

**New York State Quality Review Act**  
**Statement of Findings**  
**For the**  
**Form Based Code Rezoning of the City of Kingston, NY**

Pursuant to Article 8 of the Environmental Conservation Law and NYCRR Part 617 of the State Environmental Quality Review Act (SEQRA), the Common Council of the City of Kingston, as Lead Agency, makes the following Findings.

**DATE: August 1, 2023**

**NAME OF ACTION:**

Form Based Code Rezoning of the City of Kingston, NY

**DESCRIPTION OF ACTION**

The proposed action being evaluated is the adoption of:

The City of Kingston plans to replace its existing zoning with a Form Based Code (FBC). The City's 'Kingston Forward: Citywide Rezoning' project website for this rezoning is at: <https://engagekingston.com/kingston-forward>

An updated Zoning Map referred to as the "Regulating Map" updates and replaces the City's existing zoning map by introducing new transect zoning districts.

A Form Based Code focuses primarily on the physical form of development (rather than land use) and can be used to implement a desired community vision. Land uses are still regulated, but more flexibility regarding use is built into the code, and the rules are based on context – the type of place or environment you are trying to create. Form Based Codes make development more predictable, promote better design, and are simpler, so it is easier for people to use the code and understand what it allows.

The existing zoning is outdated and focuses on regulating uses (less so than design and impacts) and it is characterized as auto-oriented and conducive to sprawl. Kingston's existing zoning law dates from the 1960's. It has been amended in pieces and can be confusing and unclear. The existing zoning does not align well with Kingston's historic building tradition, when a large number of existing, highly characteristic and uniquely positioned and grouped buildings were established prior to the advent of zoning. The existing zoning often requires large setbacks between streets and buildings, and excessive minimum parking requirements in urban contexts. Combined these rules have exacerbated auto-dependency and unsustainable

land-use patterns. Aspects of the existing zoning code are generally organized in a way that is not aligned with current community needs and values.

The proposed zoning standards will guide the physical form of development in a way that will support the replication and enhancement of historic development patterns throughout the city. The FBC supports complete streets that link and respect neighborhood context with accommodations for multiple user groups, with improved ability for people to walk, bicycle, or use transit, as well as automobiles. In addition, the proposed FBC addresses a variety of community needs, including the necessity for greater housing options to service the many different needs that extend across this City.

The FBC focuses on guiding the physical pattern of land use as a means to implement the community vision for growth as expressed in the Comprehensive Plan. This Form Based Code is graphically rich, which aids in its ease of use and interpretation. This FBC is also organized to make development more predictable and provide for better design outcomes.

#### **AGENCY JURISDICTION:**

No other agency other than City Common Council can approve or directly undertake this Action; through the coordinated review process, multiple involved and interested agencies were provided copies of this document. Other agencies deemed “involved” includes those agencies that have required referral status under NYS or locally adopted laws. The following agencies have been notified and been provided access to all SEQRA materials.

- City of Kingston Common Council, Lead Agency
- City of Kingston Planning Board ·
- City of Kingston Heritage Area Commission ·
- City of Kingston Landmarks Preservation Commission ·
- City of Kingston Board of Water Commissioners ·
- City of Kingston Local Development Corporation ·
- City of Kingston Zoning Board of Appeals ·
- City of Kingston Parks & Recreation Commission ·
- Ulster County Planning Board ·
- Ulster County Department of Public Works ·
- Ulster County Industrial Development Agency ·
- Ulster County Transportation Council ·
- Hudson Valley River Greenway ·
- New York (NY) State Department of State ·
- NY State Department of Environmental Conservation ·
- NY State Department of Transportation ·
- NY State Office of Parks, Recreation & Historic Preservation - State Historic Preservation Office (SHPO).

## **LOCATION OF ACTION:**

City of Kingston, NY.

## **FOR ADDITIONAL INFORMATION PLEASE CONTACT:**

Bartek Starodaj  
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City of Kingston  
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## **PROCEDURAL HISTORY**

The City Common Council conducted the following steps per SEQRA Regulations 6 NYCRR Part 617 regulations:

- On April 5, 2022, the City Common Council:
  - Declared their intent as Lead Agency for the action and a coordinated review was carried out with identified involved and interested agencies.
  - Completed Parts 1, 2, and 3 of a Full Environmental Assessment Form (FEAF), and determined the Action is a legislative action and, thus, declared the City Common Council as Lead Agency.
  - Classified this Project as a Type 1 Action in accordance with SEQRA regulation NYCRR 617.4(b)(2), since the adoption of the Form Based Code (FBC), is a type of zoning, with prescribed land use components and/or recommend zoning changes covering 25 or more acres.
  - The Common Council reviewed the FEAF as part of making a SEQRA Determination of Significance and issued a Positive Declaration specifically determining that a Generic Environmental Impact Statement (GEIS) is required for the analysis of the proposed FBC.
  - Public involvement was ensured during the process through timely publications in the Environmental Notice Bulletin (ENB) and local newspaper of a notice for: the Positive Declaration; the release of a Draft Scoping Document; and for identification of the intent to hold a scoping session and receive comments on the Draft Scoping Document.
  - A Draft Scoping Document was issued and a date was set for the Public Scoping Session.
  - Distribution of a notice of the Public Scoping Session went to potentially involved and interested agencies and adjacent jurisdictions, and such determinations were published in the Environmental Notice Bulletin (ENB) and local newspaper.
- On April 21, 2022, the Common Council:
  - Conducted a Public Scoping Session in Kingston City Hall over publicly accessible teleconferencing software. There were four (4) commentors at that meeting and multiple written communications received after the meeting.

- Public comments, both written and in-person at the scoping meeting were received on the Draft Scoping Document up through May 2, 2022.
- On June 7, 2022, the Common Council:
  - Adopted by resolution the Final Scoping Document. This Final Scope was subsequently distributed to all involved and interested entities and posted to the Environmental Notice Bulletin (ENB) and the City's website. See DGEIS Appendix B for the Final Scoping Document.
- On March 7, 2023, the Common Council:
  - Accepted by resolution the DGEIS for public review.
  - Set the public hearing date for the DGEIS for March 23, 2023.
  - Set the close of the public comment date on April, 10, 2023, or 10 days after the close of the public hearing whichever was later.
- On March 23, 2023, the Common Council:
  - Held the public hearing on the DGEIS.
- On April 11, 2023, the Public Comment period closed on the DGEIS. However, as a courtesy to involved agencies that requested more time to submit comments, the Common Council agreed. Also included was a review letter sent to the Common Council by Ulster County Planning Department prior to the formal adoption of the DGEIS.
- On July 11, 2023, the Common Council determination that the FGEIS adequately responds to all public comments received during the public comment period for the DGEIS and provided a copy to all other involved and interested agencies for an opportunity to review and comment for 10 days.
- On August 1, 2023, the Common Council adopted this finding statement, which closes the SEQRA process.

The City will post all mandatory submittals and documents required to support the SEQRA process online at the *Engage Kingston Website* <https://engagekingston.com/kingston-forward>, and also provide a copy for public review at the Clerk's Office.

**Comments Submitted during the Public Comment Period on the DGEIS:** The public comment period began with the acceptance of the DGEIS on March 7, 2023 and ended 11 days after the close of the public hearing

- Public Hearing Comments from the March 23, 2023 public hearing on the Draft Generic Environmental Impact Statement for the Form Based Code Rezoning of the City of Kingston
- Ulster County Planning Board, Letter dated February 1, 2023
- Written Comments from Eileen Katatsky, dated March 23, 2023
- Letter from Nanette Bourne, Principal, of the NHB Planning Group, LLC dated April 10, 2023

- Letter from Sara McIvor, Historic Site Restoration Coordinator, New York State Parks, Recreation, and Historic Preservation, dated April 6, 2023
- Letter from Bartek Starodaj, Director, City of Kingston Office of Housing Initiatives, dated April 10, 2023.
- Written comments from Robert Iannucci submitted via email on February 17, 2023 and resubmitted on April 6, 2023
- Written comments submitted by Sara Wenk, dated March 24, 2023.
- Written comments submitted by Rebecca Martin, dated April 9, 2023.
- Written comments submitted by Giordano Rodriguez, dated April 10, 2023.  
Undated written comments submitted by Michael Kodransky, dated April 10, 2023.
- Letter submitted by Suzanne Cahill, City of Kingston Planning Director on behalf of the Historic Landmark Preservation Council, dated April 11, 2023.
- Letter submitted by Suzanne Cahill, City of Kingston Planning Director on the Planning Board, dated April 19<sup>th</sup>, 2023.

### **FINDINGS OF THE CITY OF KINGSTON COMMON COUNCIL**

This findings statement set forth the conclusions that have been relied upon by the City Common Council, as Lead Agency in its decision that:

- The City of Kingston Common Council, as Lead Agency has considered the Draft Generic Environmental Impact Statement and the Final Generic Environmental Impact Statement and has carefully considered the written facts and conclusions contained herein.
- Consistent with a Generic Review of the Proposed Form Based Zoning Code, the analysis performed in the GEIS examines potential environmental impacts of adopting the Form Based Zoning Code to replace the Current Zoning Code, and studies conducted in the GEIS were reasonable considering that no formal applications have been presented to the City of Kingston applying the code to specific sites, and further SEQRA review shall be required once formal applications are submitted.
- Consistent with the social, economic, and other essential considerations, including the adopted Comprehensive Plan for the City of Kingston, and considering reasonable alternatives as described in the GEIS, the proposed action minimizes or avoids adverse environmental effects to the maximum extent practicable.
- Consistent with the social, economic, and other essential considerations including the adopted Comprehensive Plan for the City of Kingston, and to the maximum extent practicable, adverse environmental effects revealed in the GEIS will be minimized or avoided by incorporating as a condition to the decision those mitigative measures that were identified as practical.

## **FACTS AND CONCLUSIONS RELIED UPON TO SUPPORT THIS DECISION**

The City of Kingston Common Council hereby makes the following findings which includes facts and conclusions stated in the Generic Environmental Impact Statement (DGEIS, FGEIS, Final, and addenda described herein) and received at the public hearing in support of these findings, as well as social, economic, and other factors and standards. Findings are organized by Section of the DGEIS. Please refer to the DGEIS for the discussion of the Existing Conditions, Potential Impacts, and Proposed Mitigation.

Because this examination of the potential impacts is assessed as a generic review, all projects submitted for review would be required to adhere to any conditions established by this findings statement, and would be required to conduct a site-specific review of the environmental impacts of their project, as would be required by the Planning Board.

### **Geology, Soils & Topography (Section 4.1 of the DGEIS)**

The proposed FBC seeks to provide more support for preservation of natural areas, and allow more housing opportunities in areas that are previously developed, and create a walkable community with access to multiple modes of transportation (walking, biking, transit and automobiles). Because of the focus of development intensity in areas previously developed (and removal of barriers to infill development in those areas), the overall development footprint is would be less than if current trends continue under the existing zoning. Regulations have been imposed to protect sensitive natural resources including steeply sloped areas, wetlands, and those areas identified as important because of their unique geological features, such as Rondout Creek and the Hudson Riverfront. And finally, this code does not replace any of the provisions adopted by the City in Chapter 353, Stormwater Management & Erosion and Sediment Control, which requires local review of the SWPPP of projects that are larger than one acre. No further mitigation is required for impacts to Geology, Soils and Topography.

### **Plants & Animal Resources (Section 4.2 of the DGEIS)**

The proposed FBC is consistent with currently adopted citywide policies of the current Open Space Plan, which seeks to protect and support natural habitat in the City. Those areas that are identified as most sensitive or areas that require rehabilitation are included in the least dense conservation and natural transect areas, and the Waterfront Overlay (Section 405.15 of the FBC) provides standards for development in areas that could have potential impact to water quality, fish, and wildlife, vegetation, stability, and water flow. This zoning revision also prohibits heavy industrial uses and onsite sewage disposal systems in the vicinity of the waterfront. All projects submitted for approval would require a site-specific review of the project's potential environmental impact and would also require compliance with the current Local Waterfront Revitalization Program and would need to confirm whether permits are also required from the U.S. Army Corps of Engineers and/or NYDEC. No further mitigation is required for impacts to Plants and Animal Resources.

### **Water Resources (Section 4.3 of the DGEIS)**

The proposed FBC, when compared to current zoning, provides design standards that are more protective of the water resources than the current zoning code. The code includes a Waterfront Overlay with standards such as elimination of open storage near water resources that could contribute to the contamination of

waterways. It encourages the use of open drainage designs, when possible, to encourage more natural overland drainage flows; street planting areas; and more compact building footprints that will increase infiltration as much as practicable. In addition, uses that were incompatible with environmental conditions of the waterfront in terms of water quality or aesthetics, are not permitted under the FBC and phased out when possible.

All projects submitted for approval would require a site-specific review of the project's potential environmental impact and would also require compliance with the current Local Waterfront Revitalization Plan and would need to confirm whether permits are also required from the U.S. Army Corps of Engineers and/or NYDEC. No further mitigation is required for impacts to Water Resources.

### **Open Space & Recreation (Section 4.4 of the DGEIS)**

The FBC encourages the enhancement and development of parks and green spaces within the City of Kingston, which contains three core open space/natural areas surrounding the Hudson River, Rondout Creek, and Esopus Creek Corridor, and associated shorelines and surrounding lands of those prominent natural features. The FBC prescribes open spaces within residential areas by requiring usable open spaces (which may include greens, public squares, plazas, pocket parks and community gardens and trails) with developments of 4 or more units to support the increased number of residents. The code also encourages connectivity of open space resources within large site developments, as envisioned in the City of Kingston's Open Space Plan.

When site specific applications are received, all applicants will be required to address the need for open spaces when applicable through the Planning Board review, and the required SEQRA review. No further mitigation would be required for impacts to Open Space and Recreation.

### **Land Use & Zoning (Section 4.5 of the DGEIS)**

Since the proposed action is the adoption of the FBC, and not a construction project, the adoption of the FBC itself will not have any immediate impact on land use, but on land use development potential. The current code has shown to be an impediment on the development needs in the City of Kingston and does not allow for enough growth in affordable housing units. The zoning potential analysis found that although the proposed regulations increased potential for housing, the development footprint would be less; this is because the code removes barriers to compact infill development, such as replacing limits on the number of units per lot with building form standards (which regulate height and footprint), removing minimum parking requirements, and allowing accessory dwelling units. Growth is channeled to areas that allow the greatest intensity and mix of uses (T-4 and T-5 zones) to facilitate walkability, less dependence on cars, and a more sustainable development form. The removal of minimum parking standards will reduce underutilized parking within these more densely populated areas, and facilitate infill and reuse of historic buildings, support walkability, encourage small business growth, and reduce impervious surface areas as well. The proposed FBC is more likely to encourage infill and redevelopment of areas that are already more densely developed, with incentives such as the Broadway/Cornell Height Overlay and bonus height in exchange for affordable housing, providing more housing choices that meet the needs of more household types.

When site specific applications are received by the Planning Board, the required review will ensure that the use of the FBC achieves the goals set by the City, relative to the goals of providing livable and efficient

land use patterns that discourage sprawl, and to ensure that all new construction is served by appropriate utilities and infrastructure. No further mitigation would be required for impacts to Land Use and Zoning.

### **Historic & Archeological Resources (Section 4.6 of the DGEIS)**

As a participant in the Certified Local Government Program (CLG), the City of Kingston is required to submit any changes to the proposed Historic Landmark Preservation regulations to the State Office of Parks Recreation and Historic Preservation (OPRHP) for review, or risk jeopardizing their benefits under the CLG program. The current regulations under Article IX Historic Landmarks Preservation Commission were incorporated into the code and contains the same process and standards as the Proposed FBC. The code revision has been sent to the OPRHP for review as required under the terms of the CLG program, and any required changes will be incorporated into the final FBC prior to adoption.

Site specific applications will be continued to assess the impacts on Historic properties under this program, whether they are proposed changes to the property, or are part of the visual context of the historic property (e.g. adjacent or nearby the historic properties.). No further mitigation would be required for impacts to Historical and Archeological resources.

### **Socioeconomics (Section 4.7 of the DGEIS)**

The adoption of the FBC will positively impact the supply of housing and its affordability to middle- and lower-income families identified in the DGEIS. The creation of new affordable housing especially benefits those families who rent, which have seen their household incomes shrink and housing costs rise during the COVID-19 Pandemic. In addition, the FBC would allow multi-modal transportation options (including transit, walking, biking, etc.) to become a more viable option for residents to get to work and obtain goods and services in their neighborhoods. This contrasts with the current zoning which favors automobile-dependence and larger areas devoted to single uses within the city.

The FBC requires that all new housing projects provide affordable housing units or pay a fee in lieu of fulfilment of affordable housing units, which will allow the City to support the development of affordable units elsewhere. In addition, the removal of impediments to infill and allowance of more housing units within the T-4 and T-5 transect districts will increase the value and tax revenue from buildings within those districts, which will support the efficient provision and maintenance of utilities and public services in areas where they are already provided.. Based on this rationale, no mitigation is necessary.

### **3.8 Multimodal Transportation & Parking (Section 4.8 of the DGEIS)**

By fostering land use development and street layouts that are comfortable for pedestrians, the FBC prioritizes walkability in its street design standards. In addition, the FBC supports multiple modes of transportation and provides for a balanced transport environment that aids the movement of freight and a continuing role for private automobiles.

Existing surveys within the City of Kingston indicate that 5% of the households in Kingston do not have a car, and 35% of the households only have access to one car. Surveys predict the trend toward less reliance on cars is expected to get stronger in Kingston, and the FBC is responsive to the needs of the community to have some destinations that are easily reached without use of a personal car.



The application of the complete streets standards would sometimes require adjustments when site-specific applications are before the Planning Board. The FBC allows for these adjustments through the Complete Streets Advisory Council, which supplies advice on site-specific design standards. No further mitigation would be required for impacts on Multimodal Transportation and Parking.

### **3.9 Consistency with Community Character (Section 4.9 of the DGEIS)**

As discussed in the DGEIS, adopting the FBC is consistent with the adopted Plans and Policies that move the City toward its goals of embracing smart growth development with areas of mixed-use development within the City center, promotion and retention of the City’s historic resources, and proactively improving areas where infrastructure is currently provided instead of encouraging new development of these services within undeveloped areas, which are to be preserved as open space or low-density.

The rezoning is based on identified “transects” which organize the city into areas of the lowest intensity / natural areas (Transect 1) to the urban core of the community (Transect 5). This is explained in detail in the DGEIS.

It is the goal of the City in this zoning revision to increase the options available for housing, since lack of suitable housing and a predominance of low housing densities can lead to inflated housing costs, which leads to unaffordability for many of the residents. Even though an increase in the total number of housing units would be allowed under the FBC, the majority of these residences will be located in transects with existing services that can be improved, and greater opportunity for alternate transportation can be provided to work and other services needed by families without having to invest in a personal car. The process required for reviews built into the code, including additional protection for sensitive habitats and the historic legacy of Kingston, will ensure that sufficient protections will be in place. Overall, the character of Kingston will be enhanced under the FBC compared with the existing zoning because the FBC contributes to a predictable and highly characteristic public realm based on historic precedent and provides the guidance needed to create a more vibrant mixed-use community. Considering the consistency with the goals of the City, no mitigation is necessary.

### **3.10 Energy Use, Air Resources & Noise (Section 4.10 of the DGEIS)**

The FBC will generate residential land use and commercial development that is less likely to contribute to sprawl encouraged by the current zoning code. Currently, 60% of all carbon emissions from transportation in the United States is produced by personal vehicles. Reducing vehicle miles travelled is the most effective method to reduce carbon emissions in our communities. Under the FBC, increased densities are permitted in the core of the city, where redevelopment will result in a community that will encourage additional forms of transportation, including walking, biking, or transit. This shift to more compact building forms and energy efficient forms of transportation is expected to have a positive effect on the use of energy, air quality and noise. Based on the assessment in the DGEIS, there is no need for further mitigation.

### **3.11 Community Services & Infrastructure (Section 4.11 of the DGEIS)**

This section discusses impacts on water, sewage treatment, stormwater and the conveyance systems of each service. The DGEIS discloses that there is sufficient capacity to accommodate the water and sewer needs of proposed increase of residential dwellings if the FBC is adopted, however, the DGEIS also notes that it

would likely max out the current capacity of these systems, and it would be likely that delivery systems would need improvement and replacement in some cases.

The actual increase in the number of allowable units would occur over time, allowing time to make necessary improvements to the delivery and assure that sufficient capacity would be available during the review of site-specific projects. Stormwater infrastructure would also be required to be assessed on a project-by-project basis, especially in light of the City's goals of improving capacity and safety in areas that are within the 500-year FEMA designated flood plain. The improvements to these systems are necessary mitigation measures that would be part of the required approval of a specific project. The efficient use of land promoted by the FBC will allow additional tax revenues generated from future development to support improvements to, and the future maintenance of, public utility infrastructure. The historic development patterns supported by the FBC can produce a more fiscally sustainable relationship between infrastructure and development. No further mitigation would be required for impacts related to community services and infrastructure.

### **3.12 Consistency with Community Plans (Section 4.12 of the DGEIS)**

The adoption of the FBC is consistent with Community Plans, as described in the DGEIS. The FBC advances the City's policies of becoming more resilient to the effects of climate change, and more efficient in terms of land use, energy, and the use of infrastructure. In addition, the FBC allows for increased housing options that will encourage the development of locally-driven land use strategies and revitalization plans of underutilized urban areas within the core of the city.

The FBC will be subject to annual performance assessments to ensure that the application of its unique provisions are applied according to the Vision expressed by the Comprehensive Plan and other officially adopted plans of the City of Kingston, which includes the Downtown Revitalization Initiative, and BOA Step 3 Implementation Strategy. No further mitigation would be required as the FBC is consistent with current community plans.

### **3.13 Alternatives (Section 5.0 of the DGEIS)**

As compared to existing zoning, the FBC would increase potential housing units by approximately 36.9%, increase potential built area by 14.9%, and reduce the cumulative footprint of development by approximately 4.5%. Most of the increases would occur within the proposed T-4 and T-5 zones, which include the core business centers of Kingston. The additional development under the FBC provides for redevelopment of existing areas, and are consistent with the goals of the City to provide dynamic mixed use areas that are walkable and support the utilization of transit options, and increase business opportunities. New infrastructure developed under the FBC would be more efficient and better supported with an increase in density, and are justified under the current land use policies.

### **3.15 Summary of Impacts and Mitigation (Section 6.0 of the DGEIS)**

The projected increase of the number of residential uses is compared to the current zoning in several sections of the DGEIS. The FBC shapes future growth to meet the City's goals for a walkable and dynamic mixed-use environment, increased (and more affordable) housing options, and greater environmental sustainability. By focusing on compact growth and character rich development centered on the higher intensity transects, the FBC would both allow for future growth in areas where redevelopment is encouraged

and help protect areas identified as open space/conservation or suburban areas. Increases in density would occur mostly in the core of the City consistent with the Downtown Revitalization Initiative adopted in 2018, the 2030 Climate Action Plan and the 2025 City of Kingston Comprehensive Plan. The concentration of additional uses within the existing core of the City will support the revitalization of the City, and provide for more efficient use of shared infrastructure used to support these uses.

Table 8 in the DGEIS provides a comprehensive summary of mitigation that would be required with site-specific reviews, organized by topic as presented in the DGEIS. It is acknowledged that some sites would have exceptions to required mitigation as presented in the list depending on the location. In addition, the DGEIS states that smaller scale development may be permitted as of right if the project only requires a limited review and does not require variances or is declared a Type II action in accordance with SEQRA. Future applications would require SEQRA review using Table 8 as a guide to understanding potential impacts under the FBC. No further mitigation would be required to process applications as a result of completing the adoption process of the FBC (the Proposed Action).

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