

# **PROGRESS REPORT**

## **COMPREHENSIVE AMENDMENTS to the CITY OF KINGSTON ZONING LAW**

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January 10, 2017

### **Status of Substantive Revisions**

The product of our work with the Zoning Review Committee will include extensive proposed amendments to the City's Zoning Law. In order to present the proposed amendments so that they can be reviewed and acted upon in an orderly manner, we propose the following organizational outline. This outline will be used as we finalize our work with the Zoning Committee and present their recommendations to the Common Council.

#### **A. ADMINISTRATIVE AND PROCEDURAL**

1. Consolidation and reformatting of Residential District Use regulations: complete
2. Neighborhood Context Residential Bulk Standards: complete
3. Consolidated section for Planning Board powers, duties and functions: complete
4. New section for Zoning Board of Appeals membership, powers and variance criteria: complete

#### **B. SPECIFIC GEOGRAPHIC AREA ZONING**

1. Midtown Form Based Zoning: 95% complete subject to final testing
2. Rondout Core Area: 75% complete
3. Uptown Core Area: 50% complete

#### **C. NONGEOGRAPHIC SUBJECT AREA REGULATIONS**

1. Affordable Housing: 90% complete subject to final review
2. Urban Core Design Standards: 90% complete
3. Environmental and Natural Resource Regulations: 70% complete
4. Historic Preservation and Design Review Standards and Procedures: 40% complete subject to concurrence by Landmarks and Heritage Area Commissions
5. Urban Agriculture Standards: 20% complete



## **Reorganization**

1. The current City Zoning Law has been in effect for over 50 years. During that time it has been revised and amended extensively with different formats and organization protocols. The resulting document is hardly “user friendly”.
2. While the substantive revisions outlined above will address many of the objectives of the Comprehensive Plan and correct various deficiencies in the existing Law, they will not provide the complete over-haul that is required. There is neither time or funds to accomplish this major task now.
3. However, it is proposed that the entire Zoning Law be reorganized at this time to provide a more functional framework that can be easily amended in the future. Set forth below is an outline of the proposed revised format with a brief summary of the proposed treatment of each article in the law. The number of the existing Article is set forth in (...)

### **Article I: Purpose and Interpretation (I and XI)**

The existing language should be updated to better reflect the updated Comprehensive Plan.

### **Article II: Zoning Districts and Map (III)**

This Article sets out the new district structure. The provisions should be reviewed and revised where necessary, as discussed below.

### **Article III: Basic District Use and Bulk Regulations (IV)**

The number and type of districts has been revised as well as the format. This is one of the major tasks of the zoning revision. Additional work is necessary to complete this article. Some existing districts have been removed due to the lack of use or combined with other districts.

### **Article IV: Overlay Districts (New)**

This article includes the several overlay districts proposed to remain and will also include the new Midtown Urban Core Overlay District and the revised Urban Core Design Standards. Several existing overlay districts are proposed to be removed.

### **Article V: General Supplementary Regulations (V)**

This article contains the various supplementary regulations pertaining to certain types of uses. Sections pertaining to procedures for review of site plans and special permits have been relocated to a new Article VII (see below).

### **Article VI: Standards for Specific Uses (New)**

This article will include the many of the specific standards attached to specific uses in the current district regulations.



**Article VII: Planning Board: Establishment, Powers and Duties (New)**

This article consolidates the functions of the Planning Board and establishes its powers and duties. It also incorporates Chapter 347 of the City Code which now can be eliminated. A procedure for streamlining site plan approval for small scale projects is also included.

**Article VIII: Nonconforming Buildings and Uses (VI)**

This is unchanged at this time.

**Article IX: Administration and Enforcement (VII)**

This is unchanged at this time.

**Article X: Board of Appeals (VIII)**

The existing obsolete article will be deleted and replaced with a new one which will comply with amendments to state law which have been enacted as well as recent case law.

**Article XI: Historic Landmarks Preservation Commission (IX)**

This is unchanged.

**Article XII: Amendments (X)**

Unchanged at this time.

**Article XIII: Validity and Effect (XII)**

Unchanged at this time.

**Appendices**

A. Terminology: This section will include definitions and should be updated and expanded.

## **Zoning Handbook**

In order to produce an easily understood, user friendly, laymans version of the Zoning Law for use by the general public and nontechnical public officials, a Zoning Handbook will be prepared. The Handbook will utilize graphics and simple text to explain the purpose, standards and operation of the Zoning Law. The Handbook can only be completed when the many revisions to the existing Law are adopted.



**DRAFT**

**COMPREHENSIVE AMENDMENTS**

**TO THE**

**CITY OF KINGSTON ZONING LAW**

**Prepared by:**

**Shuster/Turner  
Planning & Zoning Consultants**

**February 2017**

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**INTRODUCTION**  
**and**  
**SUMMARY**

## **I. INTRODUCTION**

On April 5, 2016, the Kingston Common Council adopted a new Comprehensive Plan for the City – “Kingston 2025” - the City’s first since 1961. This action culminated an extensive four year process to develop a vision and guide for Kingston’s future.

Kingston 2025 recommended goals, policies and objectives related to land use, natural and historic resources, housing, transportation and public facilities. Also included are proposed measures to implement the plan, including major revisions to the City’s outdated Zoning Law.

While it is not possible to make all the desirable improvements to the current Zoning Law at this time, many of the high priority revisions recommended in the Comprehensive Plan can be accomplished. A brief summary of the zoning amendments is set forth below. The detailed text of each proposed amendment is included in Part III.

## **II. SUMMARY**

### **A. Administrative and Procedural Revisions**

#### **1. Consolidation and Reorganization of Districts**

This amendment will consolidate the eight residential districts to eliminate those with minor differences and revise presentation to tabular form to allow quick understanding of permitted uses and comparison of uses allowed in different districts. The number of residential districts will be reduced from eight to three. The tabular format presents the uses allowed in all residential districts on one page rather than 20. Instead of being included in the list of uses in each district, the various supplementary standards and conditions applying to specific uses are listed at the end of the table and referenced where applicable in the table.

A comparison of existing and proposed districts is as follows:

**Existing Districts**

**Proposed Districts**

RRR  
RR  
R-1

RS Single Family Residential

R-2  
R-3  
R-4

RM-1 Moderate Density Residential

R-5  
R-6

RM-2 High Density Residential

2. **Minimum Lot Size based on Neighborhood Context**

A procedure is proposed to establish minimum lot size in single family residential districts which reflects the prevailing size of lots in the immediate neighborhood.

3. **Planning Board Function and Authority**

Although the Planning Board has a number of important functions assigned to it in the City Charter, they are distributed among three different chapters in the City Code and in several sections of the zoning Law. A new article of the zoning Law is proposed to organize and combine all functions of the Planning Board and to establish revised procedures for site plan review which allow small-scale site plans which do not exceed certain thresholds to be approved directly by the staff of the Planning Department. This procedure will expedite the site plan review process and relieve the Planning Board of basically ministerial functions.

4. **Revised Zoning Board of appeals Members and Powers**

This new section revises the zoning Board of Appeals' powers and procedures to conform to current New York State General City Law,

recognizes current criteria for approval of use and area variances and updates required timeframes for hearings, decisions and other procedures.

**B. Zoning of Specific Geographic Areas**

1. Midtown Urban Core Overlay District

The intent of the Midtown Urban Core District is to encourage development of a high density urban environment that is a comfortable and interesting place to live, work, walk, recreate and enjoy cultural and entertainment activities. The overlay district will cover the area devoted to at least a half-dozen diverse districts ranging from residential to manufacturing. The district will be “form based” and provide an alternative to the underlying district in terms of both use and development standards and guidelines. Mixed uses will be encouraged and building location and design standards established to promote a pedestrian friendly urban environment.

2. Rondout Core Area Zoning

The Rondout area is already mostly developed. The zoning for this area, in general, reflects the existing uses and development pattern. The proposed amendments will revise the RLC District on the east side of Broadway to be more consistent with the RT District on the west side. The amended Urban Core Design Guidelines (see item C.2.) will apply to Broadway from Spring Street to the Strand.

3. Uptown Core Area Zoning

The emphasis in the Stockade area is to preserve and enhance its historic character. One additional measure that should be taken to add diversity is the reintroduction of residences as a permitted use, under appropriate conditions. Coordination of design and preservation standards will also be pursued. South of the Stockade district, consideration should be given to permitting other uses that could expand the diversity and activity in this area, such as neighborhood retail, craft businesses, art and dance studios

and restaurants, without competing with the retail core of the district. Revisions to the zoning of the Kingston Plaza area will add diversity to the mix of uses, create a denser, more pedestrian friendly environment, establish design features more consistent with the remainder of the Uptown core, and encourage a closer connection with the rest of Uptown.

### **C. Nongeographic Subject Area Regulations**

#### **1. Affordable Housing**

A revised procedure and groundrules for the provision of affordable housing is proposed to replace the existing Mixed Use Overlay District. The proposed new provisions will reduce the percentage of affordable units necessary but expand the type and location of such units to encourage a more equitable distribution of such units. In addition, a procedure to allow payments into a dedicated housing fund is allowed in lieu of provision of units in a specific development. Such a fund can be used to promise to affordable housing in a variety of ways.

#### **2. Urban Core Design Standards**

The current zoning law includes three different design districts which are not consistent with each other in terms of standards, administration or responsibility. In order to standardize and simplify the design standards for urban core areas one set of standards, both general and specific, is proposed. The Urban Core Design Overlay District would apply to the Rondout, Broadway and Stockade areas. The Planning Board, the Heritage Area Commission and the Landmark Preservation Commission will each have a role consistent with their responsibilities and expertise, in a manner that does not subvert their authority under existing law.

#### **3. Environmental and Natural Resource Protection**

Zoning amendments for the purpose of implementing several Comprehensive Plan recommendations with regard to environmental and

natural resource protection have been prepared. These include revisions to the Flood Hazard Overlay District to clarify and update specific provisions, a new section of “hillside protection” standards and new surface water protection measures.

4. Historic Preservation/Design Review

In consultation with the HLPC and HAC, the zoning procedures relevant to processing of applications requiring review by these two bodies, as well as the Planning Board, have been revised to simplify and streamline procedures while ensuring that historic resources are protected and the responsibilities and authority of each body are maintained.

5. Urban Agriculture Standards

Standards and procedures are proposed to remove unnecessary barriers to urban agriculture and to establish groundrules and reasonable regulations to allow agriculture compatible with an urban setting.

### **III. DETAILED ZONING AMENDMENTS**

## **A. ADMINISTRATION AND PROCEDURAL**



### **III. DETAILED ZONING AMENDMENTS**

#### **A. Administration and Procedural**

##### **1. Consolidation and Reformatting of Residential District Use Regulations**

§405-9, §405-10, and §405-11 shall be deleted and replaced by the sections below.

§405-12, §405-13, and §405-14 shall be deleted and designated as "reserved".

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##### **§405-9 Schedule of Residential Uses**

- A. The Schedule of Residential District Use Regulations is hereby incorporated into and made part of these zoning regulations and shall be referred to as the "Use Schedule". No structure or land shall be used except as provided in the Use Schedule below. Uses which are not permitted are prohibited, unless specifically stated elsewhere by this local law.
- B. Supplementary standards for specific uses are included in §405-10.
- C. Any use permitted by special permit shall require site plan approval in accord with §405-\_\_\_\_.
- D. Certain uses permitted by right shall also require site plan approval in accord with §405-\_\_\_\_.
- E. Lot and bulk requirements for each district are to be found in the schedule at the end of this chapter.

### SCHEDULE OF RESIDENTIAL DISTRICT USE REGULATIONS

USES PERMITTED BY RIGHT	DISTRICTS			SUPPLEMENTARY REGS: See §405.10
	RS	RM-1	RM-2	
One family dwelling	X	X	X	A
Two family dwelling		X	X	
Three family dwelling		X	X	
Dwellings for 4 or more families, including townhouses		X	X	R
Office use in multiple dwellings		X	X	
Cemeteries	X	X	X	
Places of Worship	X	X	X	B
General Hospitals, nursing and convalescent homes	X	X	X	C
Farms, truck gardens, greenhouses, nurseries and arboretums	X	X	X	D
<b>USES PERMITTED BY SPECIAL PERMIT</b>				
Professional Offices and/or Restaurants within a residential structure			X	S
Radio, television and other electronic transmission stations/towers and public utility transmission lines	X	X	X	E
Rooming Houses and Boarding Houses		X	X	Q
Cluster Development	X			F
Nursery or preschool educational establishments or day-care centers	X	X	X	G
Libraries, museums and/or art galleries	X	X	X	H
Golf, tennis or swimming clubs	X	X	X	I
Annual membership clubs	X	X	X	N
Family day-care homes	X	X	X	J
Agency group homes, agency community residences, intermediate care facilities	X	X	X	K
Renting out of not more than two rooms	X	X	X	L
Accessory apartments	X			M
Adult day-care centers	X	X	X	O
Residential Care/Assisted Living Facilities	X	X	X	P

**§405-10 Supplementary Standards for Residential Districts**

- A. One-family dwellings, not to exceed one such dwelling on each lot.
- B. 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:
  - (1) 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.
  - (2) No building or part thereof shall be erected nearer than 50 feet to any street line or property line.
  - (3) The sum of all areas covered by all principal and accessory buildings shall not exceed 25% of the area of the lot.
  - (4) 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.
  - (5) 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 not be subject to approval by the Planning Board.
- C. 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:
  - (1) Such hospital does not care mainly for patients suffering from alcoholism, drug addiction or mental disorders.
  - (2) 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.

- (3) 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.
  - (4) The sum of all areas covered by principal and accessory buildings shall not exceed 25% of the area of the lot.
- D. 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:
  - (1) 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.
  - (2) 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.
  - (3) No odorous fertilizer shall be stored within a distance of 75 feet of any street or property line.
- E. 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.
- F. Cluster developments, subject to the requirements of §405.35 of this chapter.
- G. Nursery or preschool educational establishments or day-care centers, subject to the following requirements:
  - (1) The applicant shall have obtained all licenses, certifications or approvals that may be required by federal, state or local law.
  - (2) For each child registered, there shall be a minimum of 35 feet of floor space exclusive of halls, bathrooms and kitchens.

- (3) 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.
  - (4) No permanently installed play equipment shall be located in any required front or side yard.
  - (5) 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.
- H. 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.
- I. Golf, tennis or swimming clubs, subject to the following requirements:
  - (1) The site shall have an area of not less than two acres.
  - (2) 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.
- J. Family day-care homes, authorized by the New York State Department of Social Services.
- K. Agency group homes, agency community residences, intermediate care facilities or family care homes and adult care facilities, subject to the following:
  - (1) The special permit shall be reviewed every two years.
  - (2) Total occupants shall not exceed one for each 1,000 square feet of lot area.
  - (3) Said home shall not be located within 1,200 feet of any other lot on which another 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.
  - (4) Said home shall not erect any sign that identifies or advertisers the use or occupancy of the home.

- (5) 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.
- (6) Said home shall be registered with the City Clerk, and the following information shall be not be located in any required yard.
- (7) Said home shall be registered with the City Clerk, and the following information shall be filed and kept up-to-date:
  - (a) The name of the operating agency.
  - (b) The name(s) of resident supervisor(s).
  - (c) The maximum number of persons that will live in the facility.
  - (d) The appropriate licenses and certifications.
- L. 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.
- M. Accessory apartments.
  - (1) 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.
  - (2) 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.
  - (3) 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 requirement of this chapter, unless a variance therefor shall have been granted by the Zoning Board of Appeals.

- (4) 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.
- (5) Number of accessory apartments and dwelling units per lot. There will be no more than one accessory apartment nor a total of two dwelling units permitted per lot.
- (6) 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.
- (7) 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.
- (8) Off-street parking.
  - (a) 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
0-3	3
4 or more	4

- (b) Off-street parking shall be so arranged that no additional curb cut is necessary.

N. Clubs and recreational uses.

- (1) 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:
  - (a) Outdoor entertainment, live or mechanical.
  - (b) The use of outdoor public-address systems for any purpose.
  - (c) Exterior lighting, other than that essential for the safety and convenience of the users of the premises.
  - (d) An artificially illuminated sign or signs in excess of 12 square feet.
- (2) No building erected under the provisions of this subsection shall be located nearer than 50 feet to any street or property line.

O. Adult day-care centers.

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

Q. Rooming houses and boardinghouses, subject to the following requirements:

- (1) 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.
- (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 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 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 and boardinghouse.

- (c) The maximum number of roomers or boarders shall be 12 and the maximum number of rooms shall be 10.
- (d) 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.
- (e) 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 B(2)(b)[1], [2], [3] and [4] of this subsection.
- (f) 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.
- (g) No cooking or storage of foodstuffs shall be permitted in any room other than a kitchen.
- (h) 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.

- (i) No sinks shall be installed or used in any sleeping room, but basins, however, shall not be used for washing of clothes and dishes or any unsanitary purposes.
- (j) Bathroom facilities shall be maintained for the owner-occupant separate and apart from bathroom facilities for the roomers and boarders.
- (k) The owner or resident agent of every room 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.
- (l) All garbage and kitchen wastes in every rooming house and boardinghouse shall be immediately disposed of as needed in such a way as not to be or become offensive or unsanitary.
- (m) 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.
- (n) 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.
- (o) 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.
- (p) 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.
- (q) 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.
- (r) 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.
  - (s) No sign shall be erected that identifies or advertises the use of the rooming house or boardinghouse for such purpose.
  - (t) Said use shall conform and be maintained in harmony with the overall character and appearance of the surrounding neighborhood.
  - (u) 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.
- (3) 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.
  - (4) 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 issued 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.
  - (5) 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 hereunder or for subsequent renewals thereof is hereby established for the whole or part of the calendar year.

- (6) 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:
  - (a) The name, address and phone number of the owner or operating agency of the rooming house or boardinghouse.
  - (b) 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.
  - (c) 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.
  - (d) The number of persons occupying each room and/or apartment.
  - (e) 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.
  - (f) Proof of annual inspection by the Ulster County Department of Health.
- R. 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.
  - (1) Length of building. No building shall exceed a length of 160 feet.
  - (2) Distance between buildings. The following minimum distances between buildings shall be observed:
    - (a) Between a principal building, other than a one-family dwelling, and a one-story accessory building, 20 feet.
    - (b) 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.

- (3) 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.

S. Professional offices and/or restaurants within a residential structure, limited as follows:

- (1) Not more than two floors in parts thereof may be used for such purposes.
- (2) Such uses shall be accessible by means other than a public hall leading to residential uses.
- (3) Not more than 1/3 of the floor space of a structure may be used for such purposes.
- (4) Restaurants shall have a minimum service area of 1,000 square feet.
- (5) Drive-in restaurants or restaurants that provide window service or restaurants that have only counter service are not permitted.

### **III. DETAILED ZONING AMENDMENTS**

#### **A. Administration and Procedural**

##### **2. Neighborhood Context Residential Bulk Standards**

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#### **§405-11 Neighborhood Context Bulk Regulations in Single Family Districts**

Development in single family residential districts, whether on individual lots or in approved subdivisions, should conform to the density, spacing and pattern of development (i.e., the context) of the surrounding neighborhood. The standards set forth below shall apply to properties in the single-family residential districts with regard to lot area, lot width and front building setback. The objective of these standards is that new homes should fit into the existing neighborhood in an unobtrusive and compatible manner.

- A. Lot Area: The area of any proposed lot or lots shall not have an area less than 90% of the average area of all lots in the immediate area, the larger portion of which is within 200 feet of the perimeter of the subject property, or 20,000 square feet, whichever is less.
- B. Building Setback: The front setback of any building need not be greater than the average setback of the four closest buildings, or those within 500 feet, on the same side of the street.
- C. Lot Width: The lot width of any proposed lot shall not be less than 90% of the average width of the four closest lots, or those within 500 feet, on the same side of the street, or 100 feet, whichever is less.

### **III. DETAILED ZONING AMENDMENTS**

#### **A. Administration and Procedural**

##### **3. Consolidated Section of Planning Board Powers, Duties and Functions**

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#### **§405 Establishment**

The City of Kingston Planning Board is established and governed by Chapter 96 of the City Code.

#### **§405- . Site development plan approval**

- A. Purpose. The purpose of site plan review is to ensure that development is carried out in compliance with these regulations and the guidelines and standards set forth in this Zoning Law and the Comprehensive Plan.
- B. Applicability. Site plan approval is required prior to the issuance of a building permit for any buildings or uses set forth in Sections C. and D. below.
- C. Administrative Site Plans. Unless a site plan is submitted in connection with a conditional use request, the City Planning Department is authorized to review and approve or deny the following site plan applications:
  - (1) New residential development of five or less units.
  - (2) Additions to existing residential development of three or less units.
  - (3) New commercial developments that cumulatively result in:
    - (a) Less than five thousand (5,000) square feet of gross floor area if not within one hundred (100) feet of a residential zoning district.
    - (b) Less than two thousand (2,000) square feet of gross floor area if within one hundred (100) feet of a residential zoning district.
  - (4) Additions to commercial developments that cumulatively result in:

- (a) Less than five thousand (5,000) square feet of gross floor area if not within one hundred feet of a residential zoning district and the addition does not result in the building being larger than ten thousand (10,000) square feet of gross floor area.
  - (b) Less than two thousand (2,000) square feet of gross floor area if within one hundred (100) feet of a residential zoning district and the addition does not result in the building being larger than five thousand (5,000) square feet of gross floor area.
- (5) All other applications for site plan approval shall be reviewed and approved or denied by the Planning Board. If the application requires a conditional use approval, the site plan shall be reviewed and approved or denied in accordance with the procedure set forth as part of the conditional use application.
- (6) Staff Review of Administrative Site Plans and Appeal
  - (a) Staff Review. The Department of Planning shall review the proposed site plan. As part of their review, the Department may seek review comments and recommendations from the Zoning Enforcement Officer or other City department as appropriate. The Planning Department shall determine if the proposed site plan satisfies the site plan approval criteria and shall grant, grant with conditions, or deny the application for site plan approval, subject to appeal to the Planning Board.
  - (b) Appeal. If an appeal by an aggrieved person of a decision of the Planning Department relating to a site plan is filed with the City Clerk's Office within ten (10) days of the Department's decision, the Planning Board shall hold a public hearing to consider the appeal and grant, grant with conditions or deny the application. The decision of the Planning Board is final.
- (7) Minor Revisions to Site Plan. The Planning Director is authorized to allow minor revisions to a site plan approved by the Planning Board after receipt of comments from the Zoning Enforcement Officer and to authorize the issuance



of a building permit for construction in accordance with the revised site plan. A minor revision is one which:

- (a) Does not substantially alter the location of any points of access to the site;
  - (b) Does not change the use of the property;
  - (c) Does not increase the density or intensity of the development to occur on the property;
  - (d) Does not result in a reduction or change of previously approved, open space, setback, building location, or landscaping by more than ten percent (10%);
  - (e) Does not result in a material modification or the cancellation of any condition placed upon the site plan as originally approved;
  - (f) Does not substantially change the internal or external traffic patterns; or
  - (g) Does not add additional property to the site;
  - (h) Does not increase the impervious area of the site by more than ten percent (10%);
  - (i) Does not increase the height of the building(s) including approved roof-top appurtenances.
- (8) Major Revisions to Site Plans. If the requested modification to an approved site plan is not determined by the Planning Director to be a minor revision, the request shall be processed in the same manner as the original approval.

D. Site Plan Approval by the Planning Board.

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 those listed in Section C., above, except as for those covered in Subsection D.(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.
- E. 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.
- F. **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.

G. 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 F 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.
- (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.

- (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.
- (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.

- H. 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.

- I. 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.



- J. 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.
- K. 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- . 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.
- 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. Except as to special permits issued pursuant to § 405-27.1, 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 above.

- 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.

#### **§ Planning Board may require parkland**

- A. The Planning Board may require that a subdivision or site plan containing residential units also contain a park, or parks, or playground suitably located for playground or other recreational purposes.
- B. Before the Planning Board will require that land be reserved for park, playground or other recreational purposes, the Planning Board must make a finding that such requirement is warranted. Such a finding shall include an evaluation of the present and anticipated future needs for park and recreational purposes in the City of

Kingston based on the projected population growth to which the particular site plan and/or subdivision will contribute.

- C. The Planning Board shall consult with the Parks and Recreation Department of the City of Kingston in order to assist in the formulation of the findings as referenced in Subsections A and B above.
- D The ownership of a reservation for park purposes shall be clearly indicated on the site plan or subdivision and established in a matter satisfactory to the Planning Board so as to insure its proper future continuation and maintenance.

**Cash payment in lieu of reservation**

Where the Planning Board makes a finding that the proposed subdivision or site plan presents a proper case for requiring a park or parks suitably located for playground or other recreational purposes, but that a suitable park or parks of adequate size cannot be properly located on such site plan or subdivision, the Planning Board may require, as a condition to the approval of the site plan or subdivision, a payment to the City of Kingston of a sum of money in an amount to be determined and set annually, by resolution of the Common Council. Fees imposed pursuant to the article shall be paid prior to final site plan or subdivision approval and shall be set aside in a fund to be used exclusively for park, playground or other recreational purposes, including acquisition of property for use as park or playgrounds.

**Consulting Fees.**

- A. The City of Kingston shall have the right to require an applicant who seeks to obtain a site plan or subdivision approval to deposit in escrow to cover the costs being incurred by the City of Kingston for all consultant services, including but not limited to engineering, planning and legal, as well as clerical costs incurred in the processing and reviewing of such application.

- B. The Planning Board, in consultation with the applicant, shall compute the amount of the escrow to be posted with the City of Kingston. Such amount shall be reasonably related to the cost attendant to the City's review of the application. It is understood that the applicant is required only to reimburse and pay to the City of Kingston the fees actually expended by the City. Any such fees incurred by the City of Kingston must be reasonable and subject to all appropriate audit provisions of the City of Kingston with the explicit understanding that the applicant shall only pay at the rate for said services that the City pays for its own consulting service.

### **III. DETAILED ZONING AMENDMENTS**

#### **A. Administration and Procedural**

##### **4. Complete Section for Zoning Board of Appeals Membership, Powers and Variance Criteria**

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#### **X. Purpose.**

A Zoning Board of Appeals shall be maintained and operate in accordance with Article 5-A of the New York State General City Law, Sections 81, 81-a, and 81-b. The Zoning Board of Appeals shall have all of the authority, jurisdiction and duties granted to such Board by Sections 81, 81-a, 81-b and any other applicable State law, and shall fulfill its duties in accordance with those grants of authority and in accordance this Zoning Law.

#### **X. Establishment and Membership.**

Pursuant to Section 81 of the New York State General City Law there is hereby established a Zoning Board of Appeals consisting of five (5) members appointed by the Mayor. The members of the Board serving at the time this chapter is passed shall continue in office as members of the Board hereby established.

- A. The Mayor shall choose two (2) of these members to serve one-year terms; two (2) of these members to serve two-year terms; and one (1) member to serve three-year term.
- B. The Mayor shall designate one of the Zoning Board of Appeals members as chairperson to preside at all meetings and hearings and to fulfill the authorized duties of that office. In the absence of the chairperson, the Zoning Board of Appeals may designate another member of the Zoning Board of Appeals to serve as acting chairperson. All meetings of the Zoning Board of Appeals shall be held at call of the chairperson and at such time as the Zoning Board of Appeals may determine. Such chairperson, or in his or her absence, the acting chairperson, may administer oaths and compel the attendance of witnesses.

C. Pursuant to Section 81(11)(a) of the New York General City Law, alternate Zoning Board of Appeals member positions for the City of Kingston Zoning Board of Appeals are hereby established for use when a regular member cannot participate due to a conflict of interest. Under New York Municipal Home Rule Law, alternate Zoning Board of Appeals members may also serve in place of a regular member who is absent. Alternate members shall be appointed by the Mayor.

(1) The Mayor may appoint up to three (3) alternate Zoning Board of Appeals members.

(a) The first appointment shall be for a period of three years.

(b) The second appointment shall be for a period of two years.

(c) The third appointment shall be for a period of one year.

(d) Thereafter, all appointments shall be for a period of three years.

(2) The Chairperson may designate an alternate member to substitute for a member when such member is unable to participate because of a conflict of interest on an application or matter before the board, or by absence. When so designated, the alternate member shall possess all the powers and responsibilities of such member of the Zoning Board of Appeals. Such designation shall be entered into the minutes of the initial Zoning Board of Appeals meeting at which the substitution is made.

(3) All provisions relating to Zoning Board of Appeals member training and continuing education, attendance, conflict of interest, compensation, eligibility, vacancy in office, removal, compatibility of office and service of other boards, shall also apply to alternate members.

D. No person who is a member of the ~~Town Board~~ *City Council* shall be eligible for membership on the Zoning Board of Appeals. 

#### **X. Terms of members now in office.**

Members now holding office for terms which do not expire at the end of a calendar year shall, upon the expiration of their term, hold office until the end of the year and their

successors shall then be appointed for terms which shall be equal in years to the number of members of the Board.

**X. Training and attendance requirements.**

- A. Each member of the Zoning Board of Appeals and each Alternate Member shall complete a minimum of four (4) hours of training each year, designed to enable such members to more effectively carry out their duties. Training received by a member in excess of four (4) hours in any one (1) year may be carried over into succeeding years in order to meet this requirement. Such training shall be approved by the Town Board and may include, but is not limited to, training provided by a municipality, regional or county planning office or commission, county planning federation, state agency, statewide municipal association, college or other similar entity. Training may be provided in a variety of formats, including but not limited to electronic media, video, distance learning and traditional classroom training.
- B. To be eligible for reappointment, a member or alternate member must have completed the training promoted by the city.
- C. The training requirement may be waived or modified by resolution of the Town Board, when, in the Town Board's judgment, it is in the best interest of the city to do so.
- D. No decision shall be voided or declared invalid because of a failure to comply with this requirement.



**X. Vacancies.**

Members of the Zoning Board of Appeals shall continue to serve until a successor is appointed. In the event a vacancy occurs, other than by the expiration of a term, the Mayor shall appoint a new member for the remainder of the unexpired term.

**X. Removal of Members.**

The Mayor shall have the power to remove, after public hearing, any member or alternate member of the Zoning Board of Appeals for cause. Cause for removal of a member or alternate member may include one or more of the following:

- A. Failure to complete mandatory training requirement;
- B. Failure to attend a minimum of ten meetings during the course of one calendar year.

**X. Zoning Board of Appeals Procedure**

- A. Meeting, minutes, records. All Zoning Board of Appeals meetings shall be open to the public except for records exempted from disclosure under Article 7 of the New York State Public Officers Law (Freedom of Information Law) or documents which are protected by attorney-client privilege. The Zoning Board of Appeals shall keep the minutes of its proceedings, showing the vote of each member upon every question, including those absent and those abstained, indicating such fact, and shall also keep records of its examinations and other official actions.
- B. Quorum. A quorum shall be established by a simple majority of all members of the Zoning Board of Appeals. The presence of three (3) members of the Zoning Board of Appeals shall constitute a quorum. The concurring vote of three members shall be required to carry out any action of the Zoning Board of Appeals, except as may be statutorily required.

- C. Filing Requirement. Every rule, regulation, every amendment or repeal thereof, and every order, requirement, decision, or determination of the Zoning Board of Appeals shall be filed in the office of the city clerk within five (5) business days and shall be a public record.
- D. Assistance to the Zoning Board of Appeals. The Zoning Board of Appeals shall have the authority to call upon any department, agency or employee of the City of Kingston for such assistance as shall be deemed necessary and as shall be authorized by the Town Board. Such department, agency, or employee may be reimbursed for any expenses incurred as a result of such assistance.
- E. Hearing appeals. Unless otherwise provided in this Zoning Law, the jurisdiction of the Zoning Board of Appeals shall be appellate only and shall be limited to hearing and deciding appeals from and reviewing any order, requirement, decision, interpretation, or determination, made by the administrative official charged with the enforcement of any ordinance or local law. For the purposes of this law, the administrative official charged with enforcement shall include the Zoning Enforcement Officer, the Building Inspector and/or the Code Enforcement Officer as applicable pursuant to the provisions of this law and those officers shall be referred collectively in this Article of Law as "Enforcement Officer." Such appeal may be taken by any person aggrieved or by an officer, department, board or bureau of the City of Kingston. The Zoning Board of Appeals shall have the power, upon appeal from a decision or determination of the Enforcement Officer, to grant use and area variances.
- F. Stay upon appeal. An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Enforcement Officer certifies to the Zoning Board of Appeals that, by reason of facts stated in the certificate, in his or her opinion, a stay would cause imminent peril to life or property. In such case, the proceedings shall not be stayed unless a restraining order is issued by the Ulster County

Supreme Court or the Zoning Board of Appeals, issued on notice to the Enforcement Officer and on due cause being shown.

G. Filing of administrative decision and time of appeal.

- (1) Each order, requirement, decision, interpretation or determination of the Enforcement Officer charged with the enforcement of the Zoning Law shall be filed in the office of such Enforcement Officer within five (5) business days from the day it is rendered and shall be public record.
- (2) All appeals must be taken within sixty (60) days after filing of any order, requirement, decision, interpretation or determination of the Enforcement Officer by filing with the Enforcement Officer and with the Zoning Board of Appeals a notice of appeal. The notice of appeal shall:
  - (a) specify the property involved;
  - (b) specify the grounds for such appeal;
  - (c) specify the relief sought;
  - (d) identify the specific section of the Zoning Law or other code or law involved.
  - (e) describe precisely and in detail either the interpretation claimed or the variance or other relief that is sought; and
  - (f) state the grounds upon which it is claimed the relief should be granted.
- (3) The Enforcement Officer from whom the appeal is taken shall immediately transmit to the Zoning Board of Appeals all the papers constituting the record upon which the action appealed from was taken.
- (4) The applicant is responsible for any filing fees at the time of the filing of the appeal in an amount in accordance with the fee schedule, which may be updated from time to time.

H. Public Hearing. The Zoning Board of Appeals shall fix a reasonable time for hearing of the appeal or other matter referred to it and give public notice of such hearing by publication in a paper of general circulation in the City of Kingston at least five (5) days prior to the date of the hearing. The cost of sending or publishing

the notice shall be borne by the appealing party and shall be paid to the Zoning Board of Appeals before the public hearing occurs. Any party may appear in person, or by agent or attorney at the hearing.

- (1) The Zoning Board of Appeals shall give notice to the Ulster County Planning Board as required by section 239-m of the New York State General Municipal Law. Such notice shall be in writing sent at least five (5) days prior to such public hearing.
- (2) If the land affected by the appeal lies within five hundred (500) feet of the boundary of any other municipality, the Clerk of the Zoning Board of Appeals shall also submit at least five (5) days prior to the public hearing to the municipal clerk of such other municipality or municipalities a copy of the notice of the substance of every appeal, together with a copy of the official notice of such public hearing.
- (3) In any application or appeal for a variance, the Clerk of the Zoning Board of Appeals shall provide written notice of the public hearing, along with the substance of the variance appeal or application, to: the owners of all property abutting, or directly opposite, that of the property affected by the appeal; and to all other owners of property within five hundred (500) feet of the property which is subject of the appeal. Such notice shall be provided by certified mail at least five (5) days prior to the date of the hearing.

- I. Compliance with the State Environmental Quality Review Act. The Zoning Board of Appeals shall comply with the provisions of the New York State Environmental Quality Review Act ("SEQRA") under Article 8 of the Environmental Conservation Law and its implementing regulations.
- J. Time to Render Decision. The Zoning Board of Appeals shall make its decision on the appeal within sixty-two (62) days after the close of the public hearing. The time in which the Zoning Board of Appeals must render its decision may be extended by mutual consent of the applicant and the Zoning Board of Appeals.

**K. Voting Requirements.**

- (1) Decision of the Board. Except as in the case of a Rehearing as set forth in Article \_\_\_\_ of this Law, every motion or resolution of the Zoning Board of Appeals shall require for its adoption the affirmative vote of a majority of all the members of the Zoning Board of Appeals as fully constituted regardless of vacancies or absences. Where an action is subject to referral to the county planning agency, the voting provisions of Section 239-m of the New York State General Municipal Law shall apply.
- (2) Default denial of appeal. In exercising its appellate jurisdiction only, if an affirmative vote of a majority of all members of the Zoning Board of Appeals is not attained on a motion or resolution to grant a variance or reverse any order, requirement, decision or determination of the Enforcement Officer within the time allowed under Article \_\_\_\_ of this Law, the appeal is denied. The Zoning Board of Appeals may amend the failed motion or resolution and vote on the amended motion or resolution within the time allowed being subject to the rehearing process, as set forth in Article \_\_\_\_ of this Law.

- L. Filing of Decision.** The decision shall be filed in the office of the city clerk within five (5) business days after the day such decision is rendered, and a copy thereof mailed to the applicant.

**X. Powers and duties.**

The Zoning Board of Appeals shall have all the powers and duties prescribed by Section 81-b of Article 5-A of the New York State General City Law and by this chapter, which are more particularly specified as follows:

- A. Orders, requirements, decisions, interpretations and determinations.** The Zoning Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, interpretation or determination appealed from and shall make such order, requirement, decision, interpretation or determination as in its

opinion ought to have been made in the matter by the Enforcement Officer. To that end, the Zoning Board of Appeals shall have all the powers of the Enforcement Officer from whose order, requirement, decision, interpretation or determination the appeal is taken.

- B. Use Variances. The Zoning Board of Appeals, upon appeal from the decision or determination of the Enforcement Officer shall have the power to grant use variances, authorizing a use of land which otherwise would not be allowed or would be prohibited by the terms of this chapter.
- (1) No such use variance shall be granted by the Zoning Board of Appeals without a showing by the applicant that the applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship the applicant shall demonstrate to the Zoning Board of Appeals that for each and every permitted use under this Zoning Law for the particular district where the property is located:
- (a) The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence.
  - (b) The alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood.
  - (c) The requested use variance, if granted will not alter the essential character of the neighborhood; and
  - (d) The alleged hardship has not been self-created.
- (2) The Zoning Board of Appeals, in granting the use variance, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proven by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety, and welfare of the community.
- C. Area Variances. The Zoning Board of Appeals, upon appeal from the decision or determination of the Enforcement Officer, shall have the power to grant area variances.

- (1) In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the area variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination, the Zoning Board of Appeals shall also consider:
  - (a) Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;
  - (b) Whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue, other than an area variance;
  - (c) Whether the requested area variance is substantial;
  - (d) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
  - (e) Whether the alleged difficulty was self-created. This consideration shall be relevant to the decision of the Zoning Board of Appeals, but shall not necessarily preclude the granting of the area variance.
- (2) The Zoning Board of Appeals, in the granting of the area variance, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.
- (3) The Zoning Board of Appeals shall, in granting both use variances and area variances, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property. Such conditions shall be consistent with the spirit and intent of this Zoning Law and Comprehensive Plan for the City of Kingston, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

**X. Rehearing.**

A motion for the Zoning Board of Appeals to hold a rehearing to review any order, decision or determination not previously reheard may be made by any member of the Zoning Board of Appeals. A unanimous vote of all members of the Zoning Board of Appeals then-present at the meeting is required for such rehearing to occur. Such rehearing is subject to the same notice provisions as an original public hearing. Upon such rehearing, the Zoning Board of Appeals may reverse, modify or annul its original order, decision or determination. The vote must be unanimous of all the members of the Zoning Board of Appeals that are present at the meeting, provided the Zoning Board of Appeals finds that the rights vested in persons acting in good faith in reliance upon the reheard order, decision or determination will not be prejudiced thereby.

**X. Relief from Decisions.**

Any person or persons jointly or severally aggrieved by any decision of the Zoning Board of Appeals or any officer, department, board or bureau of this City may apply to the Ulster County Supreme Court for review by a proceeding under Article 78 of the Civil Practice Law and Rules. Such proceeding shall be instituted within thirty (30) days after the filing of a decision of the Zoning Board of Appeals in the office of the city clerk.

**X. Strict Construction.**

All provisions of this Article pertaining to the Zoning Board of Appeals shall be strictly construed. The Zoning Board of Appeals shall act in strict conformity with all provisions of law and of this Article and in strict compliance with all limitations contained therein, provided however, that if the procedural requirements set forth in this Article have been substantially observed, no applicant or appellant shall be deemed deprived of the right of application or appeal.

**X. Other Provisions of General City Law Section 81.**

All other provisions of Section 81-a of the New York State General City Law with regard to Zoning Board of Appeals procedures, not set forth herein, are incorporated herein by reference and shall apply to the Zoning Board of Appeals.



## **B. SPECIFIC GEOGRAPHIC AREA ZONING**

## **B. 1. Midtown Form Based Zoning**

### **405 Midtown Urban Core Overlay District**

#### **General Description**

##### **A. Intent and Purpose**

The intent and purpose of the Midtown Urban Core (MUC) Overlay District is to create an urban area that implements and fulfills the goals, objectives and action strategies of the Comprehensive Plan 2025. The Urban Core Overlay encourages the development of a community that is diverse, compact and walkable. The singular quality that helps differentiate an urban core from typical suburban environments is that the MUC establishes a high quality pedestrian environment especially as it relates to the quality of building frontages along the street edges.

An excellent urban street frontage is one that provides positive stimulus and interaction for the pedestrian. In an ideal setting, buildings form a continuous edge, generally up against the outer edge of the right-of-way, with large expanses of glass for pedestrians to see what is happening inside, and a constant sense of give-and-take between inside and outside. The width of the buildings along the street would be relatively narrow and house a variety of commercial uses. Restaurants and other uses might spill out onto the sidewalk creating open-air cafes, galleries and other attractions. Landscaping is prevalent, but does not dominate the setting, and does not prevent the pedestrian from getting close to the buildings, storefronts and display window.

A significant interruption in the continuity of the streetwall detracts from the quality of the frontage. The ability of good pedestrian-scale buildings to create high quality frontage is diminished when surface parking or blank building facades interrupt the continuity of the streetwall. Similarly, berms, lawns and other significant landscape elements detract from the overall quality of the frontage.

Such an approach, while perfectly acceptable in suburban locations, is in direct contrast to the urban character of a downtown setting.

In summary, the intent of the Midtown Urban Core Overlay District is to create a high density urban environment that is a comfortable and interesting place to live, work, walk, recreate and enjoy cultural and entertainment activities.

B. Description of the Midtown Urban Core Overlay District

The Midtown Urban Core Overlay District (MUC) allows the construction of high density mixed use commercial, community facility and/or residential structures and the conversion of former multi-story industrial buildings into mixed use buildings.

(1) Purpose

Compliance and conformance with the MUC provisions is intended to occur, over time, as redevelopment and new developments occur. These regulations are intended to guide new development, expansion and redevelopment. The procedures for project approval are established to favor applications that conform to the preferred design standards set forth herein. Existing structures and uses are allowed to continue and normal repair and maintenance is encouraged. The MUC District is an overlay district which may supersede the underlying district(s) as explained below.

(2) When the regulations apply

- (a) New Development. These regulations shall apply to all new buildings.
- (b) Expansion and Remodeling of existing buildings.
  - i. Expansion: These regulations shall apply only to the new expanded portion of an existing building.
  - ii. Remodeling: Any exterior remodeling of existing buildings shall comply with those regulations which are applicable to the scope of a particular project. These regulations shall not apply to exterior portions of a building not being remodeled and shall not apply to interior remodeling of existing buildings.

- (3) When these regulations do not apply.
- (a) Existing Buildings and Uses. Existing buildings and uses that do not conform to these regulations may continue as they are.
  - (b) Repair and Maintenance. Normal repair and maintenance may be performed on existing buildings.
  - (c) Valid Development Approvals. A project for which an application for site plan approval has been filed prior to \_\_\_\_\_ may be reviewed, approved and constructed under the prior regulations provided a building permit is issued prior to expiration of such approval.
  - (d) Conflicts with other regulations. When conflicts with other sections of this Zoning Law occur, the provisions of these regulations shall take precedence and shall supersede other sections of this Zoning Law. However, the provisions of this section shall not be construed to take precedence over Article IV – Flood Hazard Overlay District, and Waterfront and Broadway Design Districts, or NYS Building and Fire Prevention Code.

C. Review and Approval Procedures

- (1) Administrative Approval. Site plans which are in complete compliance with the use, bulk and design standards set forth in Sections E., F. and G. may be reviewed and approved in conformance with the procedure for administrative site plans set forth in Section \_\_\_\_\_.
- (2) Approval by the Planning Board.
  - (a) Plans for expansion and/or remodeling which do not comply with the standards in Sections E., F. or G. may be approved by the Planning Board, under the procedures for site plan approval set forth in Section \_\_\_\_\_, upon a determination that such standards are not relevant or appropriate to the proposed use or design,
  - (b) Plans for new development or expansions and/or remodeling that increases floor area by 200% or more, which do not comply with the standards in Sections E., F. or G., may be approved by the Planning

Board under the procedures for issuance of special permits set forth in Section \_\_\_\_, upon a determination that compliance with such standards would impose an unnecessary burden on the applicant, or that the objective of the standards can be achieved by alternate means.

- (c) In such cases, the applicable provisions of the underlying district(s) shall apply in lieu of the MUC standards.

D. Permitted Uses and Location within Buildings

- (1) Uses permitted by right and subject to a special permit are set forth in the following table.
- (2) For mixed-use buildings containing residences, no residences are permitted in floors below non-residential uses occupying the same building.

### MUC Use Schedule

USES PERMITTED	By Right	By Special Permit	Supplementary Regs: See Sec. __
Apartments on upper stories along Broadway	X		
One-family, two family, attached, and multifamily dwellings, provided that they do not have habitable space on the ground floor frontage on Broadway, Grand or Cornell Streets.	X		
Hotel, inn, bed-and-breakfast establishment	X		
Offices of any kind, including professional, medical or business	X		
Artist studio and gallery	X		
Artist live-work lofts	X		
Restaurant, coffee house, brew pub, and other establishments that serve food with or without alcoholic beverages.	X		
Food preparation	X		
Retail and personal services	X		
Funeral home	X		
Any accessory use	X		
Manufacturing of products primarily for sale on premises	X		
Home occupation	X		
Theater, museum, concert hall, and other cultural facilities less than 100,000 SF	X		
Schools and other public or nonprofit educational institutions, less than 100,000 SF	X		
Hospitals, clinics, and medical laboratories, less than 100,000 SF	X		
Combinations of the above uses in the same building or lot	X		
Manufacturing or wholesale trade		X	
Development subject to Section D.(2)(b)		X	
Commercial parking lots or structures		X	
Greenhouse, community garden, and other forms of outdoor plant cultivation		X	
Theater, museum, concert hall, and other cultural facilities greater than or equal to 100,000 SF		X	
Schools and other public or nonprofit educational institutions, greater than or equal to 100,000 SF		X	
Hospitals, clinics, medical laboratories and similar uses, greater or equal to 100,000 SF		X	
Commercial parking lots or structures		X	

E. Basic Yard and Bulk Standards

(1) Front Yards

On all lots and for all uses, no front yard is required.

(a) Mandatory Contextual Front Setbacks

For all lots, a streetwall shall not be located further from the street line than the maximum set forth Table showing Maximum Depth of Front Yards. When a new building is to abut a neighboring existing building, which has a streetwall between the street line and the maximum front yard shown below, the new building's streetwall must be align with the existing building's streetwall. If the new building abuts more than one building, it must align with the streetwall of either of them if the existing building's streetwall is not further from the streetline than the Maximum Front Yard shown in the table below:

(b) Maximum depth of Front Yards

Front yards shall be no deeper than:

<b><u>Street</u></b>	<b><u>Maximum Front Yard</u></b>
Broadway	5 feet
Cornell Street	10 feet
Grand Street	10 feet
All other streets further than 100 feet from the intersection with Broadway Cornell or Grand Street	20 feet

(c) Maximum and Minimum width of Side Yards

<b><u>Street</u></b>	<b><u>Minimum</u></b>	<b><u>Maximum</u></b>
Broadway	0	10 feet
Cornell Street	0	10 feet
Grand Street	0	10 feet
All other streets	10 feet	20 feet

On streets where no side yard is required, if a side yard is provided it shall be at least six feet.

Front wall recesses are permitted to extend beyond mandatory streetwalls for architectural or decorative purposes, provided that the aggregate length does not exceed 50 percent of the length of the front wall where such recesses are permitted. The depth of such recesses shall not exceed six feet. No front wall recesses are permitted within 20 feet of the intersection of two street lines, unless the angle created by the intersection of the two street lines is less than 90 degrees, in which case a setback no greater than six feet from the corner of the intersection is permitted.

(2) Rear Yard:

Corner and through lots: No rear yard required

Interior lots: 25 foot minimum

(3) Permitted obstructions:

The following obstructions are permitted into any rear yard:

Accessory air conditioning units

Arbors or trellises

Awnings or Canopies

Balconies

Chimneys

Eaves, gutters or downspouts

Fences

Flagpoles

Ramps and elevators for persons with physical disabilities;

Solar energy systems

Terraces or porches

Accessory parking, commercial, community facility, or manufacturing buildings no taller than 20 feet provided that the roof of the obstruction is open and accessible to all residents and tenants of buildings on the zoning lot



(4) Minimum Building Frontage

For buildings, or portions of buildings fronting Broadway no less than 90% of the lot frontage must be built. Zoning lots that require curb cuts for accessory parking or loading may exclude the driveway portion of their zoning lot from this calculation.

For buildings, or portions of buildings fronting Cornell and Grand Streets no less than 75% of the lot frontage must be built. Zoning lots that require curb cuts for accessory parking or loading may exclude the driveway portion of their zoning lot from this calculation.

Front wall recesses are permitted within the minimum building frontage for architectural or decorative purposes, provided that the aggregate length does not exceed 50 percent of the length of the front wall where such recesses are permitted. The depth of such recesses shall not exceed six feet. No front wall recesses are permitted within 20 feet of the intersection of two street lines, unless the angle created by the intersection of the two street lines is less than 90 degrees, in which case a setback no greater than six feet from the corner of the intersection is permitted.

(5) Building Height

All buildings shall be built at least the Minimum Building Height shown in the table below. Any building may be built to the Maximum Base Height shown in the table below.

A Qualifying Building may be built to the maximum building height provided that the building is setback at the maximum base height at least 10 feet from all street lines. A Qualifying Building is a building that provides all accessory parking within the proposed building, within a structure on the same zoning lot, or within a structure on a different zoning lot within 400 feet of the

Qualifying Building. A building that does not require any on-site accessory parking, or has accessory parking requirements waived by the Planning Commission are also considered Qualifying Buildings.

**Required Building Height, Maximum Base Height and Maximum Building Height**

<b>Buildings that front</b>	<b>Minimum Building Height</b>	<b>Maximum Base Height / Maximum Building Height for Non-Qualifying Buildings</b>	<b>Maximum Building Height for Qualifying Buildings</b>
Broadway	25 feet	75 feet	105 feet
Cornell and Grand Streets	25 feet	45 feet	65 feet
All other streets more than 100 feet from an intersection with Broadway, Cornell, or Grand Streets	15 feet	32 feet	42 feet

(6) Transparency requirements

Transparency requirements shall apply to the ground floor level street walls of commercial, community facility, mixed use, and residential buildings fronting Broadway, Grand, Cornell, or within 100 feet of the intersection with these streets. The ground floor level street wall shall be glazed with transparent materials which may include show windows, transom windows or glazed portions of doors. Such transparent materials may be provided anywhere on such ground floor level street wall, except that: (a) transparent materials shall occupy at least 50 percent of the surface area of such ground floor level street wall between a height of two feet and 12 feet, or the height of the ground floor ceiling, whichever is higher. Transparent materials provided to satisfy such 50 percent requirement shall:

- (a) not begin higher than 2 feet, 6 inches, above the level of the adjoining sidewalk, with the exception of transom windows, or portions of windows separated by mullions or other structural dividers; and
- (b) have a minimum width of two feet; and

- (c) not exceed a maximum width without transparency shall not exceed ten feet.

(7) Accessory on-site Parking and Loading

Accessory on-site parking and loading requirement of the MUC will be governed by the underlying zoning with the following exceptions:

- (a) Any development requiring five or fewer on-site parking spaces may waive the requirement for on-site parking.
- (b) Accessory on-site parking may be provided off-site within 400 feet. Site plans for accessory off-site parking and the development or expansion must be filed together.
- (c) Adjacent zoning lots may share required on-site parking and driveways provided that:
  - (i) The area is designed so that cars may freely pass between the zoning lots without entering a public street.
  - (ii) The owners of the zoning lots jointly file an administrative agreement detailing the responsibilities of each party with the Planning Commission during site plan review.
  - (iii) Such shared parking agreement and can only be rescinded by petition to the Planning Commission
  - (iv) A shared parking agreement will reduce the amount of required on-site parking on a zoning lot by 10%.
  - (v) Three or more contiguous zoning lots may be considered to be adjacent for the purposes of this section.
- (d) Adjacent zoning lots may share required on-site loading areas provided that:
  - (i) The owners of the zoning lots jointly file an administrative agreement detailing the responsibilities of each party with the Planning Commission during site plan review.
  - (ii) Such shared loading agreement once filed, and can only be rescinded by petition to the Planning Commission

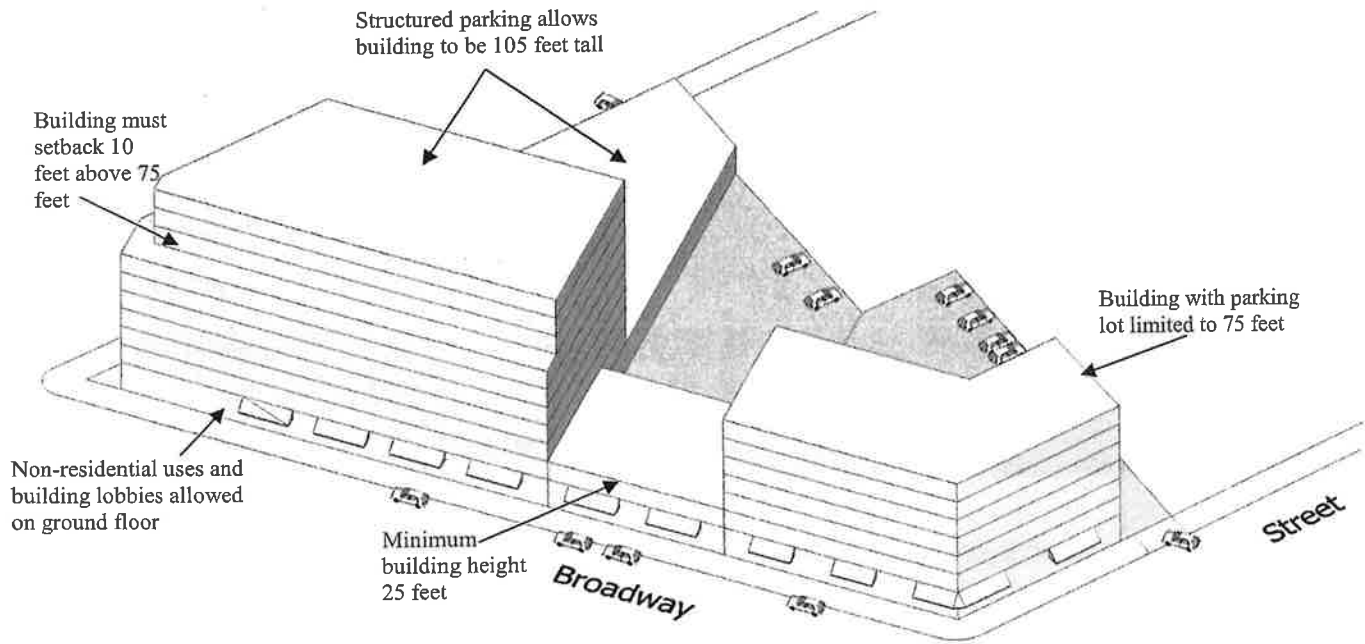
- (iii) A shared loading agreement will reduce the number of on-site loading areas by 50%, but in no case will reduce the number to less than 1.
- (iv) Three or more contiguous zoning lots may be considered to be adjacent for the purposes of this section.
- (e) Curb cuts

Zoning lots with frontage on Broadway, Grand, or Cornell, and another street other than Broadway, Grand or Cornell, shall not be permitted to have a curb cut accessing on Broadway, Grand or Cornell. Curb cuts will only be permitted on Broadway, Grand or Cornell when a zoning lot is:

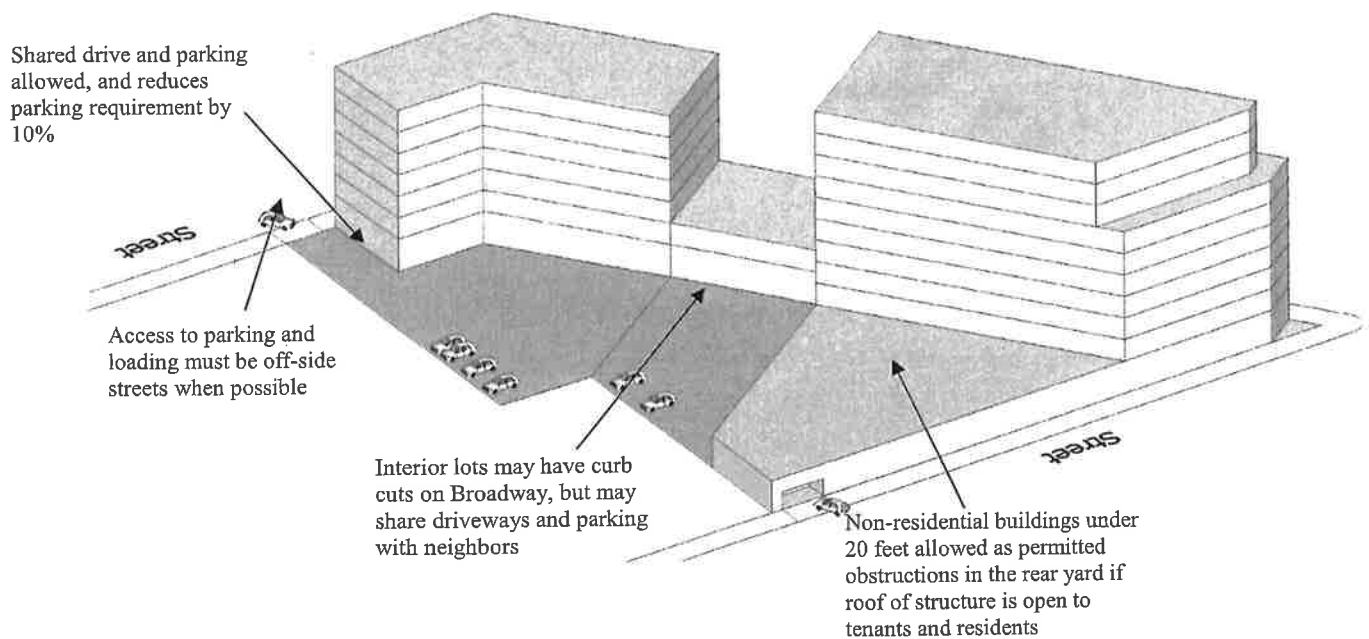
  - (i) is an interior lot fronting Broadway, Grand or Cornell
  - (ii) existed prior to the date of adoption of these regulations

(8) Illustration of Design Standards for Development on Broadway

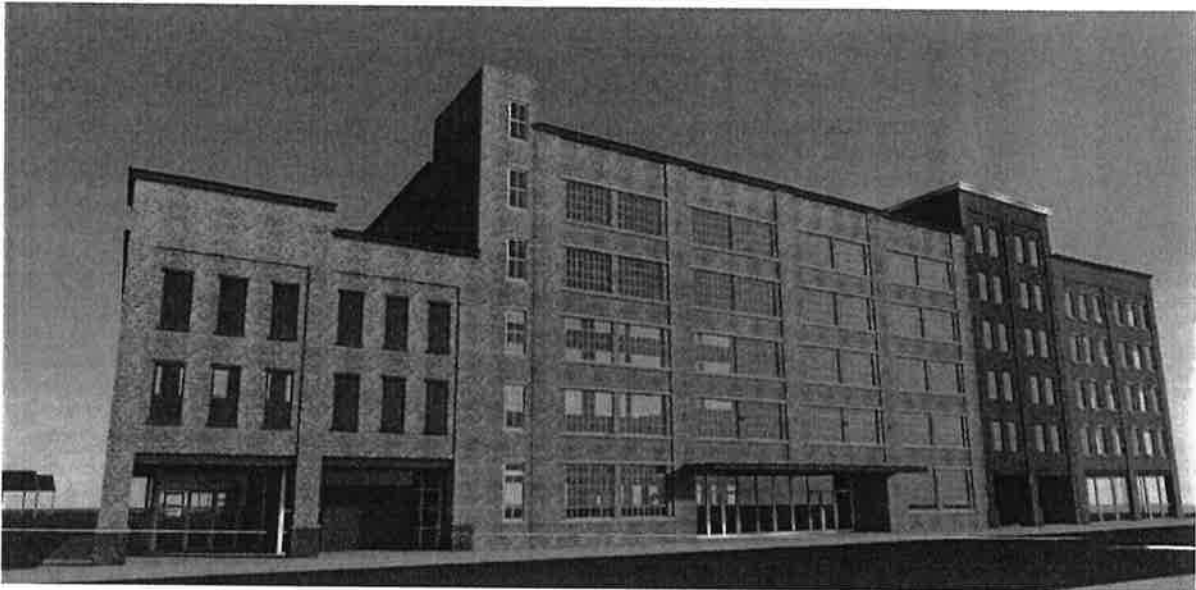
(a) Front View



(b) Rear View



**(c) Illustration of complying and conforming development:**



The above illustration is of the approved development proposed by RUPCO for the "bowling alley" site on Cedar Street which is within the proposed MUC District

(d) Map of Proposed District







## **C. NON-GEOGRAPHIC SUBJECT AREA REGULATIONS**

**C.1. Proposed Zoning for Affordable Housing**

Add the following definitions to **Section 405.2** definitions:

- **Affordable Housing Unit.** A dwelling unit available at a cost of no more than 30% of current fiscal year Median Family Income for the Kingston, NY Major Statistical Area as estimated by the United States Department of Housing and Urban Development (HUD).

**§405-27.1 Affordable Housing** (formerly titled: Mixed Use Overlay District)

**A. Purposes and principles**

(1) This Section is intended to implement City of Kingston Comprehensive Plan objectives for provision of affordable housing as defined herein, including:

- (a) Expand opportunities for affordable housing in all areas of the City.
- (b) Encourage mixed-use, mixed-income, neighborhoods.
- (c) Encourage adaptive reuse of existing commercial and industrial buildings to provide affordable housing, and to include affordable housing in new development, including single family detached units.

**B. Proposals for residential or mixed use development within the Zoning Districts that permit both single family detached housing and multi-family residential development are to be based on the following requirements and guidelines:**

- (1) These guidelines and requirements to provide affordable housing shall apply to individual proposals for ten or more residential units including single family detached housing, multi-family development, mixed-use development and adaptive reuse of commercial and industrial buildings for ten or more units.
- (2) Of the ten or more total housing units created by individual proposals, at least 10% of those units must be dedicated for affordable housing.

- (3) The rent of affordable housing units will be established so as not to exceed 30% of a household's income. Similarly, units for sale shall be priced to be affordable to those with qualified household income. (See definition)
- (4) The maximum income for a household to be eligible to occupy an affordable housing unit will be between 50-120% (very low to moderate) of the Ulster County median income, with adjustments for family size and be updated yearly, as calculated by HUD.
- (5) Rules regarding continued occupancy as a resident's income changes shall be subject to guidelines established by an agency appointed by the City Council for the City of Kingston at the time of project approval.
- (6) Affordable housing units shall be dispersed throughout the proposed housing development and be indistinguishable from market rate units.
- (7) Affordable housing units are to be phased in proportionately during overall construction of the development.
- (8) Final selection of the residents to occupy the affordable housing units shall be the responsibility of the building owner(s) or their representatives. Owners of the buildings, or their representatives, may choose a potential tenant from a pool of income eligible tenants as kept by an agency appointed by the City Council. If an owner identifies a potential tenant to occupy an affordable housing unit, apart from the pool maintained by the City, that potential tenant must be judged income eligible by the agency appointed by the City Council before he or she may occupy the affordable housing unit.
- (9) Affordable housing units shall remain affordable for the length of time the building in question contains residential units. An agency appointed by the City of Kingston will be responsible for ensuring the long-term affordability of the residential units within the development. This includes ensuring that a

minimum of 10% of the units within the development are dedicated to affordable housing.

- (10) Incentives – For developments proposed to include more than 10% affordable units, the following incentives are applicable.

For each affordable unit over 10% of the basic permitted number of residential units, the applicant may add two additional market rate units. The maximum number of resulting units shall be limited by an increase in maximum coverage of no more than 10% and reduction of required setbacks by no more than 10%. In the case of single family detached housing, the maximum number of additional units may not exceed 20% of the basic number of permitted units.

- C. ~~Modification of Required Affordable Housing~~ – The requirement to provide affordable housing units in a particular development may be waived or reduced in accord with the following provisions:

**Payment in lieu of Affordable Housing Units**

Notwithstanding the requirement that a minimum of 10% affordable units be provided for any development over 10 dwelling units, the City Council, at its discretion, may allow the applicant to make a payment to the City in lieu of the provision of up to 25% of the required affordable units, in an amount determined by the City Council. to be the value of the waived affordable units. Said payment shall be made into a trust fund dedicated to the provision of affordable housing in the City. The Housing Trust Fund shall be established by the City Council and said fund shall be governed and administrated in accordance with guidelines and procedures established by the City Council. Guidelines for use of said funds may include but not be limited to contributions to infrastructure,

rehabilitation, land cost or direct subsidy, to reduce the cost of dwellings on other sites.

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Note: Alternative methods to calculate this "payment in lieu" value can be further explored and refined prior to adoption of the zoning amendment.

#### **Suggested Additional Amendments to Zones**

- 405-15 NB Neighborhood Commercial District add to C(6) **Artist Loft, Live-Work Unit**, Art or Craft Studio...concluded by 8 pm.
- 405-17 Central Commercial District – add to B(7) **Artist Loft, Live-Work Unit**, Art or Craft Studio...etc.
- Add new C(9): Multiple Dwelling and/or mixed use structures containing residential and non-residential uses.
- 405-23: O-2 Limited Office District add new 405-23 C(13): **Artist Loft, Live-Work Unit**, Art or Craft Studio, or studios for teaching performing arts.

**405-27.1: Mixed Use Overlay District** – Eliminate – this is replaced by the new 405-27.1 Affordable Housing.

## **C.2. Urban Core Design Standards**

### **§405- Urban Core Design Overlay District**

#### **A. Purpose of Design Standards.**

Design Standards for any urban core area are created to protect and enhance our Main Streets and Historic Downtowns. These downtown cores represent the historic past in their architecture, street layout and public spaces. They also represent a major economic investment and they provide opportunities for introduction of new buildings and the rehabilitation of existing structures. Downtown cores present opportunities for stability, growth and development because they contain within a compact area the services, goods, entertainment, employment, education, personal care, safety, information, and community services necessary for an enhanced quality of life. At a time when most of us have become dependent on the automobile and have turned our communities into pavement grids for our vehicles, these urban centers can renew our pride in our towns, villages and cities by establishing a sense of place. These special areas allow us to park our vehicles and walk the streets, to reconnect with our neighbors and our community.

These Standards were prepared to provide a basis for property owners, architects, engineers, landscape architects, developers, planning board members, residents and City officials to address site development issues within the core areas of Kingston – the Stockade Area, Broadway and Rondout. These Standards provide approaches and criteria for design to assist developers and the City as they design and review the architecture, site development, vehicular, bicycle and pedestrian circulation, parking, streetscape improvements, signage and lighting of proposed development. More specifically, these Standards are intended to:

- (1) Provide clarification of the City's objectives in concert with existing zoning laws and to add consistency and predictability to the permit review process.

- (2) Stimulate improvements to existing structures and encourage new development within the downtown core area of the City.
- (3) Improve the visual appearance of downtown to renew interest and viability to the hub of activity for the area.
- (4) Provide a consistent methodology for review of proposed projects.
- (5) Inspire creativity and quality in the design of all structures and in site development.
- (6) Foster an exchange of ideas among developers, City officials and residents in an effort to improve the quality of design in all projects both public and private.

These Standards are intended to supplement the existing Zoning Law and to help clarify the current interpretation of those regulations. These Standards do not address every aspect of design relative to any project, but they do convey information on major issues to be considered. A review of the Standards by project owners, developers and review boards should enable all parties to determine when additional, specialized, professional design assistance may be required for appropriate decision making to progress and/or secure the requisite permits and approvals.

#### **B. Applicability and Administration.**

- (1) Design District Boundary. These Design Standards apply to the actions set forth in (2) below within the designated Design Overlay Districts in the Stockade Area, Broadway and Rondout (lower Broadway) areas. They do not apply to the RF-R Rondout Creek District which has separate standards.
- (2) Types of Actions. The following actions are governed by these Design Standards:
  - (a) Actions requiring site plan approval by the City Planning Board.
  - (b) Actions requiring approval of a special use permit by the City Planning Board.

- (c) Actions in addition to the above which require a building permit and which will alter the exterior of a building that is visible from a public street, parking lot or other public place.
- (3) Administration.
- (a) Actions Subject to Approval. These Standards will be applied by the City Planning Department and City Planning Board during its review of the actions set forth in 2.a and b. above, in accord with §\_\_\_\_\_, with the assistance of the Code Enforcement Officer. Scheduling a design review early is important for the process to work efficiently and appointments should be made by owners or their representatives (architects, engineers, landscape architects, etc.) early in the planning process. These informal review sessions can be used as a sounding board to test ideas and concepts before detailed, time consuming and expensive architectural and site plan designs are developed. Plan changes can be made before the formal application process is initiated. This procedure should assist in saving time and effort, while preserving the context and character of the City's business districts and adjacent areas.
  - (b) Waivers and Referrals.  
Waivers.  
The Planning Board is hereby empowered and authorized to waiver or vary any design standards or requirements in this section by a majority plus one vote. Any such waiver may be exercised in the event of the following:
    - (i) The nonconforming elements meet the spirit and intent of the design goals contained herein as defined by the Planning Board; and
    - (ii) The specific standards or requirements are not appropriate to a particular development or project.



- (iii) Compliance with the standard would impose an unnecessary burden on the applicant or the objective of the standard can be achieved by alternative means.

The Planning Board shall also have the authority to impose reasonable and appropriate conditions on the grant of any waiver to protect the district.

#### Referrals

All actions subject to approval by the Planning Board shall be referred to the (Heritage Area and/or (?) Landmarks Preservation Commission) for an advisory report at least 15 days prior to action by the Planning Board. The Planning Board shall consider such advice as may be offered and act accordingly.

#### (c) Other Actions.

- (i) Actions which alter the exterior of a building and require a building permit but do not require approval by the Planning Board shall be subject to review by the Code Enforcement Officer who shall determine compliance with the Design Standards.
- (ii) An applicant for a building permit who believes that the determination of compliance by the Code Enforcement Officer is incorrect may submit an appeal to the Planning Board. The Planning Board shall consider such appeal and issue its findings in a timely manner.

#### (4) Submission Requirements.

- (a) In addition to any required application submissions, new site development plans are required to submit the following:

- (i) Site Plan which specifies all proposed demolition and construction work and includes existing structures and pedestrian ways on adjacent properties that are within 50 feet of all property lines.
- (ii) Building Elevations at a minimum  $1/8" = 1$  foot scale, of all facades, which specifies all proposed demolition and construction work and includes:
  - a. Exterior materials, changes or transitions in materials, surface lighting, surface signs, street number, awnings and similar façade accessories.
  - [b. Proposed alterations or changes to existing facades, if any.
- (iii) Samples of any new proposed façade, roofing and sign materials.
- (iv) Site Plan indicating exterior lighting photo metrics, spread and intensity.
- (v) A perspective color rendering illustrating how the proposal would look if viewed from the street as a pedestrian.
- (vi) Photographs of the site and surrounding area, including all existing elements required to be shown on the Site Plans and existing buildings within fifty feet of the proposed project site.
- (b) Signage or exterior lighting proposals are required to submit the following:
  - (i) Drawings of the proposed sign or copy change at a minimum of  $1" = 1$  foot scale, or all signs or lettering, which includes some context of the building façade where it is proposed to be mounted.
  - (ii) Other sign information regarding illumination methods, hours of illumination and mounting method.
  - (iii) Photographs of the site or building which includes the proposed sign or lighting mounting location and any existing signs or lighting.
  - (iv) 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.

## **C. Design Standards**

### **(1) Site Design**

#### **(a) General Standards**

- (i) Site design is the physical articulation of all elements within the project boundaries. Elements include the land, water features, open space, buffers, buildings, artworks, recreational areas, streets, sidewalks, trails, parking areas, alley, views, shading patterns, trees, street furniture, pavement materials, screening and more. These elements fit together to form the fabric of a business area.
- (ii) Site design has an effect on: defining spaces, providing or screening views, highlighting architectural features, buffering winds, reducing glare, providing shade, accentuating entrances, preventing erosion, regulating circulation, enhancing property values, beautifying the site and in general influencing man's interaction with the natural and built environment.
- (iii) In Kingston's core areas some of the early buildings have been in place for over 150 years. Some of the natural features that also contribute to the views and setting of Kingston, like the mountains, streams, and valleys, that surround the City have not been greatly changed by human intervention.

#### **(b) Specific Standards**

- (i) New construction must align the front façade of the building at, or as close as possible to, the front façade 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.
- (ii) New construction should attempt to work with any pre-existing building patterns found in adjacent or nearby buildings with regards to massing, height, scale and form.

- (iii) New construction should place as much of the building width at the front of the lot as possible to maximize front façade exposure and maintain the street wall. The front façade should be kept parallel to the street.
- (iv) 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.
- (v) 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.
- (vi) New construction located at corner intersections should place a majority of the building mass at the corner and/or wrap the corner by continuing façade elements such as the cornice on all street elevations.
- (vii) All required off-street parking areas should be located at the side or rear of the building where practical and in conformity with adjacent parcels. .
- (viii) All on-site parking, vehicle loading or service areas located within sight of the street must be screened from view using appropriate architectural or landscaping methods.
- (ix) 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.
- (x) 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.

(2) Building Height, Scale and Massing

(a) General Standards

- (i) Orientation: The manner in which a new building relates to the street is an important consideration in terms of compatibility with its surroundings. Traditional siting patterns should be respected. As such, buildings in Kingston's core areas should be oriented parallel to their lot lines with the primary entrances of the buildings oriented toward the sidewalk or street. Corner lot entrances can sometimes be enhanced or made more functional and dramatic if angled at the corner.
- (ii) Mass and Scale: An important component of the City landscape is the architectural form and character of the buildings, the way they relate to spaces and streetscapes and their visual appearance. The mass and scale of buildings are key considerations that effect compatibility. The height, width and depth of any new buildings or improvements to existing buildings should be compatible to that of the adjacent existing buildings to enhance the character of the core area.
- (iii) Building Height: Building heights should be in keeping with the existing one, two and three story buildings which form the core area. Adjacent buildings should restore or recreate the historic alignment of architectural features, including overall heights and roofs using these lines to unify the street visually. Structures with similar geometry and ratios of width and height when repeated begin to tie individual structures into the whole. This contributes to the character of the area and establishes visual continuity. Building height is defined not only by overall dimension, but also by architectural features that reinforce alignments of the top and

bottom of first floor display windows, sign bands, window sills on upper floors, parapet and cornice lines and the roof lines.

(b) Specific Standards

- (i) Two-story minimum building height is required on front facades facing \_\_\_\_\_ Streets unless it is deemed inappropriate or where it may create an undue financial burden on the applicant. Building height shall conform as much as possible to the height of other nearby buildings.
- (ii) The majority of the building mass should be placed at the front of the site to maximize front façade 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.
- (iii) The height of new buildings should attempt to coordinate common heights and façade lines with immediately adjacent buildings.
- (iv) Structures with sloping roof designs should align the gable end of the façade to face the street to maximize façade exposure.
- (v) For the purposes of determining effective façade 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 mid-point 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 vertical distance from the ground to the lowest part of the roof.
- (vi) Parapet height should not exceed four feet unless otherwise required by State or Federal codes. .
- (vii) 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 façade.

- (viii) Façade and roofline transitions should be used to highlight important areas of the façade such as a building entry, the center of the façade or the symmetrical ends.
  - (ix) New façade designs should be in keeping with the scale of adjacent buildings. The use of an overall façade composition which breaks the building down into smaller and regular portions – such as bays defined by groups of windows – helps to achieve this.
  - (x) Small scale building materials similar to those recommended in Table 1 are required as the primary building material along the front façade of all new construction.
  - (xi) Areas of blank wall larger than an eight foot diameter circle are not permitted on the front facades of new or renovated construction. Such blank wall is defined as an area of façade which does not contain any decorative articulation of materials which measure at least two inches in depth, or openings such as windows and doors.
- (c) Special Standards in the Stockade Area
- In addition to the standards set forth elsewhere in this section, the following standards shall apply in the Stockade area.
- (i) Because of the visual importance of the Old Dutch Church Steeple, no new structure may rise within the Stockade Area above the base of the steeple, which is 62 feet above curb level.
  - (ii) New construction may be required to be set back from the building line formed by the adjacent buildings where this modest setback will not change the overall character of the street.
  - (iii) In determining building setback for new construction, new buildings may be required to be set behind existing building lines to give emphasis to existing structures of historic or aesthetic merit, or to allow for suitable landscaping.
  - (iv) Parking areas shall be partially screened from public view with appropriate walls, structures, fences or landscaping. The area

allotted for the planting of all parking lots shall be at least 5% of the amount allotted to the parking surface.

(3) Roofs

(a) General Standards

Flat roofs with parapets and gable roofs are historically the most common roof forms found within the core areas, 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 façade and similar applied designs are unacceptable as primary roof types.

(b) Specific Standards

- (i) New construction with a flat roof is required to be capped by an architectural cornice design that is a sculptural expression of the primary façade material, wood or simulated wood design, at the top of the front façade(s). The 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. Parapet height shall not exceed four feet unless otherwise required by State or Federal codes.
- (ii) 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. The tallest portion of the roof must be orientated to place at least one gable-end facing the street.
- (iii) 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.
- (iv) 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. Roof mounted equipment shall be visually minimized with painted colors and finish complementary to the overall building design.

- (v) See Materials List in Table 1 for approved roof materials.

(4) Facades and Fenestration

(a) General Standards

- (i) The facade facing the street is normally the most architecturally detailed side of a building and contains a pattern of windows, bays, columns, cornices and architectural detail. Preservation of storefronts will help maintain a unique historic character for the downtown. Side or rear facades which are visible from the street or public parking lots also contribute to the visual character of the streetscape. Façade elements should be preserved to create patterns along the business blocks which help retain the overall design integrity. Elements to be saved, rehabilitated, or recreated include:
  - a. Kick plates as a base to building fronts.
  - b. Recessed entrances or angled entrances on corners.
  - c. First floor display windows.
  - d. Transoms over entrance doors.
  - e. Clerestory windows above display windows.
  - f. Sign bands.
  - g. Parapet walls with caps or cornices.
  - h. Vertical window patterns on upper floors with window sills.
  - i. Pilasters and decorative brick or stone.
- (ii) Building fenestration is an architectural term that refers to the design, frequency and depth of openings, recessed areas or projecting elements that form the overall architectural composition of a building. The fenestration of a building may reflect the architectural “rhythm” of the façade. When approaching the rehabilitation of a façade or the design of a new building, the façade

should be in keeping with the rhythm and proportions of adjacent buildings. The overall pattern should be simple but can be broken down into smaller elements for added interest and architectural detail.

- (iii) Upper story windows of existing buildings should be uncovered and reopened where possible to maintain historic character. Maintaining the original spacing, pattern, size, materials, and operating system of the originals is important. Altered dimensions and the use of unfinished or shiny metals is inappropriate.

(b) Specific Standards

- (i) The front facades of new flat roof construction should be organized in a general “Base – Middle – Top” configuration.
  - a. The “Base” level consists of the most open and sculptural façade expression at the first floor. The amount of door and window openings should be the greatest here – typically between 75 percent to 90 percent of the façade – in this ground floor area.
    - Individual window openings in the base level should not exceed 12 feet in width, and must be separated from each other by at least 18 inches of façade. Window glass area cannot exceed five feet in width without being separated by at least six inches of mullion.
    - Window frames must be recessed. Flush or curtain wall window designs are not permitted.
    - The primary entry doorway to the street must be recessed between 12 to 48 inches back from the plane of the façade to express the greatest amount of façade depth.
    - 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 façade lettering or signs for the property.

- b. The “Middle” level consists of the upper floors, and has a lower fenestration level than the first floor. The amount of façade articulation and openings should be less here than that found at the ground floor – typically between 25 to 50 percent of the facade in this area.
    - Individual window openings in the façade at this level should not exceed six feet in width, and must be separated from each other by at least 24 inches of façade. Window glass area at this level cannot exceed three feet in width without being separated by at least four inches of mullion.
    - Window frames must be recessed from the plane of the façade.
  - c. The “Top” level consists of an articulated cornice of design and materials that complement other elements of the façade.
- (ii) The front facades of new or renovated construction with masonry exteriors must visually express the structural lintels over windows, doors archways and similar openings.
  - (iii) The rhythm of façade elements across the front façade must be arranged in an easily recognizable pattern such as a repeating or symmetrical layout. Breaks or fluctuations to the façade pattern should be reserved to highlight areas of special interest such as entry points to the building. New construction directly adjacent to or added to existing structures should be compatible with the rhythm of façade elements of the existing building.
  - (iv) The proportions of façade 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. New construction directly adjacent to or added to existing structures should be compatible with the proportion of façade elements of the existing building.

(5) Materials and Colors

(a) General Standards

- (i) Work on existing structures 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.
- (ii) Any renovations or alterations to an existing façade should include reasonable attempts to remove any modern day cladding, panels, signboards or similar additions which are concealing the original building design underneath.
- (iii) Original façade 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.
- (iv) New construction should utilize materials and colors that are compatible with those in existing buildings and avoid garish colors and highly reflective materials.

(b) Specific Standards (See Table 1)

- (i) When using more than one material on the exterior façade, 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.
- (ii) When making a transition from one material to the next, the change must occur at hard-edge or depth transition in the façade which

creates a surface for one material to terminate into before the next one begins.

- (iii) Special designs or decorative patterns created in the exterior materials are encouraged.
- (iv) All exterior colors must be of natural, earth tone or muted shades. Brighter, more vibrant colors, if used, must be reserved for minor accents and highlights only.
- (v) When using more than one color on the exterior façade, one color must be used as the primary theme with others used only sparingly to complement or accent the design.
- (vi) When making a transition from one color to the next, the change must occur at a hard-edge or change in depth in the façade which creates a surface for one color to terminate into before the next one begins.

**TABLE 1 – MATERIALS LIST**

RECOMMENDED MATERIALS	PROHIBITED MATERIALS
<p><b><u>FACADE</u></b></p> <p><b>Common Red Brick</b></p> <p>Bare, Multi-Colored/Multi-Tone (approved color)</p> <p>Painted (approved color)</p> <p><b>Special Masonry Units (CMU)</b></p> <p>Textured CMU</p> <p>Colored (dyed) CMU</p> <p><del>Split-Faced CMU</del></p> <p><b>Natural Stone</b></p> <p><b>Wood Clapboard or Shingle</b></p> <p>Finished Grade (painted or stained approved color)</p> <p><b>Composite, MDO/MDF Board, Synthetic Wood</b></p> <p>PVC (approved color)</p> <p><b>Fiber Reinforced Cement Siding/Hardi-Plank</b></p>	<p>Multi-Colored/Multi-Toned Brick</p> <p>Imitation Brick Siding, Asphalt Siding</p> <p>Plain CMU (bare or painted)</p> <p>Unfinished, Lumber Grade Wood</p> <p>Metal, Aluminum or Vinyl Siding</p> <p>Mirrored or Highly Reflective Siding or Panels</p> <p>Imitation Stone (except approved cultured stone)</p> <p>Wood Paneling</p> <p>Plywood T-111</p> <p>Composite, MDO/MDF Board</p> <p>EIFS/Stucco (except approved)</p>
<p><b><u>WINDOWS</u></b></p> <p><b>Anodized Aluminum Frame/Storefront</b></p> <p>Approved Color</p> <p><b>Wood, Vinyl Clad, PVC Frame</b></p> <p>Approved Color</p> <p><b>Clear, Etched, Tinted, Frosted or Stained Glass</b></p>	<p>Bare Aluminum</p> <p>Reflective Flashing</p> <p>Mirrored, Colored or Dark Tinted Glass Below 70% VLT*</p>

<p><b>Expressed Lintels Over Openings</b></p> <p>Brick, Limestone, Colored or Bare Concrete</p>	
<p><b><u>ROOF</u></b></p> <p><b>Asphalt Shingle (approved color)</b></p> <p><b>Imitation Slate</b></p> <p><b>Natural Slate</b></p> <p><b>Standing Seam Metal</b></p> <p>Small Seam Width, Approved Color</p> <p><b>Dark, Non-Reflective PVC, Modified Bitumen</b></p> <p><b>Aluminum Eave Guard</b></p> <p><b>Parapet &amp; Chimney Caps</b></p> <p>Stone, Limestone or Precast Concrete</p> <p>Metal Flashing (approved color)</p>	<p>Light or Reflective Materials</p>
<p><b><u>OTHER</u></b></p> <p><b>Canvas Awning</b></p> <p>3 Color Max, approved colors</p> <p><b>Concrete, Brick, Paver or Stone Sidewalks</b></p> <p><b>Stamped Concrete</b></p> <p><b>Wood/Synthetic Wood Porches, Boardwalks, Ramps</b></p>	<p>Plastic, Vinyl or Other Synthetic Awnings</p> <p>Reflective Flashing</p> <p>Asphalt Sidewalks/Walkways</p>

(6) Signs and Lighting

(a) General Standards

- (i) Signs should be an integral part of a building's façade. Where possible, business signage should be placed within the traditional sign band area just above the storefront windows and clerestory. Usage of the sign band area provides a unified visual appearance for the urban core area while allowing diversity in individual signs. The size, shape, style, colors and materials of each sign should conform to the building's architecture and should not cover or conflict with any prominent architectural features.
- (ii) Sign mounting and orientation should be appropriate for the particular building for which it is intended and for its setting in the business district. The color and type (font) of lettering are more important to comprehension than size. Shingle signs or those that use familiar icons like a barber pole or a pair of eyeglasses can be particularly effective without having to be large. Signs applied to or incorporated on awnings or canopies or hung independently from them can work effectively.
- (iii) Lighting for signs should be from above, below or from the sides but not from within. Lighting should not distract or disturb passing vehicles or neighboring uses. Indirect lighting can provide supplemental light to the pedestrian walkway area. Neon lighting may be appropriate if it meets other sign requirements and also fits the visual setting of its surroundings.
- (iv) The use of color for signage should be in keeping with the natural tones of brick, tile, stone, and stained or painted woods within the adjacent streetscape. Bright, bold, primary or metallic reflective colors should be used sparingly as trim or accents to the main body of the sign. Color use should be complementary to the building and fit with its color scheme and be in balance with the natural earthen tones within the City. Most signs are very effective using a three



color format. One dark color should be used for a background color, a contrasting color for lettering, and the third color for borders, shading or trim.

(b) Specific Standards

(i) Design and Mounting

- a. Commercial properties with multiple tenants must coordinate the size, placement and design of signs and street numbers so as to present a consistent appearance.
- b. Surface applied façade lettering which is framed by the architectural features of the façade is preferred to signboards and should be utilized whenever appropriate.
- c. 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 façade is prohibited.
- d. New commercial construction must design the front façade specifically to accommodate an area or areas for applied façade lettering or surface-mounted signs. The applied façade lettering or signboard should be framed by the architecture of the façade itself whenever possible.
- e. Signs or lettering which are mounted on the vertical, horizontal or sloped surfaces of a building roof or on roof fascias are not permitted.
- f. 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.

(ii) Sign Lighting

- a. External sign lighting must be provided only from shielded lamps which direct light only around the immediate sign

surface. 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.

- b. Illuminated neon signs may be permitted 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, non-intermittent light source. All lighting shall not interfere with the comfort and safety of the general and nearby residences.

(7) Handicapped Ramps

(a) General Standards

Handicapped ramps are necessary to provide equal access to commercial buildings for all persons. They should be designed and located so as to be compatible with building design to the maximum extent practical.

(b) Specific Standards

- (i) Where feasible, handicapped ramps should be integrated into the design of facades or entrance ways and not appear as appendages or "add-ons".
- (ii) The materials, design elements and colors of handicapped ramps should be the same as those of the building façade.
- (iii) Where feasible, the angle of the handicapped ramp should be shielded so as not to disrupt the basic horizontal and vertical elements of the façade.

### **C.3. Environmental and Natural Resource Regulations**

#### **A. Flood Protection**

Land Use Regulations that address dangers from flooding are already in place in Section 405-26 of the Kingston Zoning Code, entitled "Flood Hazard Overlay District".

In addition to the Comprehensive Plan, the City's Sea Level rise report entitled "Planning for Rising Waters" as well as the Climate Action Plan both address this issue.

These provisions have been in place for many years and were updated in 2009.

These have been reviewed for their consistency with the Comprehensive Plan and with the recently adopted Sea Level Rise study.

We suggest that several modifications are needed or are appropriate. Several are outlined below.

The current Code applies to the whole City.

Revise language as follows:

(1) E(3)(a)

This section includes all revisions to the National Flood Insurance Program through December 31, 2016, and shall...

(2) Revise the definition of basement as follows:

A story in a building the structural ceiling level of which is four feet or more above the average of the finished grade where such grade abuts the exterior wall of such building which fronts on any street.

*(\*These definitions will be consistent with zoning definitions.)*

Delete definition of recreation vehicle from this section

Delete term “structure”, it is incorporated in zoning definition of “building”.

Change “functionally dependent use” to “water dependent use”.

Add: Structure-same as building.

## **B. Hillside Protection**

### **(1) Statement of Purpose**

The purpose of this article shall be to maintain the overall environmental quality of the City, preserve scenic open space, minimize disruption to natural drainage patterns, maintain stability of environmentally sensitive slopes and minimize the aesthetic of hillside alteration.

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### **(2) Applicability**

This article shall apply to all zoning districts in the City, except that parcels held in separate ownership at the time this article takes effect, containing the minimum lot areas or less for the zoning district within which the parcel is located, shall not be subjected to the requirements of this article.

### **(3) Preservation of Steep Hillsides**

#### **(a) Deductions; exception**

- (i) Development on a lot with steep slope areas shall be controlled by deducting the following from the area of such lot(s) to calculate the lot area for the purposes of determining whether the lot meets the minimum area requirements. This reduced lot area shall also be utilized to calculate the maximum coverage and interior floor area.

- a. One hundred percent (100%) of the area of steep slopes measuring at least 35% grade.

- b. Fifty percent (50%) of the area of steep slopes measuring at least 25% grade.
    - c. Twenty-five percent (25%) of the area of steep slopes measuring at least 15% but less than 25% grade.
  - (ii) Slopes include both natural land manmade slopes, and the deduction shall be applied under the preconstruction conditions on the site.
  - (iii) Exception. In a residential district where a single-family dwelling is a permitting principle use, which lot has been held in separate ownership from any adjoining lot facing on the same street prior to the time of the enactment of this chapter, the lot area deduction shall not be applied for purposes of determining whether the lot complies with the minimum lot size requirement in the district, providing that said lot is utilized for one single-family dwelling only, is at least 50% of the minimum lot size in the district and complies with all other requirements of this code. Notwithstanding this exception, the lot area deductions for steep slopes set forth in this section shall be applied to calculate the maximum coverage and livable floor area. The application for a permit for such a dwelling on such a lot shall be accompanied by such proof of separate ownership in sufficient detail to provide the building Department with adequate information upon which to base the issuance of a permit.
- (b) The following limitations shall be applied to any portion of a lot with steep slopes covering more than 500 square feet of land area:
- (i) No land area covered by slopes measuring 25% or greater shall be developed and/or regraded or stripped of vegetation.
  - (ii) Not more than 20% of the land area covered by slopes measuring at least 15% but less than 25% shall be developed and/or regraded or stripped of vegetation.

- (iii) Notwithstanding the limitations in this subsection, the Planning Board may allow a driveway to cross an area with 15% or greater slope to facilitate access to a developable portion of a site with a slope measuring less than 15%.
- (c) Slope shall be identified from a topographic survey of the existing conditions prior to any disturbance based on contour lines separated by intervals of no greater than two feet. The survey shall be prepared by an engineer or land surveyor licensed in the State of New York. For the purpose of measuring steep slopes around retaining walls, an area shall be delineated by a line around the retaining wall at a distance equal to the height of the wall at the nearest point, and the area within this line shall be deemed to constitute a slope of 100% grade.
- (d) Existing vegetation determined to be important for soil erosion control, water quality protection, shade, screening and other values on the protected land shall not be disturbed. Erosion and sediment control plans shall be consistent with Kingston and New York Department of Environmental Conservation guidelines.
- (e) No porches, fire escapes, cornices, eaves, cantilevers, balconies or similar projections shall extend over land protected as per Subsection B.

**C. Stream & Wetlands Buffer Regulations**

**1. Legislative Findings and Intent**

The City Council finds and declares it to be the public policy of the City to preserve, protect and conserve the wetlands, water bodies and watercourses in the City and the benefits derived therefrom, to prevent the despoliation and destruction and to regulate the use and development thereof to secure the natural benefits of wetlands, water bodies and watercourses consistent with

the general welfare and beneficial economic and social development of the City. In this connection, the City council finds as follows:

- (a) Freshwater wetlands are invaluable resources for flood and storm control, fish and wildlife habitat, protection and provision of groundwater, recreation, pollution treatment, erosion control, environmental education and open space.
- (b) The preservation and maintenance of wetlands, water bodies and watercourses in an undisturbed and natural condition constitute important physical, ecological, social, aesthetic, recreational and economic assets necessary to promote the health, safety and general welfare of present and future residents of the City and of downstream drainage areas.
- (c) It is the intent of this chapter to implement the Freshwater Wetlands Act of the State of New York as presently contained in article 24 of the Environmental Conservation Law, as the same may be amended from time to time, to the extent that said Freshwater Wetlands Act applies to property within the City, and to promote the public purposes identified therein and in this section by providing for the protection, preservation, proper maintenance and use of the City's wetlands, water bodies and watercourses by preventing or minimizing erosion due to flooding and stormwater runoff, by maintaining the natural groundwater supplies, preserving and protecting the purity, utility, water retention capability, ecological functions, recreational usefulness and natural beauty of all wetlands, water bodies, watercourses and other related features of the terrain and by providing and protecting appropriate habitats for natural wildlife.

**Delineation of Wetlands:** For the purpose of this chapter, wetlands are defined as all lands and waters of the City, including but not limited to any such lands and waters hereafter designated on the State Wetlands Map,

which have a contiguous area of at least 1/10 of an acre and which contain any or all of the following:

- (a) Lands and submerged lands commonly called marshes, swamps, sloughs, bogs and flats, whether flooded at all times, flooded only seasonally or having a water table during at least three consecutive months of the year within six inches of the ground surface or supporting aquatic or semi aquatic vegetation of the types listed in §24-0107, Subdivision 1(a), of Article 24 of the environmental Conservation Law.

The common names of these vegetative types are:

- (i) Wetland trees, which depend upon seasonal or permanent flooding or sufficiently waterlogged soils to give them a competitive advantage over other trees, including among others, red maple, willows, black spruce, swamp white oak, red ash, black ash, silver maple, American elm and larch.
- (ii) Wetland shrubs, which depend upon seasonal or permanent flooding or sufficiently waterlogged soils to give them a competitive advantage over other shrubs, including, among others, alder, buttonbush, bog rosemary, dogwoods and leatherleaf.
- (iii) Emergent vegetation, including among others, cattails, pickedrelweed, bulrushes, arrow arum, arrowheads, reed, wild rice, bur reeds, purple loosestrife, swamp loosestrife and water plantain.
- (iv) Rooted, floating-leaved vegetation, including among other, water lily, water shield and spatterdock.
- (v) Free-floating vegetation, including among others, duckweed and watermeal.
- (vi) Wet meadow vegetation, which depends upon seasonal or permanent flooding or sufficiently waterlogged soils to give them a competitive advantage over other open land vegetation; including, among others, sedges, rushes, cattails, rice cut-grass, reed conary grass, swamp loosestrife and spike rush.



(vii) Bog mat vegetation, including, among others, sphagnum mosses, bog rosemary, leatherleaf, pitcher plant and cranberries.

(b) Lands and submerged lands containing remnants of any vegetation that is not aquatic or semi aquatic that has died because of wet conditions over a sufficiently long period, provided that such wet conditions do not exceed a maximum seasonal water depth of six feet and provided, further, that such conditions can be expected to persist indefinitely, barring human intervention.

(c) Lands and water substantially enclosed by aquatic or semi aquatic vegetation as set forth in this chapter or by dead vegetation as set forth in this chapter which is necessary to protect and preserve the aquatic and semi aquatic vegetation.

(d) Lands and submerged lands containing poorly drained soils, as defined by the United States Department of Agriculture including, but not limited to, the following: (to be added)

1. Regulated Activities

Except as provided in this chapter, it shall be unlawful to conduct, directly or indirectly, any of the following activities upon any wetland, water body or watercourse or within 100 feet of the boundary of any wetland, water body or watercourse unless a permit is obtained pursuant to the requirements of this chapter.

(a) Any form of drainage, dredging, excavation or removal of material, except removal of debris or refuse.

(b) Any form of depositing of any material such as, but not limited to, soil, rock, debris, concrete, garbage, chemicals, etc.

- (c) Erecting any building or structure of any kind, rods, the driving of pilings or placing of any other obstructions, whether or not they change the ebb and flow of the water.
- (d) Installing a septic tank, running a sewer outfall, discharging sewage treatment effluent or other liquid waste into or so as to drain into any wetland, water body or watercourse.
- (e) Any other activity which substantially impairs any of the several functions served by wetlands, water bodies and watercourses or the benefits derived therefrom as set forth in this chapter.

## 2. Activities Permitted by Right

The following activities are permitted by right within or adjoining any wetland, water body or watercourse, except where the Planning Board submits written notification to the property owner that it is assuming jurisdiction over the activity for the purpose of assuring that the intent of this section is not violated:

- (a) The depositing or removal of the natural products of the wetlands, water bodies or watercourses by recreational or commercial fishing, agriculture, hunting or trapping where otherwise legally permitted.
- (b) Outdoor recreation activity that does not materially alter the natural state of the land or require construction, including use of field trails for nature study, hiking or horseback riding, swimming, skin diving and boating, where otherwise legally permitted.
- (c) Grazing, farming and harvesting of crops where otherwise legally permitted; provided, however, that any tillage of soil shall leave an undisturbed strip not less than six feet wide at the edge of any wetland, watercourse or water body to prevent erosion. With respect to any properties designated on the State Wetlands Map, the activities of

farmers and other landowners in grazing and water livestock, making reasonable use of water resources, harvesting natural products of the wetlands, selectively cutting brush and timber, draining land or wetlands for growing agricultural products and otherwise engaging in the use of wetlands or other land for growing agricultural products shall be excluded from regulated activities and shall not require a permit under this chapter, except that structures not required for the enhancement or maintenance or the agricultural productivity of the land and any filling activities shall not be excluded hereunder, and provided that the use of wetlands, water bodies and watercourses for uses other than those referred to in this subsection shall be subject to the provisions of this chapter. L Each farmer or landowners who intends to conduct an activity described in this subsection which would otherwise be regulated shall notify the Planning Board, in writing of his intention to engage in such activity, stating the approximate acreage to be affected, the general location thereof, the use or uses to be made of such land and the methods to be employed.

- (d) Gardening where otherwise legally permitted; provided, however, that any tillage of soil shall leave an undisturbed strip not less than six feet wide at the edge of any wetland, watercourse or water body to prevent erosion.
- (e) Operation and maintenance of such dams, retaining walls, terraces, sluices, culverts or other water control structures or devices as legally existed on the effective date of this section.
- (f) Public health activities as exemplified by orders and regulations of the Ulster County Department of Health. The Department of Health shall notify the Planning Board, in writing, of the proposed activity it will undertake.

- (g) Any actual and ongoing emergency activity as defined by the Board of Trustees which is immediately necessary for the protection and preservation of life or property or the protection or preservation of natural resource values.

### 3. Prohibited Acts

Except as hereinafter provided, it shall be unlawful for any person, firm, entity or corporation to:

- (a) Place, deposit or permit to be placed or deposited any debris, fill, sand, stone or other solid materials of any kind or nature or construction of any kind into or across any stream, pond, ditch, culvert, pipe, watercourse or other drainage system, whether artificial or natural, shown on the Official Map.
- (b) Construct and/or place any ditch, pipe, culvert or artificial watercourse of any kind or nature which shall collect and direct the flow of natural surface waters or drainage or increase in intensity or quantify the flow of surface waters or drainage from paved surfaces, structures, roads or improvements directly into any stream, pond, ditch, culvert, pipe or watercourse or other drainage system shown on the Official Map.
- (c) Fill, obstruct, dam, divert or otherwise change or alter the natural or artificial flow of waters or drainage or the intensity or quantify of flow, through any stream, ditch, pipe, pond, culvert, watercourse or other improvement or drainage system shown on the Official Map

### 4. Procedure

- (a) Applications for Permits.

Any person proposing to conduct or cause to be conducted a regulated activity specified in this chapter upon any wetland, water body or watercourse shall file four copies of an application for a permit with the

Planning Board as provided in this section. Such application shall include the following information:

- (i) Name and address of the applicant and the applicant's agent, if any, and whether the applicant is owner, lessee, licensee, etc. If the applicant is not the owner, the written consent of the owner must be attached.
- (ii) Street Address and Tax Map designation of the subject property.
- (iii) A detailed description of the specific purpose, nature and scope of the activity proposed.
- (iv) A map showing the area of wetland, water body or watercourse directly affected.
- (v) A topographical and perimeter survey, hydrological computation, engineering studies and other factual or scientific data and reports as deemed necessary by the Planning Board to permit it to .....
- (vi) In the case of applications affecting water retention capability, water flow or other drainage characteristics of any wetland, water body or watercourse, the Planning Board may require the inclusion of a statement of the area of upstream and downstream watersheds, impact analysis and information as to rainfall intensity in the vicinity for not less than a ten-year return frequency, together with approximate runoff coefficients to determine the capacity and size of any channel sections, pipes or waterway openings, together with plans for necessary bridges, culverts, stormwater or pipe drains that, in the opinion of the Planning Board, are needed to arrive at a proper determination on the application, consistent with the purposes of this chapter.

The applicant shall request a field determination of the affect area by the City Engineer prior to mapping. The City Engineer shall submit a written report to the Planning Board on this determination.

(b) Public Hearing

No sooner than 30 days and not later than 60 days after the receipt of such application and publication of notice of application as required herein, the Planning Board shall hold a public hearing on any application submitted pursuant to this chapter. The Planning Board shall cause notice of such hearing to be published in the official newspaper at least 10 days prior to the date set for such hearing. All owners of record within 500 feet of the perimeter of the property shall be notified of the hearing by certified mail, return receipt requested, not less than 15 days prior to the date set for such hearing. The applicant shall be responsible for the mailing of such notices and shall file with the Planning Board an affidavit of mailing at or prior to the public hearing. All applications and maps and documents relating thereto shall be open for public inspection at the office of the City Clerk. At such hearing, any person or persons filing a request for a hearing or a timely notice of appearance may appear and be heard.

(c) Planning Board Action

Within 75 days of the date the application is submitted or within 45 days of the date of any public hearing which may be conducted or said application, whichever period is shorter, the Planning Board shall render a decision to approve, approve with modifications or disapprove the issuance of a permit for the proposed activity. The decision of the Planning Board shall be made by written resolution stating the findings and reasons for such decision.

5. Standards for Granting Permits

- (a) The applicant shall have the burden of demonstrating that he proposed activity will be in accord with the policies and provisions of this chapter.
- (b) In granting, denying or limiting any permit, the Planning Board shall consider the effect of the proposed activity with reference to the public health and welfare, fishing, flood, hurricane and storm dangers and the protection of enhancement of the several functions of the wetlands and the benefits derived therefrom as set forth in this section, irrespective of political boundaries.
- (c) The Planning Board may grant a permit, subject to such terms and conditions as it shall reasonably impose upon finding that such activity is not contrary to the purposes of this chapter. Said Board may also, in its discretion, permit any activity otherwise prohibited by this chapter to be done, except with respect to property designated on the State Wetlands Map or otherwise regulated by the state, provided that the Planning Board determines after investigation that to prohibit such activity would cause undue hardship to the property owner in granting a permit, the Planning Board may limit the same or impose conditions or limitations designed to carry out the public policy set forth in this chapter. The Planning Board may require a bond in an amount and with surety and conditions satisfactory to it securing to the State of New York or the City, as the case may be, compliance with the conditions and limitations set forth in the permit. The Building Inspector, with the concurrence of the City Engineer, may suspend or revoke a permit if he finds that the applicant has not complied with any of the conditions or limitations set forth in the permit or has exceeded the scope of the activity as set forth in the application. The Building Inspector may suspend the permit if the applicant fails to comply with the terms and conditions set forth in the application.

6. Appeals

Review of the determination of the Planning Board shall be, within a period of 30 days after the filing thereof, pursuant to the provisions of Title II of Article 24 of the Environmental Conservation Law of the State of New York or pursuant to the provisions of Article 78 of the Civil Practice Law and Rules with respect to the properties designated on the State Wetlands Map or otherwise regulated by the state.

7. Fees

All applications for a Wetlands permit shall be accompanied by a fee in accordance with the Fee Schedule adopted by the City Council.

8. Applicability; Prevalence of More Protective Standards

(a) The requirements of this chapter shall not apply to any work shown on construction drawings or improvement plans for subdivisions or site plans approved by said Planning Board.

(b) Where this chapter is less or more protective of the environment than the Environmental conservation Law of the State of New York or any local law or ordinance of the Ulster County or the City, the law or ordinance that is more protective of the environment shall prevail.

9. Penalties for Offenses

Pursuant to Title 23 of Article 71 of the Environmental conservation Law, the following penalties shall apply:

(a) Any person who violates, disobeys or disregards any provision of this chapter shall be liable for a civil penalty not to exceed \$\_\_\_ for every such violation. Before assessment of the civil penalty, the alleged violator shall be afforded a hearing or opportunity to be heard before the Planning Board upon due notice, and with rights to specification of the charges and representation by counsel.



- (b) The Planning Board shall also have the power, following a hearing, to direct a violator to cease violation of this chapter and, under the Board's supervision, to satisfactorily restore the affected freshwater wetland or watercourse to its condition prior to the violation, in so far as that is possible, within a reasonable time and under the supervision of the Planning Board.
- (c) Any civil penalty or order issued by the Planning Board shall be reviewable pursuant to Article 78 of the Civil Practice Law and Rules.
- (d) In addition to the above civil fine, any person who violates any provision of this chapter shall be guilty of a violation pursuant to the Penal Law punishable by a fine of not less than \$\_\_\_\_ nor more than \$\_\_\_\_. For a second and each subsequent offense, the violator shall be guilty of a misdemeanor punishable by a fine of not less than \$\_\_\_\_ nor more than \$\_\_\_\_ or a term of imprisonment of not less than 15 days nor more than 6 months, or both. Each offense shall be a separate and distinct offense and, in the case of a continuing offense, each day's continuance thereof shall be deemed a separate and distinct offense. Instead of these punishments, any offender may be punishable by being ordered by the court to restore the affected freshwater wetland to its condition prior to the offense, insofar as that is possible. The court shall specify a reasonable time for the completion of such restoration, which restoration shall be affected under the supervision of the Commissioner of the Department of Environmental Conservation or of the City. Each offense shall be a separate and distinct offense and, in the case of a continuing offense, each day's continuance thereof shall be deemed a separate and distinct offense.

- (e) The Planning Board shall have the right to seek equitable relief to restrain any violation or threatened violation of any provision of this chapter.

#### 10. Enforcement

The Code Inspector or Building Inspector shall issue and post notices of violations of this chapter. In addition, by resolution, the Board of Trustees may direct the Code Inspector or Building Inspector to make such inspection and reports, initiate and take such court proceedings and perform all other actions as required by the City Council as may be necessary to enforce this chapter or to invoke penalties for its violation.

#### 11. Definitions

For the purpose of this chapter, certain words and terms used herein are defined as follows:

*(Note: If the Committee wishes to proceed with this, the definitions will be coordinated with the remainder of the Zoning Code.)*

##### **Board of Appeals**

The Board of Appeals of the City.

##### **Boundaries of a Water Body or Watercourse**

The outer limit of the vegetation specified in \_\_\_\_\_ of this chapter, or of the land and waters specified in \_\_\_\_\_ or of water bodies and watercourses or of the soils specified in \_\_\_\_\_.

##### **Building**

Any structure having a roof, self-supporting or supported by columns or walls, which is permanently affixed to the ground,

and intended for the shelter, housing or enclosure of persons, animals or chattel.

**Building Inspector**

**The Building Inspector of the City.**

**City Council**

The City Council for the City

**City Engineer**

The City Engineer of the City

**Code Inspector**

The Code Inspector of the City.

**Deposit**

To fill, place, eject, discharge or dump any material but not including stormwater.

**Material**

Soil, stones, sand, gravel, clay, bog, peat, mud, debris and refuse or any other organic or inorganic substance, whether liquid, solid or gaseous or any combination thereof.

**Planning Board**

The Planning Board of the City.

**State Wetlands Maps**

The wetlands map prepared by the State of New York pursuant to Article 24 of the Environmental Conservation Law.

**Structure**

Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground. Included are swimming pools, parking garages and tennis courts, but not anything requiring only simple paving or surfacing of the ground such as parking lots, driveways or sidewalks.

**Water Bodies**

Any body of standing water which is not dry more than three months of the year as computed from the average of the last two consecutive calendar years and which, when wet, is customarily more than 500 square feet in water surface area.

**Watercourses**

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Any body of flowing water flowing in an identifiable channel or course and which is not dry more than three months of the year.

**Wetlands**

As defined in \_\_\_\_\_ of this chapter.

### **III.C.4**

## **Historic Preservation and Design Review Standards and Procedures**

### **III.C.5**

#### **Urban Agriculture Standards**

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