

**§ 405-56. Creation; composition and terms.**

There is hereby created a Commission to be called the "Historic Landmarks Preservation Commission of the City of Kingston." This Commission shall consist of seven members, to be appointed by the Mayor of the City of Kingston for terms of office of three years, which shall be so arranged that approximately 1/3 of the terms shall expire each year. Upon adoption of this article, present members shall serve until expiration of their terms. Members of the Commission may be reappointed for succeeding terms.

**§ 405-57. Membership qualifications.**

One member of the Commission shall be a licensed practicing architect. One member shall be an owner of a City designated building or an owner in a City historic district. All members shall be residents of the City of Kingston at the time of their appointment and throughout their membership, with a knowledge of and interest in the historic background of the City and the trends of its future development, with demonstrated concern for the material, economic and cultural development of the City through the principles for which the Commission is created.

**§ 405-58. Appointments and vacancies.**

The Commission shall, prior to 30 days before the expiration of the terms of each class of Commissioners, submit to the Mayor of Kingston a list of eligible and qualified candidates, which the Mayor may consider in making a selection of successors.

**§ 405-59. Rules of procedure.**

The Commission shall establish its own rules of procedures, provided that all regular and special meetings be open to the public except when a member of the Commission requests that part or all of the meeting shall be held in executive session, which shall be permitted in accordance with the applicable Open Meetings Law.

**§ 405-60. Costs of operation; budget requests.**

The cost of operation of the Commission shall be funded by the City of Kingston. The Commission shall submit its budget and all requests for appropriations to the Mayor of the City of Kingston, annually on or before a date specified by the Mayor.

**§ 405-61. Powers and duties.**

## A. The Commission shall have the following powers and duties:

- (1) To recommend to the Common Council that it establish certain landmarks or Landmark (L) Districts. A landmark or Landmark (L) District may be or may include an exterior or publicly accessible interior and may include areas comprising all or portion of:
  - (a) One or more City blocks;
  - (b) One or both sides of a street;
  - (c) One or more plots of unimproved land;
  - (d) Any other real property.
- (2) To review all applications for building permits and all appeals and applications transmitted to the Building Safety Officer which may affect any landmark or Landmark (L) District, and to make determinations accordingly, which shall be binding in accordance with § 405-49C. **[Amended 12-16-1999 by L.L. No. 2-2000; approved 1-3-2000; 3-5-2019 by L.L. No. 1-2019, approved 3-19-2019]**
- (3) To apply or impose in accordance with the standards set forth in § 405-63 herein, with respect to the construction, reconstruction, alteration or demolition of such building or the performance of work thereon, regulations, limitations, determinations or conditions which are more restrictive than those prescribed or made by or pursuant to other provisions of law applicable to such activities, work or use.
- (4) At its discretion and with the property owner's consent, to cause to be prepared and placed upon or near any landmark or Landmark (L) District a suitable plaque declaring that fact.
- (5) The Commission may make such investigations and studies of matters relating to the protection, enhancement, perpetuation and restoration of landmarks as the Commission may, from time to time, deem necessary or appropriate for the effectuation of the purpose of this article and may submit reports and recommendations as to such matters to the Mayor and other agencies of the City government. In making such investigations and studies, the Commission may hold such public hearings as it may deem necessary or appropriate.

- (6) To make all appropriate arrangements for the general transaction of its business, including the receipt and disbursement of funds, and to retain or employ professional consultants, secretaries, clerks or other such personnel as may be necessary to assist the Commission in carrying out its duties with such funds as may be made available to it by the Common Council in its sole judgment and discretion.
- B. Any and all applications shall be considered and decided by a majority vote of the total membership of the Commission at a duly called meeting of the Commission.

**§ 405-62. Landmark or Landmark District designation procedure.**

- A. The Commission shall consider for a landmark or Landmark District designation real property proposed by motion of any Commission member or by owner of such property or by written request signed by 10 residents of the City of Kingston. **[Amended 12-7-2004, approved 12-9-2004]**
- B. The criteria for the designation of landmarks shall particularly favor such designation where the proposed landmark or Landmark District:
  - (1) Exemplifies or reflects the broad cultural, political, economic or social history of the nation, state or community;
  - (2) Is identified with historic personages or with important events in national, state or local history;
  - (3) Embodies distinguishing characteristics of an architectural-type specimen, inherently valuable for a study of a period, style, method of construction or of indigenous materials or craftsmanship; or
  - (4) Is representative of the notable work of a master builder, designer or architect whose individual ability has been recognized.
- C. Notice of a proposed designation, including the amendment of a prior designation or proposed designation, shall be sent by the Commission by certified mail or personal delivery to the last owner of record, as the names and addresses shall appear on the records of the Assessor of the City of Kingston, briefly describing the proposal for designations and the date, time and location of the public hearing by the Commission to consider the proposed designation. The notice required hereunder shall be sent at least

14 days prior to the public hearing. Once the Commission has issued notice of a proposed designation, no building permits or demolition permits shall be issued by the Building Safety Officer until the Commission has made its decision. **[Amended 12-16-1999 by L.L. No. 2-2000; approved 1-3-2000; 3-5-2019 by L.L. No. 1-2019, approved 3-19-2019]**

- D. The Commission shall also cause notice of the proposed designation to be published at least once, at least 14 days prior to the public hearing, in a newspaper having general circulation in the City of Kingston.
- E. The Commission shall hold a public hearing to consider all proposals for the designation of any property as a landmark. The Commission and any other interested parties may solicit expert testimony and offer other evidence relevant to the designation of the proposed landmark.
- F. Following the public hearing, the Commission shall forward to the Common Council of the City of Kingston and to the proper owners its recommendations concerning designation of a landmark or a Landmark District. The designation shall be effective upon ratification through ordinance by the Common Council. Pending ratification, the proposed landmark or Landmark District shall have interim protection.
- G. Emergency designation. The Commission shall forward to the Common Council of the City of Kingston and to the owners (if known) and also to the persons in charge of all property affected thereby its recommendations, if any, for the designation of a landmark or Landmark (L) District, together with notice of its finding of need for immediate designation of a landmark or Landmark (L) District. It shall forward copies of its recommendation to the Building Safety Officer's office, with notice of its finding of need for immediate designation, and, in that case, such recommendations shall be deemed to be in full force and effect, pending public hearing, Commission recommendation and final action by the Common Council, and the Building Safety Officer shall perform his respective functions and duties as though the recommendations of the Commission have been adopted in their entirety by the Common Council. A designation by the Commission on a finding of immediate need shall be effective from the date of mailing or personal delivery of the notice of designation to the owner of the property (if known) in the same manner as the notice requirements of Subsection C hereof and shall expire 90 days thereafter if the Common Council

shall have failed to act within said period. The notice shall specify the recommendations of the Commission, its reasons therefor and the right of appeal as contained in § 405-69. **[Amended 12-16-1999 by L.L. No. 2-2000; approved 1-3-2000; 3-5-2019 by L.L. No. 1-2019, approved 3-19-2019]**

### **§ 405-63. Landmarks and Landmark (L) Districts.**

#### **A. Legislative intent.**

- (1) The purpose of this section is to provide for the promotion of the educational, cultural, economic and general welfare of the public through the protection, enhancement, perpetuation and preservation of landmarks and Landmark (L) Districts. The legislative body declares that it is in the public interest to ensure that the distinctive landmarks and Landmark (L) District shall not be injuriously affected, that the value to the community of those buildings having architectural and historical worth shall not be impaired and that said districts be maintained and preserved to promote their use of the education, pleasure and welfare of the citizens of the City of Kingston and others.
- (2) The Stockade (Area) District of Kingston, consisting of eight blocks bounded by Clinton Avenue, Main Street, Green Street and North Front Street, together with protective perimeter, is the site of the Stockade built by Peter Stuyvesant in 1658 and successive extensions under English rule.<sup>1</sup> In this area, there were two Indian massacres, one in 1659 and one in 1664. It is also the location of the founding of the first government of the State of New York in 1777, burned by the British that same year.
  - (a) This area, which represents an important heritage relative to the Dutch and English Colonial periods, is defined on the Zoning Map and is declared to be a Landmark District (and a Historic and Architectural Design Overlay District).
  - (b) This area contains the architecture of the past 300 years, and new development must not be allowed to erode the best of the architectural spaces and cultural association of the past.

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**1. Editor's Note: A map of the Stockade (Area) Landmark District is included as an attachment to this chapter.**

- (3) The Rondout Landmark District consisting of the area as shown on the map of same annexed to this chapter as Attachment 6:2.<sup>2</sup> **[Added 7-5-2011 by L.L. No. 7-2011, approved 7-27-2011]**
  - (4) The Fair Street Landmark District consisting of the area as shown on the map of same annexed to this chapter as Attachment 6:3.<sup>3</sup> **[Added 7-5-2011 by L.L. No. 7-2011, approved 7-27-2011]**
  - (5) The Chestnut Street Historic District consisting of the area as shown on the map of same annexed to this chapter as Attachment 6:4.<sup>4</sup> **[Added 7-5-2011 by L.L. No. 7-2011, approved 7-27-2011]**
- B. Applicability and guidelines. This section shall apply to all buildings, structures, outbuildings, walls, fences, steps, topographical fixtures, earthworks, landscaping, paving and signs of a landmark or Landmark District. No changes in any exterior architectural feature, including but not limited to, construction, reconstruction, alteration, restoration, removal, demolition or painting, shall be made except as hereinafter provided. To assist in the conservation action, several specific guidelines are included:
- (1) Because of the visual importance of the Old Dutch Church steeple, no new structure may rise within the Stockade District above the base of the steeple, which is 62 feet above the curb level.
  - (2) Many of the most important buildings in Landmark Districts are stone, wood or brick, with only two or three surface materials used on any building. There are almost no large areas of glass or polished metal. For this reason, design criteria references in § 405-64 and as specified by the Historic Landmarks Preservation Commission to match this condition are placed on all restoration and construction.
    - (a) Site design. In determining building setbacks for new construction, the Commission may require new buildings to be set behind existing building lines to give emphasis to existing structures of historic or aesthetic merit or to

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2. Editor's Note: Said map is included as an attachment to this chapter.

3. Editor's Note: Said map is included as an attachment to this chapter.

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allow for suitable landscaping. New construction shall be compatible with the district in which it is located.

(b) Landscaping and paving. Landscaping may be required by the Commission, and is deemed an important element of site development.

[1] Evergreen materials may be required for screen functions.

[2] Recommendations may be made to the Commission by a landscape architect or designer approved by the Commission.

[3] Bluestone, slate or brick may be prescribed for sidewalks.

[4] Maintenance of plant material shall be the responsibility of the owner, including responsibility to keep growth trimmed and trained, to meet the Commission requirements.

(c) Parking. Parking areas shall be partially screened from public view, with appropriate walls, structures, fences or landscaping. The area allotted for planting of all parking lots shall be at least 5% of the amount allotted to parking surface.

(d) Maintenance. Preventive maintenance is required in order to assure that these buildings, spaces, elements and details are preserved. Failure to provide this preventive maintenance shall be a violation of this article.

C. Relation to underlying zoning districts. The underlying zoning districts shall apply within the landmark or Landmark District as follows:

(1) The zone regulations shall apply within the landmark or Landmark District with respect to: limitations on height, except as noted above, building spacing, yard and parking requirements.

(2) Other provisions of these regulations related to land use shall remain in force; all other controls shall remain in force to the extent they do not conflict with the intent and purpose of this section.

**§ 405-64. Review procedure.**

- A. No person shall carry out any exterior or historically designated publicly visible interior alteration, restoration, reconstruction, demolition, new construction or moving of a landmark or property within a Landmark District nor shall any person make any material change in the appearance of such a property, its light fixtures, signs, sidewalks, fences, steps, paving or other exterior elements visible from a public street or alley which affect the appearance and cohesiveness of the historic district without first obtaining a preservation notice of action from the Landmarks Commission and a notification to the applicant to obtain a building permit, if necessary. A preservation notice of action does not obviate the need for a building permit.
- B. Criteria. In making such determinations, the Commission shall consider:
- (1) The effect of the proposed work in changing, destroying or affecting the exterior features of the landmark or Landmark (L) District upon which such work is to be done;
  - (2) The relationship between the results of such work and the exterior architectural features of other neighboring improvements;
  - (3) The factors of aesthetic, historical and architectural values and significance, architectural style, design, arrangement, texture, material and color;
  - (4) The special character and aesthetic interest that any structure involved adds to the area; and
  - (5) The difficulty or impossibility of reproducing any structure involved because of its design, texture, material, position or detail.
- C. All applications shall be considered by the Commission on at least the following points, these points to be used as a basis, where relevant, for establishing relationships to the external features of buildings in the immediate neighborhood: The building height in relation to surrounding buildings; the relationship to nearby roof shapes; the relationship between the width to height of the front elevation; the size, proportion and spacing of openings within the facade and elevations exposed to view; the rhythm of spacing of buildings and building elements on the street; the design and placement of entrances and projections; the relationships of materials, textures and colors; the relationship of architectural details; the continuity of walls; the relationship of landscape



elements; the appropriateness of paving; and the effect on existing or historically significant spaces.

- D. It shall be the further duty of the Commission to exercise judgment in accord with the basis of decisions stated herein and maintain the desirable character of the landmark or Landmark District and prevent construction, reconstruction, alteration or demolition out of harmony with existing buildings insofar as character, material, color, line and detail are concerned, and thus to prevent degeneration of property, to safeguard public health, promote safety and preserve the beauty of the character of the landmark or Landmark District.

**§ 405-65. Preservation permit for change in exterior architectural features.**

- A. The preservation notice of action required by this section shall be in addition to, and not in lieu of, any building permit that may be required by any other ordinance of the City of Kingston, New York. In the event of overlapping reviews, the most restrictive review shall apply.
- B. Prior to the commencement of any work requiring a preservation notice of action, the owner shall file an application for a preservation notice of action, which shall be made, in writing, in duplicate, to the Commission and shall contain the following:
- (1) The name, address, telephone number and signature of the owner.
  - (2) The name, address, telephone number and signature of the applicant.
  - (3) The location of the building, structure or land; the exterior architectural features which are proposed to be changed.
  - (4) The elevations of the proposed change.
  - (5) A perspective drawing.
  - (6) Samples of colors or materials to be used in the proposed change.
  - (7) Where the proposed change includes signs or lettering, all dimensions and colors, a description of materials to be used and the method of illumination, if any, and showing the location on the building or property.
  - (8) Photographs of existing conditions may be required.

- (9) Whatever additional information the Commission deems necessary to evaluate the application.
- C. Prior to submitting a formal application, the applicant or his representative may meet with the Commission and/or its staff to informally discuss plans for alterations of exterior features. In order to avoid unnecessary expense and delay, a sketch or schematic design for the construction, alteration or repair of any regulated activity may be presented to the Commission. A preliminary design should show the relation to adjacent structures and spaces. The Commission may advise or recommend alteration and changes in the application.
- D. Procedure to be followed for a preservation notice of action.
- (1) Within a reasonable time after a completed formal application is filed with the Commission, but in any event within 90 days after such filing or within such further time as the applicant may, in writing, allow, the Landmarks Commission shall conduct a public meeting to approve or deny the application or approve the application with modifications. At said public meeting, opportunity shall be provided to proponents and opponents to present their views.
- (2) All decisions of the Commission shall be in writing. A copy shall be sent to the applicant by mail and a copy filed with the Building Department for public inspection. The Commission's decision shall state the reasons for denying or modifying any application. Approval to proceed will be documented by the issuance of a preservation notice of action. The conditions upon which the preservation notice of action is issued will be stated, in writing, on the preservation notice of action. During work upon any preservation notice of action, if a modification is sought, such must be approved by an amended preservation notice of action issued by the Commission. Compliance will be necessary to obtain a final certification of occupancy or certificate of compliance from the Building Department. The preservation notice of action shall be valid for one year. At all times during this term, the preservation notice of action shall be prominently posted in public view pursuant to local law governing building permit posting. **[Amended 12-16-1999 by L.L. No. 2-2000, approved 1-3-2000; 3-5-2019 by L.L. No. 1-2019, approved 3-19-2019]**

- E. Inspection. If, upon inspection, the Historic Landmarks Preservation Commission (HLPC) determines that the work is not in conformity with the preservation notice of action, the HLPC shall notify the Building Department, in writing. No certificate of occupancy or certificate of compliance shall be issued thereupon until the work is altered to be in conformity with the preservation notice of action. **[Amended 12-16-1999 by L.L. No. 2-2000; approved 1-3-2000; 3-5-2019 by L.L. No. 1-2019, approved 3-19-2019]**

### **§ 405-66. Hardship.**

- A. An applicant whose preservation notice of action for a proposed demolition or alteration has been denied may apply for relief on the grounds of hardship. The hardship shall not be self-inflicted. In order to prove the existence of hardship, the applicant shall establish that:
- (1) The property is incapable of earning a reasonable return, regardless of whether that return represents the most profitable return possible;
  - (2) The property cannot be adapted for any other use, whether by the current owner or by a purchaser, which would result in a reasonable return; and
  - (3) Efforts to find a purchaser interested in acquiring the property and preserving it have failed.
- B. Hardship application procedure.
- (1) After receiving written notification from the Commission of the denial or approval with modifications of a preservation notice of action, an applicant may commence the hardship process. No building permit or demolition permit shall be issued unless the Commission makes a finding that a hardship exists. The Commission may hold a public hearing on the hardship application, at which an opportunity will be provided for the proponents and opponents of the application to present their views.
  - (2) The applicant shall consult in good faith with the Commission, local preservation groups and interested parties in a diligent effort to seek an alternative that will result in preservation of the property.
  - (3) All decisions of the Commission shall be in writing. A copy shall be sent to the applicant by registered mail and a copy

filed with the City Clerk's office for public inspection. The Commission's decision shall state the reasons for granting or denying the hardship application.

- (4) In the event of the Commission's denial based on hardship application, the applicant may apply to the City of Kingston Zoning Board for review of said application, applying Landmark Ordinance criteria.

### **§ 405-67. Demolition by neglect.**

- A. In its review to determine that demolition by neglect is occurring and upon consultation with the Building Department, the Commission shall consider all of the foregoing criteria and shall also attempt to confer with the owner or person in charge of the real property concerned. It shall also review any communication it shall receive which indicates that demolition by neglect is or may be occurring in any landmark or Landmark District. In the event that the Commission finds that such demolition is or may be taking place, it shall direct a letter to the Building Department to notify the owner or person in charge of this finding, stating the reasons therefor and requesting that the owner or person in charge immediately take appropriate steps to cause such demolition to cease, and to confer with the Commission in connection therewith. Should the owner or person in charge fail to satisfy the Commission that all necessary steps are or will be promptly taken, the Commission shall request the Building Department to notify the Corporation Counsel of the City of Kingston and request the consideration of the proceedings pursuant to § 405-52D hereof. **[Amended 12-16-1999 by L.L. No. 2-2000; approved 1-3-2000; 3-5-2019 by L.L. No. 1-2019, approved 3-19-2019]**
- B. No owner or person with an interest in real property designated as a landmark or included within a historic district shall permit the property to fall into a serious state of disrepair so as to result in the deterioration of any exterior architectural feature which would, in the judgment of the Historic Landmarks Preservation Commission, produce a detrimental effect upon the character of the property itself. Examples of such deterioration include:
- (1) Deterioration of exterior walls or other vertical supports.
  - (2) Deterioration of roofs or other horizontal members.
  - (3) Deterioration of exterior chimneys.

- (4) Deterioration or crumbling of exterior stucco or mortar.
- (5) Ineffective waterproofing of exterior walls, roofs or foundations, including broken windows or doors.
- (6) Deterioration of any feature so as to create a hazardous condition which could lead to the claim that demolition is necessary for the public safety.
- (7) Interior structural members shall be protected and maintained to resist and prevent deterioration.
- (8) Unheated attics, spaces below flat roofs and crawl spaces shall be ventilated to minimize deterioration.
- (9) Interior and exterior chimneys and flues shall be maintained safe, sound and smoketight.
- (10) Interior ceilings, walls, floors and stairways shall be maintained in a safe and sound condition.

**§ 405-68. Enforcement. [Amended 12-16-1999 by L.L. No. 2-2000; approved 1-3-2000; 3-5-2019 by L.L. No. 1-2019, approved 3-19-2019]**

- A. All work performed pursuant to a preservation notice of action and/or building permit issued under this article shall conform to any requirements included therein. In the event that the Commission finds that work is not being performed pursuant to said preservation notice of action or building permit, it shall notify the owner or person in charge of this building, stating the reasons therefor and requesting that the owner or person in charge immediately take appropriate steps to conform to said preservation notice of action or building permit and to confer with the Commission in connection therewith. Should the owner or person in charge fail to satisfy the Commission that all necessary steps are or will be immediately taken, the Commission shall request the Building Department to take appropriate action.
- B. Similarly, should both a preservation notice of action 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 preservation notice of action, including, but not limited to, stop-work orders.

**§ 405-69. Appeals.**

Any person aggrieved by an action of the Commission in disapproving or limiting a preservation notice of action application and the Zoning Board's support of such Commission action may bring a proceeding to review in a manner provided by Article 78 of the Civil Practice Law and Rules in a court of record on the ground that such decisions are illegal, in whole or in part.