

ARTICLE VII
Planning Board Powers, Duties and Functions

§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 an application for a special permit , the City Planning Department staff is authorized to review and approve or deny the following site plan applications:
- (1) New residential development of three 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 two thousand (2,000) square feet of gross floor area if not within one hundred (100) feet of a residential zoning district.
 - (b) Less than one thousand (1,000) 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 less than one thousand (1,000) 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 special use permit, the site plan shall be reviewed and approved or denied in accordance with the procedure set forth as part of the special use permit 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 staff 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. An appeal by an aggrieved person of a decision of the Planning Department relating to a site plan may be filed with the City Clerk's Office within ten (10) days of the Department's decision. The Planning Board shall hold a public hearing within 30 days of such appeal 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 cancellation of any condition placed upon the site plan as originally approved;
 - (f) Does not substantially change the internal or external traffic patterns;
 - (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 one, two or three family residences, those listed in Section C. above and those set forth 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. (Note: This should be further explained)
- (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. 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 except as provided in C.(7) above.
- (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

ordiscourage 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-, as determined during the presubmission conference.

D. I When 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.

§405- 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.

405- 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.

405 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 funds in escrow sufficient 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.