

## **PROPOSED NEW LANDMARKS PRESERVATION ORDINANCE**

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This proposed ordinance is largely based on the 2014 NYS Model Preservation Law. The greatest distinctions between that and Kingston's existing ordinance are in the phrasing and detailing of procedures and criteria. Text that is underlined indicates a clause that has been retained from the existing ordinance or a recommendation by the Corporation Counsel in its May 2018 proposed legislation. Text that is *italicized* indicates a clause that is recommended in the Model Law and would be wholly new to Kingston's ordinance. Text that is ***bold and italicized*** indicates a clause that has been adapted from another New York municipality's preservation ordinance.

### **Article IX: Landmarks Preservation Ordinance**

[Amended x-xx-2018, approved x-xx-2018]

An ordinance relating to the establishment of individual landmarks and historic districts in the City of Kingston, NY. This ordinance supersedes and replaces Section 264 of the City of Kingston Code and Section 405-58 et seq which related to individual landmarks and historic districts in the City of Kingston, and are now repealed.

#### **Section 1. Title.**

This ordinance shall be known and may be cited as the Landmarks Preservation Ordinance.

#### **Section 2. Purpose.**

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

The purpose of this ordinance 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's bounds that reflect special elements of Kingston'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 Kingston'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; and
- h) To conserve valuable material and energy resources by ongoing use and maintenance of the existing built environment.

### **Section 3: Enabling Authority**

Pursuant to Article 5 A, § 96-a; and Article 5-K, § 119 aa through dd of the NYS General Municipal Law; (GMU), Title C Article 14 of the NYS Parks, Recreation and Historic Preservation Law (PAR); and § 10 of the Municipal Home Rule Law (MHR); 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.

### **Section 4. Historic Preservation Commission.**

There is hereby created a commission to be known as the Kingston Landmarks Preservation Commission (Commission).

- a) Membership: The Commission shall consist of seven (7) members and up to (3) alternate members.
- b) Appointments: Members of the commission shall be appointed by the Mayor of the City of Kingston. No person appointed to the Commission can also serve as a member of the legislative body establishing the Commission.
- c) Term of Office: Members shall be appointed for a term of three years. The terms for all members of the Commission shall be staggered and fixed so that approximately 1/3 of the terms shall expire each year.
- d) Qualifications: To the extent possible, Commission members shall be required to have the following expertise:
  - i. at least one shall be a licensed practicing architect;
  - ii. at least one shall have demonstrated significant interest in and commitment to the field of preservation planning as evidenced either by involvement in a local or regional historic preservation group, employment or volunteer activity in the field of preservation planning, or other serious interest in the field;
  - iii. at least one member shall be an owner of city designated building or an owner in a city historic district;

- iv. all members shall be residents of the City of Kingston at the time of their appointment and throughout their membership; and,
  - v. all members shall have a known interest in the history, trend of future development and historic preservation of the City of Kingston.
  - vi. In the event that the governing board determines that any of the positions described in subsections i, ii and iii cannot be filled by persons so qualified, the Mayor may fill any such position by appointing persons qualified under subsections iv and v.
- e) Alternate Commission Members: The Mayor shall appoint up to three (3) alternate members to participate on the Commission on behalf of a regular member who is absent or has a conflict of interest. **All other provisions of this section and the rest of the Administrative Code relating to the eligibility, compensation, ethics, conflicts of interest, vacancies, mandatory training, reappointment and removal of regular Commission members shall also apply to alternate members; provided, however, that there shall be no requirement that the alternate members as a group satisfy each of the professional certification that apply to the regular Board members.** The first appointment shall be for a period of three years; the second appointment shall be for a period of two years; and the third appointment shall be for a period of one year. Thereafter, all appointments shall be for a period of three years. The Chairperson of the Commission shall be responsible for designating an alternate member to substitute for a regular member, who for any aforementioned reason, cannot participate. When so designated, the alternate member shall possess all the powers and responsibilities of a regular member of the Commission. Such designation shall, when practical, be made on a rotating basis and shall be entered into the minutes of the initial meeting at which the substitution is made. Once a substitution has been made, it shall continue to be in effect on the applicable agenda items.
- f) Vacancies: Vacancies occurring in the Commission 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. The Commission may submit to the Mayor a list of eligible and qualified candidates, which the Mayor may consider through the principles for which the Commission was created.
- g) Removal of Members: The Mayor shall have the power to remove any regular member or alternate member of the Commission for one or both of the following causes:
- i. Failure to attend 80% of scheduled meetings without a documented medical and/or emergency excuse approved by the Chairperson of the Commission; or
  - ii. Actions deemed to be in violation of ethics as described in § 45-3 of the City of Kingston Code; and

Any person or persons jointly or severally aggrieved by any decision to remove for any cause

**may appeal the decision to the Common Council.** Such proceeding shall be instituted within thirty (30) days after the filing of a decision by the Mayor to remove.

- h) Compensation: Members shall serve without compensation.
- i) Training and attendance requirements:
  - i. *Each member of the Commission shall complete, at a minimum, four hours of training each year designed to enable such members to more effectively carry out their duties. Training received by a member in excess of four hours in any one year may be carried over by the member into succeeding years in order to meet this requirement. Such training shall be approved by the Mayor 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 Commission, a member shall have completed the training approved by the Mayor.*
  - iii. *The training may be waived or modified by resolution of the Mayor when, in the judgment of the Mayor, it is in the best interest to do so.*
  - iv. *No decision of a Commission shall be voided or declared invalid because of a failure to comply with this subdivision.*

## **Section 5. Organization.**

- a) Chairperson and Vice Chairperson; designation and duties.
  - i. The chairpersons of the Commission shall be designated by vote of an affirmative majority of the members of the Commission.
  - ii. The members of the Commission shall **annually elect** one of their number as Chairperson, to preside at all meetings and hearings of the full Commission and to fulfill the customary functions of that office, and another of their number as Vice Chairperson. The Chairperson and Vice Chairperson may administer oaths.
  - iii. In the absence of the Chairperson, the Vice Chairperson shall act as Chairperson and shall have all the powers of the Chairperson. The Vice Chairperson shall have such other powers and duties as may from time to time be provided by the rules of the Preservation Board.
  - iv. In the absence of both the Chairperson and the Vice Chairperson, the members present shall vote to establish a temporary Chairperson.

- b) *Secretary: The Mayor shall appoint a secretary to serve as secretary to the Commission. The secretary shall keep a record of all resolutions, proceedings, and actions of the commission, as well as attendance of commission members.*
- c) Quorum: A simple majority of the Commission members shall constitute a quorum for the transaction of business. An affirmative majority vote of the full Commission is required to approve any resolution, motion or other matter before the commission.

**Section 6. Records, Decisions and Annual Report.**

- a) Records: The Commission shall be subject to the provisions of the Public Officers Law, including Article 7 related to the Open Meetings Law. The Commission records shall be readily available to the public. The vote or failure to vote of each Commission member shall be recorded. If any Commission member abstains from voting based on a conflict of interest or otherwise, the member must also state his or her reason(s) or ground(s) for doing so on the record.
- b) *Decisions.*
  - i. ***The Commission may rely on the personal knowledge of its members, on testimony from the public hearing, on its inspections of the property and on any reports available to it; provided, however, that reliance on such matter shall not be allowed unless the Commission shall have made the particular knowledge, inspection or report a matter of record at the public hearing and afforded every party reasonable time to respond to it at the hearing.***
  - ii. ***Every decision of the Commission upon an application for the designation of a historic district or a landmark and every decision of the Commission approving, conditionally approving or denying a certificate of appropriateness shall be by written resolution, including findings of fact, shall refer to all the evidence in the record and to the exhibits, plans or specifications upon which such decision is based and shall contain the findings of fact, which shall set forth the recommendation of the Commission or shall approve, approve with conditions or deny approval. Every resolution shall expressly set forth any limitations or conditions imposed on any approval or any development, work or use authorized.***
- c) *Annual Reports: The Commission shall submit an annual report of its activities to the Mayor and each member of the City of Kingston Common Council and make such recommendations to the legislative body as the Commission deems necessary to carry out the purposes of this local law.*

**Section 7. Promulgation of Regulations; Meetings.**

- a) Regulations: The Commission may recommend to the Common Council regulations relating to any subject matter over which the Commission has jurisdiction under this ordinance. Any

such recommendation may be adopted by local law of the City of Kingston Common Council.

- b) **By-Laws; meetings:** The Commission may approve by-laws that are consistent with the regulations adopted by the Common Council. Such by-laws shall provide for the time and place of holding regular meetings; and may provide for the calling of special meetings by the chairperson or by written request of at least two members of the Commission. Regular meetings shall be held at least once a month. All regular or special meetings of the Commission shall be consistent with the notice provisions of the New York Open Meetings Law and shall be open to the public.

### **Section 8. Committees.**

*The Commission may, in its by-laws, establish permanent or ad hoc committees consisting of no less than three current members of the Commission for assignments assigned to it by the full Commission.*

### **Section 9. Costs of Operation; budget requests.**

The cost of operation of the Commission shall be funded by the City of Kingston with such funds to be made available to it by the Common Council in its sole judgment and discretion. The Commission shall submit its budget and all requests for appropriations to the Mayor annually or on or before a date specified by the Mayor.

### **Section 10. Powers and Duties of the Historic Preservation Commission.**

- a) **General and Advisory Powers.** The Commission shall, from time to time:
  - i. Review any local laws or regulations, including existing landmarks or historic preservation laws or regulations in the City of Kingston, and recommend to the Kingston Common Council any changes and amendments thereto;
  - ii. Recommend to the Common Council additional regulations to be adopted by local law that may be necessary for the Commission to conduct its business, consistent with the scope and intent of this ordinance;
  - iii. Recommend to the Common Council specific criteria for regulations to be adopted by local law that identify and catalogue significant historic landmarks, and from time to time advise it on suggested changes thereto;
  - iv. Designate landmarks and historic districts under this historic preservation ordinance and from time to time changes thereto;
  - v. ***Conduct an ongoing survey and inventory of historically and architecturally significant properties, structures and areas that exemplify the cultural, social, economic, political or architectural history of the nation, state or city;***

- vi. ***Develop and promulgate appropriate standards and guidelines to assist property owners in preservation, restoration, rehabilitation and reconstruction of landmarks, landmark sites and properties within historic districts and the design of contemporary structures within historic districts.***
  - vii. ***To increase public awareness and broaden knowledge of the value of historic architecture and cultural preservation within the city.***
  - viii. Cause to be prepared and placed upon or nearby any landmark or historic district a suitable plaque declaring its significance, at the discretion of the Commission and with the property owner's consent;
  - ix. Cause to be prepared an investigation or study of matters relating to the protection, enhancement, perpetuation and restoration of historic resources 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, Common Council, and other city agencies, boards and commissions of the City of Kingston. In making such investigations and studies, the Commission may, with the approval of the Mayor, hold public hearings as it may deem necessary or appropriate;
  - x. Make all appropriate arrangements for the general transaction of its business, including the receipt and disbursement of funds, and to request that the City on its behalf, retain or employ professional consultants, secretaries, clerks, or other personnel as may be made available to it by the Common Council in its sole judgment and discretion.
  - xi. Report on matters referred to it by the Common Council. The Common Council may by resolution provide for the referral to the Commission for a report on any matter or class of matters that impact the city's historic preservation ordinance, policies, regulations or administrative processes before final action is taken thereon by the Common Council or other office of the City of Kingston having final authority over said matter. The Common Council may further stipulate that final action thereon shall not be taken until the Commission has submitted its report thereon, or has had a reasonable time, to be fixed by the Common Council in said resolution, to submit the report.
  - xii. Advise the Common Council concerning acceptance, acquisition, option, purchase and administration of property, development rights and easements pertaining to the purposes of this Preservation Code.
- b) Administrative Reviews. In accordance with the regulations adopted by the Kingston Common Council for landmarks and historic preservation purposes, the Commission shall:
- i. Evaluate an 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 an application for a certificate of economic hardship; approve, approve with modifications, or deny any such application;
  - iii. Evaluate an application for a certificate of appropriateness for demolition, removal or relocation; approve, approve with modifications, or deny any such application;
  - iv. ***Advise and assist owners of landmarks, landmark sites and property or structures within historic districts on physical and financial aspects of preservation, renovation, rehabilitation, and adaptive reuse of their property.***
  - v. Perform other functions that the Kingston Common Council may designate by local law.
- c) *The Commission may designate or advise designation of a historic district under this historic preservation ordinance and that historic district is not to be construed as a zoning district under the Code of the City of Kingston. Nothing contained in this historic preservation ordinance shall be construed as authorizing the Commission to adopt a law, by-law or regulation that regulates or limits the height and bulk of buildings, regulates and determines the area of yards, courts and other open spaces, regulates density of population or regulates or restricts the locations of trades and industries or creates zoning districts for any such purpose.*
- d) The Commission may, in exercising or performing its powers, duties or functions under this ordinance with respect to any structure in a historic district or to any individually designated structure or building apply or impose, with respect to the construction, reconstruction, alteration, demolition or use of such structure, determinations or conditions which are more restrictive than those prescribed or made by or pursuant to the applicable regulations contained herein or to any other applicable provisions of law.

#### **Section 11. Cooperation of City Agencies.**

*All City of Kingston agencies shall, upon request of the Commission, assist and furnish available permits, plans, reports, maps and statistical and other information which the Commission may require for its work.*

#### **Section 12. Criteria and Designation of Landmarks or Historic Districts.**

The Commission shall designate landmarks or historic districts within the City of Kingston under this historic preservation ordinance.

- a) Individual Landmark: The Commission may designate an individual property as an individual



landmark if it:

- i. Exemplifies or possesses special character, or historic or aesthetic interest of value as part of the political, economic, or social history of Kingston;
  - ii. Is identified with persons or events significant in local, state, or national history;
  - iii. Embodies the distinguishing characteristics of a type, period or method of construction or design style, or is a valuable example of the use of indigenous materials or craftsmanship; or is representative of the work of a designer, architect or builder;
  - iv. Represents an established and familiar visual feature of the community by virtue of its unique location or singular physical characteristic, represents an established and familiar visual feature of the community; or
  - v. *Has yielded or may be likely to yield information important in prehistory or history.*
- b) Historic District: The Commission may designate a group of properties within Kingston as an historic district if a majority of properties therein:
- i. Contain properties which meet one or more of the criteria for designation as a landmark and which may have within its boundaries 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
  - ii. Constitute a unique section of Kingston by reason of possessing those qualities that would satisfy such criteria.
- c) *Interior Landmark: The commission may designate 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 city, state or nation and:*
- i. *it is customarily open or accessible to the public; or*
  - ii. *it is an interior into which the public is customarily invited.*
- d) *Scenic Landmark: The commission may designate a landscape feature or group of features.*
- e) *Ordinarily, properties that have achieved significance within the past fifty (50) years are not considered eligible for designation under this historic preservation ordinance. 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.*

*Recommendations for designation must be accompanied by such historical and architectural information as is required by the commission to make an informed recommendation concerning the application, together with any fee set by the Kingston Common Council.*

*The boundaries of each 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.*

### **Section 13. Notice and Hearing Requirements for Proposed Designation.**

The Commission shall designate landmarks or historic districts in the following manner:

- a) Initiation of Proposed Designation. Designation of an individual historic landmark or historic district may be proposed by the Commission, by the owner of the property, or by written request signed by ten (10) residents of the City of Kingston.
- b) Public Hearing; general notice.
  - i. Within 45 days after receipt of a full application or other matter referred to it, the Commission shall schedule a public hearing on all proposed resource, individual, landmark or historic district designations. Public notice of any such hearing shall be given by publication in a newspaper of general circulation within the city at least fifteen (15) days prior to the public hearing date.
  - ii. The Commission shall require submission of written comments on the application prior to designation of any landmark, interior landmark, scenic landmark or historic district.
  - iii. The Commission may solicit expert testimony with such funds as are made available by the Common Council in its sole judgment and creation.
  - iv. The Commission, property owners, and any interested parties may present testimony or documentary evidence at the hearing which will become part of a record regarding the historic, architectural, or cultural importance of the proposed resource, individual, landmark or historic district.
- c) Notice of Public Hearing; multiple properties proposed for designation.
  - i. Notice of public hearing for a proposed designation, including the amendment of a prior designation or proposed designation, shall be sent by the Commission by certified mail/return receipt requested or courier service with proof of delivery or personal service with proof of delivery to the last owner of record, as the names and address appear on the records of the Assessor of the City of Kingston, for each property within the area of the proposed historic district at least fifteen (15) days

prior to the date of the public hearing. Such notice shall include a description of the properties proposed for designation and state the time and place where any public hearing to consider such designation will be held by the commission.

- ii. The notice provisions are in addition to the general notice requirements under (b) of this Section.
- d) Work Moratorium: Once the Commission has issued notice of a proposed designation it may recommend to the Common Council that a moratorium be put in place, prohibiting any work relating to the individual landmark or district proposed for designation as long as the proposed designation is under active consideration by the Commission and until the Commission has made its decision on designation.
- e) Commission Record: The Commission shall compile a public record in support of its designation of a resource, landmark or historic district. In addition to testimony or documentary evidence received at any public hearing, the record may also contain reports, public comments, expert testimony, or other evidence offered outside of the hearing, but submitted for the Commission's consideration by the date of the hearing. At a minimum, the record of the designation shall contain the application, Commission and/or staff reports, a transcription of any comments made on the application at the public hearing, and the Commission's decision to approve, approve with modifications, or deny the application requesting designation.
- f) Commission Decision: Within 62 days after the close of the public hearing, the Commission shall by resolution issue a recommendation for designation in whole or in part, or shall disapprove in entirety, setting forth in writing the reasons for the decision. Within seven (7) days, the Commission shall send notice of its recommendation to the Common Council and to owners of a proposed individual landmark or properties within a proposed historic district by certified mail return receipt requested. The designation shall be effective upon ratification through ordinance by the Common Council. Pending ratification, the proposed individual landmark or historic district shall have interim protection.
- g) The Commission may agree with the applicant, in writing, to extend the time period within which a designation will be made.
- h) The Commission shall forward notice of each property designated as an individual landmark and the boundaries of each designated historic district to the office of code enforcement, Planning Department, city clerk and county clerk for recordation.
- i) Failure to Send Notice. Failure to send any notice by mail to any property owners where the address of such owner is not a matter of property tax records shall not invalidate any proceedings in connection with the proposed designation.
- j) Amendment or Rescission. The Commission may amend or rescind any designation of an individual landmark or historic district in the same manner and using the same procedures as followed for designation.

**Section 14. Certificate of Appropriateness for Alteration, Demolition, or New Construction Affecting Individual Landmarks or Historic Districts.**

- a) The City of Kingston Historic Preservation Commission is responsible for the approval or disapproval of proposals for exterior changes to a historic property designated under this ordinance and shall apply to all buildings, structures, outbuildings, walls, fences, steps, paving and signs of an individual landmark or property within a designated historic district. No person shall carry out any exterior alteration, restoration, reconstruction, demolition, new construction, or move of a designated individual landmark or property within a designated historic district without first obtaining a Certificate of Appropriateness that authorizes such work from the City of Kingston Historic Preservation Commission.
- b) *All changes to City-owned property affecting an individual landmark or within a historic district shall be subject to the provisions of this local law.*
- c) The City of Kingston Building Safety Division of the Fire Department shall receive and file all applications issued for any individual landmark, or landmarks or historic district to which this ordinance applies. The Building Safety Division shall transmit a copy of any such application to the Commission.
- d) The Commission may require that the application for a Certificate of Appropriateness be supplemented by such additional information or materials as may be necessary for a complete review by the Commission. The Commission may impose such reasonable conditions or restrictions as it deems necessary or appropriate on a case-by-case basis to promote or achieve the purpose of this ordinance.

**Section 15. Criteria for Issuing a Certificate of Appropriateness.**

- a) Certificate of appropriateness; general criteria: The Commission shall approve the issuance of a certificate of appropriateness only if it determines that the proposed work will not have a substantial adverse effect on the aesthetic, historical, or architectural significance and value of the individual landmark or if the proposed work is within a historic district, proposed work will not have a substantial adverse effect on the aesthetic, historical, or architectural significance of the property itself, the district or neighboring properties in such district.
- b) In making this determination, the Commission's decision to approve, approve with modification(s), or deny an application for a certificate of appropriateness for an individual landmark or property within a designated historic district will be guided by the Secretary of the Interior's Standards for Rehabilitation, and when proposed work is within a historic district, by the following principles:
  - i. properties which contribute to the character of the historic district shall be retained, with their historic features altered as little as possible;

- ii. any alteration of existing properties shall be compatible with the surrounding historic district; and
  - iii. new construction shall be compatible with the historic district in which it is located;
- c) In applying the principle of compatibility set forth in paragraph (b) of this section, the Commission shall consider the following factors:
- i. the general design and character of the proposed alteration or new construction relative to existing features of the property or improvement;
  - ii. the scale and visual compatibility of the proposed alteration or new construction in relation to the property itself, surrounding properties, and the neighborhood;
  - iii. texture, color, and materials, and their relation to similar features of the property and other properties in the neighborhood;
  - iv. visual compatibility with surrounding properties, including proportion of the property's facade, proportion and arrangement of windows and other openings within the facade, roof shape, and the rhythm of spacing of properties on streets, including setback; and the importance of historic physical and visual features to the significance of the property.
  - v. within the Stockade Historic District, the overall height of the proposed alteration or new construction which shall not exceed that of the base of the visually important Old Dutch Church steeple, which rises 62 feet above the curb level.
- d) In approving an application for a certificate of appropriateness, the Commission shall find that the building or structure for which the permit was requested, if erected or altered in accordance with the submitted plan or with stated modifications, would be consistent with the spirit and intent of this ordinance, would not be visually offensive or inappropriate by reason of poor quality of exterior design, monotonous similarity or visual discord in relation to the sites or surroundings, would not mar the appearance of the area, would not impair the use, enjoyment and desirability or reduce the values of properties in the area, would not be detrimental to the character of the neighborhood, would not prevent an appropriate development and utilization of the site or of adjacent lands and would not adversely affect the functioning, economic stability, prosperity, health, safety and general welfare of the community.
- e) *Where the Commission grants a certificate of appropriateness under circumstances where the permitted activity is likely to uncover or affect archaeological resources, the Commission shall require reasonable efforts to protect and preserve such resources. Where such protection and preservation is not feasible, the Commission shall nonetheless impose appropriate and reasonable conditions to insure that the*

*archaeological resource is made accessible for a reasonable period to qualified persons.*

**Section 16. Certificate of Appropriateness Application Procedure.**

- a) Prior to the commencement of any work requiring a certificate of appropriateness, the property owner shall file an application for such a certificate with the City of Kingston Building Safety Division. The certificate of appropriateness required by this ordinance shall be in addition to and not in lieu of any building permit or other land use approval that may be required by any other ordinance or regulation of the City of Kingston.
- b) The application for certificate of appropriateness shall contain:
  - i. name, address, and telephone number of applicant;
  - ii. name, address, and telephone number of the property owner;
  - iii. application number as assigned by the Building Safety Division;
  - iv. location and photographs of property;
  - v. elevation drawings of proposed changes;
  - vi. perspective drawings or a visibility study to illustrate relationship of work to, and impact on, adjacent properties, may be required;
  - vii. samples of building materials to be used including specifications about material composition, maintenance, and placement on property;
  - viii. where the proposal includes signs or lettering, a scale drawing showing the type of lettering to be used, all dimensions and colors, a description of materials to be used, method of illumination, and an elevation drawing or photograph showing the sign's location on the property; and any other information which the Commission may deem necessary in order to visualize the proposed work.
- c) Upon receipt of all the information required herein, the Commission shall deem the application complete and shall place the application on the agenda of the next meeting of the Commission.
- d) Prior to submitting a formal application, the applicant or their representative may meet with the Commission to informally discuss plans for alterations of exterior features. In order to avoid unnecessary expense and delay, any preliminary drawings for the construction, alteration or repair of any regulated activity may be presented to the Commission for advisory feedback.
- e) *Upon submission of a complete application, the Commission shall have the authority to, without public hearing and notice:*

- i. *determine whether the proposed work constitutes ordinary maintenance and repair for which a certificate of appropriateness is not required;*
- ii. *approve work which is considered replacement-in-kind;*
- iii. *approve work that is of any other type that has been previously determined by the Commission to be appropriate for delegation to staff.*

**Section 17. Certificate of Appropriateness Public Notice Requirements.**

- a) *Upon submission of a complete application for a certificate of appropriateness, public notice of the proposal shall be posted by the owner or owner’s representative on the property for a minimum of ten days. This notice must remain in place until a decision to approve or deny the certificate of appropriateness has been made. The notice shall specify the proposed work, the time and place of the public hearing, and to whom and by when any public comments are to be communicated. The notice must be placed at or near the property line in the front yard so that it will be plainly visible from the street, and, in cases where a property has frontage on more than one street, an additional sign must be placed at or near the property line on any additional street frontage so that the sign will be plainly visible from the street on which it has such additional frontage.*
- b) The Commission shall hold a public hearing prior to rendering a decision on any application for a certificate of appropriateness. Notice of the public hearing shall be published in a newspaper of general circulation in the city of Kingston at least fifteen (15) calendar days prior to the public hearing date. The notice shall specify the time and place of the public hearing, a brief description of the proposal, and the location where the proposal may be reviewed prior to the hearing. The property owner or a representative appointed by them shall be present at the hearing to discuss their application with the Commission. Any interested party may present testimony or documentary evidence regarding the proposal at the hearing, which will become a part of the record. The record may also contain staff reports, public comments, and other evidence offered outside of the hearing, but presented by the hearing date.
- c) Within 45 days after the close of the initial public hearing, the Commission shall approve, approve with conditions or modifications, request additional information, or deny the certificate of appropriateness.
- d) In the event, however, that the Commission shall make a finding of fact that the circumstances of a particular application require further time for additional study and information than can be obtained within the aforesaid 45-day period after close of the public hearing, then the Commission shall have a period of up to one additional 45-day period from the date of any such finding within which to act upon such applications.
- e) All decisions of the Commission shall be in writing. A copy shall be sent to the applicant by certified mail/return receipt requested or courier service with proof of delivery or

personal service with proof of delivery, and a copy filed with the Building Safety Division of the Fire Department for public inspection, within ten (10) days of the date of the decision. 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 certificate of appropriateness. The conditions on which the certificate is issued shall be stated, in writing, on the certificate of appropriateness.

- f) The certificate of appropriateness shall be valid for **24 months**. 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 (find code location).
- g) If a modification to an active certificate of appropriateness is desired, the applicant shall apply to the Commission for an amendment to the certificate of appropriateness.

### **Section 18. Expiration of Approval; Extension of Approval**

*Certificates of appropriateness shall be valid for **24 months**, after which time the owner shall apply for a new certificate if they still wish to undertake work on the property. At least two months prior to expiration of the 24-month period the owner may apply, in writing, for an extension and shall explain the reasons for the extension request. The Commission may grant up to two extensions of six (6) months each. A written application for an extension of a certificate of appropriateness approval shall not be considered an application for a new certificate of appropriateness.*

### **Section 19. Alteration Hardship Process and Criteria.**

- a) An applicant whose certificate of appropriateness for a proposed alteration of a landmark property has been denied may apply for relief on the ground of economic hardship. In order to prove the existence of economic hardship related to a proposed alteration, the applicant shall establish that the denial of a certificate of appropriateness will prevent the property owner from earning a reasonable return on investment, regardless of whether that return represents the most profitable return possible.
- b) As promptly as is practicable after making a preliminary determination of hardship as provided in this ordinance, the Commission, with the aid of such experts as it deems necessary, shall, in consultation with the applicant, endeavor to develop a plan whereby the improvement may be preserved and perpetuated in such manner as to effectuate the purpose of this ordinance, and also rendered capable of earning a reasonable return.
- c) Consultation; plan development. The applicant shall consult in good faith with the Commission, local preservation groups, and other interested parties in a diligent effort to seek an alternative that will result in appropriate preservation of the property. The consulting parties may include interested purchasers, as well as preservation and other interested organizations, public agencies, developers, real estate agents and individuals who may be instrumental in developing an economically feasible solution.
- d) Economic Hardship; criteria. Following the denial of a certificate of appropriateness, the



applicant may request a certificate of economic hardship. In all cases other than a proposed demolition, removal or relocation, the applicant shall prove the existence of economic hardship by demonstrating to the Commission that: (1) the applicant cannot realize a reasonable return if compliance with the Commission's decision is required, provided, however, that the lack of reasonable return is proven by the applicant to be substantial as demonstrated by competent financial evidence; (2) that the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood; (3) that the requested relief, if granted, will not alter the essential character of the neighborhood; and (4) that the alleged hardship has not been self-created.

e) The Commission, in the granting of a certificate of economic hardship, shall grant the minimum terms deemed necessary and adequate to address the unnecessary hardship proven by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

f) Public hearing.

i. The Commission may hold a public hearing on the hardship application at which an opportunity will be provided for the applicant and public to present their views on the hardship application.

ii. If no public hearing is held, the Commission must render a decision on the hardship application within 62 days following its receipt of a complete application.

1. A complete application includes the conclusion of all activities under (c) initiated to consult with necessary parties to determine whether the property may be preserved or rehabilitated in a manner that alleviates the hardship that would otherwise result while substantially accomplishing the goals of this local law.

2. A complete application also includes receipt by the Commission of all submissions necessary to meet the applicant's burden of proof.

iii. Following the submission of a complete application, the Commission may schedule a public hearing within a reasonable time and determine within 62 days following to the close of any public hearing held on the application whether the applicant has met his or her burden of proof.

g) Commission decision.

i. If the commission finds that the applicant's burden of proof has not been met, the Commission shall deny the application for a certificate of economic hardship.

ii. If the commission finds that the applicant's burden of proof has been met, the

Commission shall issue a preliminary determination of landmarks or economic hardship within 62 days of the close of any public hearing held on the application or within 62 days after the Commission has received a complete application.

- iii. Within 62 calendar days following the Commission's preliminary determination of economic hardship the Commission must make a final determination.
  - iv. A decision of the Commission on the hardship application shall be in writing and shall state the reasons for granting or denying it. A copy shall be sent to the applicant by certified mail/return receipt requested or courier service with proof of delivery or personal service with proof of delivery and a copy filed with the City Clerk's office for public inspection.
- h) No building permit or other land use approvals shall be issued unless the Commission grants the hardship application. If the hardship application is granted, the Commission shall approve only such work as is necessary to alleviate the hardship.

#### **Section 20. Demolition, Removal, or Relocation of Landmark or Landmark-eligible Buildings.**

- a) Demolition of an individual landmark or of a structure located in, and contributing to, the significance of a historic district shall be allowed only in case of economic hardship, unless the Building Safety Division, upon due deliberation, has made an express written finding that the structure presents an imminent threat to the public health, safety and welfare.
- b) Any person desiring to demolish a designated historic building shall first file an application for a demolition permit with the Building Safety Division and an application for a certificate of appropriation with the Commission. An applicant must submit the following items:
  - i. Current level of economic return;
  - ii. Amount paid for the property, date of purchase, party from whom purchased, and relationship between the owner of record, the applicant, and person from whom property was purchased;
  - iii. Annual gross and net income from the property for the previous three years; itemized operating and maintenance expenses for the previous three years, and depreciation deduction and annual cash flow before and after debt service, if any, during the same period;
  - iv. Remaining balance on the mortgage or other financing secured by the property and annual debt-service, if any, during the prior three years;
  - v. Real estate taxes for the previous four years and assessed value of the property according to the two most recent assessed valuations;
  - vi. All appraisals obtained within the last two years by the owner or applicant in connection with the purchase, financing, or ownership of the property;
  - vii. Form of ownership or operation of the property, whether sole proprietorship, for-profit or not-for-profit corporation, limited partnership, joint venture, or other;

- viii. Any state or federal income tax returns relating to the property for the last two years;
  - ix. Any listing of property for sale or rent, price asked, and offers received, if any, within the previous two years, including testimony and relevant documents regarding: (a) any real estate broker or firm engaged to sell or lease the property, (b) reasonableness of price or rent sought by the applicant, or (c) any advertisements placed for the sale or rent of the property;
  - x. Feasibility of alternative uses for the property that could earn a reasonable economic return;
  - xi. Report from a licensed engineer or architect with experience in rehabilitation as to the structural soundness of any buildings on the property and their suitability for rehabilitation;
  - xii. Cost estimates for the proposed construction, alteration, demolition, or removal, and an estimate of any additional cost that would be incurred to comply with the requirements for a certificate of appropriateness;
  - xiii. Estimated market value of the property: (a) in its current condition; (b) after completion of the proposed alteration or demolition; and (c) after renovation of the existing property for continued use;
  - xiv. Expert testimony or opinion on the feasibility of rehabilitation or reuse of the existing structure by an architect, developer, real estate consultant, appraiser, and/or other real estate professional experienced in historic properties and rehabilitation;
  - xv. Any evidence of self-created hardship through deliberate neglect or inadequate maintenance of the property; and
  - xvi. Economic incentives and/or funding available to the applicant through federal, state, city, or private programs.
- c) Demolition of any such building may be approved only in connection with approval of a replacement project.
- d) The Commission shall hold a public hearing and shall take one of the following actions:
- i. Approve the demolition permit in conformance with the provisions of Section 21 of this ordinance;
  - ii. Approve the demolition hardship permit subject to a waiting period of up to one hundred twenty days to consider relocation/documentation;
  - iii. Deny the permit.
- e) During the continuance period, the Commission may investigate relocation of the building (on site) or modification of the building for future uses in a way which preserves the architectural and historical integrity of the building.

## **Section 21. Demolition, Removal or Relocation Hardship Criteria**

- a) Certificate of appropriateness for demolition, removal or relocation. An applicant whose certificate of appropriateness for a proposed demolition, removal or relocation of a landmark, resource or property has been denied may apply for relief on the ground of economic hardship. In order to prove the existence of economic hardship sufficient to justify demolition, removal, or relocation, the applicant shall establish that the denial of a certificate of appropriateness will prevent the property owner from earning a reasonable return on investment, regardless of whether that return represents the most profitable return possible.
  
- b) Certificate of Appropriateness for demolition. The applicant for a certificate of appropriateness for demolition must establish to the commission's satisfaction, an imminent plan of reuse or redevelopment of the affected property. The applicant for an income-producing property shall establish that:
  - i. the property is incapable of earning a reasonable return, regardless of whether that return represents the most profitable return possible; and,
  - ii. 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,
  - iii. efforts to find a purchaser interested in acquiring the property and preserving it have failed.
  - iv. In deciding upon such application for removal, relocation or demolition, the commission may consider whether the owner has created his own hardship through waste and neglect, thereby permitting the property to fall into a serious state of disrepair.
  
- c) Before approving the removal, relocation or demolition of an individual landmark or structure within a historic district, the Commission may suspend the application for up to one hundred and eighty (180) days to allow the applicant to consult in good faith with the Commission, local preservation groups, and the public in a diligent effort to seek a less intrusive alternative to demolition.

**Section 22. Affirmative Maintenance and Repair Requirement**

- a) Ordinary maintenance; repair.
  - i. Nothing in this ordinance 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 a public hearing, whether or not proposed work constitutes ordinary maintenance and repair or requires a certificate of appropriateness.

- b) No owner or person with an interest in real property designated as an individual landmark or included within a historic district shall permit the property to fall into a serious state of disrepair. *Maintenance shall be required, consistent with the Property Maintenance Code of New York State Uniform Fire Prevention and Building Code and all other applicable local regulations.*
  
- c) Every owner or person in charge of an improvement on an individual landmark or a property within a historic district shall keep in good repair:
  - i. all of the exterior portions of such improvements; and
  
  - ii. all interior portions thereof which, if not so maintained, may cause or tend to cause the exterior portions of such improvement to deteriorate, decay or become damaged or otherwise to fall into a serious state of disrepair. Examples of types of prohibited disrepair include, but are not limited to:
    - 1. Deteriorated or crumbling exterior plasters, mortar or facades;
    - 2. Deteriorated or inadequate foundation;
    - 3. Defective or deteriorated flooring or floor supports or any structural floor members of insufficient size to carry imposed loads with safety;
    - 4. Deteriorated walls or other vertical structural supports that split, lean, list or buckle due to defective material or deterioration;
    - 5. Members of ceilings, roofs, ceiling and roof supports or other horizontal members which sag, split or buckle due to defective material or deterioration or are of insufficient size to carry imposed loads;
    - 6. 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;
    - 7. Defective or insufficient weather protection for roofs, foundation or exterior wall covering, including lack of paint or weathering due to lack of paint or other protective covering, which may cause or tend to cause deterioration, decay or damage;
    - 8. 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;
    - 9. Any fault or defect in the building or structure which renders it not properly watertight or otherwise compromises the life and character of the building or structure.
  
- d) 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.

- e) Every owner or person in charge of a scenic landmark shall keep in good repair all portions thereof.

### **Section 23. Enforcement and Violations; Penalties**

- a) All work performed pursuant to a certificate of appropriateness issued under this ordinance shall conform to the requirements expressly stated in the certificate or reasonably implied therefrom. It shall be the duty of the building inspector to periodically inspect any such work to assure compliance with the certificate and all applicable laws. In the event any requirement included in the certificate of appropriateness has not been met, or upon notification of that fact by the Commission, the building inspector shall issue a stop work order upon notifying the owner, or person in charge, of the violation and all work shall immediately cease. No further work shall be undertaken on the project as long as a stop work order is in effect.
- 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 ordinance in the absence of a certificate of appropriateness, a finding of economic hardship, or other approval by the Commission, may be required by the Kingston Common Council to restore the property and its site to its appearance prior to the violation.
- c) If, in the judgment of the Commission, a violation of this ordinance 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 the New York State Fire Prevention and Building Code, or any other applicable law or regulation, the building inspector shall order such remedies as are necessary and consistent with this ordinance and shall provide written notice thereof to the chair of the Commission.
- d) *Penalties. A violation of this ordinance is deemed an offense punishable by a fine, imprisonment or both, as follows:*
  - i. *First Offense: A first conviction for violation of this ordinance may result in a fine not exceeding \$500 or imprisonment for a period not to exceed six months, or both;*
  - ii. *Second Offense: A second conviction for violation of this ordinance, if the occurrence that leads to conviction began within a period of five years from the date of first conviction, may result in a fine not less than \$1,000 or imprisonment for a period not to exceed six months, or both;*
  - iii. *Third Offense: A conviction for a third or subsequent offense all of which were committed within a period of five years from when the occurrence leading to the first conviction began, shall include a fine of not less than \$700 nor more than \$1000 or imprisonment for a period not to exceed six months, or both.*

- iv. *In addition to any penalties imposed under this local law, continued violations of this local law shall be punishable in any other manner provided under other local regulations, and state and federal law.*

For the purpose of conferring jurisdiction upon courts, each week of a continuing violation shall constitute a separate offense.

- e) The Commission shall notify the Common Council of an enforcement matter arising under this ordinance and shall refer it to the Corporation Counsel. Action to enforce this ordinance shall be brought by the Corporation Counsel or other attorney designated by the Common Council. Civil remedies authorized under Section 24 of this ordinance shall be in addition to and not in lieu of any criminal prosecution and penalty.

#### **Section 24. Appeals.**

Any person aggrieved by a decision of the Commission relating to a certificate of economic hardship or a certificate of appropriateness may, within 15 days of the decision, file a written appeal to the City of Kingston Zoning Board of Appeals for review of the decision. *Appellate review shall be based on the same record that was before the Commission and using the same criteria in this ordinance.*

#### **Section 25. Definitions**

As used in this ordinance, the following words and phrases have the following meaning:

**Acquisition:** The act or process of acquiring fee title or other interest in real property, including acquisition of development rights or remainder interest.

**Addition:** Any act or process that changes one or more of the exterior architectural features of a building or structure by adding to, joining with or increasing the size or capacity of the building or structure.

**Alteration:** Any act or process, other than demolition or preventative maintenance, that changes the exterior appearance of significant historical or architectural features, or the historic context of a designated landmark, including, but not limited to, exterior changes, additions, new construction, erection, reconstruction, or removal of the building or structure, or grading.

**Appropriate:** Especially suitable or compatible.

**Architectural Significance:** The quality of a building or structure based on its date of erection, style and scarcity of same, quality of design, present condition and appearance or other characteristics that embody the distinctive characteristics of a type, period or method of construction.

**Building:** Any construction created to shelter any form of human use, such as a house, garage or barn, and which is permanently affixed to the land. Building may also refer to a historically related complex, such as a house and a barn.

**Building Official:** The person, or his or her designee, authorized to grant permits for construction, alteration, and demolition pursuant to the codes adopted by the City of Kingston.

**Building Inspector:** The person, or his or her designee, authorized and certified to enforce the New York State Fire Prevention and Building Code. The person, or his or her designee, who is also authorized by the Mayor to enforce this local law, except where another official is expressly authorized.

**Certificate of Appropriateness:** An official form issued by the City of Kingston Historic Preservation Commission stating that the proposed work on a designated historic landmark is compatible with the historic character of the property and thus in accordance with the provisions of this local law and therefore: (1) the proposed work may be completed as specified in the certificate; and (2) the Building Safety Division may issue any permits needed to do the work specified in the certificate.

**Certificate of Economic Hardship:** An official form issued by the Commission when the denial of a certificate of appropriateness has deprived, or will deprive, the owner of the property of all reasonable use of, or economic return on, the property.

**Change:** Any alteration, demolition, removal or construction involving any property subject to the provisions of this local law.

**Character:** Defined by form, proportion, structure, plan, style or material. General character refers to ideas of design and construction such as basic plan or form. Specific character refers to precise ways of combining particular kinds of materials.

**Compatible:** In harmony with location, context, setting, and historic character.

**Commission:** The Historic Preservation Commission established pursuant to section 4 of this article.

**Common Council:** The legislative body of the City of Kingston.

**Construction:** The act of constructing an addition to an existing structure or the erection of a new principal or accessory structure on a lot or property.

**Demolish:** Any act or process that removes or destroys in whole or in part a building, structure, or resource.

**Demolition Permit:** A permit issued by the building official allowing the applicant to demolish a building or structure, after having received a certificate of demolition approval from the Commission.

**Evaluation:** The process by which the significance and integrity of a building, structure, object, or site is judged by an individual who meets the professional qualification standards published by the National Park Service at 36 CFR Part 61 as determined by the State Historic Preservation Office, using the designation criteria outlined in Section 12 of this local law.



**Exterior Architectural Features:** The architectural style, design, general arrangement and components of all of the outer surfaces of any building or structure.

**Feature:** Elements embodying the historical significance or architectural style, design, general arrangement and components of all of the exterior surfaces of any landmark or historic resource, including, but not limited to, the type of building materials, and type and style of windows, doors, or other elements related to such landmark or historic resource.

**Historic Context:** A unit created for planning purposes that groups information about historic properties based on a shared theme, specific time period and geographical area.

**Historic District - Local:** An area designated as a historic district by this historic preservation local law, and which contains within definable geographic boundaries a significant concentration, linkage or continuity of sites, buildings, structures, or objects united historically or aesthetically by plan or physical development. An historic district designated under this local law shall not to be construed as a zoning district of the city, and nothing contained herein shall be construed as authorizing the Commission to adopt a law, by-law or regulation that regulates or limit the height and bulk of buildings, regulates and determine the area of yards, courts and other open spaces, regulates density of population or regulates or restricts the locations of trades and industries or creates zoning districts for any such purpose.

**Historic Fabric:** Original or old building materials (masonry, wood, metals, marble) or construction.

**Historic Integrity:** The retention of sufficient aspects of location, design, setting, workmanship, materials, feeling or association for a property to convey its historic significance.

**Historic Landmark:** A building, district, site, structure or object significant in American history, architecture, engineering, archeology or culture at the national, State, or local level.

**Historic Resource:** Any evaluated building, structure, object, or site that potentially meets the designation criteria outlined in Section 12.

**Historic Preservation Commission:** The Historic Preservation Commission appointed by the Mayor for the City of Kingston.

**Historic Property:** A district, site, building, structure, or object significant in American history, architecture, engineering, archeology, or culture at the national, state, or local level.

**Historic Resources Survey:** a) the process of systematically identifying, researching, photographing, and documenting historic resources within a defined geographic area, and b) the resulting list of evaluated properties that may be consulted for future designation. For the purpose of this local law, all surveys shall be conducted in accordance with the Secretary of the Interior's Standards and Guidelines for Identification and Evaluation, as may be amended.

**Historic Significance:** The quality of a place, site, building, district or structure based upon its

identification with historic persons or events in the city of Kingston.

**Integrity:** The authenticity of a property's historic identity, evidenced by the survival of physical characteristics that existed during the property's historic or prehistoric period.

**Interior Landmark:** Interior landmarks are noted for the portions of their interior that are open to the public.

**Inventory:** A list of historic properties determined to meet specified criteria of significance.

**Landmark:** Any building, structure or site that has been designated as a "landmark" by the the Common Council, pursuant to procedures described in Section 12 that is worthy of preservation, restoration or rehabilitation because of its historic or architectural significance.

**Landmark Alteration Permit:** A permit approving an alteration to or demolition of a landmark, or demolition of a historic resource listed in the heritage resource inventory pursuant to the provisions of this local law.

**Listing:** The formal entry or registration of a property.

**Maintain:** to keep in an existing state of preservation or repair.

**Minor work:** Any change, modification, restoration, rehabilitation, or renovation of the features of an historic resource that does not materially change the historic characteristics of the property.

**Move:** Any relocation of a building or structure on its site or to another site.

**National Register Criteria:** The established criteria for evaluating the eligibility of properties for inclusion in the National Register of Historic Places.

**National Register of Historic Places:** The official inventory of the nation's historic properties, districts, sites, districts, structures, objects and landmarks which are significant in American history, architecture, archaeology, and culture, maintained by the Secretary of the Interior under the authority of the Historic Sites Act of 1935 and the National Historic Preservation Act of 1966 (16 USC. 470 et seq., 36 CFR Sections 60, 63, as may be amended).

**Non-contributing:** A feature, addition or building, structure, object or site which does not add to the sense of historical authenticity or evolution of an historic resource or landmark or where the location, design, setting, materials, workmanship, history, and/or association of the feature, addition or building, structure, object or site has been so altered or deteriorated that the overall integrity of that historic resource or landmark has been irretrievably lost.

**Object:** Constructions that are primarily artistic in nature or are relatively small in scale and simply constructed. Although it may be moveable by nature or design, an object is associated with a specific setting or environment. Examples include boundary markers, mileposts, fountains, monuments, and sculpture. This term may include landscape features.

**Owner:** Those individuals, partnerships, corporations, or public agencies holding fee simple title to property, as shown on the records of the Assessor's Office of the City of Kingston.

**Period of Significance:** The length of time when a property was associated with important events, activities, or persons, or attained characteristics which qualify it for landmark status. Period of significance usually begins with a date when significant activities or events began giving the property its historic significance; this is often a date of construction.

**Preservation:** The act or process of applying measures necessary to sustain the existing form, integrity, and materials of an historic property. Work, including preliminary measures to protect and stabilize the property, generally focuses upon the ongoing maintenance and repair of historic materials and features rather than extensive replacement and new construction. New exterior additions are not within the scope of this treatment; however, the limited and sensitive upgrading of mechanical, electrical, and plumbing systems and other code-required work to make properties functional is appropriate within a preservation project.

**Preventative maintenance:** Any work to prevent deterioration or damage to the structural integrity or any exterior feature of a landmark or historic resource that does not involve a change in design, material or exterior appearance. Such work includes, but is not limited to, painting, roof repair, foundation or chimney work, or landscape maintenance.

**Property Type:** A grouping of individual properties based on a set of shared physical or associative characteristics.

**Rehabilitation:** The act or process of making possible a compatible use for a property through repair, alterations, and additions while preserving those portions or features of the property which convey its historical, architectural and cultural values.

**Repair:** Acts of ordinary maintenance that do not include a change in the design, material, form, or outer appearance of a resource, such as repainting. This includes methods of stabilizing and preventing further decay, and may incorporate replacement in-kind or refurbishment of materials on a building or structure.

**Restoration:** The act or process of accurately depicting the form, features, and character of a property as it appeared at a particular period of time by means of the removal of features from other periods in its history and reconstruction of missing features from the restoration period. The limited and sensitive upgrading of mechanical, electrical, and plumbing systems and other code-required work to make properties functional is appropriate within a restoration project.

**Retain:** The act of keeping an element, detail or structure and continuing the same level of repair to aid in the preservation of elements, sites, and structures.

**Reversible:** An addition which is made without damage to the project's original condition.

**Scenic Landmark:** Scenic landmarks encompass structures that are not buildings, such as bridges,

piers, parks, cemeteries, sidewalks, clocks, and trees.

**Secretary of the Interior's Standards for the Treatment of Historic Properties:** Principles developed by the National Park Service (36 CFR 68.3, as may be amended) to help protect historic properties by promoting consistent preservation practices and providing guidance to historic building owners and building managers, preservation consultants, architects, contractors, and project reviewers on how to approach the treatment of historic properties. The Secretary of the Interior Standards for the Treatment of Historic Properties may also be referred to in this local law as "Secretary of the Interior's Standards."

**Significant:** Having particularly important associations with the contexts of architecture, history and culture.

**Site:** The location of a significant event, a prehistoric or historic occupation or activity, or a building or structure, whether standing, ruined or vanished, where the location itself maintains historical or archaeological value regardless of the value of any existing buildings, structures or other objects. Examples of a site are a battlefield, designed landscape, trail, or camp site.

**Stabilization:** The act or process of applying measures designed to reestablish a weather resistant enclosure and the structural stability of an unsafe or deteriorated property while maintaining the essential form as it exists at present.

**Structure:** Any assemblage of materials forming a construction framed of component structural parts for occupancy or use, including buildings.

**Style:** A type of architecture distinguished by special characteristics of structure or ornament and often related in time; also a general quality of distinctive character.

**Undertaking:** Any project or other action involving the expansion, modification, development or disposition of the physical plant or any site or building.

**Visibility Study:** An illustrative study using photos and/or a computer-generated rendering that shows a proposed change in its physical context from multiple vantage points along public thoroughfares.

## **Section 27. Severability**

If any section, subsection, subdivision, paragraph, clause or phrase in this local law, or any part thereof, is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections or portions of this ordinance, or any part thereof. The Common Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase of this ordinance, irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases may be declared invalid or unconstitutional.