

# City of Kingston - NY, Form Based Zoning Code

## Section 405.26.L: Historic Landmarks Preservation Commission

Adopted by Resolution 199 of the Common Council on November 12th, 2024.

Approved by the Mayor on November 14th, 2024.

**1. Creation & Purpose.** The Common Council ("Council") finds that there exists within the City of Kingston ("City") places, sites, structures, and buildings of historic, cultural, or architectural significance, antiquity, uniqueness of exterior design or construction, which should be conserved, protected, and preserved to maintain the architectural character of the City, to contribute to the aesthetic value of the City and to promote the general good, welfare, health and safety of the City and its residents.

The Council hereby creates the "Historic Landmarks Preservation Commission of the City of Kingston" ("HLPC"). The purpose of the HLPC is to promote the general welfare by providing for the identification, protection, enhancement, perpetuation, and use of buildings, structures, signs, features, improvements, sites, and areas within the city that reflect special elements of the City's historical, architectural, cultural, economic, or aesthetic heritage for the following reasons:

- (a) To foster public knowledge, understanding, and appreciation in the beauty and character of the city and in the accomplishments of its past.
- (b) To ensure the harmonious, orderly, and efficient growth and development of the city.
- (c) To enhance the visual character of the city by encouraging new design and construction that complements the City's historic buildings.
- (d) To protect and promote the economic benefits of historic preservation to the city, its inhabitants and visitors.
- (e) To protect property values in the city.
- (f) To promote and encourage continued private ownership and stewardship of historic structures.
- (g) To identify as early as possible and resolve conflicts between the preservation of historic landmarks/districts and alternative land uses.
- (h) To conserve valuable material and energy resources by ongoing use and maintenance of the existing built environment.

**2. Enabling Authority.** Pursuant to Article 5, § 96-a\*2; Article 5-G, Article 5-J and Article 5-K, § 119-dd of the General Municipal Law; Article 14 of the Parks, Recreation and Historic Preservation Law; and § 10 of the Municipal Home Rule Law; it is hereby declared as a matter of public policy that the protection, enhancement and perpetuation of landmarks and historic districts are necessary to promote the cultural, economic and general welfare of the public.

### **3. Commission Composition, Appointment, Terms, & Compensation.**

- (a) Membership: The HLPC shall consist of seven (7) members. The City Historian shall serve the HLPC in an advisory capacity.
- (b) Appointments: Members of the HLPC shall be appointed by the Mayor. No person appointed to the commission can also serve as a member of the City's Council or Zoning Board of Appeals.
- (c) Term of Office: Terms of office shall be three years, which shall be so arranged that approximately 1/3 of the terms shall expire each year. Upon adoption of this article, present members shall serve until the expiration of their terms. Members of the HLPC may be reappointed for succeeding terms.

- (d) Qualifications: To the extent possible, HLPC members shall be required to have the following expertise:
  - i. One shall be a licensed practicing architect;
  - ii. One shall be an owner of a City designated building or an Owner in a City Historic District;
  - iii. All others shall be residents of the City of Kingston and possess a demonstrated interest in and commitment to the field of historic preservation as evidenced by involvement in a local, state, or national historic preservation group; employment; education; historic property ownership, or volunteer activity in furtherance of historic preservation;
- (e) Vacancies: Vacancies occurring in the HLPC other than by expiration of term of office shall be filled by appointment of the Mayor. Any such appointment shall be for the unexpired portion of the term of the replaced member, and the appointment must be made in accordance with the criteria established above for original appointments.
- (f) Reappointment: Members of the HLPC may be reappointed for succeeding terms, providing that they continue to meet the criteria laid out in Section 3d.
- (g) Compensation: Members shall serve without compensation.
- (h) Training and attendance requirements:
  - i. Each member of the HLPC shall complete, at a minimum, four (4) hours of training each year designed to enable such members to more effectively carry out their duties. Such training shall be approved by the Planning Director and may include, but not be 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.
  - ii. To be eligible for reappointment to the HLPC, a member shall have completed the training approved by the Planning Director.
  - iii. No decision of the HLPC shall be voided or declared invalid because of a failure to comply with this subdivision.

#### **4. Organization.**

- (a) Chairperson; designation and duties.
  - i. The HLPC shall designate its Chairperson and Vice-Chairperson by vote of an affirmative majority of the members of the full HLPC membership base.
  - ii. All meetings of the HLPC shall be held at the call of the chairperson and at such other times as the HLPC may determine by affirmative vote.
- (b) Staff person: The City of Kingston's Planning Department shall employ a staff person to serve as the HLPC Secretary and Community Liaison.
- (c) Quorum: A simple majority shall be four (4) HLPC members and shall constitute a quorum for the transaction of business.
- (d) Costs of operation; budget requests. The cost of the operation of the HLPC shall be funded by the City. The HLPC shall submit its budget request for appropriations to the Planning Director, annually, to be submitted to the Mayor, as part of the annual budget review process.

**5. Records and Annual Report.** The HLPC shall maintain a record, which shall be open to the public view, of its resolutions, proceedings, and actions. The vote or failure to vote of each member shall be recorded. The concurring affirmative vote of a majority of the full HLPC shall constitute approval of plans before it for review or for the adoption of any resolution, motion, or other action of the HLPC. The HLPC shall make such recommendations to the Council as it deems necessary to carry out the purposes of this Chapter.

#### **6. Powers and Duties.**

- (a) The HLPC shall have the following powers and duties:

- i Review any local laws or regulations, including existing landmarks or historic preservation laws or regulations in the City, and recommend to the Council any changes and amendments thereto;
  - ii Recommend to the Council additional regulations to be adopted that may be necessary for the commission to conduct its business, consistent with the scope and intent of this code;
  - iii Recommend to the Council specific criteria for regulations to be adopted that identify and catalogue significant historic landmarks, and from time to time advise it on suggested changes thereto;
  - iv Maintain an inventory of locally designated historic resources or districts within the city and publicize the inventory;
  - v Recommend to the Council additional criteria to be adopted for use when evaluating applications for a Certificate of Appropriateness
  - vi Recommend to the Council proposals for the acquisition of preservation easements or other interests in real property;
  - vii Report on matters referred to the HLPC by the Council. The Council may by resolution provide for the referral to the HLPC for a report on any matter or class of matters that impact the municipality's landmarks preservation laws, policies, regulations, or administrative processes before final action is taken thereon by the Council or other office of said City having final authority over said matter. The Council may further stipulate that final action thereon shall not be taken until the HLPC has submitted its report thereon, or has had a reasonable time, to be fixed by the Council in said resolution, to submit the report.
  - viii The HLPC may make such investigations and studies of matters relating to the protection, enhancement, perpetuation and restoration of landmarks as the HLPC may, from time to time, deem necessary or appropriate for the effectuation of the purpose of this article and may submit reports and recommendations as to such matters to the mayor and other agencies of the City government. In making such investigations and studies, the HLPC may hold such public hearings as it may deem necessary or appropriate.
- (b) Administrative Reviews. In accordance with the regulations adopted by the Council for landmarks and historic preservation purposes, the HLPC shall:
- i Evaluate each application for a Certificate of Appropriateness; approve, approve with modifications, or deny any proposal for exterior changes to a designated individual landmark or property within a designated historic district resulting from any such application;
  - ii Evaluate each application for an economic hardship and; approve, approve with modifications, or deny any such application;
  - iii Evaluate each application for a Certificate of Appropriateness for demolition, removal or relocation and; approve, approve with modifications, or deny any such application;
  - iv Empower the HLPC staff to evaluate, without public hearing, each application for ordinary maintenance and repair of historic resources, properties or landmarks and; approve, approve with modifications, or deny any such applications;
  - v Perform other functions that the Council may designate.
- (c) To recommend to the Council that it establish certain Individual Landmark, Interior Landmark, Scenic Landmark, or Landmark (L) Districts. A Landmark or Landmark (L) District may be or may include an exterior or publicly accessible interior and may include areas comprising all or a portion of:
- i One or more City blocks;
  - ii One or both sides of a street;
  - iii One or more plots of unimproved land;
  - iv Any other real property.
- (d) At its discretion and with the property owner's consent, to cause to be prepared and placed upon or near any Landmark or Landmark (L) District a suitable plaque declaring that fact.

## **7. Landmark or Landmark District designation procedure.**

- (a) The HLPC shall consider for a Landmark or Landmark District designation real property proposed by motion of any HLPC member or by owner of such property or by written request signed by 10 residents of the City of Kingston.
- (b) The criteria for the designation of landmarks shall particularly favor such designation where the proposed
  - i. Landmark or Landmark District:
    - 1. Individual Landmark: The criteria for the designation of landmarks shall particularly favor such designation where the proposed landmark meets one or more of the following:
    - 2. Exemplifies or reflects the broad cultural, political, economic or social history of the nation, state or community;
    - 3. Is identified with historic personages or with important events in national, state or local history;
    - 4. Embodies distinguishing characteristics of an architectural-type specimen, inherently valuable for a study of a period, style, method of construction or of indigenous materials or craftsmanship; or
    - 5. Is representative of the notable work of a master builder, designer, or architect whose individual ability has been recognized.
  - ii. Landmark District: The HLPC may delineate a group of properties within the City as an historic district if a majority of properties therein meets one or both of the following:
    - 1. Contain properties which meet one or more of the criteria for designation as a landmark and which may have within its boundary's other properties or structures that, while not of such historic and/or architectural significance to be designated as landmarks, nevertheless contribute to the overall visual characteristics of the landmark or landmarks located within the historic district; and
    - 2. Constitute a unique section of the city by reason of possessing those qualities that would satisfy such criteria.
- (c) Interior Landmark: The HLPC may delineate the interior of a property as an interior landmark if such interior has special historical or aesthetic interest or value as part of the development, heritage or cultural characteristics of the village, town, city, state, or nation and:
  - i. it is customarily open or accessible to the public; or
  - ii. that such interior landmark is supported by the property owner or by signed support of 25 city residents
- (d) Scenic Landmark: The HLPC may delineate a landscape feature or group of features if:
  - i. it is customarily open or accessible to the public; or
  - ii. that such scenic landmark is supported by the property owner or by signed support of 10 city residents
- (e) Recommendations for designation must be accompanied by historical and architectural information as is required by the HLPC to make an informed recommendation concerning the application, together with any fee set by the council.
- (f) The boundaries of each landmark, interior landmark, scenic landmark, or historic district shall be specified in detail with reference to the tax map identification number and shall be filed, in writing, in the City Clerk's office and there made available for review by the public.
- (g) Ordinarily, properties that have been constructed within the past fifty (50) years are not considered eligible for delineation under this landmark's preservation local law or local law adopted by the City governing board. However, such properties will qualify if they are:
  - i. Integral parts of historic districts that meet the criteria for designation; or
  - ii. If they are properties of exceptional importance.
- (h) The HLPC shall hold a public hearing to consider all proposals for the designation of any property as a landmark. The HLPC and any other interested parties may solicit expert testimony and offer other evidence relevant to the designation of the proposed landmark.

- (k) Notice of a proposed designation, including any amendment, shall be sent by the HLPC by regular mail or personal delivery to the last owner of record, as the names and addresses shall appear on the records of the Assessor of the City of Kingston, briefly describing the proposal for designations and the date, time and location of the public hearing by the HLPC to consider the proposed designation. The notice required hereunder shall be sent at least 14 days prior to the public hearing. Once the HLPC has issued notice of a proposed designation, no building permits or demolition permits shall be issued by the building safety officer until the HLPC has made its decision.
- (l) The HLPC shall also cause notice of the proposed designation to be published at least once, at least 14 days prior to the public hearing, in a newspaper having general circulation in the City of Kingston.
- (m) Following the public hearing, the HLPC shall forward to the Council and to the proper owners its recommendations concerning designation of a landmark or a Landmark District. The designation shall be effective upon ratification by the Common Council. Pending ratification, the proposed landmark or Landmark District shall have interim protection.

8. **Demolition of a Non-Landmarked Historic Property & Emergency Designation.**

(a) Purpose: This Section establishes HLPC review procedures for non-landmarked historic properties for which demolition permits have been applied.

(b) Applicability:

- i. This Section applies to the demolition of properties that are not designated local Protected Sites or contributing properties within a designated Preservation District but are listed in or have been determined eligible for the State or National Register of Historic Places or are enumerated as eligible for local designation in the City of Kingston's inventory of historic properties. This inventory may be amended to include additional historic properties. The inventory shall be filed in the Office of the City Clerk and the Building Safety Division, and available for public review in the Planning Office.
- ii. Where the Director of Building Safety and Chief of the Fire Department have determined that a property presents an imminent danger or hazard to public health, safety and welfare, the following review procedure shall be considered waived.

(c) Procedure:

- i. The Building Safety Division shall forward to the HLPC and its staff any application for the partial or full demolition of a non-designated historic property.
- ii. Staff Review: Staff shall review the application for a demolition permit and prepare a staff assessment for the HLPC. Staff shall notify the owner in writing that the HLPC will be reviewing the application and property.
- iii. Review and Decision: The HLPC shall review the demolition of a non-landmarked historic property application as follows:
  - 1. The HLPC shall evaluate the property according to the criteria for designation enumerated in Section 405.26.L. 7. a-f.
  - 2. The HLPC shall determine the following:
    - a. If the HLPC deems a property ineligible for designation as a Protected Site or as a contributing property within a Preservation District, they shall submit its determination of ineligibility to the applicant and appropriate City department.
    - b. If the HLPC deems a property eligible for designation as a local landmark or as part of a Landmark District, they shall submit its preliminary determination of eligibility in writing to the applicant/owners (if known) and Council, together with notice of its finding of need for immediate designation of a landmark or Landmark (L) District. The HLPC shall also forward to the Building Safety Division copies of its finding of need for immediate designation, and, in that case, such recommendations shall be deemed to be in full force and effect, pending public hearing, HLPC recommendation and final action by the Council, and the Building Safety officer shall perform their respective functions and duties as

though the recommendations of the HLPC were adopted in their entirety by the Council. A designation by the HLPC on a finding of immediate need shall be effective from the date of mailing or personal delivery of the notice of designation to the owner of the property (if known) in the same manner as the notice requirements of Subsection (c) hereof and shall expire 90 120 days thereafter if the Council shall have failed to act within said period. The notice shall specify the recommendations of the HLPC, its reasons therefore and the right of appeal as contained in § 405.26.L.14.

### 9. Landmarks and Landmark (L) Districts.

(a) Legislative intent. The purpose of this section is to provide for the promotion of the educational, cultural, economic, and general welfare of the public through the protection, enhancement, perpetuation and preservation of landmarks and Landmark (L) Districts. The legislative body declares that it is in the public interest to ensure that the distinctive landmarks and Landmark (L) District shall not be injuriously affected, that the value to the community of those buildings having architectural and historical worth shall not be impaired and that said districts be maintained and preserved to promote their use of the education, pleasure, and welfare of the citizens of the City of Kingston and others.

i. The **Kingston Stockade Historic District** consists of an area delineated on the City's Regulating map and includes the site of the Stockade ordered built by Peter Stuyvesant (the last director-general of the colony of New Netherland) in 1658 and which remained a protective fortification after the English gained control of the colony. The Stockade District was an integral area during two conflicts between the Dutch and the Esopus Lenni Lenape people, one in 1659-1660 and one in 1663 - 1664. In 1777, the State of New York held its first constitutional convention in the Stockade District's Senate House; later that year the British burned a majority of the Stockade, and other sites in Kingston. The Stockade contains architecture dating back to the 17th and 18th Centuries including the corner of Crown and John Streets with four pre-Revolutionary stone houses, one on each corner of the intersection. Centrally located in the district is the Ulster County Court House, where in 1828, Sojourner Truth became the first black woman to win a court case to recover her son who was illegally sold into slavery in Alabama. In addition to the distinctive pre-Revolutionary stone houses, the district contains 19th Century Federal Period, Greek Revival, Italianate, Second Empire, and Queen Anne structures as well as the mid-19th Century stone Old Dutch Church, a National Landmark.

1. The Kingston Stockade District represents a locally and nationally important heritage area relative to the Dutch and English Colonial periods and is delineated on the Regulating Map and is declared to be a Landmark District (and a Historic and Architectural Design Overlay District).
2. The Kingston Stockade District contains 300 years of architecture and cultural resources, and new development must not be allowed to erode the best of the architectural spaces and cultural organizations of the past.

ii. The **Rondout-West Strand Historic District** consists of the area delineated on the City's Regulating Map. The Rondout-West Strand Historic District encompasses the area sloping down to and featuring the waterfront on Rondout Creek. The Rondout Village rapidly transformed from farmland into a thriving maritime community after the Delaware and Hudson Canal opened with its terminus here in 1828. By the mid-19<sup>th</sup> century, jobs on the canal, in boat manufacturers, shipping, brickmaking, cement manufacturing, and bluestone quarrying industries, drew immigrants with diverse backgrounds whose imprints remain visible throughout the district's structures. The Rondout-West Strand District contains a rich stock of commercial buildings, cast-iron storefronts, homes, and churches despite losses due to urban renewal in the 1960's. The Rondout-West Strand Historic District is important because it is the remaining vestige of the thriving port town that supported the economy of the area for close to eighty years. The local trading and industrial activities and the workers and businessmen who lived in this area changed Kingston from a small, rural community to a thriving transportation and industrial center for the

- mid-Hudson Valley. On a larger scale, because of its unique export products, Rondout was an equal to any of the commercial cities along the Hudson between Albany and New York City.
- iii. The **Fair Street Historic District** consists of the area delineated on the City's Regulating Map. By the mid-19th Century, several affluent Kingstonians moved out of the Stockade District to establish grand homes in exclusive middle- and upper-class neighborhoods. The Fair Street Historic District represents this shift with a contiguous line of distinguished residences extending southeastward from the Stockade District to Henry Street. This tree-shaded historic district contains notable examples of Italianate, Second Empire, Queen Anne, and Colonial Revival architecture.
  - iv. The **Chestnut Street Historic District** consists of the area delineated on the City's Regulating Map. The Chestnut Street Historic District contains a significant concentration of intact, fashionable residences which reflect the prosperity and taste of middle- and upper -class residents of 19<sup>th</sup> and early 20<sup>th</sup>-century Rondout & Kingston. The Chestnut Street Historic District's period of significance spans the period of ca. 1855 and 1919, which coincides with Kingston and Rondout's growth as a shipping and manufacturing center. This grouping of substantial frame and masonry residences represents the most intact collection of middle-and upper-class residences in Kingston and includes several exceptional illustrations of the mid-19<sup>th</sup>-century Hudson Valley picturesque taste in architectural design and placement of buildings in the landscape. The Buildings in the historic district exhibit a wide range of styles popular during this period, including Italianate, French 2<sup>nd</sup> Empire, Queen Anne, Colonial Revival, and Tudor Revival styles, and one residence which illustrates the influence of the Arts & Crafts movement; the historic district also contains one modest late 19<sup>th</sup>-century Gothic style church. The Chestnut Street Historic District recalls Kingston and Rondout's period of prosperity as a major Hudson River port and manufacturing center.
- (b) Applicability and Guidelines. This section shall apply to all buildings, structures, outbuildings, walls, fences, steps, topographical fixtures, earthworks, landscaping, paving and signs of a landmark or Landmark District. No changes in any exterior architectural feature, including but not limited to, construction, reconstruction, alteration, restoration, removal, demolition or painting, shall be made except as hereinafter provided. To assist in the conservation action, several specific guidelines are included:
- i. Stockade Steeple Height Restriction: Because of the visual importance of the Old Dutch Church steeple, no new structure may rise within the Stockade District above the base of the steeple, which is 62 feet above the curb level.
  - ii. Landmark & Landmark District Façade Materials: Façade materials must conform with § 405.14. A-K of the City's Zoning Code. The HLPC may require restoration and construction projects conform with the district's historical conditions and the Secretary of the Interior's Standards for the Treatment of Historic Properties.
  - iii. Site Design. Building setbacks must conform with the criteria laid out in § 405, Article 3: Transect Standards and § 405.13. A-B (Frontage Types) of the City's Form Based Zoning Code unless otherwise waived or modified as prescribed under the Code. The HLPC shall evaluate new construction in relation to the existing streetscape and provide recommendation to the agency reviewing any modification or waiver for new buildings to be set behind existing building lines to give emphasis to existing structures of historic or aesthetic merit or to allow for suitable landscaping. The new construction shall be compatible with the district in which it is located.
  - iv. Landscaping and Paving. Landscaping must conform with § 405.14.K of the City's Form Based code. The HLPC shall provide a recommendation to the agency reviewing any modification or waiver on requests under the requirements in § 405.14.K that do not conform with existing or historical landscape features submitted in documentation to the HLPC. Landscaping may be required by the HLPC and is deemed an important element of site development.
    - 1 Evergreen materials may be required for screen functions.

- 2 Recommendations may be made to the HLPC by a landscape architect or designer approved by the HLPC.
  - 3 Bluestone shall be prescribed for sidewalks, with brick as a secondary material.
  - 4 Maintenance of plant material shall be the responsibility of the owner, including responsibility to keep growth trimmed and trained, to meet the Code requirements.
- v. Parking. Parking areas shall conform with § 405.16. A-F of the City's Form Based Code. The HLPC shall provide recommendation to the agency reviewing any modification or waiver on requests under the requirements in § 405.16. A-F that do not conform with existing or historical parking features submitted in documentation to the HLPC.
  - vi. Maintenance. Preventive maintenance is required in order to assure that these buildings, spaces, elements and details are preserved. Deliberate neglect and/or lack of preventative maintenance that presents an issue of public safety or rapid deterioration of a structure shall be a violation of this article.

#### **10. Review Procedure for a Certificate of Appropriateness**

- (a) No person shall carry out any exterior or historically designated publicly visible interior alteration, restoration, reconstruction, demolition, new construction or moving of a landmark or property within a Landmark District nor shall any person make any material change in the appearance of such a property, its light fixtures, signs, sidewalks, fences, steps, paving or other exterior elements visible from a public street or alley which affect the appearance and cohesiveness of the historic district without first obtaining a Certificate of Appropriateness from the HLPC and a notification to the applicant to obtain a building permit, if necessary. A Certificate of Appropriateness does not obviate the need for a building permit or any other permits from relevant agencies.
- (b) Review Criteria. In making such determinations, the HLPC shall consider:
  - i. The effect of the proposed work in changing, destroying or affecting the exterior features of the landmark or Landmark (L) District upon which such work is to be done;
  - ii. The relationship between the results of such work and the exterior architectural features of other neighboring improvements;
  - iii. The factors of aesthetic, historical and architectural values and significance, architectural style, design, arrangement, texture, material and color;
  - iv. The special character and aesthetic interest that any structure involved adds to the area; and;
  - v. The difficulty or impossibility of reproducing any feature or structure involved because of its design, texture, material, position, or detail.
- (c) All applications shall be considered by the HLPC on at least the following points, these points to be used as a basis, where relevant, for establishing relationships to the external features of buildings in the immediate neighborhood: The building height in relation to surrounding buildings; the relationship to nearby roof shapes; the relationship between the width to height of the street-facing facade; the size, proportion and spacing of openings within the facade and elevations exposed to view; the rhythm of spacing of buildings and building elements on the street; the design and placement of entrances and projections; the relationships of materials, textures and colors; the relationship of architectural details; the continuity of walls; the relationship of landscape elements; the appropriateness of hardscaping; and the effect on existing or historically significant spaces.
- (d) It shall be the further duty of the HLPC to exercise judgment in accord with the basis of decisions stated herein and maintain the desirable character of the Landmark or Landmark District and prevent construction, reconstruction, alteration or demolition out of harmony with existing buildings insofar as character, material, color, line and detail are concerned, and thus to prevent degeneration of property, to safeguard public health, promote safety and preserve the beauty of the character of the landmark or Landmark District.

- (e) It shall be the further duty of the HLPC to exercise judgement in accord with the guidance of the US Secretary of the Interior Standards for Rehabilitation, and/or the Secretary of the Interiors other Standards when deemed necessary by the HLPC.

**11. Certificate of Appropriateness for Changes to Landmarks**

- (a) The Certificate of Appropriateness required by this section shall be in addition to, and not in lieu of, any building permit that may be required by any other ordinance of the City of Kingston, New York. In the event of overlapping reviews, the most restrictive review shall apply.
- (b) Prior to the commencement of any work requiring a Certificate of Appropriateness, the owner shall file an application for a Certificate of Appropriateness which shall be made, on forms prescribed, with supporting documentation to the HLPC and shall contain the following:
  - i. The name, address, telephone number and signature of the applicant.
  - ii. The name, address, telephone number and signature of the owner.
  - iii. The location and photographs of the building, structure, or land; the exterior architectural features which are proposed to be changed.
  - iv. The plans & elevations of the proposed change.
  - v. A perspective or rendering, if required by the commission.
  - vi. Site plan or plot plan with north arrow, title, scale, legend, adjacent property owners.
  - vii. Samples of colors or materials to be used in the proposed change.
  - viii. Where the proposed change includes signs or lettering, all dimensions and colors, a description of materials to be used and the method of illumination, if any, and showing the location on the building or property.
  - ix. Whatever additional information the HLPC deems necessary to evaluate the application.
  - x. The HLPC reserves the right to waive any of the above requirements if deemed unnecessary.
- (c) Prior to submitting a formal application, the applicant or their representative may meet with the HLPC and/or its staff to informally discuss plans for alterations of exterior features. To avoid unnecessary expense and delay, a sketch or schematic design for the construction, alteration or repair of any regulated activity may be presented to the HLPC. A preliminary design should show the relation to adjacent structures and spaces. The HLPC may advise or recommend alteration and changes to the application.
- (d) Procedure to be followed for a Certificate of Appropriateness
  - i. Within a reasonable time after a completed formal application is filed with the HLPC, but in any event within 90 days after such filing or within such further time as the applicant may, in writing, allow; the HLPC shall conduct a public meeting to approve or deny the application or approve the application with modifications. Opportunity shall be provided to proponents and opponents to provide comments to the HLPC on each proposal under consideration.
  - ii. All decisions of the HLPC shall be in writing. A copy shall be sent to the applicant and a copy filed with the City Clerk and Building Safety Division for public inspection. The HLPC decision shall state the reasons for denying or modifying any application. Approval to proceed will be documented by the issuance of a Certificate of Appropriateness. The conditions upon which the Certificate of Appropriateness is issued will be stated, in writing. During work upon any Certificate of Appropriateness, if a modification is sought, such must be approved by an amended Certificate of Appropriateness issued by the HLPC. Compliance will be necessary to obtain a final certification of occupancy or certificate of compliance from the Building Safety Division. The Certificate of Appropriateness shall be valid for one year. At all times during this term, the Certificate of Appropriateness shall be prominently posted in public view pursuant to local law governing building permit posting.
- (e) Inspection. If, upon inspection of work, the Building Safety Division determines that the work is not in conformity with the Certificate of Appropriateness, the Commission shall be notified. No certificate of occupancy or certificate of compliance shall be issued thereupon until the work is altered to be in conformity with an authorized Certificate of Appropriateness.

## **12. Hardship:**

- (a) An applicant whose Certificate of Appropriateness for a proposed demolition or alteration has been denied must first appeal to the HLPC for relief on the grounds of hardship. To prove the existence of hardship, the applicant shall establish that:
  - i. The hardship shall not be self-inflicted.
  - ii. The property is incapable of earning a reasonable return, regardless of whether that return represents the most profitable return possible;
  - iii. The property cannot be adapted for any other use, whether by the current owner or by a purchaser, which would result in a reasonable return; and
  - iv. Efforts to find a purchaser interested in acquiring the property and preserving it have failed.
- (b) **Hardship Application Procedure.**
  - i. After receiving written notification from the HLPC of the denial or approval with modifications of a Certificate of Appropriateness, and no later than 60 days from the date of said notice, an applicant may commence the hardship process. No building permit or demolition permit shall be issued unless the HLPC makes a finding that a hardship exists. The HLPC may hold a public hearing on the hardship application, at which an opportunity will be provided for the proponents and opponents of the application to present their views.
  - ii. The applicant shall consult in good faith with the HLPC, local preservation groups and interested parties in a diligent effort to seek an alternative that will result in preservation of the property.
  - iii. All decisions of the HLPC shall be in writing. A copy shall be sent to the applicant and a copy filed with the City Clerk's office for public inspection. The HLPC decision shall state the reasons for granting or denying the hardship application.
  - iv. In the event of the HLPC's denial based on hardship application, the applicant may appeal to the City of Kingston Zoning Board for review of said application, applying Landmark Ordinance criteria, as defined by Section 405.26.L.14 of this code.

## **13. Ordinary Maintenance and Repair Requirement; Demolition by Neglect:**

- (a) Ordinary maintenance; repair.
  - i. Nothing in this local law shall be construed to prevent the ordinary maintenance and repair of any exterior architectural feature of a historic landmark or property within a historic district that does not involve a change in design, building materials, color, or outward appearance.
  - ii. The commission may evaluate and decide, without public hearing, whether proposed work constitutes ordinary maintenance and repair or requires a Certificate of Appropriateness.
- (b) Interiors: Every owner or person in charge of an improvement to an interior landmark shall keep in good repair:
  - i. all portions of such interior landmark and
  - ii. all other portions of the improvement which, if not so maintained, may cause or tend to cause the interior landmark contained in such improvement to deteriorate, decay, or become damaged or otherwise to fall into a serious state of disrepair.
- (c) Every owner or person in charge of a scenic landmark shall keep in good repair and safe condition, all portions thereof.
- (d) Demolition by Neglect: In its review to determine that demolition by neglect is occurring and upon consultation with the Building Safety Division, the HLPC shall consider all the foregoing criteria and shall also attempt to confer with the owner or person in charge of the real property concerned. It shall also review any communication it shall receive which indicates that demolition by neglect is or may be occurring in any landmark or Landmark District. If the HLPC finds that such demolition is or may be taking place, it shall direct a letter to the Building Safety Division to notify the owner or person in charge of this finding, stating the reasons therefor and requesting that the owner or person in charge immediately take appropriate steps to cause such demolition to cease, and to confer with the HLPC in connection therewith.

Should the owner or person in charge fail to satisfy the HLPC that all necessary steps are or will be promptly taken, the HLPC shall request the Building Safety Division to notify the Corporation Counsel of the City and request the consideration of the proceedings pursuant to § 405.26.J.4.d hereof.

- (e) No owner or person with an interest in real property designated as a landmark or included within a historic district shall permit the property to fall into a serious state of disrepair so as to result in the deterioration of any exterior architectural feature which would, in the judgment of the HLPC, produce a detrimental effect upon the character of the property itself. Maintenance shall be required, consistent with the Property Maintenance Code of NYS, Fire Code of NYS, and Building Code of NYS and all other applicable local regulations. Examples of prohibited disrepair include, but are not limited to:
- i. deteriorated or crumbling exterior plasters, mortar, cementitious materials;
  - ii. deteriorated or inadequate foundation and facades;
  - iii. defective or deteriorated flooring or floor supports or any structural floor members of insufficient size to carry imposed loads with safety;
  - iv. deteriorated walls or other vertical structural supports that split, lean, list, buckle, or otherwise appear compromised;
  - v. members of ceilings, roofs, ceiling and roofs and other associated structure which sag, split or buckle due to defective material or deterioration or are of insufficient size to carry imposed loads;
  - vi. ineffective or inadequate waterproofing of exterior walls, exterior chimneys, roofs, foundations or floors, including windows or doors, which may cause or tend to cause deterioration, decay or damage;
  - vii. defective or insufficient weather protection for roofs, foundation or exterior wall covering, including lack of paint or weathering due to lack of paints or sealants or other protective covering, which may cause or tend to cause deterioration, decay or damage;
  - viii. fireplaces or chimneys which list, bulge or settle due to defective material or deterioration or are of insufficient size or strength to carry imposed loads with safety;
  - ix. any fault or defect in the building or structure which renders it not properly weathertight or otherwise compromises the life and character of the building or structure.

#### **14. Enforcement.**

- a. All work performed pursuant to a Certificate of Appropriateness and/or building permit issued under this article shall conform to any requirements included therein. It shall be the duty of the building inspector to periodically inspect any such work to assure compliance with the certificate and all applicable law. In the event that the building inspector finds that work is not being performed pursuant to said Certificate of Appropriateness or building permit, it shall notify the owner or person in charge of this building, stating the reasons therefor and requesting that the owner or person in charge immediately take appropriate steps to conform to said Certificate of Appropriateness or building permit and to confer with the HLPC in connection therewith. Should the owner or person in charge fail to satisfy the HLPC that all necessary steps are or will be immediately taken, the HLPC shall request the Building Safety Division to take appropriate action.
- b. Any owner or person in charge of a property who demolishes, alters, constructs, or permits a designated property to fall into a serious state of disrepair in violation of this local law in the absence of a Certificate of Appropriateness a finding of economic hardship, or other approval by the HLPC, may be required by the HLPC to restore the property and its site to its appearance prior to the violation.
- c. If, in the judgment of the HLPC, a violation of this code exists that will result in a detrimental effect upon the life and character of a designated historic resource, landmark, property or on the character of a historic district as a whole, the commission shall notify the building inspector. If, upon investigation, the building inspector finds non-compliance with the requirements of the Property Maintenance Code of NYS, Fire Code of NYS, Building Code of NYS, Residential Code of NYS, and the Existing Building Code of NYS, or any other applicable law or regulation, the building inspector shall order such remedies as are necessary and consistent with this local code and shall provide written notice thereof to the commission.

- d. Similarly, should both a Certificate of Appropriateness and a building permit be issued, the building safety officer shall have all powers conferred upon him pursuant to the Zoning Ordinance to enforce the Certificate of Appropriateness, including, but not limited to, stop-work orders.
- e. Penalties. A violation of this local law is deemed an offense punishable by a fine as determined by the Building Safety Division of the City of Kingston.

**15. Appeals.** Any party aggrieved by a hardship action of the commission, as determined under Section 405.26. L. 11, may, within 60 days of said hardship decision, file a written appeal to the City's Zoning Board of Appeals for review of the decision. If the party is denied by the Zoning Board of Appeals, then the aggrieved party may seek Article 78 Appellate review which shall be based on the same record that was before the commission and using the same criteria in the city code.