



City of Kingston Laws and Rules Committee
Meeting Agenda
Wednesday, May 16, 2018

NEW BUSINESS

Kathy Hochman, RCAL Re: RUPCO's Landmark Place Proposal

Suggested Action: No Action Currently To Be Taken by Council

[20180430152801.pdf](#)

Alderman Schabot Re: Proposed Dock Street Project

[Dock Street Project Proposal.pdf](#)

Julie Noble, Sustainability Coordinator Re: Amendments to PACE Local Law

[Amended Municipal Agreement - City of Kingston.docx](#)

[Communication to President Noble for amendments to PACE Local Law.pdf](#)

[Resolution Introducing Amendments to Sustainable Energy Loan Program.doc](#)

[Revised Kingston Local Law re Sustainable Energy Loan Program.doc](#)

[Memo to EIC Members - Amendment Package 12.4.17 Final.pdf](#)

1 OLD BUSINESS

1.a. D. Gartenstein, Asst Corporation Counsel Re: Combination of HLPC/HAC

[20180329130031.pdf](#)

[l.r.hlpc.heritage.leislation revised 5-16-18.pdf](#)

1.b. John Tuey, Comptroller Re: Parking Ticket Collection Policy and Amendment to Boot and Tow Law

[Parking Communication.pdf](#)

[Parking Ticket Collection Policy.docx](#)

[City of Kingston Boot and Tow Law.pdf](#)



RESOURCE CENTER FOR ACCESSIBLE LIVING, INC.
Your Independence is Our Mission

727 Ulster Avenue
Kingston, NY 12401

TTY (845) 331-4527
FAX (845) 331-2076
Main (845)331-0541

April 9, 2018

To the Kingston Common Council,

This letter is in support of RUPCO's Landmark Place proposal for permanent, affordable senior and supportive housing at 300 Flatbush Avenue, Kingston. We believe this housing proposal will benefit our City and its residents by providing affordable senior housing for our aging neighbors on a modest income. We also feel strongly that our veterans with PTSD deserve a safe place to call home. This opportunity also allows us to maintain a historic gem important to Kingston's history. And as a bonus, the Landmark Place proposal will bring in tax revenue for the first time ever in this building's history

We think Landmark Place is an important next step for this City in order for us to take care of our most at-risk citizens. We encourage you to vote in favor of the Landmark Place proposal. Thank you.

Sincerely,

A handwritten signature in blue ink that reads 'Kathy Hochman'. The signature is fluid and cursive, with the first name 'Kathy' being more prominent.

Kathy Hochman
Chief Operating Officer

Winnie, Carly

From: Jnoble <jnoble39@aol.com>
Sent: Wednesday, April 25, 2018 3:09 PM
To: Winnie, Carly
Subject: Fwd: Dock Street Project

Carly please add to the L&R Committee. Thank you. Jim

Sent from my iPhone

Begin forwarded message:

From: "STEVEN SCHABOT" <SSCHABOT@hvc.rr.com>
Date: April 23, 2018 at 8:53:09 PM EDT
To: "'Noble, James'" <jnoble@kingston-ny.gov>, "'James Noble'" <jnoble39@aol.com>
Cc: "'Carey, Bill'" <bcarey@kingston-ny.gov>, "'Bill Carey'" <kingstoncarey5@yahoo.com>
Subject: FW: Dock Street Project

Jim
Here is the e-mail regarding the dock space rental.
Please assign to Laws and Rules, as per Corporation Counsel.
Thanks
Steve

From: STEVEN SCHABOT <SSCHABOT@hvc.rr.com>
Sent: Monday, March 19, 2018 10:42 AM
To: 'Noble, James' <jnoble@kingston-ny.gov>; 'James Noble (jnoble39@aol.com)' <jnoble39@aol.com>
Subject: Dock Street Project

Jim

Two investors, Steven Prosser & Jeff Hurst have approached the City regarding a lease for the use of 200 feet of vacant dock space on the Rondout Creek between our fishing dock and the Hideaway Marina. Their plan includes

- Provide slips, at their expense, for 10-12 boats
- Install 160 feet of dock, at their expense
- Upgrade the electrical services on the docks utilizing their labor; request that City pay for materials
- Utilize the space for a marine B & B and a boat for dinner cruises
- At the end of the lease any improvements would become the property of Kingston
- They will carry \$1,000,000 in liability insurance, at their expense

Their plan would support Goal 10 of City's Comprehensive Plan: "Encourage vibrant mixed-use land patterns in the Rondout centered around waterfront access, restaurants & tourist attractions." This will have the possibility of drawing additional visitors to the Rondout & Kingston. Improvements to the area would be in support of our goals to enhance the entire waterfront and would positively affect stores, restaurants, festivals, etc,

I encourage this type of development and am hopeful that the City will move forward to make this plan a reality.

Steve

ENERGY IMPROVEMENT CORPORATION
AMENDED MUNICIPAL AGREEMENT

This Agreement made as of this __ day of _____, 2018 (the “Agreement”), by and between the City of Kingston (the “Municipality”) and the Energy Improvement Corporation (“EIC”) (both the Municipality and EIC may hereinafter be referred to individually as a “Party” and collectively as the “Parties”), sets forth the duties and obligations of each Party in connection with the Municipality’s participation in the Energize NY Benefit Finance Program (the “Program”).

WHEREAS, EIC is a local development corporation duly formed under Section 1411 of the Not-For-Profit Corporation Law of the State of New York, for the purpose of promoting, facilitating and financing energy audits and renewable energy system feasibility studies, energy efficiency improvements and alternative or renewable energy generating systems (as such terms are defined in Section 119-ff of the General Municipal Law of the State of New York) (collectively, the “Energy Improvements”) on properties within its Participating Municipalities (as defined below), thereby promoting the public good by reducing greenhouse gas emissions, mitigating the effect of global climate change and lessening the burdens of government; and

WHEREAS, Participating Municipalities are those municipalities within the State of New York that have: (1) established by local law, pursuant to Municipal Home Rule Law and Article 5-L of the General Municipal Law of the State of New York, a sustainable energy loan program for the provision of financing to the owners of real property located within the Participating Municipality for Energy Improvements, (2) by virtue of signing this Agreement with EIC and pursuant to Article 5-G of the New York State General Municipal Law, authorizes EIC to act on behalf of the Participating Municipality and other Participating Municipalities to carry out the Program through which, among other things, financing is provided to property owners within such Participating Municipality, and (3) satisfied the minimum criteria established by EIC to admit new Participating Municipalities; and

WHEREAS, the Municipality previously executed the EIC Municipal Agreement on March 3, 2016 and the Municipality adopted Local Law No. 3 of 2015 on December 11, 2015, and has adopted the amended Local Law on _____, 20__ pursuant to Article 5-L of the General Municipal Law of the State of New York, which Local Law also authorized EIC to act on its behalf in carrying out its Program; and

WHEREAS, EIC and the Municipality now desire to enter into this Amended Municipal Agreement to reflect amendments to the Program.

Now, THEREFORE, in consideration of the mutual promises contained in this Agreement, the Parties agree as follows:

1. Duties of EIC

It is understood by the Parties that EIC will be responsible for the performance of the following duties:

- a) The development of finance products for the financing of Energy Improvements (each a “Product”) that will further the purposes of the local laws adopted by the Participating Municipalities and of EIC, which Products shall be submitted to the governing Board of EIC for its consideration and review.
- b) The establishment of one or more Products that, among other things, provide financing to property owners within such Participating Municipality in order to promote, facilitate and finance energy audits and renewable energy system feasibility studies, energy efficiency improvements and alternative or renewable energy generating systems. EIC has currently established two Products, the Energize NY PACE Finance 1.0 (ENY PACE 1.0) and the Energize NY PACE Finance 2.0 (ENY PACE 2.0), which are described in Attachments 1 and 2.
- c) Receive and review applications submitted by property owners within the Municipality for financing of Energy Improvements (“Property Owner(s)”), and the approval or disapproval of such applications in accordance with underwriting procedures and requirements established by EIC.
- d) Review the applications, energy assessments and scopes of work prepared for and by the Property Owners to establish the amount of each financing to be approved pursuant to the requirements of the Products. The governing Board of EIC reserves the right to reject an application for financing for any reason.
- e) Execute finance agreements (the “Energize NY Finance Agreements” or “Finance Agreements”) by and between EIC (on behalf of the Municipality) and the Property Owners for financing of Energy Improvements. The Finance Agreements shall set forth the terms and conditions for the disbursement and repayment of financing and the duties and obligations of each Property Owner and EIC with respect to the acquisition, construction and installation of Energy Improvements. Upon execution of the Finance Agreement by the Property Owner and EIC, the property that is the subject of the Finance Agreement shall be deemed a “Benefited Property.” Copies of all executed Finance Agreements for all Benefited Properties within the Municipality shall be provided to the Municipality by EIC.
- f) Receive and review the certificates of completion submitted by the Property Owners of Benefited Properties (or the contractor hired by the owner of a Benefited Property) during or following installation or construction of Energy Improvements on such Benefited Property, and disburse funds to the Property

Owner of the Benefited Property or his/her/its agent upon approval of such certificates in accordance with the terms of the Finance Agreement and the applicable Product.

- g) Deliver to the Municipality an annual report (the “Annual Report”) three months prior to when municipal taxes are due which shall contain information related to each Benefited Property within the Municipality through the end of the immediately preceding calendar year, including:
- i. A list of each newly approved Benefited Property for which the Property Owner or previous Property Owner of the Benefited Property executed a Finance Agreement within the annual time period covered by such report (for which a charge shall be added by the Municipality to its tax rolls in accordance with Paragraph 2b below). All Benefited Properties shall be identified in the Annual Report by address and Tax Map Identification (i.e. section, block and lot);
 - ii. A list of each existing Benefited Property for which the Property Owner or previous Property Owner of such Benefited Property executed a Finance Agreement. All Benefited Properties shall be identified in the Annual Report by address and Tax Map Identification (i.e. section, block and lot);
 - iii. A list of each Benefited Property within the Municipality where all obligations under the Finance Agreement have been satisfied or paid in full during the calendar year including the satisfaction date and a copy of the notice of satisfaction;
 - iv. For each Benefited Property (including each newly approved Benefited Property) for which payments remain due under the Financing Agreement:
 - a. the date of the Finance Agreement,
 - b. the original principal amount of the financing,
 - c. the total principal balance and accrued interest outstanding, and
 - d. the annual payment due to EIC (which shall include principal and accrued interest) associated with such Benefited Property.
 - v. the total annual payment due to EIC from all Benefited Properties in the Municipality (which shall include principal and accrued interest), which amount shall be paid by the Municipality within thirty (30) days of the date upon which payment is due to be made to the Municipality as payment of the municipal tax bill in accordance with Paragraph 2(c) and the balance of any delinquent charge payment reported by the Municipality during the term of the Financing Agreement pursuant to Paragraph 2(d) and;

- vi. All other information EIC may deem to be relevant to each Benefited Property within the Municipality.
- h) Create accounts (the “EIC Trust Accounts”) to be held by a trustee under the applicable trust indenture authorized by EIC for the purpose of accepting payments from the Municipality made in accordance with Paragraph 2(c) below, and create a separate account (the “EIC Program Administration Fund Account”) to receive the transfer of those funds deposited within the EIC Trust Accounts that constitute payment of EIC administrative fees;
- i) Provide customer service by telephone to the Municipality during the hours of 9:00 a.m. through 5:00 p.m. Monday through Friday, Eastern Standard Time, excluding state and federal holidays;
- j) Upon EIC’s receipt of payment in full under a particular Finance Agreement, send a letter of satisfaction by email to the Municipality notifying it that such Property Owner or subsequent owner of the Benefited Property has satisfied his/her/its obligations under the terms of the Finance Agreement.

2. Duties of the Municipality

It is understood by the Parties that the Municipality will be responsible for the performance of the following duties:

- a) Maintain copies received from EIC of each Finance Agreement for a Benefited Property throughout the term of the Finance Agreement relating to such Benefited Property, which shall be maintained until all obligations of the owner of such Benefited Property that are set forth in the Finance Agreement have been satisfied.
- b) Within thirty (30) days of receipt of the Annual Report, add a charge to its tax rolls for each newly approved Benefited Property listed therein, and include such charge in the next ensuing tax levy so that such charge shall be included on and due in the same manner and at the same time and in the same installments as the municipal taxes on real property are due within the Municipality and shall become delinquent at the same times, shall bear the same penalties and interest after delinquency, and shall be subject to the same provisions for redemption and sale as the general municipal taxes on real property of the Municipality.
- c) Within thirty (30) days of the date payment of municipal taxes is due to be made to the City of Kingston, including the charge pursuant to a Finance Agreement, remit payment to the EIC Trust Accounts in the amount equaling the total annual payments due to EIC from each Benefited Property within the Municipality, regardless of whether the Municipality actually has received such payments from the owner of the Benefited Property. Failure by the Municipality to deliver

payments to EIC shall be considered an event of default hereunder.

- d) Deliver to EIC an annual delinquency report (the “Delinquency Report”) no later than (90) days after the due date for the municipal taxes, including the charge, which shall: (i) list each Benefited Property that is delinquent in charge payments owed for such Benefited Property, (ii) provide the amount owed to the Municipality by the owner of such Benefited Property (including penalties and interest on delinquent charge payments), and (iii) outline the steps taken or to be taken and progress made in recovering delinquent charge payments from the owner of such Benefited Property.
- e) Make all reasonable efforts to assist EIC in carrying out the Program within the Municipality.

3. Alternative Products and Modifications

- (a) A Municipality that became a Participating Municipality prior to March 1, 2018 may choose to participate in either ENY PACE 1.0 or ENY PACE 2.0 through written notice to EIC of its election. Until such time as the Municipality provides written notice of its choice to participate in ENY PACE 2.0, it shall be deemed to have chosen to remain in ENY PACE 1.0 and financings within the Municipality will be made only under the terms of PACE 1.0. Municipalities that become Participating Municipalities after March 1, 2018 shall participate in PACE 2.0 only. Should EIC develop new Products in the future, participation in the offering of such Products shall be subject to the eligibility and other requirements of any such new Product, and require written notice from the Municipality that it wishes to participate in such Product.
- (b) The Municipality may at any time modify the Program by limiting the types of properties which may receive financing for Energy Improvements and/or the amount of financing available within the Municipality and, if the Municipality is offering PACE 2.0, whether construction financing shall be permitted in the Municipality. The Municipality shall provide written notice to EIC of such proposed modification. The proposed modification shall only become effective upon written approval from EIC provided to the Municipality, which shall not be unreasonably withheld. Such approval shall have no effect on the duties and obligations owed by each Party hereto in connection with this Agreement and any Benefited Property for which a Finance Agreement was executed prior thereto.

4. Non – Payment

- a) Failure of the Municipality to deliver payments to EIC within thirty (30) days of when due to the Municipality, shall be considered an event of default and EIC shall be entitled to pursue any one or more of the remedies set forth below.
- b) No Participating Municipality shall be responsible for the deficient payment of another Participating Municipality.

5. Terms of Membership

The Municipality understands and agrees that membership in EIC is at the discretion of the Board of Directors of EIC and is conditional upon satisfying the membership criteria established by the EIC Board, as may be amended from time to time at the sole discretion of the Board, as well as compliance with the terms of the By-Laws of EIC. If the Municipality participates in PACE 1.0 and its bond credit rating drops below “A” as rated by Standard and Poors and/or “A2” as rated by Moodys and/or “A” by Fitch Ratings Service, EIC will no longer provide financings to Properties within such Municipality. If the Municipality participates in PACE 2.0 and its bond credit rating drops below “BBB-“ as rated by Standard and Poors and/or “Baa3” as rated by Moodys and/or “BBB-” by Fitch Ratings Service, EIC will no longer provide financings to Properties within such Municipality, unless a capital provider to EIC agrees to provide credit to financings in that Municipality.

6. Reserve Funds and Permanent Loss

- (a) EIC maintains one or more reserve funds (each a “Reserve Fund”, collectively, the “Reserve Funds”) to protect and compensate EIC, Participating Municipalities, lenders of funds to EIC, and other third parties approved by EIC against potential losses, including without limitation losses suffered by a Participating Municipality resulting from defaulted charge payments only in the event of a Permanent Loss (defined below) with respect to a Benefited Property under ENY PACE 1.0. Certain Reserve Funds may be restricted in that they may only be used in conjunction with financings made to properties located within one or more designated Participating Municipalities. Reserve Funds designated for ENY PACE 1.0 and ENY PACE 2.0 shall be held separate and apart from each other and any reserves established for ENY PACE 1.0 and ENY PACE 2.0 may contain additional restrictions regarding their purposes and uses as required by the applicable Products and indenture. Additional Reserve Funds may be established in the future in connection with new Products implemented by EIC. All Reserve Funds will be held at a bank or trust company located and authorized to do business in New York State and if applicable, held by the trustee under the applicable indenture. Reserve Funds will be invested in accordance with the investment guidelines approved by EIC (the “Investment Guidelines”) as may be amended from time to time.
- (b) EIC reserves the right to refuse to make a financing to a property located within the Municipality in the event EIC determines, in its sole discretion, that there are inadequate reserve funds.
- (c) A loss shall not be deemed a permanent loss until the Participating Municipality has exhausted all remedies at law in an effort to collect the defaulted charge payments, including but not limited to the redemption and sale of the Benefited Property where the proceeds are not sufficient to recover all amounts paid by the Municipality to EIC after the proceeds of such sale have been proportionately applied to all amounts owed to the Municipality at the time of such sale as a result

of the non-payment of taxes ("Permanent Loss") . In order to collect from the Reserve Fund in the event of a Permanent Loss, the Municipality must provide EIC with all documentation as may be reasonably requested by EIC to document such Permanent Loss and must not be in default to EIC, including having made all payments to EIC when due.

7. Remedies Upon Default

Should the Municipality default in any of its obligations hereunder, including but not limited to failure to make payments to EIC as required hereunder, EIC shall be entitled to any remedy it may have at law and as set forth below. EIC may utilize any one or all of these remedies at EIC's sole discretion:

- a) If the Municipality fails to make a required payment to EIC and the Municipality collects penalties or interest from the Property Owner for late payment, the Municipality shall pay to EIC all such penalties or interest attributable to the charge collected by the Municipality on behalf of EIC.
- b) EIC shall have the right to discontinue providing any new financings to Properties located within the Municipality.
- c) EIC may suspend the Municipality's membership in EIC.

This Agreement does not create a debt of the Municipality and the payments by the Municipality payable hereunder are contractual obligations of the Municipality that are subject to and dependent upon appropriations being made from time to time by the Municipality for such purpose and the performance by EIC of its obligations hereunder. The Municipality agrees that its failure to appropriate funds sufficient to make payments due hereunder shall constitute a default under this Agreement.

8. Formation; Authority

Each Party represents and warrants to the other that it has complied with all laws and regulations concerning its organization, its existence and the transaction of its business and that all necessary steps have been taken to authorize it to execute, deliver and perform its respective obligations under this Agreement, and no consent or approval of any third party is required for either Party's execution of this Agreement or the performance of its obligations contained herein. The individual executing this Agreement on behalf of each Party has been and is duly authorized to bind his/her respective Party.

9 No Violation or Litigation

The performance by each Party of its respective obligations contained in this Agreement will not and do not conflict with or result in a breach of or a default under any of the terms or provisions of any other agreement, contract, covenant or security

instrument or any law, regulation or ordinance by which the Party is bound. There is no litigation, action, proceeding, investigation or other dispute pending or threatened against either Party which may impair its ability to perform its respective duties and obligations hereunder.

10. Notices

Any and all notices, demands, or other communications required or desired to be given hereunder by either Party shall be delivered electronically and in writing by certified mail, return receipt requested as follows:

EIC:
Mark Thielking
Executive Director
Energy Improvement Corporation
425 Cherry Street
Bedford Hills, NY 10507
E-mail: mark@energizeny.org

Kim Kowalski
Secretary
Energy Improvement Corporation
425 Cherry Street
Bedford Hills, NY 10507
secretary@energizeny.org

With a copy to:

James Staudt, Esq.
McCullough, Goldberger & Staudt, LLP
1311 Mamaroneck Avenue, Suite 340
White Plains, N.Y. 10605
E-mail: jstaudt@mgslawyers.com

MUNICIPALITY:
Steven T. Noble, Mayor
City of Kingston
420 Broadway
Kingston, New York 12401
E-mail: snoble@kingston-ny.gov

With a copy to:

John Tuey, Comptroller
City of Kingston

420 Broadway
Kingston, New York 12401
E-mail: jtuey@kingston-ny.gov

Daniel Baker, Assessor
City of Kingston
420 Broadway
Kingston, New York 12401
E-Mail: dbaker@kingston-ny.gov

Either Party hereto may change its address for purposes of this paragraph by providing written notice to the other party in the manner provided above.

11. Governing Law.

This Agreement shall be construed and governed in accordance with the laws of the State of New York. Any legal action to be brought under this Agreement must be instituted in State or Federal Courts having jurisdiction located in Westchester County, New York.

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the day and year first written above. The Parties hereto agree that facsimile signatures shall be as effective as if originals.

Date: _____, 20__

Energy Improvement Corporation

By: _____
PRINT NAME:

Date: _____, 20__

Municipality Name: City of
Kingston

By: _____
PRINT NAME:
Steven T. Noble

ATTACHMENT 1

EIC MUNICIPAL AGREEMENT - Attachment 1	ENERGIZE NY PACE 1.0 PRODUCT DESCRIPTION
MAXIMUM AMOUNT OF FINANCING AVAILABLE	10% of Appraised Value
MINIMUM FINANCE AMOUNT	\$5,000
LENGTH OF FINANCING TERM	Minimum term of 5 years and Maximum term of 20 Years
ELIGIBLE MUNICIPALITIES	Municipalities with a Credit Rating Above "A"
ELIGIBLE PROJECTS	Energy efficiency and renewable energy projects that comply with NYSEDA and investor owned utility programs including certain Remote Net Meter Projects
ELIGIBLE PROPERTIES	Existing buildings owned by an entity, other than an individual, including substantial renovations and new construction in the case of renewable energy projects
ELIGIBLE PROPERTY OWNERS	Not in bankruptcy; current on mortgage and property taxes for the past three years
LOAN TO VALUE (LTV) LIMITATION	Property's total amount of land secured loans is less than or equal to 90%, including the requested PACE financing
ANNUAL CASH FLOW REQUIREMENT	Estimated Annual Savings must be greater than estimated Annual Finance Charge
COST EFFECTIVENESS/SIR TEST	Estimated Savings must be greater than total cost of improvements
EIC MEMBER OBLIGATED TO PAY DURING DELINQUENCY	Yes
ABILITY TO ADD PACE TAX CHARGE TO BILL DURING CONSTRUCTION	No
MUNICIPAL RESERVE POOLS	Yes
LINK TO ENERGIZE NY PACE 1.0 UNDERWRITING STANDARDS	http://energizeny.org/images/uploads/ENY_PACE_1dot0_Standards.pdf

ATTACHMENT 2

EIC MUNICIPAL AGREEMENT - Attachment 2	ENERGIZE NY PACE 2.0 PRODUCT DESCRIPTION
MAXIMUM AMOUNT OF FINANCING AVAILABLE	35% of the property's appraised value
MINIMUM FINANCE AMOUNT	\$10,000
LENGTH OF FINANCING TERM	Minimum term of 5 years and Maximum term of 20 Years
ELIGIBLE MUNICIPALITIES	Municipalities with a Credit Rating Above Investment Grade, provided that municipalities rated A or better will have access to reserve pools that are separate from those for Below A rated municipalities
ELIGIBLE PROJECTS	Energy efficiency and renewable energy projects, including remote net metering, that comply with NYSERDA and investor owned utility programs or otherwise meet NYSERDA's Commercial PACE Guidelines; renewable energy projects on new construction and substantial renovations are eligible
ELIGIBLE PROPERTIES	Existing buildings owned by an entity, other than an individual, including new construction and substantial renovations in the case of renewable energy projects
ELIGIBLE PROPERTY OWNERS	Not in bankruptcy; current on mortgage and property taxes for the past three years
LOAN TO VALUE (LTV) LIMITATION	Property's total amount of land secured loans is less than or equal to 90%, including the requested PACE financing
ANNUAL CASH FLOW REQUIREMENT	No
COST EFFECTIVENESS/SIR TEST	Yes, must satisfy NYSERDA's cost effectiveness test, where the cumulative estimated savings must exceed the total cost of the project
EIC MEMBER OBLIGATED TO PAY DURING DELINQUENCY	Yes
ABILITY TO ADD PACE TAX CHARGE TO BILL DURING CONSTRUCTION	Yes
MUNICIPAL RESERVE POOLS	Yes
Link to NYSERDA C-PACE Guidelines	https://www.nysenda.ny.gov/cpace-guidelines
Link to Energize NY PACE 2.0 Underwriting Standards	http://energizeny.org/images/uploads/ENY_PACE_2dot0_Standards.pdf

City of Kingston
Parks and Recreation Department
kgilfeather@kingston-ny.gov

Steven T. Noble, Mayor



Kevin D. Gilfeather, Superintendent

April 24, 2018

Mr. James L. Noble, Jr.
Alderman-At-Large
President of the Common Council
420 Broadway
Kingston, NY 12401

Re: Revisions to EIC's PACE Finance Services

Dear President Noble:

This is a request for placement on the agenda of the next appropriate Committee, expected to be the Laws and Rules Committee, to discuss the amendments to be made in order to comply with the amended Article 5-L and to enable PACE 2.0.

New York State has amended its PACE Law to make PACE financing more accessible to clean energy projects. The changes listed below ("PACE 2.0") will expand the usefulness of Energize NY PACE and increase its appeal to energy efficiency and renewable energy project developers. In order to effectuate these PACE enhancements in Kingston, the Common Council will need to amend our local PACE law to incorporate the amendments to NY State's PACE law (Article 5L of the NYS General Municipal Law) and the other refinements to PACE 2.0 described in the attachment: *Memo to EIC Members*.

To advance our compliance, I have attached the following, which have been reviewed and approved by the City's Corporation Counsel as well as the EIC's Counsel:

- 1) Amended Local Law: Local Law to Amend the Sustainable Energy Loan Program in the City of Kingston (which will need to be voted upon by the Council)
- 2) Amended Municipal Agreement with EIC (for reference)
- 3) Resolution Introducing the Amendments to the Sustainable Energy Loan Program (which will need to be voted upon by the Council).

City of Kingston
Parks and Recreation Department
kgilfeather@kingston-ny.gov

Steven T. Noble, Mayor



Kevin D. Gilfeather, Superintendent

Please let me know if there are any questions and I am happy to attend the Committee meeting to speak directly to the changes.

Thank you for your consideration.

Sincerely,

Julie L. Noble
Environmental Education and Sustainability Coordinator

Intro. Res. No. -2018
Introduced by _____

**RESOLUTION NO. ____- 2018, ADOPTING LOCAL LAW NO. ____ -2018,
A LOCAL LAW TO AMEND THE SUSTAINABLE ENERGY LOAN
PROGRAM**

WHEREAS, there was duly presented and introduced to this Common Council at a meeting held on _____, 2018, a proposed local law entitled, "**A LOCAL LAW TO AMEND THE SUSTAINABLE ENERGY LOAN PROGRAM**"; now, therefore be it

RESOLVED, that said local law be enacted in form as follows:

LOCAL LAW NO. ____-2018, _____, NEW YORK

A LOCAL LAW TO AMEND THE SUSTAINABLE ENERGY LOAN PROGRAM IN THE CITY OF KINGSTON

A LOCAL LAW OF THE CITY OF KINGSTON, NEW YORK, AMENDING LOCAL LAW 3 OF 2015 REGARDING THE SUSTAINABLE ENERGY LOAN PROGRAM

BE IT ENACTED BY THE COMMON COUNCIL OF THE CITY OF KINGSTON AS FOLLOWS:

Section 1. Legislative Intent.

This Common Council hereby finds and determines that the City of Kingston enacted Local Law No. 3 of 2015, pursuant to provisions of New York General Municipal Law, to establish a Sustainable Energy Loan Program. This program authorized the Energy Improvement Corporation ("EIC"), a local development corporation acting on behalf of the City of Kingston, to make funds available to qualified property owners for the installation of renewable energy systems and energy-efficiency measures.

This Common Council further finds that the New York State Legislature recently amended certain provisions of the municipal sustainable energy loan program to "eliminate barriers that have been identified that have prevented the program from reaching its full potential."

This Common Council finds that the amendments to the program, enacted as Chapter 320 of the 2017 Laws of the State of New York, seek to encourage net metered and community solar projects, will allow the City of Kingston's program to use monies available from the State or any State authority, and will permit a more flexible loan standard for commercial properties.

Therefore, the purpose of this law is to amend the City of Kingston Sustainable Energy Loan Program in conformity with changes recently enacted to the New York State enabling legislation.

Section 2. Amendments.

Chapter 210 of the City of Kingston CODE is hereby amended as follows:

CHAPTER 210

**A LOCAL LAW TO AMEND THE SUSTAINABLE ENERGY LOAN PROGRAM
IN THE CITY OF KINGSTON**

**A LOCAL LAW OF THE CITY OF KINGSTON, NEW YORK, AMENDING LOCAL
LAW 3 OF 2015 REGARDING THE SUSTAINABLE ENERGY LOAN PROGRAM**

**BE IT ENACTED BY THE COMMON COUNCIL OF THE CITY OF KINGSTON AS
FOLLOWS:**

Section 1. This Local Law shall be known as the “Energize NY Benefit Financing Program,” and shall read as follows:

ARTICLE I

§1. Legislative findings, intent and purpose, authority.

- A. It is the policy of both the City of Kingston and the State of New York to achieve energy efficiency and renewable energy goals, reduce greenhouse gas emissions, mitigate the effect of global climate change, and advance a clean energy economy. The City of Kingston finds that it can fulfill this policy by providing property assessed clean energy financing to property owners for the installation of renewable energy systems and energy efficiency measures. This chapter establishes a program that will allow the Energy Improvement Corporation (“EIC”), a local development corporation, acting on behalf of the City of Kingston pursuant to the municipal agreement to be entered into between the City of Kingston and EIC pursuant to Article 5-G of the New York General Municipal Law (the “Municipal Agreement”), to make funds available to qualified property owners that will be repaid by such property owners through charges on the real properties benefited by such funds, thereby fulfilling the purposes of this law and fulfilling an important public purpose.
- B. The City of Kingston is authorized to implement this Energize NY Benefit Financing Program pursuant to the Municipal Home Rule Law and Article 5-L of the New York General Municipal Law.
- C. This law shall be known and may be cited as the “Energize NY Benefit Financing Program Law of the City of Kingston”.

§2. Definitions

For purposes of this law, and unless otherwise expressly stated or unless the context requires, the following terms shall have the meanings indicated:

Authority – The New York State Energy Research and Development Authority, as defined by subdivision two of section eighteen hundred fifty-one of the Public Authorities Law, or its successor.

EIC – the Energy Improvement Corporation, a local development corporation, duly organized under section fourteen hundred eleven of the Not-For-Profit Corporation Law, authorized hereby on behalf of the City of Kingston to implement the Energize NY Benefit Financing Program by providing funds to qualified property owners (as defined in this law) and providing for repayment of such funds from monies collected by the City of Kingston Comptroller as a charge to be levied on the real property and collected in the same manner and same form as the property taxes.

Energy Audit – A formal evaluation or “assessment” of the energy consumption of a permanent building or structural improvement to real property, conducted by a contractor certified by the Authority, or certified by a certifying entity approved by the Authority, for the purpose of identifying appropriate energy efficiency improvements that could be made to the property.

Energy Efficiency Improvement – Any renovation or retrofitting of a building to reduce energy consumption, such as window and door replacement, lighting, caulking, weatherstripping, air sealing, insulation, and heating and cooling system upgrades, and similar improvements, determined to be cost-effective pursuant to criteria established by the Authority, not including lighting measures or household appliances that are not permanently fixed to real property.

Qualified Property Owner – An owner of residential or commercial real property located within the boundaries of the City of Kingston that is determined to be eligible to participate in the Energize NY Benefit Financing Program under the procedures for eligibility set forth under this law.

Renewable Energy System – An energy generating system for the generation of electric or thermal energy, to be used primarily at such property, except when the Qualified Property Owner is a commercial entity in which case the system may be used for other properties in addition to the subject property, by means of solar thermal, solar photovoltaic, wind, geothermal, anaerobic digester gas-to-electricity systems, fuel cell technologies, or other renewable energy technology approved by the Authority not including the combustion or pyrolysis of solid waste.

Renewable Energy System Feasibility Study – A written study, conducted by a contractor certified by the Authority, or certified by a certifying entity approved by the Authority, for the purpose of determining the feasibility of installing a renewable energy system.

§3. Establishment of an Energize NY Benefit Financing Program

- A. An Energize NY Benefit Financing Program is hereby established by the City of Kingston, whereby EIC acting on its behalf pursuant to the Municipal Agreement, may provide funds to Qualified Property Owners in accordance with the procedures set forth under this law, to finance the acquisition, construction and installation of Renewable Energy Systems and Energy Efficiency Improvements and the verification of the installation of such systems and improvements.
- B. For funds provided to a Qualified Property Owner which is a commercial entity, not-for-profit organization, or entity other than an individual, EIC shall have the authority to impose requirements on the maximum amount of funds to be provided, which may consider factors including but not limited to the property value, projected savings, project cost, and existing indebtedness secured by such property.
- C. For financings made to a Qualified Property Owner who is an individual, the funds provided shall not exceed the lesser of: (i) ten percent of the appraised value of the real property where the Renewable Energy Systems and/or Energy Efficiency Improvements will be located, or (ii) the actual cost of installing the Renewable Energy Systems and/or Energy Efficiency Improvements, including the costs of necessary equipment, materials, and labor and the cost of verification of such systems and improvements.

§4. Procedures for eligibility

- A. Any property owner in the City of Kingston may submit an application to EIC on such forms as have been prepared by EIC and made available to property owners on the website of EIC and at the City of Kingston offices.
- B. Every application submitted by a property owner shall be reviewed by EIC acting on behalf of the City of Kingston, which shall make a positive or negative determination on such application based upon the criteria for making a financing enumerated in section 5 of this law. EIC may also request further information from the property owner where necessary to aid in its determination.
- C. If a positive determination on an application is made by EIC acting on behalf of the City of Kingston, the property owner shall be deemed a Qualified Property Owner and shall be eligible to participate in the Energize NY Benefit Financing Program in accordance with the procedure set forth under section 6 of this law; provided that in no case shall a property owner that has received funds from another municipal corporation for the acquisition, construction and installation of Energy Efficiency Improvements and/or Renewable Energy Systems be deemed a Qualified Property Owner.

§5. Application criteria

Upon the submission of an application, EIC acting on behalf of the City of Kingston, shall make a positive or negative determination on such application based upon the following criteria for the making of a financing:

- A. The proposed Energy Efficiency Improvements and/or Renewable Energy Systems are determined to be cost effective based on guidelines issued by the Authority;
- B. The property owner may not be in bankruptcy and the property may not constitute property subject to any pending bankruptcy proceeding;
- C. The amount financed under the Energize NY Benefit Financing Program shall be repaid over a term not to exceed the weighted average of the useful life of Renewable Energy Systems and Energy Efficiency Improvements to be installed on the property as determined by EIC;
- D. Sufficient funds are available from EIC to provide financing to the property owner;
- E. The property owner is current in payments on any existing mortgage;
- F. The property owner is current in payments on any existing real property taxes and has been current on real property taxes for the previous three years; and
- G. Such additional criteria, not inconsistent with the criteria set forth above, as the City of Kingston, or EIC acting on its behalf, may set from time to time.

§6. Opt-in, Energize NY Finance Agreement

- A. A Qualified Property Owner may participate in the Energize NY Benefit Financing Program through the execution of an energize NY finance agreement made by and between the Qualified Property Owner and EIC, acting on the behalf of the City of Kingston (the “Energize NY Finance Agreement”).
- B. Upon execution of the Energize NY Finance Agreement, the Qualified Property Owner shall be eligible to receive funds from EIC acting on behalf of the City of Kingston, for the acquisition, construction, and installation of qualifying Renewable Energy Systems and Energy Efficiency Improvements; provided the requirements of Section 7 of this law have been met.
- C. The Energize NY Finance Agreement shall include the terms and conditions of repayment set forth under section 8 of this law.

§7. Energy audit, renewable energy system feasibility study

- A. No funds shall be made available for Energy Efficiency Improvements unless determined to be appropriate through an Energy Audit as defined in Section 2.
- B. No funds shall be made available for a Renewable Energy System unless determined to be feasible through a Renewable Energy System Feasibility Study as defined in Section 2.
- C. The cost of such Energy Audit and/or Renewable Energy System Feasibility Study shall be borne solely by the property owner but may be included in the financed amount if the work is approved.

§8. Terms and conditions of repayment

The Energize NY Finance Agreement between the Qualified Property Owner and EIC acting on behalf of the City of Kingston, shall set forth the terms and conditions of repayment in accordance with the following:

- A. The principal amount of the funds paid to the Qualified Property Owner hereunder, together with the interest thereon, shall be paid by the property owner as a charge on their City of Kingston property tax bill and shall be levied and collected at the same time and in the same manner as City of Kingston property taxes, provided that such charge shall be separately listed on the tax bill. The City of Kingston shall make payment to EIC or its designee in the amount of all such separately listed charges within 30 days of the date the payment is due to be made to the City of Kingston.
- B. The term of such repayment shall be determined at the time the Energize NY Finance Agreement is executed by the property owner and EIC, provided that in no case shall the term exceed the weighted average of the useful life of the systems and improvements as determined by EIC acting on behalf of the City of Kingston.
- C. The rate of interest for the charge shall be fixed by EIC acting on behalf of the City of Kingston at the time the Energize NY Finance Agreement is executed by the property owner and EIC.
- D. The charge shall constitute a lien upon the real property benefited by the Energize NY Benefit Financing Program as set forth in Article 5-L of the General Municipal Law and shall run with the land. A transferee of title to the benefited real property shall be required to pay any future installments, including interest thereon.

§9. Verification and report

- A. EIC shall be responsible for verifying and reporting to the City of Kingston on the installation and performance of Renewable Energy Systems and Energy Efficiency Improvements financed by such Program.
- B. The City of Kingston shall verify and report on the installation and performance of Renewable Energy Systems and Energy Efficiency Improvements financed by the Energize NY Benefit Financing Program in such form and manner as the Authority may establish.

Section 2. This local law shall take effect upon filing with the Secretary of State.

Section 6. Effective Date.

This law shall take effect immediately upon its filing in the Office of the Secretary of State.

DATED:

APPROVED BY:

Date:

LOCAL LAW NO. – 20

**A LOCAL LAW TO AMEND THE SUSTAINABLE ENERGY LOAN PROGRAM IN
THE CITY OF KINGSTON**

A Local Law of the City of Kingston, New York, Amending Local Law 3 of 2015
Regarding the Sustainable Energy Loan Program

Be it enacted by the Common Council of the City of Kingston as follows:

Section 1. This Local Law shall be known as the “Energize NY Benefit Financing Program,” and shall read as follows:

ARTICLE I

§1. Legislative findings, intent and purpose, authority.

- A. It is the policy of both the City of Kingston and the State of New York to achieve energy efficiency and renewable energy goals, reduce greenhouse gas emissions, mitigate the effect of global climate change, and advance a clean energy economy. The City of Kingston finds that it can fulfill this policy by providing property assessed clean energy financing to property owners for the installation of renewable energy systems and energy efficiency measures. This chapter establishes a program that will allow the Energy Improvement Corporation (“EIC”), a local development corporation, acting on behalf of the City of Kingston pursuant to the municipal agreement to be entered into between the City of Kingston and EIC pursuant to Article 5-G of the New York General Municipal Law (the “Municipal Agreement”), to make funds available to qualified property owners that will be repaid by such property owners through charges on the real properties benefited by such funds, thereby fulfilling the purposes of this law and fulfilling an important public purpose.
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Renewable Energy System – An energy generating system for the generation of electric or thermal energy, to be used primarily at such property, except when the Qualified Property Owner is a commercial entity in which case the system may be used for other properties in addition to the subject property, by means of solar thermal, solar photovoltaic, wind, geothermal, anaerobic digester gas-to-electricity systems, fuel cell technologies, or other renewable energy technology approved by the Authority not including the combustion or pyrolysis of solid waste.

Renewable Energy System Feasibility Study – A written study, conducted by a contractor certified by the Authority, or certified by a certifying entity approved by the Authority, for the purpose of determining the feasibility of installing a renewable energy system.

§3. Establishment of an Energize NY Benefit Financing Program

- A. An Energize NY Benefit Financing Program is hereby established by the City of Kingston, whereby EIC acting on its behalf pursuant to the Municipal Agreement, may provide funds to Qualified Property Owners in accordance with the procedures set forth under this law, to finance the acquisition, construction and installation of Renewable Energy Systems and Energy Efficiency Improvements and the verification of the installation of such systems and improvements.
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- C. The Energize NY Finance Agreement shall include the terms and conditions of repayment set forth under section 8 of this law.

§7. Energy audit, renewable energy system feasibility study

- A. No funds shall be made available for Energy Efficiency Improvements unless determined to be appropriate through an Energy Audit as defined in Section 2.
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- B. The term of such repayment shall be determined at the time the Energize NY Finance Agreement is executed by the property owner and EIC, provided that in no case shall the term exceed the weighted average of the useful life of the systems and improvements as determined by EIC acting on behalf of the City of Kingston.
- C. The rate of interest for the charge shall be fixed by EIC acting on behalf of the City of Kingston at the time the Energize NY Finance Agreement is executed by the property owner and EIC.
- D. The charge shall constitute a lien upon the real property benefited by the Energize NY Benefit Financing Program as set forth in Article 5-L of the General Municipal Law and shall run with the land. A transferee of title to the benefited real property shall be required to pay any future installments, including interest thereon.

§9. Verification and report

- A. EIC shall be responsible for verifying and reporting to the City of Kingston on the installation and performance of Renewable Energy Systems and Energy Efficiency Improvements financed by such Program.
- B. The City of Kingston shall verify and report on the installation and performance of Renewable Energy Systems and Energy Efficiency Improvements financed by the Energize NY Benefit Financing Program in such form and manner as the Authority may establish.

Section 2. This local law shall take effect upon filing with the Secretary of State.



December 4, 2017

Memo to EIC Members: Revisions to EIC's PACE Finance Services

EIC is pleased to report that New York State has amended its [PACE Law](#) to make PACE financing more accessible to clean energy projects. The changes listed below ("PACE 2.0") will expand the usefulness of Energize NY PACE and increase its appeal to energy efficiency and renewable energy project developers. In order to effectuate these PACE enhancements in your municipality, you will need to amend your local PACE law to incorporate the amendments to NY State's PACE law (Article 5L of the NYS General Municipal Law) and the other refinements to PACE 2.0 described below.

PACE 2.0

- 1) Amendments to Article 5-L allow the governing administrator (e.g., EIC) to determine the maximum amount of financing that would be permitted for properties that are not individually owned.
 - a. This removes the old 10% cap, which disadvantaged property owners in areas of the State that have low property values.
 - b. This enables EIC to increase the maximum amount of available PACE financing relative to a property's value and provides more flexibility going forward.
- 2) Amendments to Article 5-L removed the requirement that the power generated from a renewable energy system be primarily used at the location where it is installed, as long as the property is owned by a commercial entity.
 - a. This could expand the benefits of solar across multiple sites owned by the same entity.
 - b. This will enable EIC to develop products, to be approved by EIC members, that distribute the benefits of energy derived from solar to those who do not have the right building type for solar or who desire to keep their property as-is (e.g., no ground mount systems).
- 3) Adopts the positive savings-to-investment ratio (SIR test) used by NYSERDA in its new commercial [PACE guidelines](#) that measures savings and costs over the life of the project, rather than annually.
 - a. This change is consistent with industry standards and PACE programs in other states.
 - b. It also broadens the range of solar projects that can be financed with PACE; the availability of tax credits made it difficult to satisfy the annual cash flow standard even though the project resulted in sufficient cash flow over the life of the project.
- 4) Allows the PACE Charge to be placed on the tax bill at the beginning of construction, which is the norm in most PACE programs and standard practice for most project developers.
 - a. Without the availability of PACE during construction, the types of projects that can use PACE are limited to smaller projects or those projects where a 3rd party is willing to finance the cost of construction through to completion.

- 5) Amendments to Article 5-L allow the use of State as well as federal sources to fund PACE reserves, which creates the opportunity for municipalities with lower credit ratings to participate in PACE.
- There is a need for such a facility to accommodate all NYS municipalities with strong interest and those municipalities whose credit ratings may have dropped.
 - EIC has received indications of interest from capital providers and multiple project developers to fund projects in lower rated municipalities.

EIC Member Next Steps:

- Amend your existing Sustainable Energy Loan Program Local Law to conform to the new template that EIC has provided, which incorporates the amendments to Article 5-L and the other PACE 2.0 changes outlined above. *Before submitting the amendments to your existing Local Law for a final vote, please send to EIC for review as EIC's finance facility and available loan capital is based on receiving identical agreements from every EIC Member.*
- Amend your existing EIC Municipal Agreement to conform to the new template that EIC has provided reflecting the PACE 2.0 changes outlined above. *Before submitting these amendments for final internal approval, please send to EIC for review as EIC's finance facility and available loan capital is based on receiving identical agreements from every Member.* Section 3 of the Municipal Agreement is unchanged and enables a municipality to make modifications that limit how PACE is offered to its constituents.
- Once approved by your legislature, the amended local law must be filed with the Office of the Secretary of State. Please send a copy of the amended local law to EIC.

Attachments:

- EIC Amended Local Law reflecting PACE 2.0 – TEMPLATE (PDF and Word Files)
- Resolution Introducing Amendments to Local Law - TEMPLATE
- EIC Amended Municipal Agreement reflecting PACE 2.0 – TEMPLATE (PDF and Word Files)

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CITY OF KINGSTON
Office of Corporation Counsel
kbryant@kingston-ny.gov

Steven T. Noble, Mayor



Kevin R. Bryant, Corporation Counsel
Daniel Gartenstein, Asst. Corporation Counsel

TO: Hon. James L. Noble
President, Common Council

FROM: Daniel Gartenstein
Assistant Corporation Counsel

DATE: March 28, 2018

RE: Combination of HLPC/HAC

In the interests of coordinating the review of proposed projects in the City of Kingston, our office is recommending that the Council move forward with combining the Historic Landmarks Preservation Commission and the Heritage Commission.

Our office has drafted proposed legislation which we believe addresses the issues discussed by the Zoning Revision Commission. I will be forwarding a draft of the proposed revised legislation in the coming weeks. Pending completion of the draft, I would request that you forward this communication to the Laws and Rules Committee for inclusion on their April agenda.

I thank you in advance for your assistance with this matter.

DRAFT 5/16/18

HISTORIC LANDMARKS AND HERITAGE AREA COMMISSION

Article I. Creation; composition and terms.

There is hereby created a Commission to be called the Historic Landmarks and Heritage Area Commission (“HLHAC”) of the City of Kingston. This Commission shall be charged with the responsibilities previously assigned to the Historic Landmark Preservation Commission pursuant to §§ 264.3; 405-61 of the Code of the City of Kingston and the responsibilities of the Heritage Area Commission formerly known as the Urban Cultural Park Commission of the City of Kingston, pursuant to City Code §§22-19; 405-31.2,

Legislative Intent.

The purpose of this section is to provide for the promotion of the educational, 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.

Effective date:

This article shall take effect immediately following final passage, public hearing and approval by the Mayor of the City of Kingston, New York, as provided by law.

Membership:

This Commission shall consist of seven members to be appointed by the Mayor of the City of Kingston for terms of three years, which shall be so arranged that approximately 1/3 of the terms shall expire each year.

Officers.

A Chairperson and Vice Chairperson shall be elected on an annual basis from among the membership by majority vote of the total membership of the Commission.

Present members.

Upon adoption of this article, present members of the Historic Landmarks Preservation Commission and the Heritage Area Commission shall, within 90 days of adoption, give the Mayor notice of their intent to serve on the newly constituted Board. The Mayor shall then select the membership of the new Board, giving preference, where practical and appropriate in **his/her** discretion, to the current members who have expressed interest in continuing to serve.

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 trend of its future development, with demonstrated concern for the material, economic and cultural development of the City through the principles for which the Commission was created.

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 a list of eligible and qualified candidates, which the Mayor may consider in making selection of successors.

Alternate Commission Members.

Alternate commission member positions are hereby established for use when a regular member cannot participate due to a conflict of interest. Alternate members shall also serve in place of a regular member who is absent. Alternate members shall be appointed by the Mayor.

The Mayor shall appoint up to three (3) alternate members. The first appointment shall be for a period of three years. The second appointment shall be for a period of two years. The third appointment shall be for a period of one year. Thereafter, all appointments shall be for a period of three years.

The Chairperson shall designate an alternate member to substitute for a member when such member is unable to participate because of a conflict of interest of an application or matter before the board, or by absence. When so designated, the alternate member shall possess all the powers and responsibilities of such member of the HLHAC. 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 until a final vote is taken.

Vacancies:

Members of the Commission shall continue to serve until a successor is appointed. In the event a vacancy occurs, other than by the expiration of a term, the Mayor shall appoint a new member for the remainder of the unexpired term.

Removal of Members:

The Mayor shall have the power to remove any member or alternate member of the Commission for cause. Cause for removal of a member or alternate member may include, but is not limited to one or more of the following:

Failure to attend 80% of scheduled meetings without a documented medical and/or emergency excuse approved by the Chair of the Commission.

Actions deemed to be in violation of the City of Kingston Code of Ethics (City of Kingston Code, Chapter 49).

Any person or persons jointly or severally aggrieved by any decision to remove for cause may apply to the Ulster County Supreme Court for review by a proceeding under Article 78 of the Civil Practice Law and Rules. Such proceeding shall be instituted within thirty (30) days after the filing of a decision by the Mayor to remove.

Compensation:

Commissioners shall serve without pay.

Meetings.

The Commission shall meet at least once per month or at the call of its chairperson. In the event that the Commission has no items to address at the scheduled monthly meeting, or is unable to secure a quorum, said meeting can be canceled by the Chairperson upon reasonable notice.

Rules of Procedure.

The Commission shall establish its own rules of procedure, provided that all regular and special meetings be open to the public in accordance with Roberts Rules of Order, the provisions of the Open Meetings Law and other applicable laws. The Commission may not adopt rules that are in contravention of the terms of the Code of the City of Kingston or other applicable laws.

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.

Costs of operation; budget requests.

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

Article II. Definitions

Alteration

Any act or process that changes one or more of the exterior architectural features of a structure, including but not limited to the erection, construction, restoration, renovation, reconstruction, demolition, moving or removing of any structure.

Commission

The Historic Landmarks and Heritage Area Commission of the City of Kingston, hereinafter referred to as the “Commission” or “HLHAC”.

Construction

The act of making an addition to an existing structure or the erection of a new principal or accessory structure on a lot or parcel.

Demolition

Any act or process that destroys in part or in whole a landmark on a structure within an historic district **or an individual landmark.**

Demolition by Neglect

Exterior Feature

The design and general arrangement of the exterior of the exterior of a structure open to view from a public way, public property or any part of a public building including kind, color and texture of building materials, number, proportion, type and spacing of windows, doors, walls, roofs, murals, projections and signs.

Exterior features shall also include all earthworks, sidewalks, driveways, fences,

and other features visible from a public way, public property or any part of a public building.

Historic and Architectural Design District

The area of the City of Kingston, New York, commonly referred to as the “Stockade Area”, as specifically delineated on the Zoning Map in the Building Inspector’s office in the City of Kingston, New York.

Preservation Notice of Action

A certification issued by the Commission authorizing an alteration, construction, removal or demolition of a landmark or of a structure within an historic district.

Waterfront Consistency Review

A review undertaken by the Commission pursuant to Article VII below, according to the authority granted under the Municipal Home Rule Law and the Waterfront Revitalization of Coastal Areas and Inland Waterways Act of the State of New York (Article 42 of the Executive Law).

Article III. Districts:

Stockade (Area) District: An area consisting of eight blocks bounded by Clinton Avenue, Main Street, Green Street and North Front Street.

Rondout Landmark District: An area as shown on the map of the same annexed to this chapter as Attachment 6:2.

Fair Street Landmark District: An area as shown on the map of same annexed to this chapter as Attachment 6:3.

Chestnut Street Historic District: An area as shown on the map of same annexed to this chapter as Attachment 6:4.

Article IV. Powers and Duties.

The Commission shall have the following powers and duties:

To advise the Mayor and the Common Council on all matters related to the Kingston Heritage Area, the Landmark Districts and Landmark properties and their programs in a manner consistent with the concepts, goals and objectives set forth in relevant state and local legislation regarding New

York State Heritage Areas, Landmark Districts, Historic Preservation and the Urban Park Cultural Management Plan.

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 area comprising all or a portion of:

- One or more City blocks;
- One or both sides of a street;
- One or more plots of unimproved land;
- Any other real property.

To review all applications for building permits and applications transmitted to the Building Safety Division of the Kingston Fire Department which relate to designated properties or properties located within a historic district and to make recommendations accordingly.

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 consistent with those prescribed by or pursuant to other provisions of law applicable to such activities, including but not limited to, legislative determinations, determinations made pursuant to the State Environmental Quality Review Act (6 NYCRR Part 617), and any prior determinations made by the Planning Board in the course of site plan approval and/or special permit approval.**

At its discretion and with the property owner's consent, to cause to be prepared and placed upon or near any Landmark or Landmark District, a suitable plaque declaring that fact.

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 city agencies, **Boards and Commissions of the City Government**. In making such investigations and studies, the Commission may, **with the approval of the Mayor**, hold such public hearings as it may deem necessary or appropriate.

To 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 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.

To conduct Waterfront Consistency Reviews as set forth in Article VII below.

Article V: Landmark or Landmark District Designation Procedure

The Commission shall consider for landmark designation 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.

The criteria for the designation of landmarks shall particularly favor such designation where the proposed landmark or Landmark District:

Exemplifies or reflects the broad cultural, political, economic or social history of the nation, state or community;

Is identified with historic personages or with important events in national, state or local history;

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

Is representative of the notable work of a master builder, designer, or architect whose individual ability has been recognized.

Notice of 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 designation 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.

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.

The Commission shall hold a public hearing to consider all proposals for the designation of any property as a landmark. Any interested parties may solicit expert testimony and offer other evidence relevant to the designation of the proposed landmark. The Commission may solicit expert testimony with such funds as are made available by the Common Council in its sole judgment and creation.

The Commission shall ensure that a transcribed record of any public hearing regarding a proposed landmark designation shall be prepared and retained for consideration by the Common Council and the Mayor.

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.

All costs of the required notice and any costs associated with the designation application, including, but not limited to the cost of producing a record of the public hearing, shall be borne by the individual or group of individuals seeking the designation.

In the event of the designation being considered by motion of the Commission, all costs must be borne by the Commission with such funds as have been made available to it by the Common Council in its sole judgment and creation. The Commission shall not undertake any designation procedure absent the availability of funds from its annual allocation, or specific authorization of the attendant expenditures by the Council in its sole discretion.

Work Moratorium Once the commission has issued notice of a proposed designation it may recommend to the municipal governing board 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 the designation.

Landmarks and Landmark (L) Districts

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:

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.

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.

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 allow for suitable landscaping. New construction shall be compatible with the district in which it is located. Determinations with regard to setbacks cannot be more restrictive than those set forth by the legislature in the Zoning Code.

Bluestone, slate or brick may be prescribed for sidewalks.

Parking. Parking areas shall be partially screened from public view, with appropriate walls, structures, fences or landscaping.

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.

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

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.

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.

Article VI. Preservation Notice of Action

Review procedure.

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 applying for a preservation notice of action from the HLHAC 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.

Criteria. In making such determinations, the Commission shall consider:

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;

The relationship between the results of such work and the exterior architectural features of other neighboring improvements;

The factors of aesthetic, historical and architectural values and significance, architectural style, design, arrangement, texture, material and color;

The special character and aesthetic interest that any structure involved adds to the area; and

The difficulty or impossibility of reproducing any structure involved because of its design, texture, material, position or detail.

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

It shall be the further duty of the Commission to exercise judgement 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, and thus to prevent degeneration of property, and preserve the beauty of the character of the landmark or Landmark District.

Preservation permit for change in exterior architectural features.

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.

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:

The name, address, telephone number and signature of the owner.

The name address, telephone number and signature of the applicant.

The location of the building, structure or land; the exterior architectural features which are proposed to be changed.

The elevations of the proposed change.

A perspective drawing.

Whatever additional information the Commission deems necessary to evaluate the application, including but not limited to photographs of existing conditions; samples of colors or materials to be used in the proposed change, and a description of materials to be used and the methods of illumination of any proposed changes in signs and/or lettering of signs.

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.

Procedure to be followed for a preservation notice of action.

Within thirty days after a completed formal application is filed with the Commission, or within such further time as the applicant may, in writing, allow, the **HLHAC shall conduct a public meeting to consider the application.** At said public meeting, opportunity shall be provided to proponents and opponents to present their views.

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 Safety Division of the Fire 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. 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.

Inspection. If a report of non-conformity with the preservation notice of action is received by the HLHAC, such report will be forwarded in writing to Building Safety Division of the Fire Department. The Building Safety Division shall investigate said report and may, in its discretion, cause an inspection of the property to be undertaken. In the event the non-conformity is confirmed, action will be taken in accordance with the provisions set forth under Article ____ below.

Preservation Notice of Action.

In order to facilitate a coordinated review process, where site plan, special permit or other planning board action is required, the preservation of notice procedure set forth herein shall be conducted simultaneously and with cooperation with such review by the planning board.

The Commission shall approve, deny or approve the permit with modifications **within 45 days from the initial public hearing.** The Commission may hold a public hearing on the application at which an opportunity will be provided for proponents and opponents of the application to present their views. Failure by the Commission to take action within the prescribed time period, absent consent of the applicant to an extension of time, shall constitute approval.

Article VII. Waterfront Consistency Review

Title.

This article will be known as the “City of Kingston Waterfront Consistency Review Law.”

Authority and purpose.

The purpose of this article is to provide a framework for agencies of the City of Kingston to consider the policies and purposes contained in the local Waterfront Revitalization Program when reviewing applications for actions or direct agency actions located in the coastal area; and to assure that such actions and direct actions are consistent with said policies and purposes.

The substantive provisions of this article shall only apply while there is in existence a City Local Waterfront Revitalization Program which has been adopted in accordance with Article 42 of the Executive Law of the State of New York.

Definitions.

As used in this Article, the following terms shall have the meanings indicated:

ACTIONS

Either Type 1 or unlisted actions as defined in SEQRA regulations (6 NYCRR 617.2) which are undertaken by an agency and which include:

Projects or physical activities, such as construction or other activities that may affect the environment by changing the use, appearance or condition of any natural resource or structure, that:

Are directly undertaken by an agency;

Involve funding by an agency; or

Require one or more new or modified approvals from an agency or agencies.

Agency planning and policy making activities that may affect the environment and commit the agency to a definite course of future decisions;

Adoption of agency rules, regulations and procedures, including local laws, codes, ordinances, executive orders and resolutions that may affect the environment; and

Any combinations of the above.

This article does not apply to Type II, excluded or exempt actions as defined in the SEQRA regulations 6 NYCRR Part 617.

AGENCY

Any board, agency, department, office, other body, or officer of the City of Kingston.

COASTAL AREA

That portion of New York State coastal waters and adjacent shorelands as defined in Article 42 of the Executive Law which is located within the boundaries of the City of Kingston, as shown on the coastal area map on file in the office of the Secretary of State and as delineated in the City of Kingston Local Waterfront Revitalization Program.

COASTAL ASSESSMENT FORM (CAF)

The form used by an agency to assist it in determining the consistency of an action with the Local Waterfront Revitalization Program.

CONSISTENT

The action will fully comply, to the extent practicable, with the LWRP policy standards and conditions and, whenever practicable, will advance one or more of them.

DIRECT ACTIONS

Actions planned and proposed for implementation by an agency, such as, but not limited to a capital project, rule making, procedure making and policy making.

LOCAL WATERFRONT REVITALIZATION PROGRAM (LWRP)

The Local Waterfront Revitalization Program of the City of Kingston, approved by the Secretary of State pursuant to the Waterfront Revitalization and Coastal Resources Act (Executive Law, Article 42), a copy of which is on file in the office of the Clerk of the City of Kingston.

WATERFRONT ADVISORY COMMITTEE (COMMITTEE)

The Urban Cultural Park Commission of the City of Kingston, as created by Chapter 22 of the Code of the City of Kingston, now known as the Historic Landmarks and Heritage Commission.

Waterfront Advisory Committee.

The Committee is authorized to review and make recommendations, in accordance with § 398-11, herein, to appropriate agencies regarding the consistency of proposed actions with the Kingston Local Waterfront Revitalization Program policy standards and conditions.

Review of actions.

Whenever a proposed action is located in the city's coastal area, an agency shall, prior to approving, funding or undertaking the action, make a determination that is

consistent with the LWRP policy standards and conditions set forth in Subsection _____ herein.

Whenever an agency receives an application for approval or funding of an action or as early as possible in the agency's formulation of a direct action to be located in the coastal area, the applicant, or in the case of a direct action, the agency, shall prepare a coastal assessment form (CAF) to assist with the consistency review of the proposed action.

The agency shall refer a copy of the completed CAF to the Committee within 20 days of its submission and prior to making its determination, shall consider the recommendation of the Committee with reference to the consistency of the proposed action.

After referral from an agency, the Committee shall consider whether the proposed action is consistent with the LWRP policy standards and conditions set forth in Subsection _____ herein. The Committee shall require the applicant to submit all completed applications, CAF's and any other information deemed to be necessary to its consistency recommendation.

The Committee shall render its written recommendation to the agency within 30 days following referral of the CAF from the agency, unless extended by mutual agreement of the Committee and the applicant, or in the case of direct action, the agency, or extended if additional information is requested by the Committee to render a written recommendation. The recommendation shall indicate whether, in the opinion of the Committee, the proposed action is consistent with or inconsistent with one or more of the LWRP policy standards or conditions and shall elaborate in writing the basis for its opinion. The Committee shall, along with its consistency recommendation, make any suggestions to the agency concerning modification, of the proposed action to make it consistent with the LWRP policy standards and conditions or to greater advance them. In the event that the Committee's recommendation is not forthcoming within the specified time, the referring agency may make its decision without the benefit of the Committee's recommendation.

The agency shall make the determination of consistency based on the CAF, the Committee recommendation and such other information as is deemed to be necessary in its determination. The agency shall issue its determination within 45 days following receipt of the Committee's recommendation and submission by the applicant of any additional required information. The agency shall have the authority, in its finding of consistency, to impose practicable and reasonable

conditions on an action to ensure that it is carried out in accordance with this article.

Actions to be undertaken within the Kingston coastal area shall be evaluated for consistency in accordance with the following LWRP policy standards and conditions, which are derived from and further explained and described in Section III of the City of Kingston LWRP, a copy of which is on file in the City Clerk's office and available for inspection during normal business hours. Agencies which undertake direct actions shall also consult with Section IV of the LWRP in making their consistency determination. The action shall be consistent with the policy to:

Revitalize the deteriorated and underutilized waterfront areas of Kingston.

Retain and promote commercial and recreational water-dependent uses.

Strengthen the economic base of Kingston's smaller harbor areas by encouraging traditional uses and activities.

Ensure the development occurs where adequate public infrastructure is available to reduce health and pollution hazards.

Expedite local permit procedures and use performance standards for development within the waterfront area.

Protect significant and locally important fish and wildlife habitats from human disruption and chemical contamination.

Encourage and expand commercial fishing facilities to promote commercial and recreational fishing opportunities.

Minimize flooding and erosion hazards through nonstructural means, carefully selected, long-term structural measures and appropriate siting of structures.

Safeguard economic, social and environmental interest in the coastal area when major actions are undertaken.

Maintain and improve public access to the shoreline and the water-related recreational facilities while protecting the environment.

Protect and restore historic and archaeological resources.

Protect and upgrade scenic resources.

Site and construct energy facilities in a manner in which will be compatible with the environmental and contingent upon the need for a waterfront or water location.

Protect surface and groundwaters from direct and indirect discharge of pollutants and from overuse.

Perform dredging and dredge spoil in a manner protective of natural resources.

Handle and dispose of solid and hazardous wastes and effluents in a manner which will not adversely affect the environment nor expand existing landfills.

Protect air quality.

Protect freshwater wetlands.

Actions inconsistent with policy standards.

If the agency determines that the action would not be consistent with one or more of the LWRP policy standards and conditions, such action shall not be undertaken unless the agency makes a written finding with respect to the proposed action that no reasonable alternatives exist which would permit the action to be undertaken in a manner which will not substantially hinder the achievement of such LWRP policy standards and conditions, and that:

The action would be undertaken in a manner which will minimize all adverse effects on such LWRP policy standards and conditions;

The action will advance one or more of the other LWRP policy standards and conditions; or

The action will result in an overriding city, regional or statewide public benefit.

Such a finding shall constitute a determination that the action is consistent with the LWRP policy standards and conditions.

Article IX. Hardship.

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:

The property is incapable of earning a reasonable return, regardless of whether that return represents the most profitable return possible;

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

Efforts to find a purchaser interested in acquiring the property and preserving it have failed.

Hardship application procedure.

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.

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.

All decisions of the Commission regarding a hardship application 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.

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.

Article X. Demolition by neglect.

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 judgement of the HLHAC, produce a detrimental effect upon the character of the property itself.

Examples of such deterioration include:

Deterioration of exterior walls or other vertical supports.

Deterioration of roofs or other horizontal members.

Deterioration of exterior chimneys.

Deterioration or crumbling of exterior stucco or mortar.

Ineffective waterproofing of exterior walls, roofs or foundations, including broken windows or doors.

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.

Interior structural members shall be protected and maintained to resist and prevent deterioration.

Unheated attics, spaces below flat roofs and crawl spaces shall be ventilated to minimize deterioration.

Interior and exterior chimneys and flues shall be maintained safe, sound and smoketight.

Interior ceilings, walls, floors and stairways shall be maintained in a safe and sound condition.

In its review to determine that demolition by neglect is occurring and upon consultation with the Building Safety Division of the Fire 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 Safety Division of the Fire 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 Safety Division of the Fire Department to notify the Corporation Counsel of the City of Kingston and request the consideration of the proceedings pursuant to § **405-52D** hereof.

Article XI. Enforcement

The City Fire Officer shall be responsible for enforcing the provisions related to Article VII above. No work or activity on a project in the coastal area which is subject to review under this article shall be commenced or undertaken until the Fire Officer has been presented with a written determination from an agency that the action is consistent with the city's LWRP policy standards and conditions. In the event that an activity is not being performed in accordance with this article or any conditions imposed thereunder, the Fire Officer shall issue a stop-work order and all work shall immediately cease. No further work or activity shall be undertaken on the project so long as a stop-work order is in effect.

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 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 steps are or will be immediately taken, the Commission shall request the Building Safety Division of the Fire Department to take appropriate action.

Should both a preservation notice of action and a building permit be issued, the Fire Officer shall have all the powers conferred upon him pursuant to the Zoning Ordinance to enforce the preservation notice of action, including, but not limited to, stop work orders.

Penalties for Offenses:

Failure to comply with any of the provisions of this article shall be deemed a violation, and the violator shall be liable to a fine of not more than \$500.00 for a conviction of a first offense and punishable by a fine of \$1,000.00 for a conviction of a second or subsequent offenses. For the purpose of conferring jurisdiction upon courts, each week of a continuing violation shall constitute a separate offense.

The City Corporation Counsel is authorized to institute and prosecute any and all actions and proceedings necessary to enforce this article. Any civil penalty shall be in addition to and not in lieu of any criminal prosecution and penalty. The city may also enforce this article by injunction or other civil proceeding.

Article IX. Appeals.

Any person aggrieved by any action of the Commission, including but not limited to disapproving or limiting a Preservation Notice of Action, may file an appeal of said action with the Zoning Board of Appeals, or, after review and determination by the Zoning Board of Appeals, 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 arbitrary and capricious or otherwise illegal, in whole or in part.

City of Kingston

New York 12402

Office of The Comptroller



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February 2, 2018

Alderman at Large James Noble
City of Kingston Common Council
420 Broadway
Kingston, NY 12401

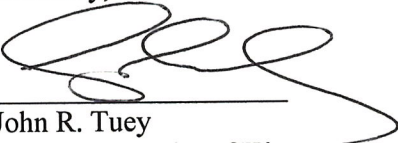
RE: Parking Policy and Collection Matters

Dear Alderman at Large Noble,

I would like to request the Common Council to consider the following parking related items at their next regularly scheduled Finance Committee Meeting.

- Parking Ticket Collection Policy – I recommend that the City adopt a formal parking ticket collection policy to comply with best practices. I've drafted the attached policy for the committee's consideration.
- Boot and Tow Law – I would like to recommend a subtle change in the City's Boot and Tow Law that would improve the usefulness of the legislation by linking it to the registered owner of a vehicle rather than the vehicle itself. Specifically, I request the Common Council consider amending paragraph A, Section 390.80 to read "The Chief of Police, Comptroller, or designee, hereby is authorized to provide for the immobilization of vehicles of a registered owner against which three or more parking summonses have been issued".
- Collections – The City currently sends four notices to parking violators, including a final notice. These efforts, along with the City's Boot and Tow Law and NYS DMV Scofflaw program, have been relatively effective in supporting the parking ticket collection rate but the City still has a significant accounts receivable. Our collection rate could potentially be improved by amending our contract with Complus (our parking service company) to implement a pilot program that would allow severely delinquent tickets to be referred to a third party collection agency. If the City were to implement a collection fee on tickets referred to collections, this program would have no cost to the City. I would like to discuss this opportunity further at the next Finance Committee meeting.

Sincerely,



John R. Tuey
Comptroller, City of Kingston

CITY OF KINGSTON

PARKING TICKET COLLECTION POLICY

1. Parking tickets issued by City of Kingston Parking Enforcement and/or Police Officers include an appearance date at City Hall and information on how to plead guilty or not-guilty.
2. If pleading guilty, the parking ticket may be paid by any of the three following methods:
 - A) By mailing a check or money order in the preaddressed envelope to P.O. Box 1627, Kingston NY 12402.
 - B) By appearing in person in the City Comptroller's Office and tendering payment by cash, check, or money order.
 - C) By paying online at www.parkingticketpayment.com/kingston.
3. Pleading not guilty requires contact with the Parking Violations Bureau in City Hall by the return date listed on the ticket.

Upon presentation of explanation and/or supporting documentation by the ticket recipient and/or the Parking Officer issuing the ticket, and where a determination is made that the ticket was issued in error, or when it is in the best interests of the City to recognize where a ticket should be reduced or dismissed in the interest of justice prior to appearing on the City Court calendar, the office of the Corporation Counsel may recommend to reduce, settle, or dismiss a parking ticket. In the situation where a ticket cannot be settled by the office of the Corporation Counsel, the recipient may protest the ticket in City Court.

4. The City Comptroller will periodically provide the Common Council with an aging report for Parking Tickets Accounts Receivable. In an effort to improve collections on delinquent parking tickets, the City will refer violators to a third party collection agency after a fourth and final notice has been mailed. Additionally, the City has implemented a boot and tow/scofflaw program to assist in collection efforts. The Common Council will provide direction to the City Comptroller if further collection efforts are deemed necessary.

Chapter 390. Vehicles and Traffic

Part 2. Traffic Regulations

Article XI. Immobilization, Removal and Storage of Vehicles

[Amended 8-1-2006 by L.L. No. 4-2006, approved 8-18-2006]

§ 390-79. Authority to impound vehicles.

When any vehicle is parked or abandoned on any street, highway or parking area within this City during a snowstorm, flood, fire or other public emergency which affects that portion of the public street, highway or parking area upon which said vehicle is parked or abandoned, or when any vehicle is found unattended on any street, highway or parking lot within the City where said vehicle constitutes an obstruction to traffic or when any vehicle is parked or abandoned on any street, highway or parking lot within this City where stopping, standing or parking is prohibited, said vehicle may be removed by or under the direction of the Police Department of the City of Kingston.

§ 390-79.1. Legislative findings; purpose.

- A. The Common Council of the City of Kingston finds that significant numbers of vehicle owners fail to respond to parking summonses issued for violations of parking orders, rules, regulations, ordinances and local laws; that a significant number of such owners are persistent violators; and that by reason of out-of-state registration of such vehicles, transfer of ownership and reregistration of such vehicles and other devices, violators frequently are able to evade existing enforcement measures.
- B. By reason of the foregoing, the Common Council of the City of Kingston finds that the health, welfare and safety will be served by adoption of a local law providing additional means of enforcing parking orders, rules, regulations, ordinances, and local laws in the case of vehicle owners who fail to timely respond to summonses issued for parking violations.
- C. The Common Council of the City of Kingston does hereby ordain and enact this article to accomplish the aforesaid purposes.

§ 390-80. Immobilization and impounding of vehicles authorized.

- A. The Chief of Police, Comptroller or designee hereby is authorized to provide for the immobilization of vehicles against which three or more parking summonses have been issued if

two or more of such summonses have not been answered within 45 days of the appearance date or dates shown on such summonses.

- B. Such vehicles may be immobilized and left where found, secured by the use of a steel lock or such other immobilization device as may be designated by the Chief of Police, Comptroller or designee.
- C. Such immobilization shall be at the expense of the owner of the vehicle.
- D. Any vehicle that has been immobilized and not lawfully released or lawfully removed by the owner of the vehicle for 72 hours from the time of such initial immobilization may be impounded by the Chief of Police, which removal, boot release fee and storage shall be at the expense of the owner of the vehicle.
- E. Storage and charges for storage and removal of vehicles for other than parking summonses shall be as provided in § 390-64.

§ 390-81. Notice and warning to owner.

- A. When an immobilization device is used, the Police Department, or its agents, or Parking Violations Bureau employees shall attach to the vehicle, in such form as may be directed by the Chief of Police, Comptroller or designee, a notice containing the following information:
 - (1) The location and identifying characteristics of the vehicle.
 - (2) The date and time of placement of the device and the signature of the installer.
 - (3) Notice that further parking restrictions will be waived during the immobilization period for a period of five days from the date of immobilization.
 - (4) Notice that any person tampering with the device or the vehicle will be subject to criminal prosecution and liable for any loss to the City.
 - (5) The steps which the owner must take to obtain the release of the vehicle.
 - (6) Such other information, statements, notices and warnings as the Chief of Police, Comptroller or designee may from time to time determine to be appropriate.
- B. Notice of removal of a vehicle and recovery of the vehicle by the owner for other than parking summonses shall be as provided in § 390-64.

§ 390-81.1. Tampering or attempted removal; penalties for offenses.

- A. No person shall attempt to or tamper with, deface, remove or destroy an immobilization device or move a vehicle immobilized as herein provided.
- B. A violation of this section shall be punishable by a fine not exceeding \$250 or by imprisonment for up to 10 days, or both.

§ 390-81.2. Vehicle release to owner.

- A. Any vehicle immobilized as herein provided shall be promptly released to its owner upon:

- (1) Payment of the expenses of immobilization which hereby are found to be \$40; and either
 - (2) An order of the City Court authorizing such release; or
 - (3) The owner furnishing security for appearance in City Court to answer parking summonses outstanding against such vehicle and the expense of immobilization.
- B. The amount of such security shall not exceed the total of the maximum fines permitted upon conviction of the offenses charged in outstanding summonses against the vehicle or the vehicle owner's failure to timely answer, plus the expense of immobilization.
- C. Any police officer on desk duty at the Kingston Police Station or Parking Enforcement Officer, or Parking Violation Bureau Employee(s) of the Comptroller's Office of the City of Kingston shall be authorized to establish a date for the vehicle owner's appearance in Kingston City Court to answer outstanding parking summonses, to determine the amount of security required and to accept same together with the expense of immobilization. In determining the amount of such security, consideration shall be given to the likelihood of the vehicle owner appearing in Kingston City Court to answer outstanding summonses and the number of outstanding summonses involved. Security payments shall be promptly transmitted to the Kingston City Court.
- D. While a vehicle is immobilized as herein provided, any parking restrictions of which such vehicle may be in violation, except as provided herein, shall be suspended as they apply to such vehicle for a period of three days from the initial date of immobilization.