures or objects, from the closest structural wall of such adult use to the boundary line of such residential district.

(3) No adult use establishment shall be located within a five-hundred-foot radius of a preexisting school, library, civic or youth-oriented center, designated historic preservation site or district, park, playground, place of worship, as well as any areas designated as scenic under New York State law. The five-hundred-foot radius shall be measured in a straight line from the nearest point of the wall of the portion of the building in which an adult use business is conducted to the nearest point on the property of the area in question.

D. Sign regulations.

(1) Advertisements, displays or other promotional material shall not be shown or exhibited so as to be visible to the public from pedestrian sidewalks or walkways or other areas, public or semipublic, and such displays

shall be considered signs.

(2) No signs or other structures shall be placed, erected or used on the premises except as provided in this chapter, and then only with the approval of the Kingston Planning Board pursuant to § [405-36](#), Signs, of this chapter; nor shall the building be painted in garish colors or other such fashion as will effectuate the same purpose as a sign without the approval of the Kingston Planning Board.

(3) Not more than one business wall sign shall be permitted for an adult use, and said sign shall be permitted only on the front facade.

(4) Sign messages shall be generic in nature, shall not contain material classified as advertising and shall only identify the business which is being conducted.

#### E. Registration.

(1) Any person who shall own or operate an adult use establishment shall first obtain an annual special use permit in accordance with § [405-32](#), Special permits, of this chapter.

(2) Any person seeking to obtain a permit required by this section shall file a written application stating the name of the person or organization desiring the annual permit, the location where such permit is to be used and whether the sale, dispensing or use of alcohol will be permitted at or upon the location where the permit is to be used.

(3) The permit shall expire automatically upon any change in ownership or operation of an adult use establishment.

F. Curfew. It shall be unlawful for any person maintaining or operating any adult use establishment to operate said establishment between the hours of 4:00 a.m. and 8:00 a.m. Monday through Saturday and 4:00 a.m. through 12:00 p.m. on Sunday.

G. Waivers. The restrictions enumerated in Subsections [C\(1\)](#) through [\(3\)](#) above, may be waived by the City's Zoning Board of Appeals if the applicant shows and the Board finds that the following conditions have been met in addition to the general standards contained in § [405-54](#), Powers and duties, of this chapter:

(1) That the proposed use will not be contrary to the public interest or injurious to nearby properties, and that the spirit and intent of this Code will be observed.

(2) That the establishment of an additional use of this type in the area will not be contrary to any program of neighborhood conservation or improvement, either residential or nonresidential.

(3) That 51% or more of those persons residing, owning or operating a business within the restricted areas as defined in Subsections [C\(1\)](#) through [\(3\)](#) of this chapter have signed a petition stating that they have no objection to the establishment of one of the uses defined above.

#### **§ 405-46.2. Citizen's band radio antennas.**

**[Added 8-4-1998, approved 8-8-1998; amended 10-6-1998, approved 10-8-1998]**

A. Purpose. This section provides for the installation of citizen's band radio antennas and antenna support structures for the enjoyment and convenience of the residents of the City of Kingston, while providing for the maximum protection of the health, safety and aesthetic sensibilities of the residents.

B. Definitions. As used in this section, the following terms shall have the meanings indicated:

##### **ANTENNA**

Any device or equipment that receives or sends electromagnetic waves for the purpose of citizen's band radio communications.

##### **ANTENNA HEIGHT**

The overall vertical length of the antenna support structure above grade or, if such system is located on a building or other object, then the overall vertical length includes the height of the building or object upon which the structure is mounted.

##### **ANTENNA SUPPORT STRUCTURE**

Any structure, mast, pole, tripod or tower, whether attached to a building or other object, guyed or

freestanding, utilized for the purpose of supporting an antenna or antennas for the purpose of transmission or reception of electromagnetic waves for the purpose of citizen's band radio communications.

C. Permit required. It shall be unlawful for any person to install, construct or increase the height of any antenna or antenna support structure, which shall be deemed an accessory structure, without first obtaining a building permit, except that no permit shall be required if the height of the antenna or antenna support structure, excluding the height of any building or object to which it is attached, is less than 12 feet in height. Said exclusion shall not apply to freestanding antennas or antenna support structures which must obtain a permit regardless of height.

D. Application. Application for a required building permit shall be made upon such forms requested by the City and shall have attached thereto the following items:

(1) A site plan for the antenna or antenna support structure depicting its placement in relation to:

(a) Property lines and permanent easements.

(b) All structures on the site and all structures of any adjacent property within 10 feet of the property lines.

(c) All utility poles, above and below ground utility lines, trees and other natural or artificial structures.

(d) The location, nature and extent of any proposed fencing, buffering, plantings or other screening measures.

(2) Manufacturer's specifications for the antenna or antenna support structure and details of footings, guys and braces.

(3) A copy of the applicant's homeowner or renter's insurance policy for freestanding antennas.

(4) A permit fee not to exceed \$15.

(5) All FCC, NEC, FAA and other state, federal or local permits or approvals which may be required for the construction and installation of the antenna.

E. Location.

(1) No more than one antenna or antenna support structure per residence shall be located on any lot and shall be located in the rear yard at ground level.

(2) No antenna or antenna support structure shall be located on any lot unless located so as to have a rear and side lot line setback equal to the height of the antenna or structure. Measurements of side and rear lot line setback shall be taken at the base of the antenna or structure at ground level.

(3) Antennas and support structures shall be so designed and constructed that guyed wires or other accessories shall not cross or encroach upon any street or public space or over any telephone or electric power lines or encroach upon any other privately owned property. Antennas, wires and support structures shall be placed so as not to present a hazard to children and other passers by.

(4) Antennas and antenna support structures shall not be illuminated in any way unless such lighting is a requirement of the Federal Aviation Administration or other controlling agency.

(5) Ground-mounted antenna support structures may be erected only in a rear or side yard.

F. Height limitation. Any antenna installed at a fixed location must comply with either one of the following requirements:

(1) The highest point must not be more than 20 feet higher than the highest point of the building or tree on which it is mounted; or

(2) The highest point must not be more than 60 feet above the ground.

G. Penalties. Any neglect, failure or refusal to comply with any provisions of this section shall be deemed a violation and such violation shall be punishable by a fine of not more than \$100 for each violation. A violation shall be deemed committed upon each day that it occurs or is committed.

**§ 405-46.3. Emergency shelters.****[Added 6-5-2001; approved 6-11-2001]****A. Findings, purposes, and considerations.**

- (1) The City of Kingston recognizes that there is a specific need to create zoning which will allow the establishment of emergency shelter uses, while at the same time continue positive growth and development within the City.
- (2) The existing ordinance does not meet the needs of the City in terms of protecting the character of lower-density residential neighborhoods as written.
- (3) Ulster County communities have demonstrated a need to site this type of facility in areas that generate potential clients, which have adequate infrastructure to meet the needs of the proposed clients.
- (4) It is the purpose and intent of this section to provide for the orderly regulation of emergency shelter uses in the City of Kingston by establishing certain minimum standards of this type of facility to protect the public order and general welfare of the residents of the City of Kingston.

**B. Restrictions. An emergency shelter shall be permitted in O-2 and O-3 Zones subject to the following restrictions:**

- (1) No emergency shelter shall exist or be maintained within the City without a special permit, which shall be issued by the Planning Board of the City of Kingston, as hereinafter provided.
- (2) No special permit shall be issued hereunder and any special permit heretofore or hereafter issued shall be subject to revocation, unless the applicant or holder of such permit fully complies with the following requirements:
  - (a) The applicant shall be the individual owner/organization of such premises.
  - (b) At the time of the issuance of such special permit and at all times when said premises are used as a twenty-four-hour emergency shelter, the owner thereof shall maintain a resident manager, 24 hours on site, or may actually reside in said premises, or there shall be a permanent resident of the City of Kingston who shall be the resident agent responsible for the management of the shelter. The Planning Board may authorize an emergency shelter to substitute a resident manager with three shift supervisors, on premises for 24 hours' coverage.
  - (c) The maximum number of individuals to occupy the emergency shelter shall be 20. The number of occupants may be increased by the Zoning Board of Appeals if the applicant shows and the Board finds that the following conditions have been met, in addition to the general standards contained in [§ 405-54](#), Powers and duties, of this chapter:
    - [1] That the proposed use will not be contrary to the public interest or injurious to nearby properties, and that the spirit and intent of this Code will be observed.
    - [2] That the establishment of the use will not be contrary to any program of neighborhood conservation or improvement, either residential or nonresidential.
    - [3] That the total number of occupants shall not exceed 1.2/1,000 square feet of lot area.
  - (d) There shall be no more than four persons occupying a room having a minimum of 60 square feet of floor space per person, or a maximum of six persons, from the same family unit, may occupy a room having a minimum of 60 square feet of floor space per person.
  - (e) All emergency shelters shall be heated by a central heating plant or permanently installed electric baseboard panel heating. No portable heating units are allowed.
  - (f) No cooking or storage of foodstuffs shall be permitted in any room other than a kitchen.
  - (g) In all parts of such building, artificial lighting shall be provided by means of electric current, and each electric circuit shall be provided with a circuit breaker or fuse which shall meet the requirements of the New York Board of Fire Underwriters. Each new application shall be accompanied by a New York Board of Fire

Underwriters' certificate. This certificate shall not be more than one year old. Thereafter, on renewal applications, a current New York Board of Fire Underwriters' certificate shall be required at least once each five years. Any fees involved in obtaining this current New York Board of Fire Underwriters' certificate shall be borne by the applicant.

(h) No sinks shall be installed or used in any sleeping room, but basins shall be permitted for personal washing and shaving. Such basins shall not be used for washing of clothes and dishes or any unsanitary purposes.

(i) Bathroom facilities shall be maintained for the owner-occupant, separate from bathroom facilities for shelter inhabitants.

(j) The owner or resident agent of every emergency shelter shall change supplied bed linens and towels therein, at least once each week or prior to the letting of any room to any occupant. The owner or resident agent shall be responsible for all supplied bedding in a clean and sanitary manner.

(k) All garbage and kitchen wastes in every emergency shelter shall be immediately deposited in suitable covered receptacles, which shall be disposed of as needed in such a way as not to be or become offensive or unsanitary.

(l) All sleeping rooms shall be numbered with raised figures not less than three inches in height, placed on the outside of the door to each room, and no two rooms shall bear the same number.

(m) Each and every floor on which rooms are occupied shall be equipped with a fire extinguisher, in good working condition, readily accessible for use at all times and approved by the Building Safety Division of the City of Kingston Fire Department.

(n) No room shall be occupied on the third floor or attic of any dwelling, unless the building complies fully with the New York State Multiple Residence Law. In a wood frame dwelling, no room shall be occupied in the third floor or attic.

(o) Where residents are permitted to own or operate an automobile, one off-street parking space shall be provided for each resident for whom the facility is designed, for each employee while on duty, and for each agency vehicle associated with said use. Such off-street parking shall not be located in any required yard.

(p) All emergency shelters with special permits shall be subject to inspections at all reasonable hours by properly authorized representatives of the City of Kingston. Failure to comply with this provision shall constitute grounds for immediate revocation of the permit.

(q) Every emergency shelter and every part of the premises shall be at all times kept clean and free from dirt, filth, and rubbish and in a sanitary condition. Cleaning and renovation shall be secured as may be ordered by the Building Safety Division of the City of Kingston Fire Department.

(r) No sign shall be erected that identifies or advertises the use of the premises for emergency shelter.

(s) Said use shall conform and be maintained in harmony with the overall character and appearance of the surrounding neighborhood.

(t) No emergency shelter, permitted pursuant to this subsection, shall be located less than 1,000 feet from an existing rooming house, boardinghouse, other emergency shelter, adult group home, agency community residence, agency group home, bed-and-breakfast or other similar use. The Zoning Board of Appeals may waive this requirement, if it finds that the following conditions have been met in addition to the general standards contained in § [405-54](#), Powers and duties, of this Chapter;

[1] That the proposed use will not be contrary to the public interest or injurious to nearby properties, and that the spirit and intent of this Code will be observed.

[2] That the establishment of an additional use of this type in the area will not be contrary to any program of neighborhood conservation or improvement, either residential or nonresidential.

[3] That 51% or more of those persons within the restricted area as defined above in Subsection [B\(2\)\(t\)](#), of this chapter have signed a petition stating that they have no objection to the establishment of an emergency shelter use.

(u) Any person maintaining such an emergency shelter shall keep upon such premises a register showing the names of all persons residing or living in or upon said premises, as well as the room occupied by each, and shall exhibit the same to any member of the Police Department or the Fire Department of the City or his deputy, or any member of the Building Safety Division of the City of Kingston, at any reasonable time upon demand, and the failure to so exhibit the same shall constitute a violation and be punished in accordance with § [405-52](#).

(v) No special permit shall be issued or renewed for a longer period than one year, and all permits shall expire one year following the date of issuance. All applications, properly filled out, must be filed with the Planning Board of the City of Kingston at least 30 days prior to the expiration of the previous special permit or 30 days before the applicant intends to commence operations.

(w) Every applicant of an emergency shelter shall submit with his application to the Planning Board the following information, which is to be filed with the City Clerk and the Building Inspector:

[1] The name, address, and phone number of the owner or operating agency of the emergency shelter.

[2] The name, address, and phone number of the twenty-four-hour resident manager of the emergency shelter.

[3] A description of the property by legal address and the tax map identification (S-B-L).

[4] The number and type of rooms per floor, and a schedule of persons occupying each room and the maximum possible occupancy.

[5] A plan or diagram of the lot containing the emergency shelter, and of each floor in the building, showing all dimensions, doors, windows, closets, water closets, bathrooms, staircases, and means of exit.

[6] Proof of annual inspection by the Ulster County Department of Health and the Building and Safety Division of the City of Kingston Fire Department.

C. Emergency shelters may be permitted in the R-4, R-5 and R-6 Zones by a use variance, from the Zoning Board of Appeals, and a special permit by the Planning Board, when all other conditions in § [405-46.3B\(1\)](#) and [\(2\)](#) can be satisfied, and subject to the following exceptions:

(1) When a use variance is required, a site plan review and a special permit shall be required from the Planning Board.

(2) Said special permit shall require a mandatory public hearing and an annual renewal. The annual renewal shall also require a public hearing.

(3) For all use variance applications considered under this subsection, the Zoning Board of Appeals shall not have the authority to waive or grant variances to the requirement of being located 1,000 feet from any other emergency shelter (reference § 406-46.3B).

#### **§ 405-46.4. Fences.**

**[Added 5-6-2003, approved 5-8-2003]**

Any fence, wood, stockade, chain link or any other type of fence shall have the smooth side or finished side facing to the outside of the property owner installing the fence. Fence posts will be placed on the inside of the fence.

#### **ARTICLE VI. Nonconforming Buildings and Uses**

##### **§ 405-47. Continuation, alteration or enlargement.**

The following provisions shall apply to all buildings and/or uses existing lawfully on the effective date of this chapter, which buildings and/or uses do not conform to the requirements set forth in this chapter:

A. Except as provided in § [405-48](#) below, any type of nonconforming use of buildings or open land may be continued indefinitely but:

(1) Shall not be enlarged, extended or placed on a different portion of the lot or parcel of land occupied by such use on the effective date of this chapter, nor shall any external evidence of such use be increased by any means whatsoever.

(2) Shall not be changed to another nonconforming use.

(3) Shall not be reestablished if such use has, for any reason, been discontinued for a period of over one year or has been changed to or replaced by a conforming use. Intent to resume a nonconforming use shall not confer the right to do so.

**B. Buildings housing nonconforming uses.**

(1) Except as provided in Subsection [D](#) below, no building which houses such a nonconforming use shall be:

(a) Structurally altered or enlarged.

(b) Moved to another location where such use would be nonconforming.

(2) If a building which houses a nonconforming use is destroyed accidentally due to fire, explosion or other cause, to an extent not exceeding 50% of its true value as determined by the City Tax Assessor, such building may be restored within one year in substantially the same size, form and location, and the same nonconforming use may be reinstated without being extended. If destroyed to a greater extent, such building may be restored but only to house a conforming use.

C. Any building (other than a sign), the use of which is in conformity with the regulations set forth in this chapter but which building does not conform to one or more of the requirements hereof, other than the use requirements or the requirements which apply to buildings located in L Landmark Overlay Districts, may be altered, enlarged or rebuilt so as to increase the degree of nonconformity thereof.

D. Nothing in this article shall be deemed to prevent normal maintenance and repair of any building or the carrying out, upon issuance of a building permit, of major structural alterations or demolitions necessary in the interest of public safety. In granting such a permit, the Fire Officer shall state the precise reason(s) why such alterations were deemed necessary.

**[Amended 12-16-1999 by L.L. No. 2-2000; approved 1-3-2000]**

**§ 405-48. Termination.**

A. Each of the nonconforming uses and each of the nonconforming features of certain otherwise conforming uses as specified in this section is deemed sufficiently objectionable, undesirable and out of character in the district in which such use is located as to depreciate the value of other property and uses permitted in the district and to blight the proper and orderly development and general welfare of such district and the City. To promote public health, safety and welfare and the most desirable use of which the land of each district may be adopted and to conserve the value of buildings and enhance the value of land therein, each such nonconforming use and nonconforming feature of an otherwise conforming use shall be terminated on or before the period of time after the effective date of this chapter, which time is specified hereinafter for the purpose of permitting the amortization of the remaining cost, if any, of such use:

(1) In any residence district, except for a nonconforming agricultural use, any use of open land, regardless of the presence of any buildings thereon, that is made nonconforming as a result of this chapter shall be discontinued not later than three years after the effective date of this chapter.

(2) In any residence district, any nonconforming use of buildings which is not permitted under the provisions of this chapter in any other residence or shopping center district may be continued for a period of 10 years after the effective date of this chapter or 30 years after the initial establishment of such use or any addition thereto adding 50% or more to the real value of such use, whichever is the longer period, provided that after the expiration of that period such nonconforming use shall be terminated.

(3) In any district other than a residence district, any use which is nonconforming because it is not located within a building that is fully enclosed shall be discontinued not later than one year after the effective date of this chapter. However, no such use will be required to terminate if within said period it shall be fully enclosed within a building or if within said period it shall be surrounded with a solid fence, of material and design acceptable to the Planning Board, which fence shall be one foot higher than any material stored outdoors, provided that such fence shall be maintained in good condition at all times.

B. If an application is made at least six months before the expiration of the period prescribed in Subsection [A](#) for the termination of a nonconforming use or of a nonconforming feature of a conforming use, and the Board of Appeals shall find that the period prescribed is unreasonable or inadequate for the amortization of such value of the property which may be lost by reason of the required termination, such Board may grant such

extension of the period prescribed as it shall be deemed to be reasonable and adequate for such amortization, provided that no such period of extension shall exceed the period prescribed, and provided further that such extension may not be granted more than once for any use.

C. The continuation of a nonconforming use or of the nonconforming feature of an otherwise conforming use after the termination date fixed therefor in Subsection [A](#) or as modified pursuant to the provisions of Subsection [B](#) shall constitute a violation of this chapter.

## **ARTICLE VII. Administration and Enforcement**

### **§ 405-49. Building permits.**

**[Amended 11-14-1989, approved 11-15-1989; 12-16-1999 by L.L. No. 2-2000, approved 1-3-2000]**

A. No building or structure in any district shall be erected, placed on a lot or structurally altered, and no building or structure in an L Landmark Overlay District shall be altered with respect to the design, arrangement, texture, nature or quality of material, color, detail or general appearance of a visible portion of any exterior facade thereof, without a building permit duly issued upon application to the Fire Officer, and then only in compliance and conformity with all the terms and conditions of such permit.

B. Every application for a building permit shall be made on forms provided by the Fire Officer and shall be accompanied by such fee as may be prescribed from time to time. Except in the case of alterations of a building which do not increase the exterior size thereof, such application shall also be accompanied by two copies of a plot plan drawn to scale consisting of the following. (Where a site plan approval or a special permit is necessary, two copies of all maps and supporting documents shall be submitted; see [§ 405-30](#) or [405-32](#), respectively.)

(1) A survey made by a licensed surveyor showing the actual shape, dimensions, radiuses, angles and area of the lot on which the building is proposed to be erected or of the lot on which it is situated, if an existing building, except that in the event the structure to be erected is less than 500 square feet and costs \$1,500 or less, the Fire Officer may waive the requirement that a survey made by a licensed surveyor be furnished, provided that the bounds of the lot are clearly defined on the site. In such case, a plot plan shall be provided.

(2) The section, block and lot numbers as they appear on the official City Assessment Map.

(3) The exact size, height and location on the lot of the proposed building or buildings or alteration of an existing building and the location on the lot of other existing buildings, if any, on the same lot.

(4) The location, nature and dimensions of all yards, access driveways, off-street parking, planting and screening.

(5) The minimum distance between the subject building and all property lines and other existing buildings on the same lot.

(6) The existing and intended use of all buildings, existing or proposed, the use of land and the number of dwelling units the buildings are designed to accommodate.

(7) Such topographic or other information with regard to the building, the lot or neighboring lots as may be necessary to determine that the proposed construction will conform to the provisions of this chapter.

C. No building permit shall be issued for a building to be used for any use in the district where such use is allowed by a special permit by the Planning Board unless and until the issuance of such permit has been duly authorized by said Board. In instances where site development plan approval is required, no building permit shall be granted until a final approval is secured. Where the property concerned is in a Landmark (L) District, no building, demolition or special permit shall be issued until the Historic Landmarks Preservation Commission shall have reported its findings, pursuant to [§ 405-64](#) hereof, with respect to whether the proposed work will adversely affect any Landmark (L) District or whether any building or special permit should be subject to specified conditions, in which case any building or special permit shall be explicitly made subject to such specified conditions. No certificate of compliance or occupancy shall be issued until the conditions of the preservation permit and/or building permit have been met. In the event of an application for a building permit for demolition, the Fire Officer must notify the Historic Landmark Preservation Commission and must await its report before issuance of said demolition permit. Absent a report from the Commission within 14 days of notification, the Fire Officer shall proceed as though Commission approval had been given.

D. The application and all supporting documentation shall be made in duplicate. On the issuance of a building permit, the Fire Officer shall return one copy of all documents filed to the applicant.

E. If a building permit is denied, the Fire Officer shall state in writing the reasons for such denial.

**§ 405-50. Certificate of occupancy.**

A. The following shall be unlawful until a certificate of occupancy shall have been applied for and issued by the Fire Officer:

**[Amended 12-16-1999 by L.L. No. 2-2000; approved 1-3-2000]**

(1) Occupancy and use of a building hereafter erected, structurally altered or moved, or any change in the use of an existing building.

(2) Occupancy, use or any change in the use of any land.

B. No certificate of occupancy shall be issued for any use of a building or of land allowed by special permit by the Planning Board as specified in § [405-32](#) of this chapter unless and until the issuance of such special permit has been duly authorized by said Board. Every certificate of occupancy for which a special permit has been issued or in connection with which a variance has been granted by the Board of Appeals shall contain a detailed statement of such special permit or variance and of any conditions to which the same is subject.

C. Application for a certificate of occupancy for a new building or for an existing building which has been altered shall be made on forms provided by the Fire Officer after the erection or alteration of such building or part thereof has been completed in conformity with the provisions of this chapter or of any variance granted by the Board of Appeals or special permit issued by the Planning Board. Such certificate shall be issued within 10 days after receipt of said application, but only if all requirements of this chapter and of all other applicable ordinances or codes in effect are complied with.

**[Amended 12-16-1999 by L.L. No. 2-2000; approved 1-3-2000]**

D. If the proposed use is in conformity with the provisions of this chapter and of all other applicable laws and ordinances, a certificate of occupancy for the use of vacant land or for a change of use shall be issued by the Fire Officer within 10 days after receipt of a written application therefor.

**[Amended 12-16-1999 by L.L. No. 2-2000; approved 1-3-2000]**

E. Every application for a certificate of occupancy or a temporary certificate of occupancy shall be accompanied by a fee in accordance with the Fee Schedule of the City of Kingston. Copies of such certificate will be made available upon payment of a fee to be prescribed by the Building Safety Division of the Fire Department.

**[Amended 12-16-1999 by L.L. No. 2-2000; approved 1-3-2000]**

F. Every certificate of occupancy shall state that the building or the proposed use of a building or land complies with all provisions of law, of this chapter, of all other applicable codes or ordinances of the City and, if applicable, with all provisions of any variance granted by the Board of Appeals or special permit issued by the Planning Board.

G. Upon written request by the owner, and upon payment of a fee in accordance with the Fee Schedule of the City of Kingston, the Fire Officer shall, after inspection, issue a certificate of occupancy for any building or use therefor or of land existing at the time of the adoption of this chapter or of any applicable amendment thereof, certifying such use (including, if applicable, the number of employees), whether or not the same and the building conforms to the provisions of this chapter.

**[Amended 12-16-1999 by L.L. No. 2-2000; approved 1-3-2000]**

H. A record of all certificates of occupancy shall be kept in the office of the Fire Officer, and copies shall be furnished, on request, to any agency of the City or to any persons having a proprietary or tenancy interest in the building or land affected, upon payment of required fee.

**[Amended 12-16-1999 by L.L. No. 2-2000; approved 1-3-2000]**

**§ 405-51. Duties of Fire Officer.****[Amended 12-16-1999 by L.L. No. 2-2000; approved 1-3-2000]**

A. It shall be the duty of the duly appointed Fire Officer to enforce the provisions of this chapter and of all rules, conditions and requirements adopted or specified pursuant thereto, literally, and he shall be Clerk of the Zoning Board of Appeals.

B. The Fire Officer shall have the right to enter any building or land at any reasonable hour in the course of his duties. He shall maintain files of all applications for building permits and plans submitted therewith and for certificates of occupancy issued by him, which files and records shall be open to public inspection.

C. Said Fire Officer shall keep a record of every identifiable complaint of a violation of any of the provisions of this chapter and of the action taken consequent on each such complaint, which records shall be public records. He shall report to the Common Council, at intervals of not greater than three months, summarizing for the period since his last previous report all building permits and certificates of occupancy issued by him.

**§ 405-52. Penalties for offenses.**

A. A violation of any provisions of this chapter shall constitute the offense of disorderly conduct. Any person who files any application or request for a certificate or permit and who willfully or knowingly makes any false statement therein or who, upon request for further information relating to such application or request, willfully or knowingly furnishes false information shall be deemed to have violated the section of this chapter relating to such application or request.

B. Following written notice, served by registered mail or by personal service, to the effect that a violation of any provisions of this chapter exists and that it must be rectified within a stated period of time established by the Fire Officer, the Fire Officer may, if said violation has not been rectified within the stated period of time, issue an appearance ticket for City Court for said violation. For any and every such violation, the owner, general agent or contractor of a building or premises or part thereof where such violation has been committed or shall exist and the general agent, architect, builder, contractor or any other person who commits, takes part or assists in such violation or who maintains any building or premises in which any such violation shall exist shall, upon conviction, be subject to a penalty of not more than \$500 and/or imprisonment for a term not to exceed 30 days and, in addition, shall pay all costs and expenses incurred by the City in determining such violation. Each and every day that any such violation continues shall constitute a separate offense.

**[Amended 12-16-1999 by L.L. No. 2-2000; approved 1-3-2000]**

C. Penalties shall be collected and violations of this chapter shall be prosecuted in the manner prescribed by law or ordinance effective in the City of Kingston.

D. Nothing in this chapter shall prevent any property owner or resident of the City, the City itself, any board or agency of the City or any persons residing on or owning property outside the City from availing themselves of any lawful remedy in preventing or abating any violation of any provision of this chapter. Whenever any person who engaged in or is about to engage in any act or practice which constitutes or will constitute a violation of any provision of this chapter, the Corporation Counsel may make application to any court having jurisdiction for an order granting the entry of a money judgment against the owner, general agent or contractor of a building or premises or a part thereof or the general agent, architect, builder, contractor or any other person who is convicted of a violation of this chapter for the penalty imposed and the costs and expenses incurred by the City in determining such violation and/or for an order enjoining such act or practice or requiring such person to remove the violation or directing the restoration entirely, or as nearly as may be practicable, of any improvement or any exterior architectural feature thereof or improvement parcel affected by or involved in such violation, and upon a showing that such person has engaged or is about to engage in any such act or practice, a permanent or temporary injunction or restraining order or other appropriate order shall be granted without bond.

E. In addition to any criminal penalties available or imposed for violations of this chapter and any injunctive relief available or obtained to abate or restrain violations of this chapter, any person violating this chapter shall be liable for a civil penalty not to exceed \$500 plus the cost of determining the violation for each violation. Each day that a condition which violates this chapter continues shall constitute a separate violation and subject the person violating this chapter to an additional civil penalty.

**[Added 10-4-1988; approved 10-6-1988]**

**ARTICLE VIII. Board of Appeals****§ 405-53. Creation and organization.**

There shall be a Board of Appeals of seven members, as provided by law. *Editor's Note: See Ch. [122](#), Zoning Board of Appeals.*

**§ 405-54. Powers and duties.**

The Board of Appeals shall have all the powers and duties prescribed by law and by this chapter, which are more particularly specified as follows, provided that none of the following provisions shall be deemed to limit any power of said Board that is conferred by law:

A. Interpretation: upon appeal from a decision by the Fire Officer, to decide any question involving the interpretation of any provision of this chapter, including determination of the exact location of any district boundary if there is uncertainty with respect thereto.

**[Amended 12-16-1999 by L.L. No. 2-2000; approved 1-3-2000]**

B. Variance.

(1) To authorize, in accordance with General City Law § 81b(3) and (4), upon denial of a building permit, such variance from the terms of this chapter as will not be contrary to the public interest where, owing to exceptional and extraordinary circumstances, there are practical difficulties or unnecessary hardships in the way of the carrying out of the strict letter of this chapter.

**[Amended 12-16-1999 by L.L. No. 2-2000; approved 1-3-2000]**

(2) In all cases where the Board of Appeals grants a variance from the strict application of the requirements of this chapter, it shall be the duty of such Board to attach such conditions and safeguards as may be required in order that the result of its action may be as nearly as possible in accordance with the spirit and intent of this chapter.

(3) No variance shall be granted which involves any activity in any L Landmark Overlay District as to which a building permit would otherwise be required except following a request for and receipt from the Kingston Historic Landmark Preservation Commission of a finding that the proposed work will not adversely affect any L Landmark Overlay District or that such variance should be granted only upon specified conditions, in which case any variance granted by the Zoning Board of Appeals shall be subject to such specified conditions. Notwithstanding the foregoing, if the Kingston Historic Landmark Preservation Commission shall have failed to make and report its findings as herein provided within 45 days from the date it receives the request, it shall be deemed to have found no adverse effect.

C. Temporary certificate of occupancy.

(1) To authorize, upon denial of a certificate of occupancy by the Fire Officer, the issuance of a temporary certificate of occupancy for a period not to exceed 90 days during the completion of any alterations that are required under the provision of any law or ordinance or for a part of a partially completed building, provided that the Board finds:

**[Amended 12-16-1999 by L.L. No. 2-2000; approved 1-3-2000]**

(a) That denial of a certificate of occupancy prior to completion of said alterations or of the building will cause unnecessary hardship.

(b) That the safety of the occupants of the building and of buildings and land would be adequately assured under such terms and conditions as the Board may prescribe.

(2) Such temporary certificate shall not be construed as in any way altering the respective rights, duties or obligations of the owner or of the City respective to the use or occupancy of the land or building or any other matter covered by this chapter.

**§ 405-55. Procedures.**

A. The powers and duties of the Board of Appeals shall be exercised in accordance with its own rules of conduct and procedure, which rules shall be consistent with and pursuant to all the provisions of City law applicable thereto.

B. In addition, at least 10 days before the date of any public hearing, the Fire Officer shall transmit to the

Secretary of the Planning Board and, where the property concerned is located in an L Landmark Overlay District, to the Kingston Historic Landmark Preservation Commission a copy of any appeal or application, together with a copy of the notice of such hearing. The Planning Board may submit to the Board of Appeals an advisory opinion on said appeal or application at any time prior to the public hearing, and such opinion shall be made known to the public at such hearing and made part of the official record thereof.

**[Amended 12-16-1999 by L.L. No. 2-2000; approved 1-3-2000]**

C. Unless work is commenced and diligently prosecuted within one year of the date of the granting of a variance or special permit, such variance or special permit shall become null and void.

D. All appeals and applications made to the Board of Appeals shall be in writing, on forms prescribed by the Board, and shall be accompanied by a fee which shall be determined by the rules and regulations of the Zoning Board of Appeals.

E. Every appeal or application shall refer to the specific provisions of the ordinance involved and shall exactly set forth the interpretation that is claimed, the use for which the special permit is sought or the details of the variance that is applied for and the grounds on which it is claimed that the variance should be granted, as the case may be. The applicant, or designated agent of the applicant, shall be present at the Zoning Board of Appeals meeting when their application is to be addressed.

**[Amended 9-12-2000; approved 9-21-2000]**

F. The Building Safety Division of the Kingston Fire Department shall give notice of a variance application or zoning change request by personal service or certified mail, return receipt requested, at least five days prior to the public hearing to owners of all properties contiguous and adjacent of the applicant's property. Adjacent shall be deemed to include the properties across any streets or roadways as if the street or roadway did not exist. The City of Kingston assessment roll shall be used to determine the owners of the surrounding properties as of the date of the notice. Said notice shall include the notice of appeal, the applicant's name, the nature of the application, description of the property and its current zoning designation. The cost of preparing and mailing said notices shall be borne by the Building Safety Division of the Kingston Fire Department. The affidavits of mailing or proof of personal notice must be submitted to the Board before its hearing.

**[Added 7-13-1999; approved 7-16-1999** Editor's Note: This ordinance also provided for the redesignation of former Subsections F and G as Subsections [G](#) and [H](#), respectively. ]

G. Every decision of the Board of Appeals shall be recorded in accordance with standard forms adopted by the Board and shall fully set forth the circumstances of the case and shall contain a full record of the findings on which the decision is based. Every decision of the Board of Appeals shall be recorded and filed with the Fire Officer, together with all documents pertaining thereto.

H. All the provisions of this chapter relating to the Board of Appeals shall be strictly construed. The Board, as a body of limited jurisdiction, shall act in conformity with all provisions of law and of this chapter and in strict compliance with all limitations contained herein; provided, however, that if the procedural requirements set forth in this chapter have been substantially observed, no applicant or appellant shall be deprived of the right of application or appeal.

**ARTICLE IX. Historic Landmarks Preservation Commission**

**[Amended 9-18-1986, approved 9-19-1986; 11-14-1989, approved 11-15-1989]**

**§ 405-56. Creation; composition and terms.**

There is hereby created a Commission to be called the "Historic Landmarks Preservation Commission of the City of Kingston." This Commission shall consist of seven members, to be appointed by the Mayor of the City of Kingston for terms of office of three years, which shall be so arranged that approximately 1/3 of the terms shall expire each year. Upon adoption of this article, present members shall serve until expiration of their terms. Members of the Commission may be reappointed for succeeding terms.

**§ 405-57. Membership qualifications.**

One member of the Commission shall be a licensed practicing architect. One member shall be an owner of a City designated building or an owner in a City historic district. All members shall be residents of the City of Kingston at the time of their appointment and throughout their membership, with a knowledge of and interest in the historic background of the City and the trends of its future development, with demonstrated concern for the material,

economic and cultural development of the City through the principles for which the Commission is created.

**§ 405-58. Appointments and vacancies.**

The Commission shall, prior to 30 days before the expiration of the terms of each class of Commissioners, submit to the Mayor of Kingston a list of eligible and qualified candidates, which the Mayor may consider in making a selection of successors.

**§ 405-59. Rules of procedure.**

The Commission shall establish its own rules of procedures, provided that all regular and special meetings be open to the public except when a member of the Commission requests that part or all of the meeting shall be held in executive session, which shall be permitted in accordance with the applicable Open Meetings Law.

**§ 405-60. Costs of operation; budget requests.**

The cost of operation of the Commission shall be funded by the City of Kingston. The Commission shall submit its budget and all requests for appropriations to the Mayor of the City of Kingston, annually on or before a date specified by the Mayor.

**§ 405-61. Powers and duties.**

A. The Commission shall have the following powers and duties:

(1) To recommend to the Common Council that it establish certain landmarks or Landmark (L) Districts. A landmark or Landmark (L) District may be or may include an exterior or publicly accessible interior and may include areas comprising all or portion of:

- (a) One or more City blocks;
- (b) One or both sides of a street;
- (c) One or more plots of unimproved land;
- (d) Any other real property.

(2) To review all applications for building permits and all appeals and applications transmitted to the Fire Officer which may affect any landmark or Landmark (L) District, and to make determinations accordingly, which shall be binding in accordance with § [405-49C](#).

**[Amended 12-16-1999 by L.L. No. 2-2000; approved 1-3-2000]**

(3) To apply or impose in accordance with the standards set forth in § [405-63](#) herein, with respect to the construction, reconstruction, alteration or demolition of such building or the performance of work thereon, regulations, limitations, determinations or conditions which are more restrictive than those prescribed or made by or pursuant to other provisions of law applicable to such activities, work or use.

(4) At its discretion and with the property owner's consent, to cause to be prepared and placed upon or near any landmark or Landmark (L) District a suitable plaque declaring that fact.

(5) The Commission may make such investigations and studies of matters relating to the protection, enhancement, perpetuation and restoration of landmarks as the Commission may, from time to time, deem necessary or appropriate for the effectuation of the purpose of this article and may submit reports and recommendations as to such matters to the Mayor and other agencies of the City government. In making such investigations and studies, the Commission may hold such public hearings as it may deem necessary or appropriate.

(6) To make all appropriate arrangements for the general transaction of its business, including the receipt and disbursement of funds, and to retain or employ professional consultants, secretaries, clerks or other such personnel as may be necessary to assist the Commission in carrying out its duties with such funds as may be made available to it by the Common Council in its sole judgment and discretion.

B. Any and all applications shall be considered and decided by a majority vote of the total membership of the Commission at a duly called meeting of the Commission.

**§ 405-62. Landmark or Landmark District designation procedure.**

A. The Commission shall consider for a landmark or Landmark District designation real property proposed by motion of any Commission member or by owner of such property or by written request signed by 10 residents of the City of Kingston.

**[Amended 12-7-2004, approved 12-9-2004]**

B. The criteria for the designation of landmarks shall particularly favor such designation where the proposed landmark or Landmark District:

- (1) Exemplifies or reflects the broad cultural, political, economic or social history of the nation, state or community;
- (2) Is identified with historic personages or with important events in national, state or local history;
- (3) Embodies distinguishing characteristics of an architectural-type specimen, inherently valuable for a study of a period, style, method of construction or of indigenous materials or craftsmanship; or
- (4) Is representative of the notable work of a master builder, designer or architect whose individual ability has been recognized.

C. Notice of a proposed designation, including the amendment of a prior designation or proposed designation, shall be sent by the Commission by certified mail or personal delivery to the last owner of record, as the names and addresses shall appear on the records of the Assessor of the City of Kingston, briefly describing the proposal for designations and the date, time and location of the public hearing by the Commission to consider the proposed designation. The notice required hereunder shall be sent at least 14 days prior to the public hearing. Once the Commission has issued notice of a proposed designation, no building permits or demolition permits shall be issued by the Fire Officer until the Commission has made its decision.

**[Amended 12-16-1999 by L.L. No. 2-2000; approved 1-3-2000]**

- D. The Commission shall also cause notice of the proposed designation to be published at least once, at least 14 days prior to the public hearing, in a newspaper having general circulation in the City of Kingston.
- E. The Commission shall hold a public hearing to consider all proposals for the designation of any property as a landmark. The Commission and any other interested parties may solicit expert testimony and offer other evidence relevant to the designation of the proposed landmark.

F. Following the public hearing, the Commission shall forward to the Common Council of the City of Kingston and to the proper owners its recommendations concerning designation of a landmark or a Landmark District. The designation shall be effective upon ratification through ordinance by the Common Council. Pending ratification, the proposed landmark or Landmark District shall have interim protection.

G. Emergency designation. The Commission shall forward to the Common Council of the City of Kingston and to the owners (if known) and also to the persons in charge of all property affected thereby its recommendations, if any, for the designation of a landmark or Landmark (L) District, together with notice of its finding of need for immediate designation of a landmark or Landmark (L) District. It shall forward copies of its recommendation to the Fire Officer's office, with notice of its finding of need for immediate designation, and, in that case, such recommendations shall be deemed to be in full force and effect, pending public hearing, Commission recommendation and final action by the Common Council, and the Fire Officer shall perform his respective functions and duties as though the recommendations of the Commission have been adopted in their entirety by the Common Council. A designation by the Commission on a finding of immediate need shall be effective from the date of mailing or personal delivery of the notice of designation to the owner of the property (if known) in the same manner as the notice requirements of Subsection C hereof and shall expire 90 days thereafter if the Common Council shall have failed to act within said period. The notice shall specify the recommendations of the Commission, its reasons therefor and the right of appeal as contained in § [405-69](#).

**[Amended 12-16-1999 by L.L. No. 2-2000; approved 1-3-2000]****§ 405-63. Landmarks and Landmark (L) Districts.**

A. Legislative intent.

- (1) The purpose of this section is to provide for the promotion of the educational, cultural, economic and general welfare of the public through the protection, enhancement, perpetuation and preservation of landmarks and Landmark (L) Districts. The legislative body declares that it is in the public interest to ensure that the distinctive landmarks and Landmark (L) District shall not be injuriously affected, that the value to the community of those buildings having architectural and historical worth shall not be impaired and that said

districts be maintained and preserved to promote their use of the education, pleasure and welfare of the citizens of the City of Kingston and others.

(2) The Stockade (Area) District of Kingston, consisting of eight blocks bounded by Clinton Avenue, Main Street, Green Street and North Front Street, together with protective perimeter, is the site of the Stockade built by Peter Stuyvesant in 1658 and successive extensions under English rule. In this area, there were two Indian massacres, one in 1659 and one in 1664. It is also the location of the founding of the first government of the State of New York in 1777, burned by the British that same year.

(a) This area, which represents an important heritage relative to the Dutch and English Colonial periods, is defined on the Zoning Map and is declared to be a Landmark District (and a Historic and Architectural Design Overlay District).

(b) This area contains the architecture of the past 300 years, and new development must not be allowed to erode the best of the architectural spaces and cultural association of the past.

B. Applicability and guidelines. This section shall apply to all buildings, structures, outbuildings, walls, fences, steps, topographical fixtures, earthworks, landscaping, paving and signs of a landmark or Landmark District. No changes in any exterior architectural feature, including but not limited to, construction, reconstruction, alteration, restoration, removal, demolition or painting, shall be made except as hereinafter provided. To assist in the conservation action, several specific guidelines are included:

(1) Because of the visual importance of the Old Dutch Church steeple, no new structure may rise within the Stockade District above the base of the steeple, which is 62 feet above the curb level.

(2) Many of the most important buildings in Landmark Districts are stone, wood or brick, with only two or three surface materials used on any building. There are almost no large areas of glass or polished metal. For this reason, design criteria references in § [405-64](#) and as specified by the Historic Landmarks Preservation Commission to match this condition are placed on all restoration and construction.

(a) Site design. In determining building setbacks for new construction, the Commission may require new buildings to be set behind existing building lines to give emphasis to existing structures of historic or aesthetic merit or to allow for suitable landscaping. New construction shall be compatible with the district in which it is located.

(b) Landscaping and paving. Landscaping may be required by the Commission, and is deemed an important element of site development.

[1] Evergreen materials may be required for screen functions.

[2] Recommendations may be made to the Commission by a landscape architect or designer approved by the Commission.

[3] Bluestone, slate or brick may be prescribed for sidewalks.

[4] Maintenance of plant material shall be the responsibility of the owner, including responsibility to keep growth trimmed and trained, to meet the Commission requirements.

(c) Parking. Parking areas shall be partially screened from public view, with appropriate walls, structures, fences or landscaping. The area allotted for planting of all parking lots shall be at least 5% of the amount allotted to parking surface.

(d) Maintenance. Preventive maintenance is required in order to assure that these buildings, spaces, elements and details are preserved. Failure to provide this preventive maintenance shall be a violation of this article.

C. Relation to underlying zoning districts. The underlying zoning districts shall apply within the landmark or Landmark District as follows:

(1) The zone regulations shall apply within the landmark or Landmark District with respect to: limitations on height, except as noted above, building spacing, yard and parking requirements.

(2) Other provisions of these regulations related to land use shall remain in force; all other controls shall

remain in force to the extent they do not conflict with the intent and purpose of this section.

**§ 405-64. Review procedure.**

A. No person shall carry out any exterior or historically designated publicly visible interior alteration, restoration, reconstruction, demolition, new construction or moving of a landmark or property within a Landmark District nor shall any person make any material change in the appearance of such a property, its light fixtures, signs, sidewalks, fences, steps, paving or other exterior elements visible from a public street or alley which affect the appearance and cohesiveness of the historic district without first obtaining a preservation notice of action from the Landmarks Commission and a notification to the applicant to obtain a building permit, if necessary. A preservation notice of action does not obviate the need for a building permit.

B. Criteria. In making such determinations, the Commission shall consider:

- (1) The effect of the proposed work in changing, destroying or affecting the exterior features of the landmark or Landmark (L) District upon which such work is to be done;
- (2) The relationship between the results of such work and the exterior architectural features of other neighboring improvements;
- (3) The factors of aesthetic, historical and architectural values and significance, architectural style, design, arrangement, texture, material and color;
- (4) The special character and aesthetic interest that any structure involved adds to the area; and
- (5) The difficulty or impossibility of reproducing any structure involved because of its design, texture, material, position or detail.

C. All applications shall be considered by the Commission on at least the following points, these points to be used as a basis, where relevant, for establishing relationships to the external features of buildings in the immediate neighborhood: The building height in relation to surrounding buildings; the relationship to nearby roof shapes; the relationship between the width to height of the front elevation; the size, proportion and spacing of openings within the facade and elevations exposed to view; the rhythm of spacing of buildings and building elements on the street; the design and placement of entrances and projections; the relationships of materials, textures and colors; the relationship of architectural details; the continuity of walls; the relationship of landscape elements; the appropriateness of paving; and the effect on existing or historically significant spaces.

D. It shall be the further duty of the Commission to exercise judgment in accord with the basis of decisions stated herein and maintain the desirable character of the landmark or Landmark District and prevent construction, reconstruction, alteration or demolition out of harmony with existing buildings insofar as character, material, color, line and detail are concerned, and thus to prevent degeneration of property, to safeguard public health, promote safety and preserve the beauty of the character of the landmark or Landmark District.

**§ 405-65. Preservation permit for change in exterior architectural features.**

A. The preservation notice of action required by this section shall be in addition to, and not in lieu of, any building permit that may be required by any other ordinance of the City of Kingston, New York. In the event of overlapping reviews, the most restrictive review shall apply.

B. Prior to the commencement of any work requiring a preservation notice of action, the owner shall file an application for a preservation notice of action, which shall be made, in writing, in duplicate, to the Commission and shall contain the following:

- (1) The name, address, telephone number and signature of the owner.
- (2) The name, address, telephone number and signature of the applicant.
- (3) The location of the building, structure or land; the exterior architectural features which are proposed to be changed.
- (4) The elevations of the proposed change.
- (5) A perspective drawing.
- (6) Samples of colors or materials to be used in the proposed change.

(7) Where the proposed change includes signs or lettering, all dimensions and colors, a description of materials to be used and the method of illumination, if any, and showing the location on the building or property.

(8) Photographs of existing conditions may be required.

(9) Whatever additional information the Commission deems necessary to evaluate the application.

C. Prior to submitting a formal application, the applicant or his representative may meet with the Commission and/or its staff to informally discuss plans for alterations of exterior features. In order to avoid unnecessary expense and delay, a sketch or schematic design for the construction, alteration or repair of any regulated activity may be presented to the Commission. A preliminary design should show the relation to adjacent structures and spaces. The Commission may advise or recommend alteration and changes in the application.

D. Procedure to be followed for a preservation notice of action.

(1) Within a reasonable time after a completed formal application is filed with the Commission, but in any event within 90 days after such filing or within such further time as the applicant may, in writing, allow, the Landmarks Commission shall conduct a public meeting to approve or deny the application or approve the application with modifications. At said public meeting, opportunity shall be provided to proponents and opponents to present their views.

(2) All decisions of the Commission shall be in writing. A copy shall be sent to the applicant by mail and a copy filed with the Building Safety Division of the Fire Department for public inspection. The Commission's decision shall state the reasons for denying or modifying any application. Approval to proceed will be documented by the issuance of a preservation notice of action. The conditions upon which the preservation notice of action is issued will be stated, in writing, on the preservation notice of action. During work upon any preservation notice of action, if a modification is sought, such must be approved by an amended preservation notice of action issued by the Commission. Compliance will be necessary to obtain a final certification of occupancy or certificate of compliance from the Building Safety Division of the Fire Department. The preservation notice of action shall be valid for one year. At all times during this term, the preservation notice of action shall be prominently posted in public view pursuant to local law governing building permit posting.

**[Amended 12-16-1999 by L.L. No. 2-2000, approved 1-3-2000]**

E. Inspection. If, upon inspection, the Historic Landmarks Preservation Commission (HLPC) determines that the work is not in conformity with the preservation notice of action, the HLPC shall notify the Building Safety Division of the Fire Department, in writing. No certificate of occupancy or certificate of compliance shall be issued thereupon until the work is altered to be in conformity with the preservation notice of action.

**[Amended 12-16-1999 by L.L. No. 2-2000; approved 1-3-2000]**

#### **§ 405-66. Hardship.**

A. An applicant whose preservation notice of action for a proposed demolition or alteration has been denied may apply for relief on the grounds of hardship. The hardship shall not be self-inflicted. In order to prove the existence of hardship, the applicant shall establish that:

(1) The property is incapable of earning a reasonable return, regardless of whether that return represents the most profitable return possible;

(2) The property cannot be adapted for any other use, whether by the current owner or by a purchaser, which would result in a reasonable return; and

(3) Efforts to find a purchaser interested in acquiring the property and preserving it have failed.

B. Hardship application procedure.

(1) After receiving written notification from the Commission of the denial or approval with modifications of a preservation notice of action, an applicant may commence the hardship process. No building permit or demolition permit shall be issued unless the Commission makes a finding that a hardship exists. The Commission may hold a public hearing on the hardship application, at which an opportunity will be provided for the proponents and opponents of the application to present their views.

(2) The applicant shall consult in good faith with the Commission, local preservation groups and interested parties in a diligent effort to seek an alternative that will result in preservation of the property.

(3) All decisions of the Commission shall be in writing. A copy shall be sent to the applicant by registered mail and a copy filed with the City Clerk's office for public inspection. The Commission's decision shall state the reasons for granting or denying the hardship application.

(4) In the event of the Commission's denial based on hardship application, the applicant may apply to the City of Kingston Zoning Board for review of said application, applying Landmark Ordinance criteria.

#### **§ 405-67. Demolition by neglect.**

A. In its review to determine that demolition by neglect is occurring and upon consultation with the Building Safety Division of the Fire Department, the Commission shall consider all of the foregoing criteria and shall also attempt to confer with the owner or person in charge of the real property concerned. It shall also review any communication it shall receive which indicates that demolition by neglect is or may be occurring in any landmark or Landmark District. In the event that the Commission finds that such demolition is or may be taking place, it shall direct a letter to the Building Safety Division of the Fire Department to notify the owner or person in charge of this finding, stating the reasons therefor and requesting that the owner or person in charge immediately take appropriate steps to cause such demolition to cease, and to confer with the Commission in connection therewith. Should the owner or person in charge fail to satisfy the Commission that all necessary steps are or will be promptly taken, the Commission shall request the Building Safety Division of the Fire Department to notify the Corporation Counsel of the City of Kingston and request the consideration of the proceedings pursuant to § [405-52D](#) hereof.

**[Amended 12-16-1999 by L.L. No. 2-2000; approved 1-3-2000]**

B. No owner or person with an interest in real property designated as a landmark or included within a historic district shall permit the property to fall into a serious state of disrepair so as to result in the deterioration of any exterior architectural feature which would, in the judgment of the Historic Landmarks Preservation Commission, produce a detrimental effect upon the character of the property itself. Examples of such deterioration include:

- (1) Deterioration of exterior walls or other vertical supports.
- (2) Deterioration of roofs or other horizontal members.
- (3) Deterioration of exterior chimneys.
- (4) Deterioration or crumbling of exterior stucco or mortar.
- (5) Ineffective waterproofing of exterior walls, roofs or foundations, including broken windows or doors.
- (6) Deterioration of any feature so as to create a hazardous condition which could lead to the claim that demolition is necessary for the public safety.
- (7) Interior structural members shall be protected and maintained to resist and prevent deterioration.
- (8) Unheated attics, spaces below flat roofs and crawl spaces shall be ventilated to minimize deterioration.
- (9) Interior and exterior chimneys and flues shall be maintained safe, sound and smoketight.
- (10) Interior ceilings, walls, floors and stairways shall be maintained in a safe and sound condition.

#### **§ 405-68. Enforcement.**

**[Amended 12-16-1999 by L.L. No. 2-2000; approved 1-3-2000]**

A. All work performed pursuant to a preservation notice of action and/or building permit issued under this article shall conform to any requirements included therein. In the event that the Commission finds that work is not being performed pursuant to said preservation notice of action or building permit, it shall notify the owner or person in charge of this building, stating the reasons therefor and requesting that the owner or person in charge immediately take appropriate steps to conform to said preservation notice of action or building permit and to confer with the Commission in connection therewith. Should the owner or person in charge fail to satisfy the Commission that all necessary steps are or will be immediately taken, the Commission shall request the Building Safety Division of the Fire Department to take appropriate action.

B. Similarly, should both a preservation notice of action and a building permit be issued, the Fire Officer shall have all powers conferred upon him pursuant to the Zoning Ordinance to enforce the preservation notice of action, including, but not limited to, stop-work orders.

#### **§ 405-69. Appeals.**

Any person aggrieved by an action of the Commission in disapproving or limiting a preservation notice of action application and the Zoning Board's support of such Commission action may bring a proceeding to review in a manner provided by Article 78 of the Civil Practice Law and Rules in a court of record on the ground that such decisions are illegal, in whole or in part.

#### **ARTICLE X. Amendments**

##### **§ 405-70. Authority to amend.**

This chapter or any part thereof, including the Zoning Map, may be amended, supplemented or repealed, from time to time, by the Common Council, pursuant to statute. Such amendment may be initiated in one of the following ways:

- A. By the Common Council on its own motion.
- B. By adoption by the Planning Board of a resolution proposing an amendment to the Common Council.
- C. By the filing of a petition in accord with the requirements set forth in § [405-71](#) below.

##### **§ 405-71. Procedures for petitions.**

A. Form of petition. All petitions for amendment shall be presented to the City Clerk for referral to the Common Council at the next regular meeting of said Common Council. A petition for amendment shall contain information describing the nature of the proposed amendment, a description of the land or district affected and any other information or material pertinent to the determination of the matter. The City Clerk may prescribe forms for the filing of said petitions. Each petition for amendment shall be accompanied by a fee in accordance with the Fee Schedule established by the Common Council, payable to the City Comptroller.

**[Amended 12-16-1999 by L.L. No. 2-2000; approved 1-3-2000]**

B. Resubmittal of petition. If an amendment is disapproved by the Common Council, no petition for essentially the same amendment shall be considered within a period of one year from and after the date of such disapproval.

C. Withdrawal of petition. Any petition for amendment may be withdrawn at any time by the filing of a verified petition of withdrawal signed by not less than a majority of the number of persons who signed the original petition. Any petition for amendment withdrawn by the petitioner subsequent to notice of public hearing shall preclude consideration of substantially the same amendment for a period of one year from and after the date said petition for withdrawal is filed with the City Clerk.

##### **§ 405-72. Required actions on petitions.**

A. Petition for resolution. Whenever the owners of 50% or more of the frontage in any district or part thereof shall present a petition duly signed and acknowledged to the Common Council requesting an amendment, supplement, change or repeal of the regulations prescribed for such district or part thereof, it shall be the duty of the Common Council to vote upon said petition within 90 days after the filing of the same by the petitioners with the City Clerk.

B. Protest petition. If a protest against a proposed amendment, supplement or repeal is presented to the Common Council duly signed and acknowledged by the owners of 20% or more of the area of land included in such proposed change, or by the owners of 20% or more of the area of land immediately adjacent, extending 100 feet from the street frontage of such opposite land, such amendment shall not become effective except by the favorable vote of at least 3/4 of the Common Council.

C. Planning Board proposal. It shall be the duty of the Common Council to vote upon such amendment, supplement, change or repeal, as proposed by the Planning Board, within 90 days from the date the proposal is received by the Common Council.

##### **§ 405-73. Referrals.**

A. Referral to the Planning Board.

(1) Procedure. All proposed amendments originated by petition or by motion of the Common Council shall be referred by the Common Council to the Planning Board for a report and recommendations thereon. If the

Planning Board shall not have made its final report thereon within 45 days of reference thereto, the Common Council may proceed to final action.

(2) Planning Board report. In preparing a report on a proposed amendment, the Planning Board shall consider the following:

(a) Whether such change is consistent with the objectives and purposes of the district(s) to be affected.

(b) The nature and location of uses and buildings to be affected and the manner in which they will be affected.

(c) Whether uses permitted by the proposed change will be appropriate in the affected area(s).

(d) The affect of the change on existing or proposed public facilities and services such as schools, streets, utilities, etc.

(3) Affect of negative report. Should the Planning Board object to the proposed amendment or change, it shall not become effective except by the favorable vote of a majority plus one of all members of the Common Council.

**[Amended 5-4-2004, approved 5-10-2004]**

B. Referral to the Historic Landmark Preservation Commission. Any proposed amendment which might affect any property in an L Landmark Overlay District or the activities of the Historic Landmark Preservation Commission shall be referred by the Common Council to said Commission for a report and recommendations thereon. If the Commission shall not have made its report thereon within 30 days of reference thereto, the Common Council may proceed to final action.

C. Referral to the County Planning Board.

(1) Matters to be referred. Any change in the district classification of, or the regulations applying to, real property lying within a distance of 500 feet of the following shall be referred to the Ulster County Planning Board prior to final action, in accord with §§ 239-l and 239-m of the General Municipal Law.

(a) The boundary of any other municipality (also requires referral to adjoining municipality).

(b) The boundary of any existing or proposed county or state park or other recreation area.

(c) The right-of-way of any existing or proposed county or state road, parkway or other controlled-access highway.

(d) The existing or proposed right-of-way of any stream or drainage channel owned by the county for which the county has established channel lines.

(e) The existing or proposed boundary of any county or state-owned land on which a public building or institution is located.

(2) County Planning Board recommendation. If the Ulster County Planning Board fails to report its recommendation within 30 days after receipt of a full statement of such referred material, the Common Council shall construe such inaction as approval of the proposed zoning action and may act without such a report.

(3) Affect of negative report. If the Ulster County Planning Board disapproves the proposed amendment or recommends modification thereof the proposed amendment shall not become effective except by a vote of a majority plus one of all members of the Common Council and after the adoption of a resolution fully setting forth the reasons for such action.

**§ 405-74. Public hearing.**

**[Amended 11-8-2006 by L.L. No. 6-2006; approved 11-30-2006]**

A. The Laws and Rules Committee of the Common Council shall conduct a public hearing on all proposed amendments as provided by § 83 of the General City Law. The City Clerk shall cause notice of such hearing to be published in the official newspaper of the City, which shall specify the nature of any proposed amendment,

the land or district affected, and the date and place of the public hearing. Each applicant or his authorized representative, upon written notification, shall be present at any meetings and public hearings concerning determination of the application.

B. If the proposed amendment is an amendment to the Zoning Map, the City Clerk shall cause notice of such hearing to be mailed to the property owners of each property located within the area proposed to be rezoned and to the property owners of each parcel contiguous to the area proposed to be rezoned. For purposes of this section "contiguous" shall be read to include properties on the opposite side of any street, abutting, or included within the area to be rezoned.

#### **§ 405-75. Distribution of copies of decision.**

Upon approval of any amendment by the Common Council, copies thereof shall be transmitted by the City Clerk to the Planning Board, the Historic Landmark Preservation Commission, the Zoning Board of Appeals and the Ulster County Planning Board.

### **ARTICLE XI. Interpretation**

#### **§ 405-76. Interpretation of provisions.**

A. In their interpretation and application, the provisions of this chapter shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare. Except where specifically provided to the contrary, it is not intended by this chapter to repeal, abrogate, annul or in any way to impair or interfere with any rules, regulations or permits previously adopted or issued or which shall be adopted or issued pursuant to law relating to the use of buildings, structures, shelter or premises; nor is it intended by this chapter to interfere with or abrogate or annul any easements, covenants or other agreements between parties; provided, however, that where this chapter imposes a greater restriction upon the use of a building or premises or requires larger open spaces than are imposed or required by any other statute, ordinance, rule, regulation or permit or by any easement or agreement, the provisions of this chapter shall control.

B. In the event of a conflict in the terminology of any section or part thereof of this chapter, the more restrictive provisions shall control.

### **ARTICLE XII. Validity and Effect**

#### **§ 405-77. Validity.**

A. Should any section or provision of this chapter be decided by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the chapter as a whole or any part thereof other than the part so decided to be unconstitutional or invalid. The Common Council hereby declares that it would have passed this chapter and each section and subsection thereof, irrespective of the fact that any one or more parts, subsections, sentences, clauses or phrases may be declared unconstitutional or invalid.

B. Should this chapter in its entirety be decided by the courts to be unconstitutional or invalid, the Zoning Ordinance of the City of Kingston, adopted on November 12, 1963, with its amendments, shall be deemed to have remained in effect.

#### **§ 405-78. When effective.**

This chapter shall take effect immediately.

Attachments:

[405a Table of Zoning Map Amendments](#)

[405b Lot and Bulk Requirements](#)

[405c Figures 1 through 21](#)

[405d Mixed Use Overlay Zoning Dist. Maps](#)

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## ZONING

### *405 Attachment 1*

#### **Table of Zoning Map Amendments**

**[The following list chronologically enumerates the ordinances adopted by the Common Council which amend the Zoning Map of the City of Kingston, dated February 1982. (See § 405-5 of this chapter.) A detailed description of each amendment is available in the office of the City Clerk.]**

<b>Amendment Number</b>	<b>Adoption Date</b>	<b>Zoning Change</b>	<b>Premises</b>
1	6-10-1985	C-1 to C-2	144-168 Tammany Street
2	6-20-1985	RRR to C-3	15 acres of land located off the northerly bounds of Hurley Avenue (Adirondack Transit Lines, Inc.)
3	8-6-1985	RRR to R-4	2 parcels on the east side of Wilbur Avenue, north and south of West O'Reilly Street (Bre-Del Enterprises, Inc.)
4	9-3-1985	R-2 to C-2	55 Furnace Street
4A	10-1-1985	R-2 to C-2	55 Furnace Street
5	10-9-1985	RRR to C-3	262-402 Boulevard
6	11-5-1985	C-2 to O-2 and R-1 to O-2	84 Hurley Avenue
7	11-5-1985	R-1 to M-1	164-174 Flatbush Avenue
7A	9-2-1986	C-2 to R-2	74-76 Franklin Street
9	1-6-1987	R-1 to C-3	21-23 Harwich Street
11	5-5-1987	R-6 to NB	R1-27 Maple Street
13	10-6-1987	C-2 to C-3	450 East Chester Street
14	10-6-1987	M-2 to R-1	173-179 East Strand
15	1-12-1988	M-1 to R-1	1-11 Summer Street
16	7-12-1988	R-1 to O-2	191-243 Hurley Avenue
19	8-2-1988	RRR to C-3	392-418 Boulevard
20	8-2-1988	R-2 to O-2	53-69 Foxhall Avenue
23	11-9-1988	R-1 to O-2	232-238 Hurley Avenue

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<b>Amendment Number</b>	<b>Adoption Date</b>	<b>Zoning Change</b>	<b>Premises</b>
24	11-9-1988	R-3 to C-3	765-799 Abeel Street
25	12-6-1988	RRR to O-2	71-105 Mary's Avenue
26	3-21-1989	R-1 and R-2 to O-2	11-13 Joy's Lane and No. R83-93 Lucas Avenue
28	4-4-1989	C-3 to O-2	87-89 Greenkill Avenue and 2-8 Sterling Street
29	5-2-1989	RR to C-2	349 Flatbush Avenue
30	6-6-1989	R-1 to C-3	741-749 and 751-755 Abeel Street
31	6-6-1989	R-2 to C-3	71 and 73-75 Furnace Street
32	7-11-1989	R-2 to C-3	70-74 and 76-78 Furnace Street; 55-59, 61, 63-65 and 67 Liberty Street
33	9-5-1989	RRR to C-3	191-203 and 205-209 Hurley Avenue Rear
37	8-6-1991	R-1 to R-4	256-262 Lucas Avenue
40	6-2-1992	RRR to C-3	299-313 South Wall Street
41	7-7-1992	RR to C-3	72-78 Kingston Terrace
43	9-1-1992	O-2 to M-1	199-295 Boulevard
44	9-1-1992	NB and RRR to M-1	63-137 North Street
47	4-27-1993	R-2 to O-2	326-330, 332-334 and 336-338 Albany Avenue
49	11-9-1993	R-4 to O-1	366-368 Albany Avenue
50	1-11-1994	RRR to C-3	234-256 Boulevard
56	4-4-1995	R-1 to O-2	Section 54.24, Block 1 on Marys Avenue, Lots 23 and 24 on Andrews Street; and Lots 27, 28, 29, 30 and 32 on Webster Street
60	7-11-1995	R-1 to R-2	Six parcels of property as follows: Sections 56.36-10-15; 56.36-10-4; 56.36-10-5; 56.36-10-3; 56.36-10-13; and 56.36-10-14

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<b>Amendment Number</b>	<b>Adoption Date</b>	<b>Zoning Change</b>	<b>Premises</b>
61	2-13-1996	RRR to M-1	107.056 acre parcel on Delaware Avenue
62	4-2-1996	RRR to O-2	297-335 Boulevard
63	4-2-1996	RRR to R-4	373-421 Wilbur Avenue
65 <sup>1</sup>	7-9-1996	R-1 to O-2	Section 56.42, Block 1 on Marys Avenue; Lots 23 and 24 on Andrew Street; and Lots 27, 28, 29, 30 and 32 on Webster Street
67	7-8-1997	RR to C-2	298-376 Rear Flatbush Avenue
68	6-3-1997	RRR to M-2	651-655 Abeel Street
70	10-7-1997	O-2 to R-2	42 Brewster Street
72	10-7-1997	R-1 to O-2	48.70-1-10, 48.70-1-39, 48.70-1-13, 48.70-1-14, 48.70-1-15.1, 48.70-1-15.2, 48.70-1-16, 48.70-1-17, 48.70-1-18, 48.70-1-19, 48.70-1-21, 48.70-1-22, 48.70-1-23, 48.70-1-24, 48.70-1-25, 48.71-2-2, 48.71-2-3, 48.71-2-4, 48.71-2-5, 48.71-2-6, 48.71-2-7, 48.71-2-8, 48.71-2-9, 48.71-2-10, 48.71-2-14, 48.71-2-15, 48.71-3-1, 48.312-3-1, 48.312-4-1, 48.312-4-2, 48.312-4-3, 48.313-1-1, 48.313-1-2, 48.313-1-3, 48.313-1-4, 48.313-1-5, 48.313-1-6, 48.313-1-7, 48.313-1-8, 48.313-1-35, 48.313-1-11, 48.313-1-12, 48.313-1-13, 48.313-1-14, 48.313-1-15, 48.313-1-17, 48.313-1-18.1, 48.313-1-18.2, 48.313-1-19, 48.313-1-20, 48.313-1-21, 48.313-1-22, 48.313-1-34, 48.313-1-25, 48.313-1-26 and 48.313-1-27
73	11-6-1997	M-1 to C-3	393-399 Foxhall Avenue

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<sup>1</sup>Editor's Note: Amends Amendment No. 56, adopted 4-4-1995.

## KINGSTON CITY CODE

<b>Amendment Number</b>	<b>Adoption Date</b>	<b>Zoning Change</b>	<b>Premises</b>
74	12-2-1997	To C-3	Tax Map Nos. 48.302-3-9, 48.302-3-10, 48.302-3-11, 48.302-3-14, 48.302-3-15 and 48.302-3-16 be changed to a C-3 General Commercial Zone.
76	6-2-1998	R1 to O2	61-63 Mary's Avenue, Tax Map No. 56.42-1-1, and 16 Webster Street, Tax Map No. 56.42-1-31
78	3-2-1999	M-1 to C-2	479-495 Broadway, Tax Map No. 56.26-10-1
79	3-2-1999	M-2 to C-2	69-89 Cornell Street, Tax Map No. 56.25-4-8; and 121-125 Smith Avenue, Tax Map No. 56.25-4-9
80	4-6-1999	M-2 to M-1	101-135 Tremper Avenue, Tax Map No. 56.25-3-31; 62-68 O'Neil Street, Tax Map No. 56.25-3-31; 52-56 O'Neil Street, Tax Map No. 56.25-3-32; 42-50 O'Neil Street, Tax Map No. 56.25-3-33; 34 O'Neil Street, Tax Map No. 56.25-3-34; 91 Smith Avenue, Tax Map No. 56.25-4-48.1; and 52-60 Cornell Street, Tax Map No. 56.25-4-48.2
82	6-8-1999	R-1 to O-2	57-59 Mary's Avenue, Tax Map No. 56.42-1-2; and 49-55 Mary's Avenue, Tax Map No. 56.42-1-3
84	9-12-2000	C-2 to O-2	25-35 Albany Avenue, Tax Map No. 48.80-1-11; and 1-23 Albany Avenue, Tax Map No. 48.80-1-12.11
89	3-5-2002	NB to C-3	363-371 Foxhall Avenue, Tax Map No. 48.302-5-29
91	3-20-2003	M-1 and R-1 to R-6	161-174 Flatbush Avenue, Tax Map Nos. 48.74-3-25.2, 48.74-3-26.1 and 48.74-3-26.2 and 1-15 Sheehan Court, Tax Map No. 48-74-3-8
94	5-6-2003	M-2 and C-3 to M-2	56-60 Ten Broeck Avenue, Tax Map No. 48.82-1-19
95	10-7-2003	R-1 to RT	204-226 West Chestnut Street, Tax Map No. 56.42-4-8

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<b>Amendment Number</b>	<b>Adoption Date</b>	<b>Zoning Change</b>	<b>Premises</b>
96	3-2-2004	R-1 to R-2	29 Abbey Street
100	1-4-2005	RR to C-2	410-412 East Chester Street
104	3-7-2006	R-5 to C-2	346 Washington Avenue
106	8-16-2007 (L.L. No. 5-2007)	R-6 to M-1	7.952 acre portion of R132 Flatbush Avenue, portion of SBL 48.74-3-29.112
108	6-3-2008	C-2 to RT	21-25 Post Street and 10 Hunter Street

# ZONING

## 405 Attachment 2

### Lot and Bulk Requirements City of Kingston (See § 405-8)

[Amended 7-7-1992, approved 7-8-1992; 6-5-2001, approved 6-11-2001]

Zoning District	Minimum Lot Requirements				Minimum Yard Requirements			Maximum Building Height (feet/stories)	Maximum Lot Coverage (percent)	Minimum Usable Open Space (sq. ft. per dwelling unit)	Floor to Area Ratio	Maximum Length of Building	Minimum Distance Between Buildings
	Area (sq. ft.)	Width (feet)	Depth (feet)	Area/Dwelling Unit (sq. ft.)	Front Yard (feet)	Side Yards (feet)	Rear Yards (feet)						
RRR	12,500	100	125	--	30 <sup>2</sup>	15 <sup>3</sup>	30	35/2 1/2	30	--	--	--	--
RR	7,500	75	100	--	25 <sup>2</sup>	10 <sup>3,4</sup>	30	35/2 1/2	35	--	--	--	--
R-1	5,000	50	100	--	15	5 <sup>3,4</sup>	30 <sup>5</sup>	35/2 1/2	40	--	--	--	--
R-2	5,000	50	100	2,500	15	5	30 <sup>5</sup>	35/2 1/2	40	--	--	--	--
R-3	5,000	50	100	2,500	15	5	30 <sup>5</sup>	35/2 1/2	40	--	--	--	--
R-4 <sup>17</sup>	5,000	--	100	2,500	30 <sup>2</sup>	20	30	35/2 1/2	25 <sup>6</sup>	400	--	--	--.8
R-5 <sup>17</sup>	--	--	100	2,000	30 <sup>2</sup>	12 <sup>7</sup>	30	42/3 1/2	25 <sup>6</sup>	400	--	160	--.8
R-6 <sup>17</sup>	--	--	100	1,500	25 <sup>9</sup>	12 <sup>7</sup>	30	--	40	220 <sup>10</sup>	1.8	160	--.8
NB	5,000	40	100	--	--	--.11	--.11	35/2 1/2	80 <sup>12</sup>	--	1.0	--	--
C-1	5 acres	250	200	--	100	50 <sup>13</sup>	50 <sup>13</sup>	--	20	--	.5	--	--
C-2	--	--	--	--	--	--.11	--.11	--	--	--	2.8	--	--
C-3	--	--	--	--	10	--.11	--.11	--	70	--	1.4	--	--
RT	--.14	40	--	2,000 <sup>14</sup>	--	--.11	--.11	35/2 1/2	80	400	1.0	--	--
M-1	--	--	--	--	50 <sup>13</sup>	50 <sup>13</sup>	50 <sup>13</sup>	48	40 <sup>15</sup>	--	.8	--	--
M-2	--	--	--	--	10	--.11	--.11	60	60	--	1.2	--	--
RLC	5,000	--	100	2,500	30 <sup>2</sup>	20	30	35/2 1/2	25 <sup>6</sup>	400	--	--	--.8
RLC <sup>17</sup>	40,000	100	100	2,500	15	15	15	35/3	25 <sup>18</sup>	400	--	160	--.8
O-1	--	--	--	--	10	20 <sup>16</sup>	20 <sup>16</sup>	--	40	--	2.0	--	--
O-2	(For residential development use R-5 requirements.)				10	20 <sup>16</sup>	20 <sup>16</sup>	--	40	--	2.0	--	--
O-3R <sup>24</sup>	--	--	100	2,500 <sup>23</sup>	15 <sup>9</sup>	12 <sup>7</sup>	30	35/2 1/2	25 <sup>6</sup>	400	--	160	--.8
O-3B <sup>24</sup>	--	--	--	--	10	20 <sup>16</sup>	20 <sup>16</sup>	--	40	--	2.0	--	--
RF-R <sup>19</sup>	5,000	40	--	1,500	25 <sup>20</sup>	12	30 <sup>21</sup>	35/2 1/2	60	220	1.2	100	--.8
FR-H <sup>19</sup>	12,500	100	125	2,000	25 <sup>20</sup>	12	30 <sup>22</sup>	42/3 1/2	40	400	1.2	100	--.8

# KINGSTON CITY CODE

## Lot and Bulk Requirements

City of Kingston

(See § 405-8)

[Amended 7-7-1992, approved 7-8-1992; 6-5-2001, approved 6-11-2001]

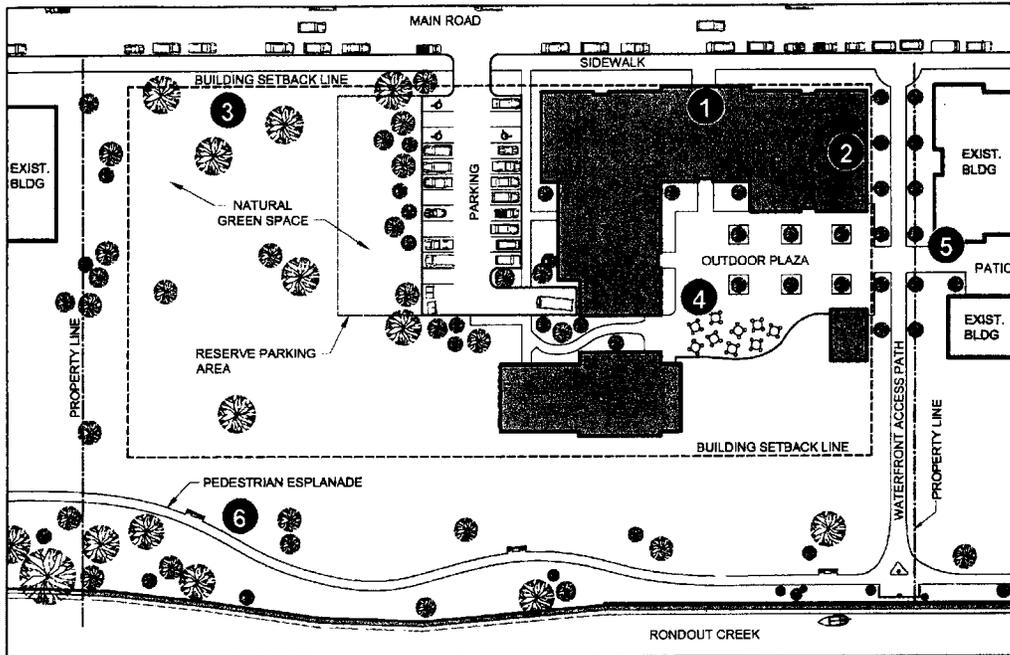
(cont'd.)

### NOTES:

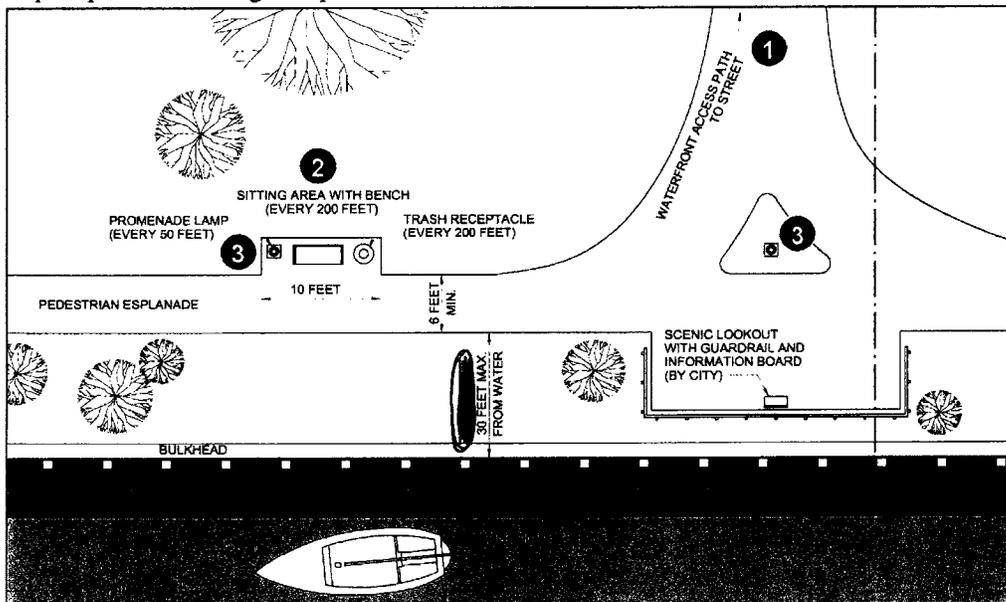
- 1 Minimum depth may be decreased to 100 feet in an RRR District if the average depth of the lot equals at least 125 feet and may be decreased to 90 feet in the RR District and R-1 District if the average depth of the lot equals at least 100 feet.
- 2 Front yard may be decreased to 25 feet in an RRR District and to 20 feet in an RR District when the planes of all walls of a building facing the street intersect the street line at an angle of 25° or more.
- 3 One side yard must be a minimum of 27 feet wide in an RRR District, 18 feet in an RR District and 17 feet in an R-1 District in the case of a dwelling erected without a garage. In the case of corner lots [all of which are deemed to have two front and two side but no rear yards], one side yard shall not be less than 30 feet wide in an RRR District and an RR District and 25 feet in an R-1 District. The other side yard shall not be less than 15 feet wide, except that in the case of a dwelling erected without a garage the lesser side shall not be less than 27 feet wide in an RRR District and 18 feet wide in an RR District.
- 4 Minimum aggregate width of both yards of 15 feet.
- 5 Rear yard may be reduced, in lots with a depth of less than 100 feet, by one foot for each 2 1/2 feet by which the depth of the lot is less than 100 feet. In no case shall the rear yard have a depth of less than 25 feet.
- 6 However, where the Board of Appeals finds that the provision of the required off-street parking space underneath the principal building or in such a way as to enable the roof thereof to be used as part of the grounds would be impractical, such Board may authorize the issuance of a special permit allowing accessory garages to cover an additional 5% of the area of the lot. Garages designed to enable the roof thereof to be used as part of the grounds shall be exempt from any coverage limitation.
- 7 Minimum side yard must be increased to 1/2 the height of the side wall if that measurement is greater than 12 feet.
- 8 Between a principal building, other than a one-family dwelling, and a one-story accessory building: 20 feet; between any two other buildings: a distance equal to the average height of such buildings at the points where such buildings are nearest one to the other.
- 9 Minimum front yard must be increased to the equivalent of 1/3 the height of the front wall is that measurement is greater than 25 feet in the R-6 District and greater than 15 feet in the O-3 District.
- 10 This is per dwelling unit of 600 square feet or more.
- 11 No side or rear yard is required, but, if provided, they must be at least six feet and if a rear yard is contiguous to a residential district, it must be at least 10 feet in the C-2 and C-3 Districts and 30 feet in the M-2 Districts. In an M-2 District no building may be built within 10 feet of a street line.
- 12 Provided that there is sufficient off-street parking approved by the Planning Board.
- 13 Minimum side and rear yards must be increased to 70 feet when contiguous to a residential district boundary.
- 14 For nonresidential buildings, the NB District requirements shall apply; for new and mixed-use buildings, a minimum lot area of 5,000 square feet is required.
- 15 The maximum coverage may be increased to 50% with a single-story building.
- 16 Minimum side and rear yards must be increased to 30 feet when contiguous to a residential district boundary.
- 17 Any parcel in an R-4, RLC, R-5 or R-6 Residence District may be subdivided for the sale of townhouses and each part thereof may be sold. Each such subdivision shall be subject to the Subdivision Regulations of the City of Kingston and the following special requirements:
  - (a) Maximum density. The gross density in an R-4 Multiple Residence District or RLC Residential - Limited Commercial District shall not exceed 14 dwelling units per acre or 20 dwelling units per acre in an R-5 or R-6 Multiple Residence District.
  - (b) Minimum lot size. Individual lots shall have a minimum lot area of 1,600 square feet, a minimum lot width of 14 feet and a minimum lot depth of 80 feet. End units shall have a minimum side yard of 30 feet.
  - (c) Common property. All open space and common property shall conform to the requirements of § 405-35D.
  - (d) Front and rear yards. Front and rear yards shall meet the minimum requirement for the respective district, except that up to 1/2 of the unit may have front or rear yards equal to 75% of the minimum in order to create variety and better design.
- 18 See text for incentives to permit additional coverage.
- 19 Maximum residential density shall not exceed 75% of allowable floor to area ratio, not to exceed 17 units per acre.
- 20 Along street side.
- 21 Along shoreline. See § 405-25F.
- 22 Except as required in § 405-25E(1).
- 23 For emergency shelters, reference is made to § 405-46.3 for additional requirements affecting density.
- 24 O-3R refers to lot and bulk requirements for residential uses, and O-3B refers to lot and bulk requirements for business uses.

# ZONING

## 405 Attachment 3

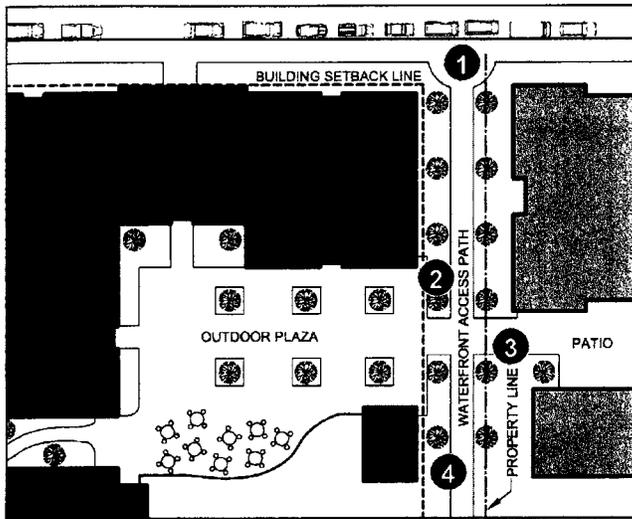


**Figure 1: Clustered Development Pattern.** Clustering buildings together creates public plazas and helps to preserve natural green space.

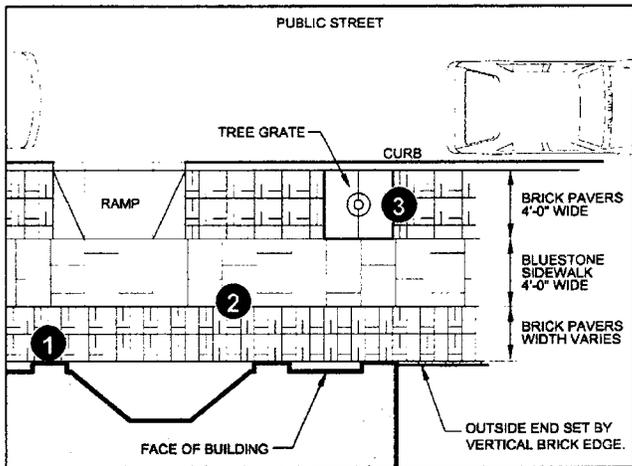


**Figure 2: Continuous pedestrian esplanade and waterfront access path.**

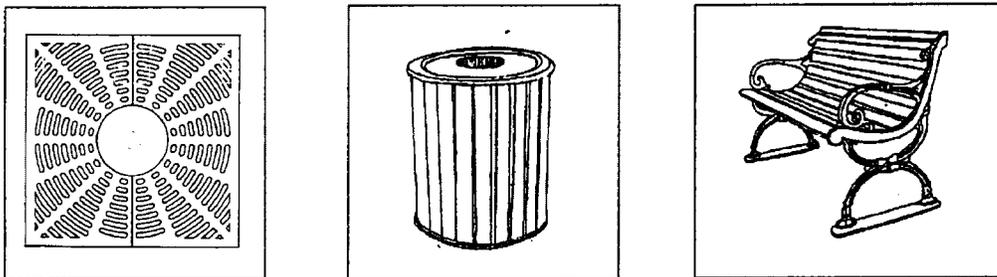
KINGSTON CITY CODE



**Figure 3:** A shared waterfront access path here between two adjacent properties creates a “gateway” down to the water. By clustering the buildings together in groups, outdoor plazas and patios can be created which provide for a mixed use of shopping, entertainment and other activities with a view of the river.

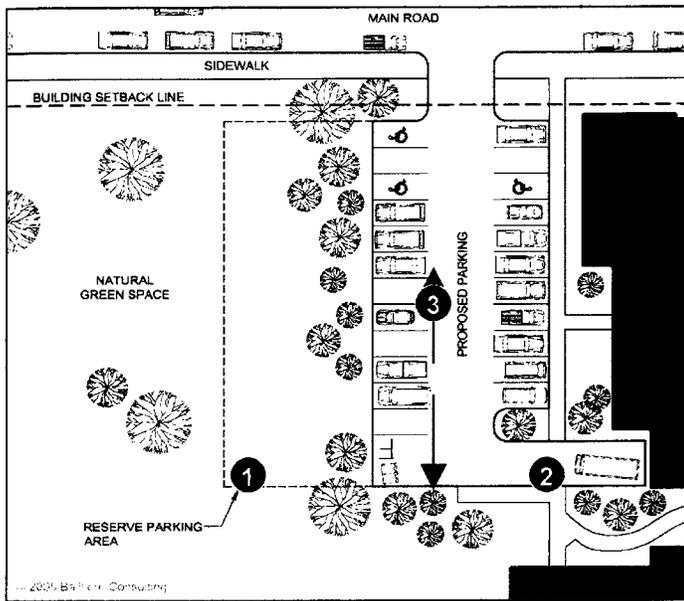


**Figure 4:** Sidewalk configuration. See The City of Kingston Engineering Department for tree planting and curbing details.



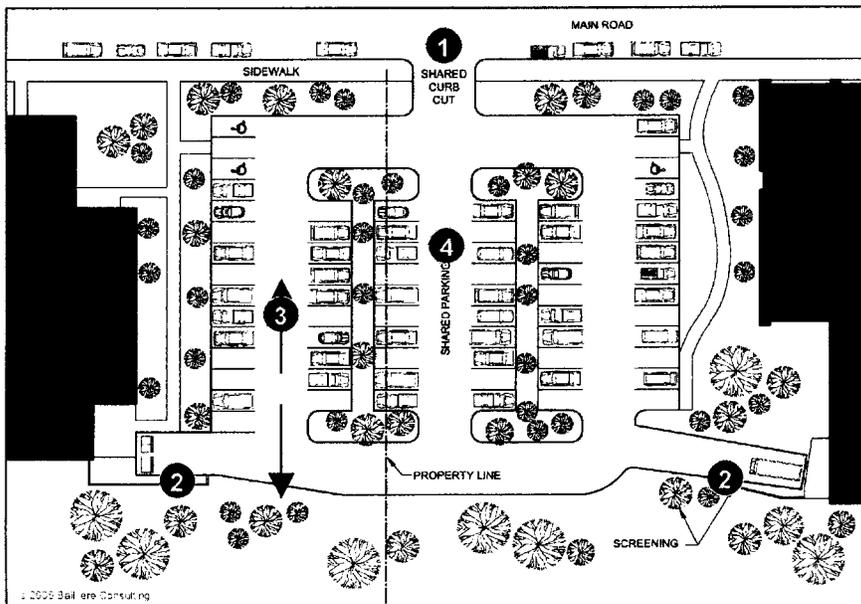
**Figure 5:** Typical pedestrian area accessories to be used within the district – tree grate, trash receptacle and bench. See The City of Kingston Engineering Department for specifications.

## ZONING



**Figure 6: Adaptive parking.** The required number of off-street parking spaces along the waterfront has been reduced to help preserve natural areas and views of the creek. Green space and views are also preserved by orienting the parking layout perpendicular to the water. The area for future parking expansion (reserve parking) must be accommodated on the site in the event that additional off street parking is needed.

If the City is able to provide sufficient public parking, the amount of off-street parking along the waterfront may be further reduced, or eliminated.



**Figure 7: Shared parking layout.** Two neighboring properties can utilize a single parking area which can result in a more efficient layout. The reduction in overall parking surface can be further reduced if both properties do not need the parking spaces during the same time of day.

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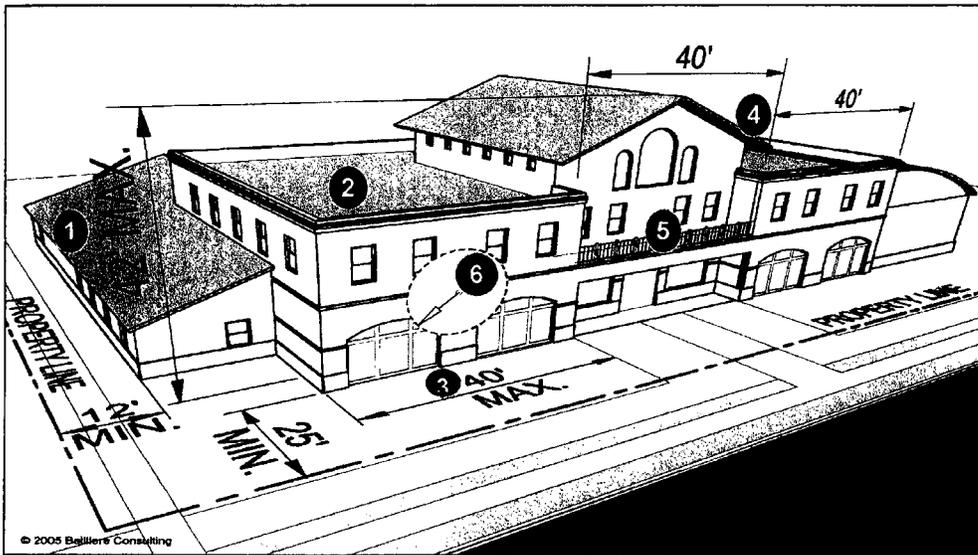


Figure 8: Height, scale and massing standards.

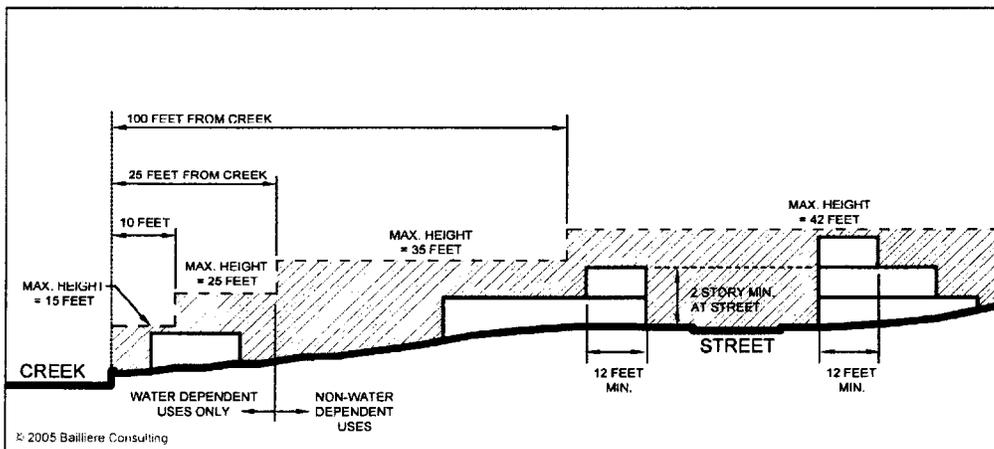
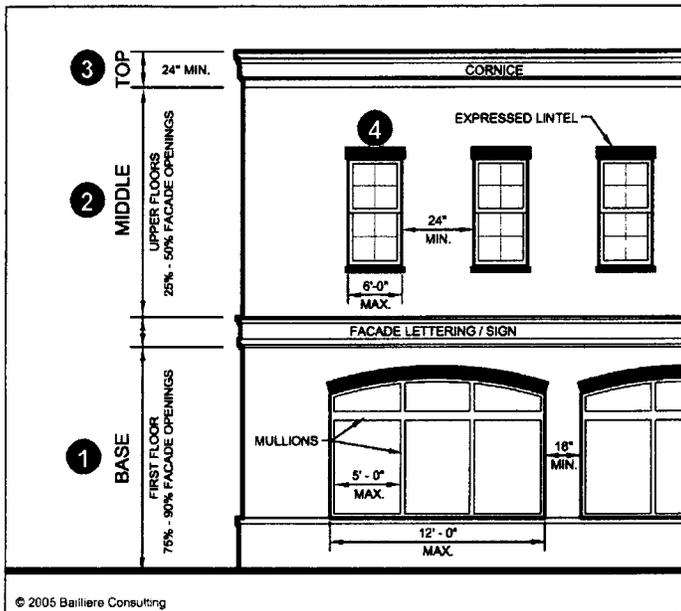
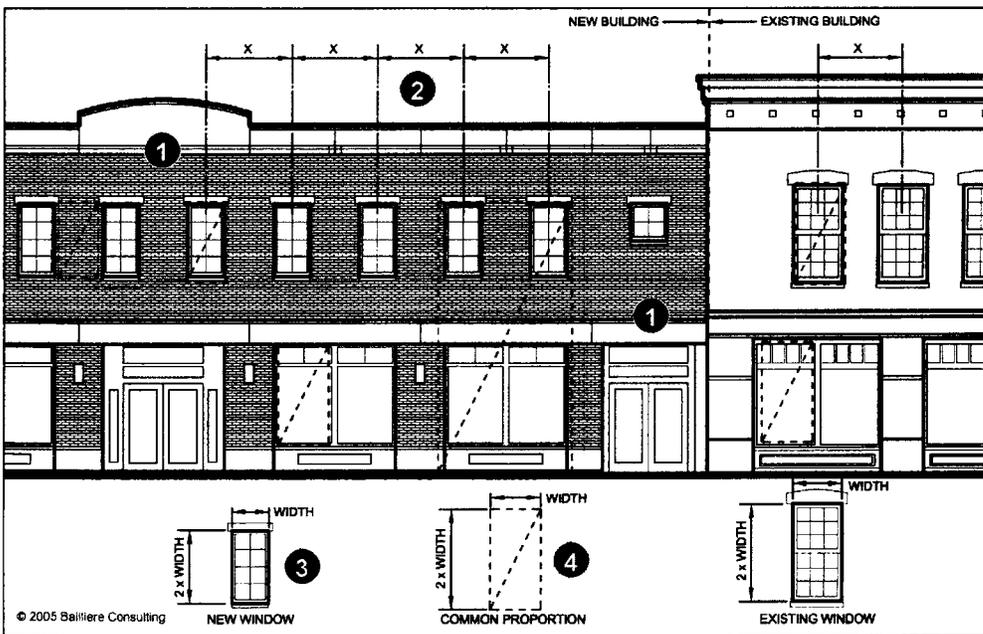


Figure 9: Height requirements along the Rondout Creek. The maximum allowable height depends on the distance from the creek.

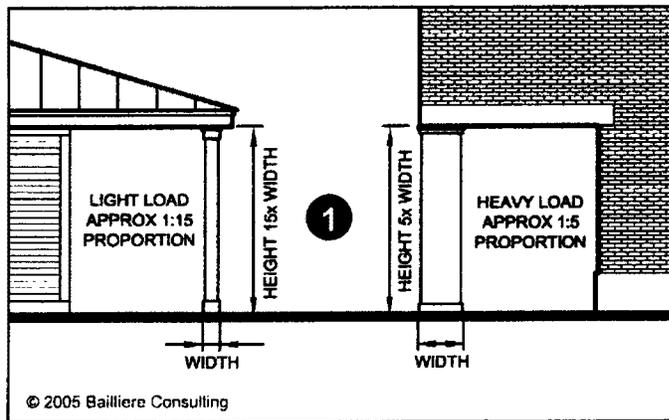
# ZONING



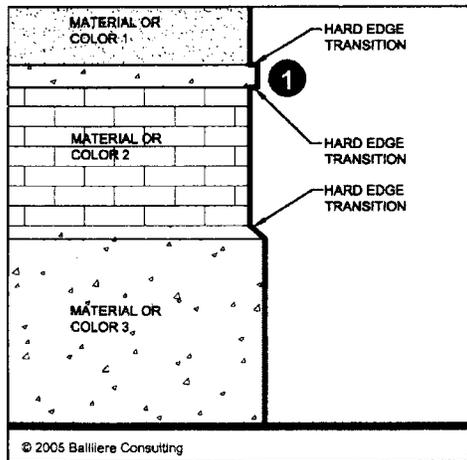
**Figure 10:** Expression of "Base, Middle and Top."



**Figure 11:** Matching proportions and rhythm. The window spacing of the new building matches the spacing of the older building next to it. Both buildings share common proportions too - although the windows are different sizes, they both have the same 1:2 proportion of width to height.



**Figure 12:** Range of proportions of structural elements. Posts for carrying light loads should be generally thinner, but not thinner than a 1:15 width to height proportion. Heavier columns should be relatively thicker, but not wider than 1:5 width to height proportion.



**Figure 13:** Making a transition from one material or color to the next.

## ZONING

**Figure 14 - Materials List. All materials must be approved by the Planning Board.**

Building Element	Recommended Materials	Prohibited Materials
<b>Facade</b>	Common Red Brick	Multi-Colored/Multi-Toned Brick
	Bare (consistent tone)	Imitation Brick Siding, Asphalt Siding
	Painted (approved color)	
	Special Masonry Units (C.M.U.)	Plain C.M.U. (bare or painted)
	Textured C.M.U.	Unfinished, Lumber Grade Wood
	Colored (dyed) C.M.U.	Metal, Aluminum Siding
	Split-Faced C.M.U.	Vinyl Siding
	Natural Stone	Imitation Stone
	Wood Clapboard or Shingle	Wood Paneling
	Finished Grade (painted or stained approved color)	Plywood, T-111,
	Imitation/Synthetic Wood	Composite, MDO/MDF Board
	PVC (approved color)	Fiber Reinforced Cement Siding
	E.I.F.S. / Stucco	
<b>Windows</b>	Anodized Aluminum Frame/Storefront	Bare Aluminum
	Approved Color	Reflective Flashing
	Wood, Vinyl Clad, PVC Frame	
	Approved Color	
	Clear, Etched, Frosted or Stained Glass	Mirrored or Dark Tinted Glass
	Expressed Lintels Over Openings	Steel Plate or Angle Lintels Only
	Brick, Limestone, Colored or Bare Concrete	
<b>Roof</b>	Asphalt Shingle (approved color)	Light or Reflective Materials
	Imitation Slate	Imitation Slate (rubber)
	Natural Slate	
	Standing Seam Metal	
	Small Seam Width, Approved Color	
	Dark, Non-Reflective PVC, Modified Bitumen	
	Aluminum Eave Guard	
	Parapet & Chimney Caps	
	Stone, Limestone or Precast Concrete	
	Metal Flashing (approved color)	
<b>Other / Misc.</b>	Canvas Awning	Plastic, Vinyl or Other Synthetic
	3 Color Max, approved colors	Reflective Flashing
	Concrete Sidewalks / Walkways (poured)	Asphalt Sidewalks / Walkways
	Stamped Concrete	
	Wood / Synthetic Wood Porches, Boardwalks, Ramps	

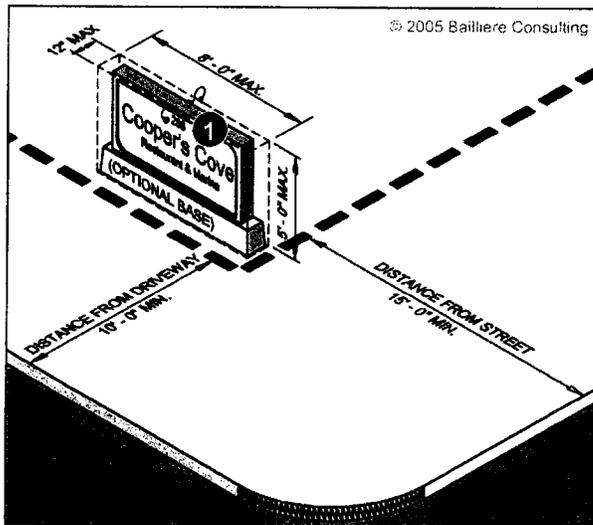
# KINGSTON CITY CODE

DISTANCE FROM STREET TO FAÇADE	MAX. LETTERING SIZE "X" (Name / Description or Street #)
0-20 feet	8" / 4" (Lettering size 'x' = 8")
21-30 feet	10" / 5"
31-40 feet	12" / 6"
41-50 feet	14" / 7"
51-60 feet	16" / 8"
61-70 feet	18" / 9"
71 feet +	20" / 10"

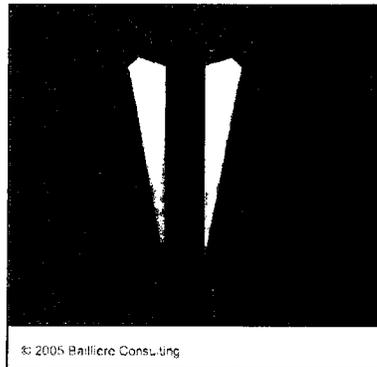
**Figure 15: Lettering Size Chart** – See Figure 16 “Sign Layout” to determine the size of the sign area based on the maximum lettering size.



**Figure 16: Sign Layout** – Maximum letter size “x” from the Lettering Size Chart in Figure 15.

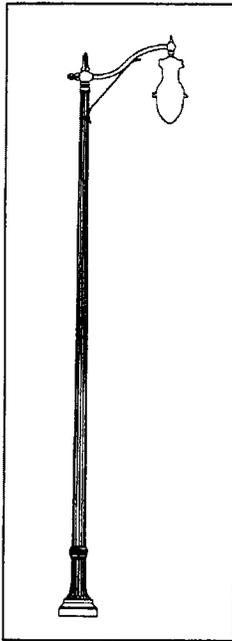


**Figure 17: Freestanding sign configuration.**

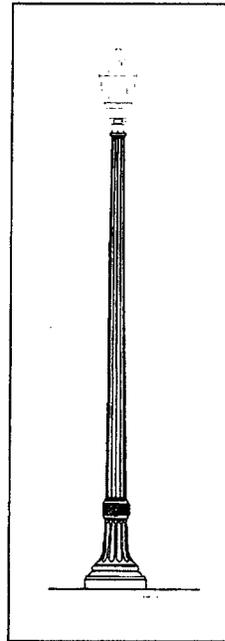


**Figure 18: Sign lighting.** Both freestanding and surface mounted signs should be lit only with shielded, downward facing lamps as shown above.

## ZONING



**Figure 19:** Style 'A' exterior lighting fixture.



**Figure 20:** Style 'B' exterior lighting fixture.

Lighting Use	Maximum Footcandles (Horizontal)	Average Footcandles (Horizontal)	Minimum Footcandles (Horizontal)	Uniformity Ratio
Public Sidewalk	5.0 fc	2.5 fc	0.6 fc	4:1
Parking Lot	5.0 fc	3.0 fc	1.0 fc	4:1
Security	5.0 fc	3.6 fc	2.0 fc	4:1
Esplanade / Waterfront Access Path	3.5 fc	2.0 fc	1.0 fc	4:1
Dock	0.75 fc	0.5 fc	0.25 fc	3:1
Façade	0.5 fc	-	-	-
Landscaping	0.5 fc	-	-	-

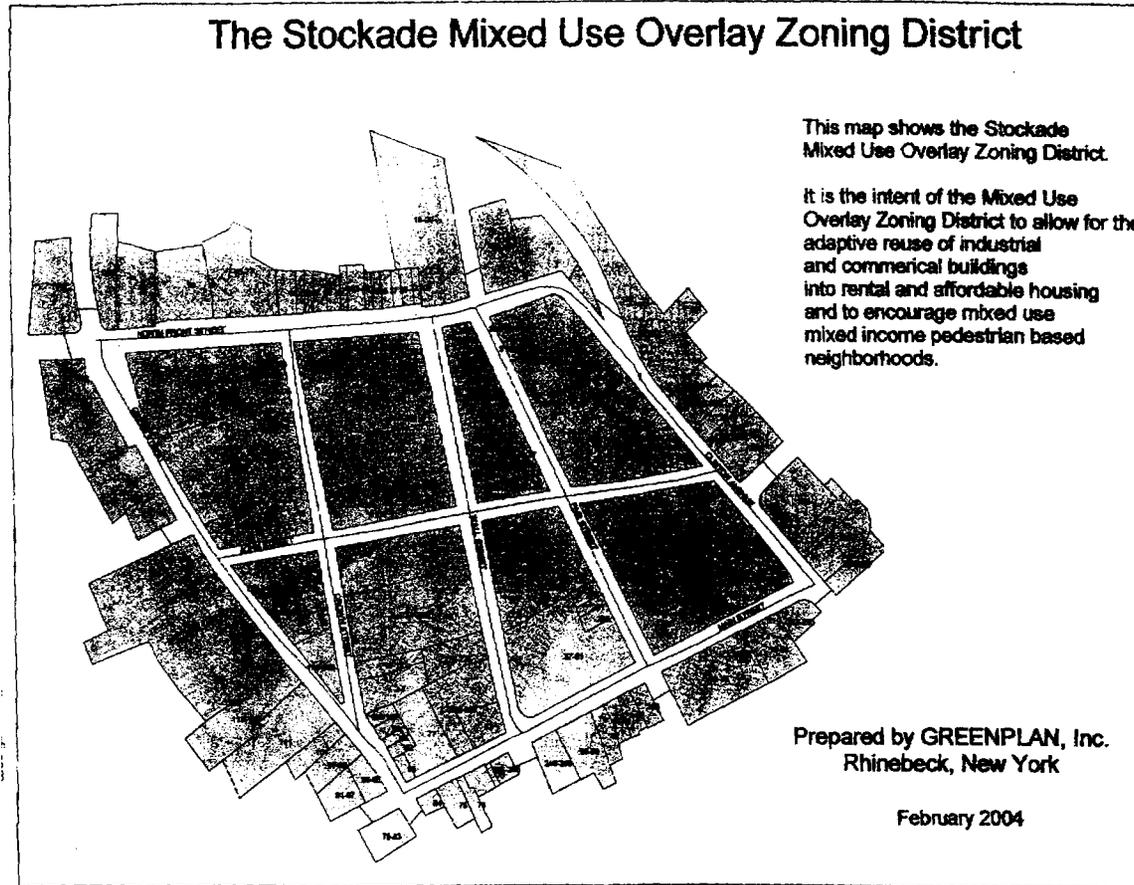
**Figure 21:** Lighting levels.

ZONING

405 Attachment 4

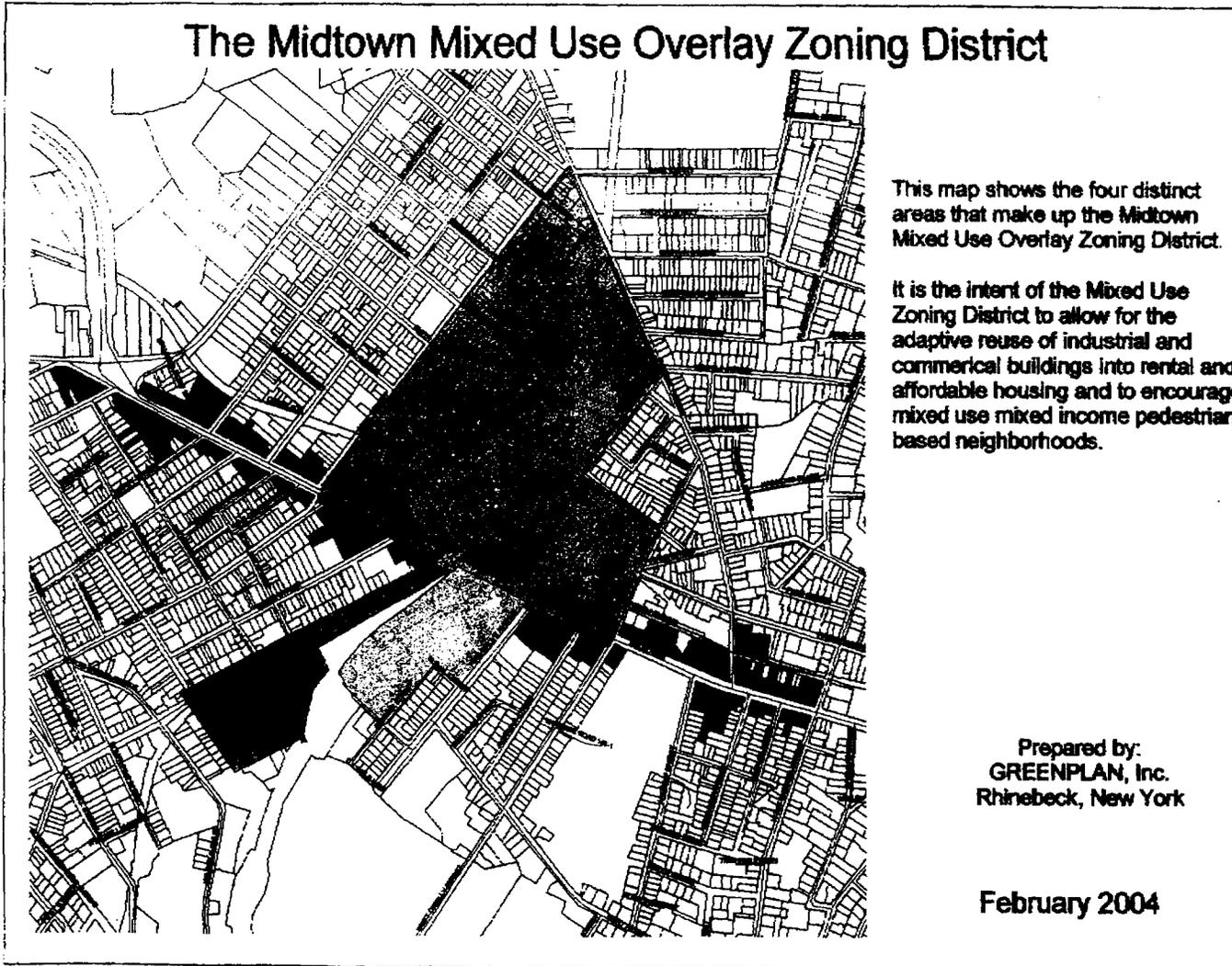
City of Kingston

Mixed Use Overlay Zoning District Maps



KINGSTON CITY CODE

### The Midtown Mixed Use Overlay Zoning District



ZONING

**The Broadway Corridor Section  
of the  
Midtown Mixed Use Overlay Zoning District**



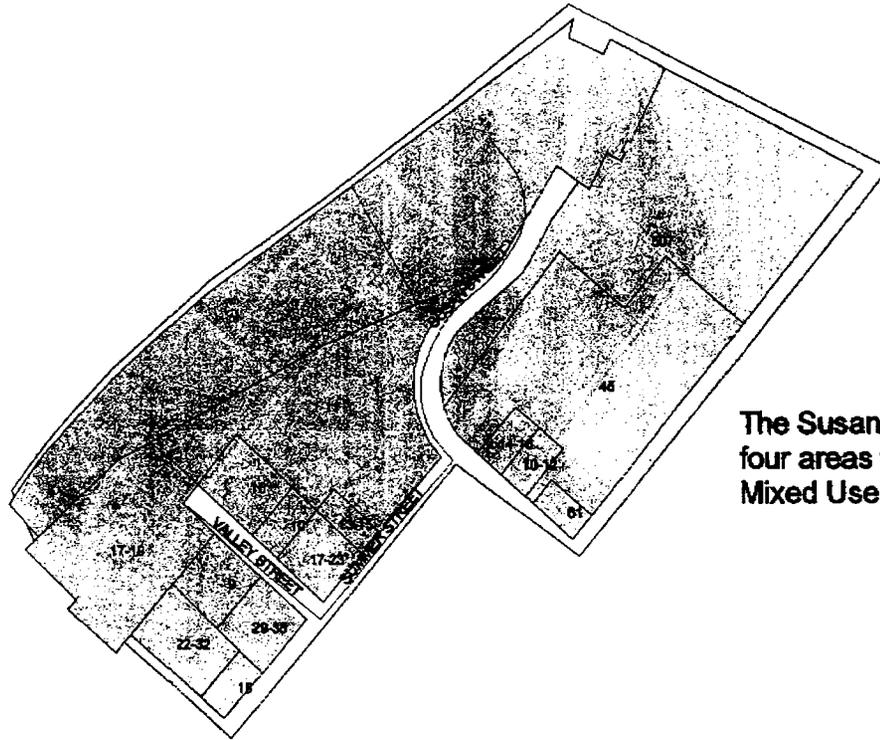
**The Broadway Corridor Section  
is one of four areas that make up  
the Midtown Mixed Use  
Overlay Zoning District.**

**Prepared by:  
GREENPLAN, Inc.  
Rhinebeck, New York**

**February 2004**

KINGSTON CITY CODE

The Susan Street Section  
of the  
Midtown Mixed Use Overlay Zoning District

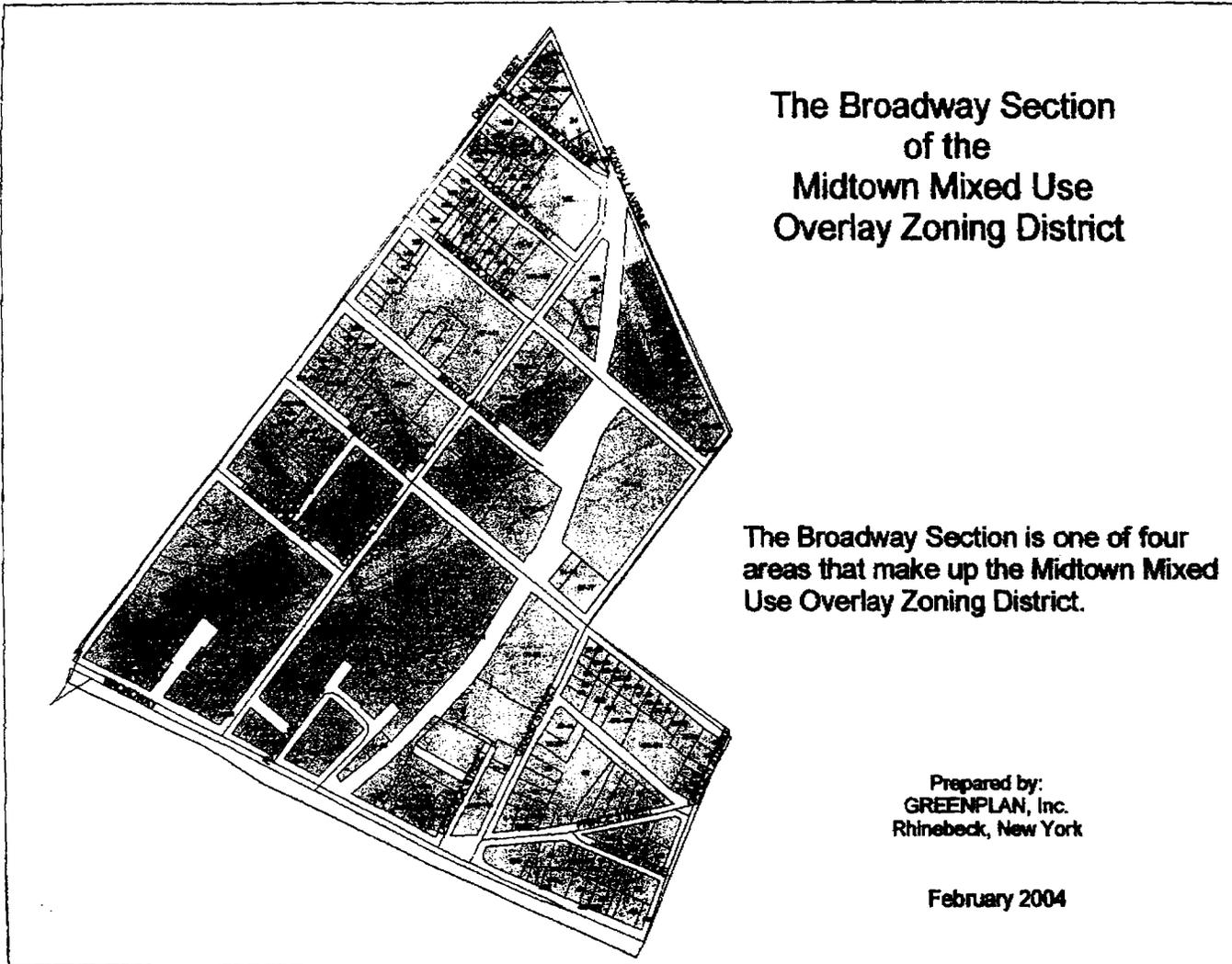


The Susan Street Section is one of four areas that make up the Midtown Mixed Use Overlay Zoning District.

Prepared by:  
GREENPLAN, Inc.  
Rhinebeck, New York

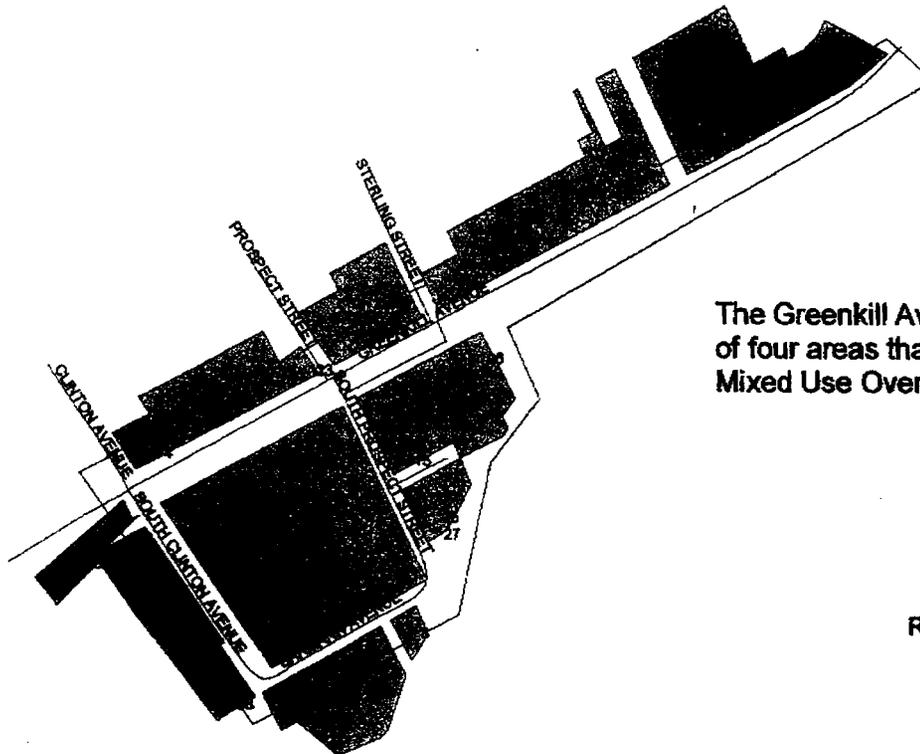
February 2004

ZONING



KINGSTON CITY CODE

The Greenkill Avenue Section  
of the  
Midtown Mixed Use Overlay Zoning District



The Greenkill Avenue Section is one  
of four areas that make up the Midtown  
Mixed Use Overlay Zoning District.

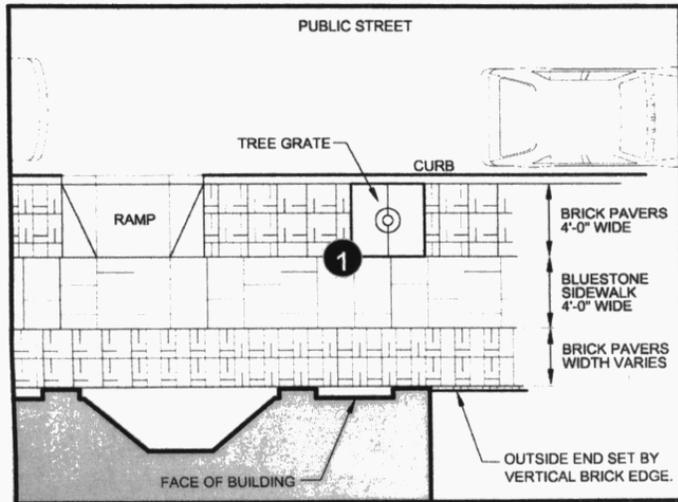
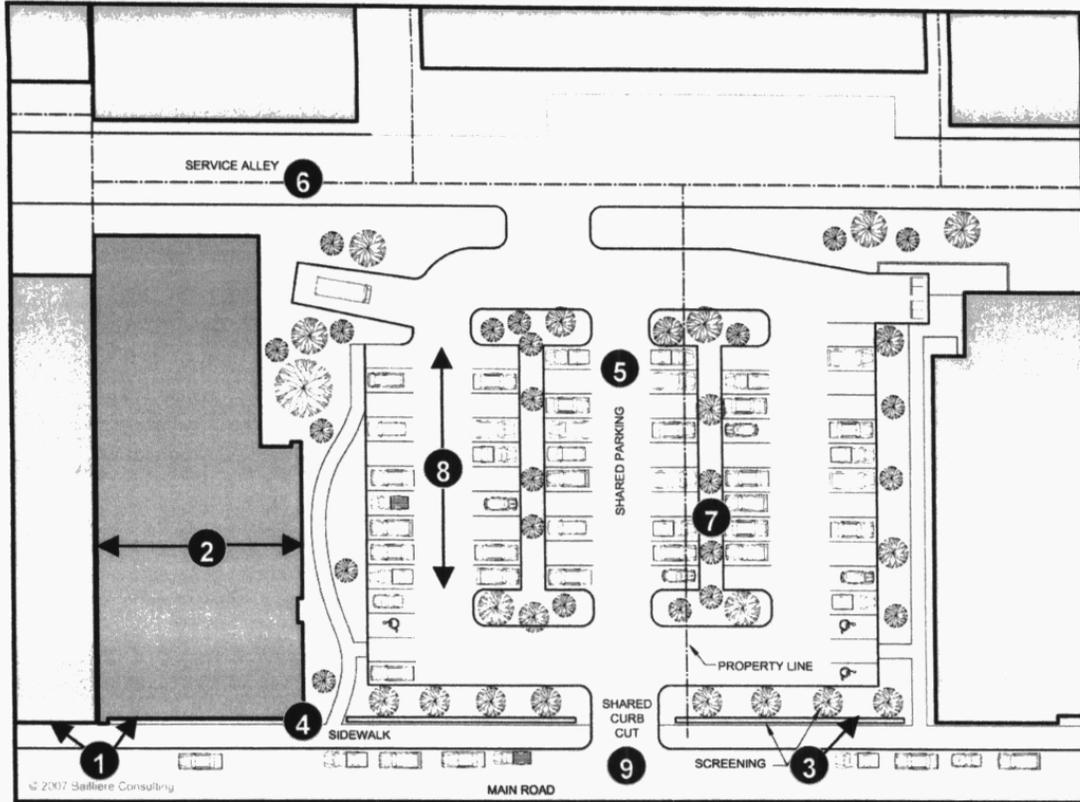
Prepared by:  
GREENPLAN, Inc.  
Rhinebeck, New York

February 2004

ZONING

405 Attachment 5

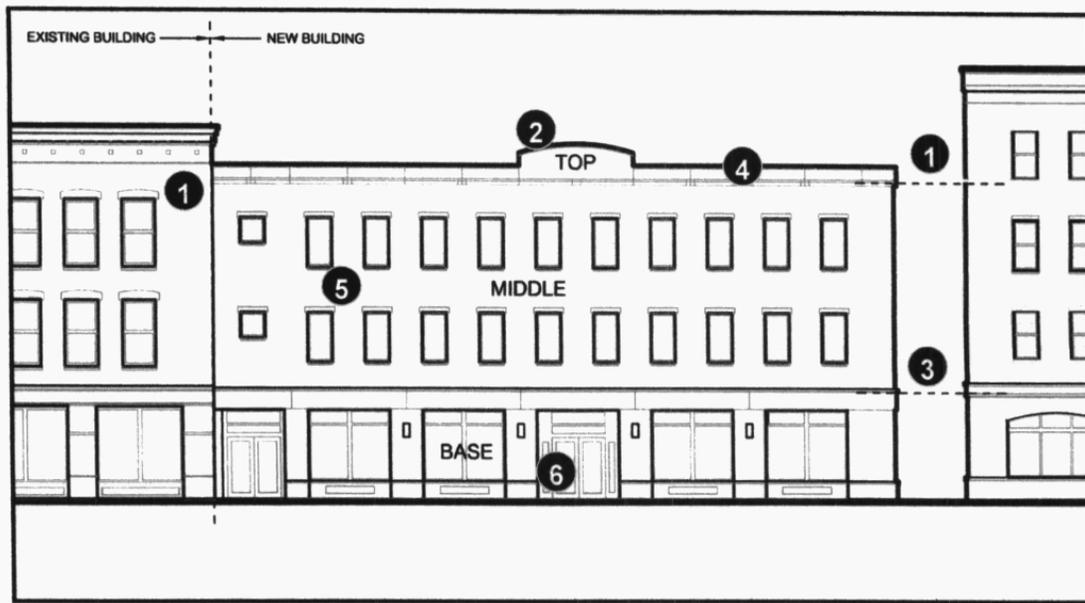
Appendix A  
Broadway Overlay District Design Standards Figures 1 Through 18



**Figure 1 (above):** General site plan layout includes aligning with neighboring buildings up at the sidewalk, and keeping all parking in the side or rear of the lot where it can be shared with neighboring properties.

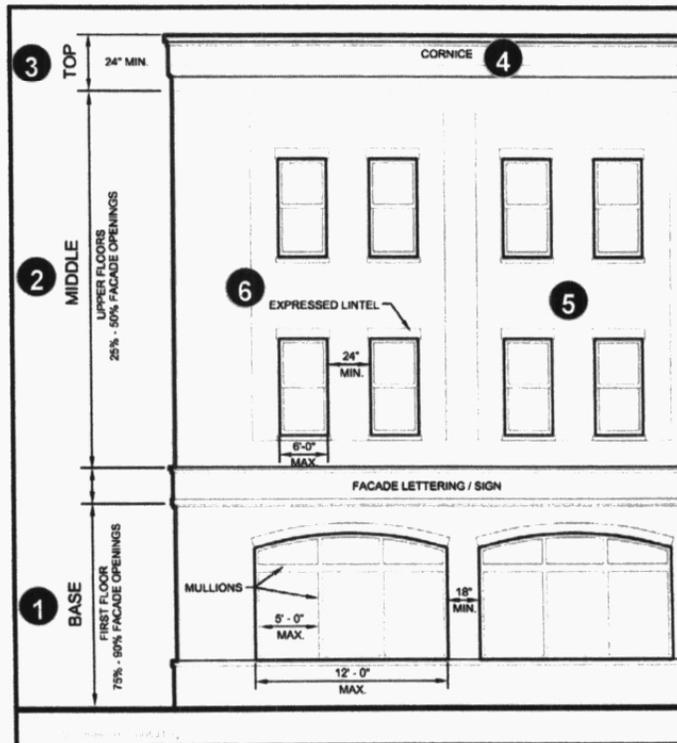
**Figure 2 (left):** Typical sidewalk configuration. See The City of Kingston Engineering Department for tree planting, sidewalk and curbing details.

KINGSTON CITY CODE

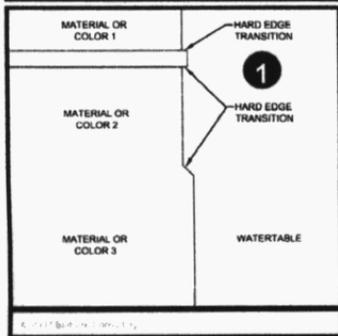
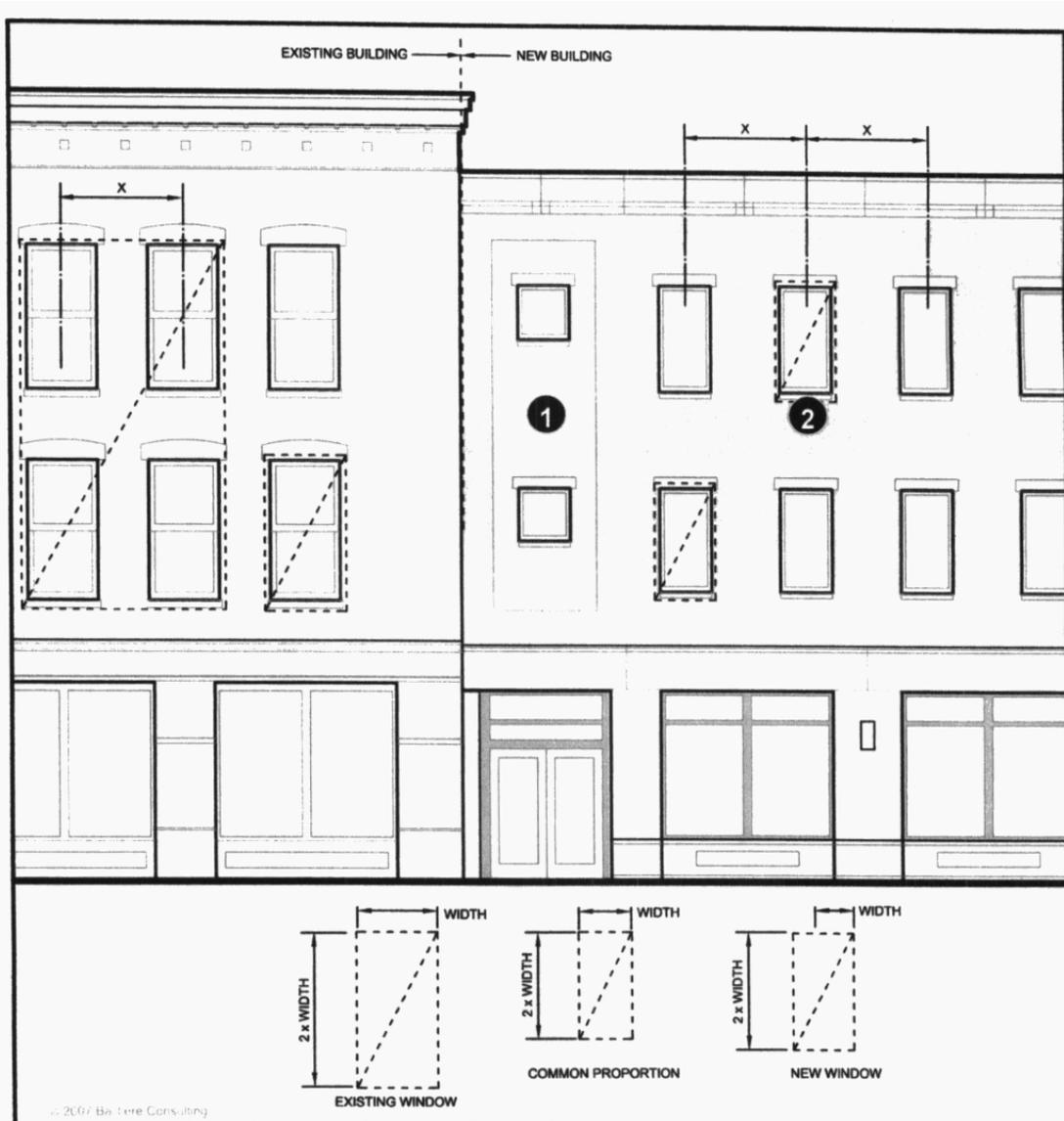


**Figure 3 (above):** New construction, especially at infill sites, should work to maintain the street wall and have a compatible façade composition with those buildings around it.

**Figure 4 (right):** Typical façade composition of buildings along Broadway have elements of a “base, middle and top” layout which helps to tie the street together architecturally. The base level typically consists of large storefront openings and deeper recesses in the façade which create relief, shadows and shelter for pedestrians. The upper floors have smaller openings and set up rhythms or patterns with window spacings. The top is usually capped by a bold cornice which frames the sky. These basic principals help to define a common theme and scale to the neighborhood.



# ZONING



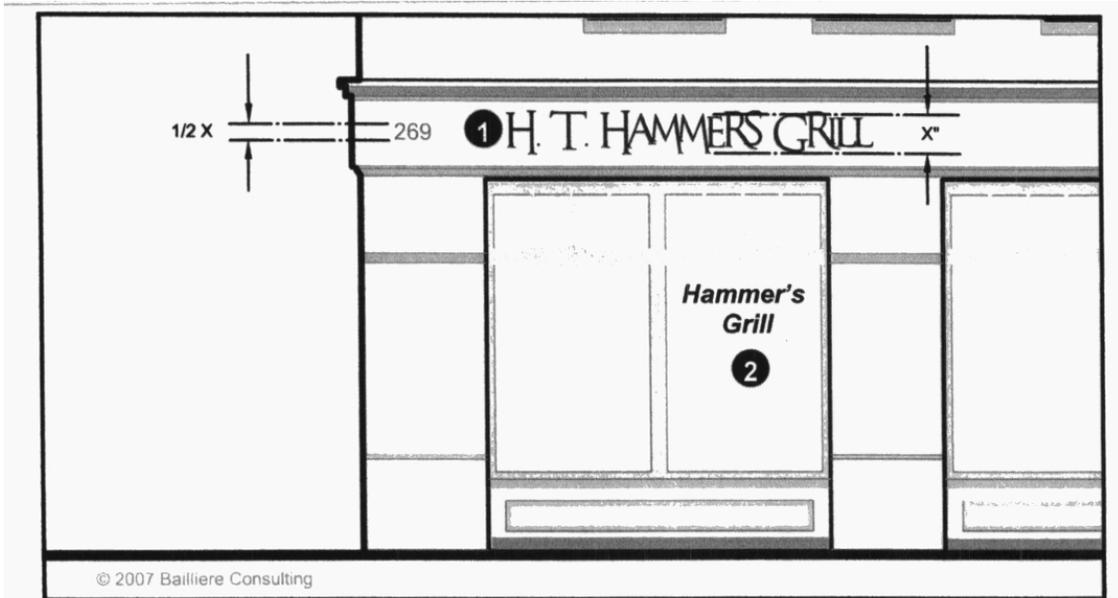
**Figure 5 (above):** Examples of common proportions on two different buildings. Although the building on the right has smaller sized windows than the older building on the left, they share similar proportions to each other which helps to visually tie the two facades together. Both sets of windows are approximately twice (2x) as tall as they are wide. The spacing of windows has a similar rhythm which also helps to give the different designs a common theme.

**Figure 6 (left):** Transitioning from one paint color or material to another – it is often best to use a “hard edge” or lip where the one color or material can terminate into before the next one begins.

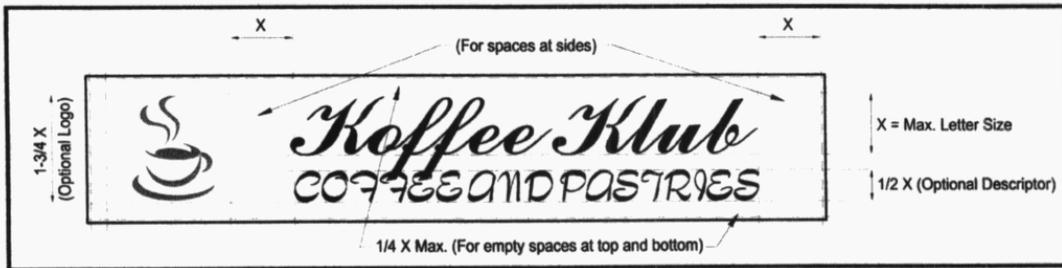
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KINGSTON CITY CODE

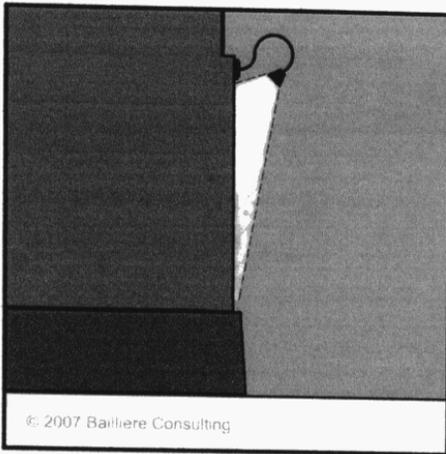


**Figure 7:** Lettering applied directly to the façade, wall hung signs and window lettering.



**Figure 8:** Signboard Layout – The maximum size of all new signboards is determined by the maximum size lettering allowed from the Lettering Size Chart in Table 2. If 12" text is allowed, then any optional business description or street number text should be no larger than 6" (1/2 the size of the business name). Company logos, if used, can be up to 1-3/4 times the height of the business name. Note that this layout is used to determine the overall size of the board, once that is done the text and logo placement can be moved or rearranged to achieve the desired composition.

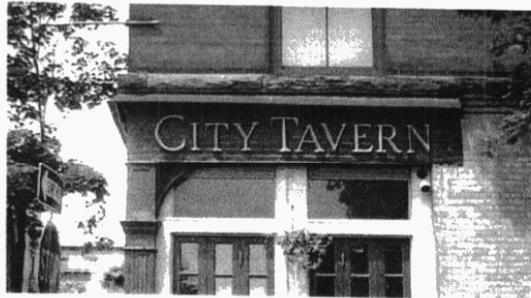
ZONING



**Figure 9:** Sign and façade lighting.



**Figure 10:** Example of surface applied channel lettering on a facade.



**Figure 11:** Example of surface applied channel lettering which has been sized and placed to work with the existing architecture of the facade.



**Figure 12:** Example of a wall sign with external illumination, sized and placed to work with the architecture of the facade.



**Figure 13:** Example of a wall sign sized with optional business description and logo.



## ZONING

