



City of Kingston Laws and Rules Committee
Meeting Agenda
Wednesday, August 21, 2019
6:30 PM

NEW BUSINESS

Code Amendments for Tow Trucks

[20190815142914.pdf](#)

EIC PACE

[20190815143313.pdf](#)

Adopt-A-Highway

[20190815143654.pdf](#)

Kingston Roundabout I-587 and Albany Avenue

[20190815144409.pdf](#)

Open Space Plan

[20190821113442.pdf](#)

1 OLD BUSINESS

1.a. Safe Routes to School Henry St.

[20190729094410.pdf](#)

Laws and Rules Committee Agenda Item Report

Meeting Date: August 21, 2019

Submitted by: Dee Sills

Submitting Department: Common Council

Item Type: Ordinance

Agenda Section:

Subject:

Code Amendments for Tow Trucks

Suggested Action:

Attachments:

[20190815142914.pdf](#)

LR

Tinti, Elisa

From: Shaut, Andrea
Sent: Thursday, August 01, 2019 11:33 AM
To: Noble, James; Tinti, Elisa
Subject: Code Amendments for Tow Trucks
Attachments: City Code Tow Trucks.pdf

Dear President Noble,

Our city code in regards to tow trucks (chapter 370, see attachment) has not been updated in over a decade. I would like the council to consider updating the law, specifically section 370-16 to increase towing charges to better match what surrounding municipalities do. i.e. Towing charges for passenger vehicles in the City of Kingston cost \$100 (day)/ \$125 (night). Town of Ulster charges \$200/\$250.

I would also like to discuss the possibility of revising the code to only allow Kingston based businesses to participate. Currently, we allow garages within 5 miles of our border.

I respectfully request this item be added to the appropriate committee for discussion in August. Thank you for your time and consideration.

Very Respectfully,

Andrea Shaut

Alderwoman, Ward 9

City of Kingston, NY
Thursday, August 1, 2019

Chapter 370. Tow Trucks

[HISTORY: Adopted by the Common Council of the City of Kingston 9-3-1987 as L.L. No. 4-1987, approved 8-10-1987 (Ch. 112 of the 1984 Code). Amendments noted where applicable.]

GENERAL REFERENCES

Parking of trucks — See Ch. 376.

Abandoned vehicles — See Ch. 384.

Vehicles and traffic — See Ch. 390.

§ 370-1. Purpose.

It is hereby declared and found that it is of vital importance to the traveling public that disabled vehicles be removed from the highways as promptly as possible, that delay in removal results in retarding the movement of traffic unnecessarily and causes street accidents and that the towing of disabled motor vehicles in the streets of the City of Kingston is a matter affecting the public interest and consequently should be subject to supervision and administrative control for the purpose of safeguarding the public against fraud and exorbitant rates and similar abuses.

§ 370-2. Definitions.

Unless otherwise expressly provided, the following words for the purpose of this chapter shall have the meanings herein indicated:

ACCIDENT

Any incident or occurrence in which one or more vehicles come into contact with each other or other objects thereby causing personal injury or property damage.

CITY

The corporate area of the City of Kingston.

DRIVER

Any person driving a tow truck upon public highways for hire.

FOR HIRE

Includes any incident where a fee, charge or other consideration is directly or indirectly imposed for towing, carrying or removing a vehicle, and it shall include any case where any person makes repairs on a towed vehicle for consideration, although no charge is expressly imposed for towing such vehicle.

GARAGE

Any place of business which is not in violation of the existing Zoning Ordinance or Building Code of the City of Kingston,^[1] and, as a substantial source of its activity, engages in the repair of motor vehicles and provides on-premises parking for their storage.

OPERATE

Includes the control and direction of the use of vehicles for towing from places within the City of Kingston for hire.

OWNER

Includes a person owning or leasing or controlling one or more tow trucks and driving or operating or causing any such vehicle to be operated upon the public highways for hire.

PERSON

Includes an individual, partnership, any incorporated association, a corporation or any other entity.

REGISTERED REPAIR SHOP

As defined in the Vehicle and Traffic Law of New York.

TOWING

The moving or removing of disabled or abandoned motor vehicles by another vehicle for hire.

TOW TRUCK

A motor vehicle which is either equipped for the purpose of carrying, lifting and removing, for hire, any disabled motor vehicle or is used in the business of removing disabled motor vehicles.

[1] *Editor's Note: See Ch. 405, Zoning and Ch. 172, Building construction.*

§ 370-3. License required.

It shall be unlawful for any person to engage in the business of towing within the City without having obtained a valid license issued hereunder or to operate a tow truck in the course of such business without having displayed thereon a valid sticker issued hereunder, except that no license or stickers shall be required for persons whose business is operated outside the City and whose towing consists solely of towing from or to registered repair shops or garages.

§ 370-4. License application and expiration.

[Amended 12-4-2001; approved 12-28-2001]

- A. Every license issued hereunder shall remain in effect unless revoked, as hereinafter provided.
- B. Every person, firm or corporation who desires to operate, except as herein otherwise provided, the business of automotive towing by a tow truck or tow trucks owned or controlled by him upon the public highways within the City shall be duly licensed as a tow truck operator in the City and must make written application under oath providing the following information:
 - (1) The name and address of the applicant, address of the place from which tow trucks are proposed to be garaged and dispatched, specifying, in the case of any unincorporated association, the names and addresses of each member thereof and, in the case of any corporation, the names and addresses of each officer.
 - (2) All crimes, if any, of which the applicant or any member thereof has been convicted and, if an unincorporated association, that any officer thereof has been convicted, stating the name, if any, and location of the courts and the dates on which such convictions were had and the penalties imposed therefor.
 - (3) The experience of the applicant, or, if an unincorporated association or corporation, of its officers in the towing of vehicles for hire.
 - (4) The number of vehicles proposed to be operated by the applicant and a description of each such vehicle, including the make, model, year and manufacture, New York State registration number and vehicle identification number.

- (5) The name, address and driver's license number of each driver employed by the applicant.
- (6) The location of any and all depots and terminals proposed to be used by the applicant.
- (7) Whether the applicant wishes his name to appear on the towing roster as detailed herein.
- (8) Proof of insurance in the minimum amount of \$1,000,000 or higher liability and \$150,000 property damage liability covering each tow truck and/or place of business. Coverage limits must be maintained throughout the duration of the license. Coverage shall also be provided for the towed vehicle. Said proof shall be provided annually.
[Amended 5-6-2008, approved 5-12-2008]
- (9) Proof of valid registration and inspection of each tow truck to be operated.
- (10) Any other relevant information which the Chief of Police may require.

§ 370-5. Issuance of license.

The Chief of Police shall accept all applications for licenses from persons desiring to engage in the business of towing on such forms as he shall provide. Upon certification by the Chief that the applicant has complied with all applicable provisions of law, the Chief of Police or his agent shall issue a license to the applicant along with a sticker for each vehicle listed on the application specifically identifying the vehicle to which each sticker is to be affixed and the license under which the sticker is issued.

§ 370-6. Transferability.

Each license and sticker issued hereunder shall not be transferred from one person to another nor from one vehicle to another.

§ 370-7. License fee; qualifications.

[Amended 12-4-2001; approved 12-28-2001]

Applicants for a license will be required to pay a nonrefundable fee of \$100. The licensee will qualify, provided that:

- A. The licensee owns, operates and maintains a bona fide registered repair shop within the City of Kingston or a town or incorporated village within the metropolitan area of the City of Kingston, viz., within five miles of the geographical limits thereof.
- B. Such applicant maintains twenty-four-hour capacity to answer emergency calls regarding motor vehicles.
- C. Such applicant has a tow truck equipped with a lifting boom on rear of truck or a flatbed truck, a minimum of three-ton power winch, equipped with 75 feet of 3/8 inch steel cable, a dry-chemical fire extinguisher with a minimum of 10 pounds of pressure, three Department of Transportation approved (triangular) road reflectors and three Department of Transportation approved road flares, a broom, a hacksaw, an ax and a shovel.
- D. The licensee possess a N.Y.S. driver 's license with a tow truck endorsement.

§ 370-8. Additional requirements.

Every applicant for license shall, at the time of submitting his application, submit a complete current schedule of fees for all services in connection with the towing and storage of motor vehicles that the applicant charges in cases other than when called from the towing roster, as hereafter provided. The schedule of maximum prices to be charged may be revised at any time but shall not be effective until filed with the Kingston Police Department.

§ 370-9. Investigation of applicants.

All applicants shall execute such consents for releases of information as may be required.

§ 370-10. Lettering required on truck.

On each side of every tow truck for which a sticker has been issued, the owner shall prominently display, by painting, magnetic sign or other similar means, the business name and address of the licensee, together with the business phone number, by letters of not less than three inches high.

§ 370-11. Examination or hearing prior to issuance of license.

The Chief of Police or his agent may, in his discretion, before the issuance of a license, require the applicant and any others having knowledge of the facts to submit to an examination under oath and to procedure for the adducing of evidence relating thereto and shall hold a hearing upon such application, as hereinafter provided.

§ 370-12. Additional tow trucks.

[Amended 12-4-2001; approved 12-28-2001]

Every owner licensed hereunder who desires to add to the number of tow trucks he is duly licensed to operate shall file a written application under oath with the Chief of Police or his agent stating:

- A. The name and address of the applicant.
- B. The applicant owner's license number.
- C. Proof of required insurance, valid registration and inspection.
- D. A description of each such additional tow truck, including the make, motor number and the year manufactured.

§ 370-13. License renewals.

Any license and sticker issued hereunder may be renewed annually for additional periods of one year each from the date of expiration upon the submission of an amendment to the original application or subsequent amendments, containing all the information required by the provisions of this chapter for original applications.

§ 370-14. Inspection of vehicles.

[Amended 12-4-2001, approved 12-28-2001; 5-6-2008, approved 5-12-2008; 9-2-2014 by L.L. No. 2-2014, approved 9-11-2014]

No license or sticker shall be issued or renewed annually which shall permit the use of any vehicle as a tow truck unless and until it has been inspected and certified annually by the Chief of Police or his designee as conforming to the requirements of this chapter and has been duly inspected as required by the Vehicle and Traffic Law of New York. There shall be a fee as set forth in the fee schedule to be established by resolution of the Common Council of this City^[1] for each annual inspection and as set forth in the fee schedule to be established by resolution of the Common Council of this City for each tow vehicle inspected. Annual inspections must be completed once a year.

[1] *Editor's Note: See Ch. 217, Fees.*

§ 370-15. Towing of vehicles to be impounded or disabled without accident.

Motor vehicles not involved in accidents but which are otherwise disabled and which are disrupting the flow of traffic and whose owners do not otherwise request assistance from a licensee, or motor vehicles which are to be impounded for other reasons, shall be towed away by licensees from the towing roster on a rotating basis. In the event that a licensee is called pursuant to this section, it shall be unlawful for the licensee to charge more than the rates provided for in § 370-16.

§ 370-16. Towing roster; requirements and fees.

[Amended 3-6-1990, approved 3-7-1990; 12-4-2001, approved 12-28-2001]

Any licensee who agrees to abide by the following requirements shall be placed on the towing roster to be called in rotation to remove vehicles from scenes of accidents, disabled vehicles or vehicles otherwise left in violation of law, provided that:

- A. The licensee swears under oath that he owns or rents and operates and maintains a bona fide legally permitted registered repair shop within the City of Kingston; but applicants shall not qualify as herein provided if applicants state that they maintain a registered repair shop on the very same premises or real property owned by another licensee and on which property said licensee operates or maintains or another licensee operates or maintains a place of like business, or the applicant states that he is a lessee of a licensee.
- B. Such garage maintains twenty-four-hour capability to answer calls regarding motor vehicles.
- C. The licensee agrees to charge no more than the following maximum rates for towing from the accident scene to his place of business or any other place within the City of Kingston designated by the owner or operator of a motor vehicle, regardless of distance within the City of Kingston when called by the Kingston Police Department:

(1) Towing charges.

[Amended 5-6-2008, approved 5-12-2008]

(a) Passenger vehicles and trucks up to 3/4 ton.

[1] Day: \$100.

[2] Nights, weekends and holidays: \$125.

(b) Above three-quarter-ton trucks.

[1] Day: \$125.

[2] Nights, weekends and holidays: \$150.

(c) Tractor trailers.

- [1] Tractor trailers 18,000 GVW (gross vehicle weight) and over: said fee is left to the discretion of the owner/operator of the tow truck.
- (d) Return empty.
 - [1] Days: \$75.
 - [2] Nights, weekends and holidays: \$100.
- (e) Snow tows.
 - [1] Day or night, includes dig out: \$125.
- (2) Additional charges. The licensee shall be permitted to charge additional fees for additional services. Any fees not provided for herein shall be in accordance with the schedule of fees filed with the Kingston Police Department.
 - (a) Flatbeds: add \$20 to rates for three-quarter-ton vehicles.
 - (b) Dollies.
 - [1] Tractor trailers.
 - [a] Day: \$120.
 - [b] Nights, weekends and holidays: \$170.
 - [2] All others.
 - [a] Day: \$25.
 - [b] Nights, weekends and holidays: \$45.
 - (c) Winching.
 - [1] Passenger vehicles and three-quarter-ton trucks.
 - [a] Day: \$80 per hour.
 - [b] Nights, weekends and holidays: \$80 per hour.
 - [2] All other vehicles.
 - [a] Day: \$100 per hour.
 - [b] Nights, weekends and holidays: \$120 per hour.
 - (d) Unusual waiting cleanup time.
 - [1] With small wreckers.
 - [a] Day: \$50 per hour.
 - [b] Nights, weekends and holidays: \$60 per hour.
 - [2] With large wreckers.
 - [a] Day: \$70 per hour.
 - [b] Nights, weekends and holidays: \$100 per hour.
 - (e) Additional service vehicles: same rates as above.

(f) Additional labor.

[1] Day: \$40 per hour.

[2] Nights, weekends and holidays: \$50 per hour.

(g) Mileage. Outside of the City: \$3 per loaded mile.

[Amended 5-6-2008, approved 5-12-2008]

(3) "Days" shall mean 8:00 a.m. through 6:00 p.m., Monday through Friday, and 8:00 a.m. through 12:00 noon, Saturday. "Nights, weekends and holidays" shall mean all other times, with "holidays" being those established by the State of New York.

D. Storage. The licensee agrees to charge a maximum of \$40 per day for storage; provided, however, that no storage shall be charged if the vehicle is picked up prior to the close of the next business day of the licensee; and provided, further, that no additional storage may be charged from the time the owner of the vehicle contacts the licensee for the purpose of attempting to pick up the vehicle, so long as the owner does pick up the vehicle prior to the end of the next business day of the licensee. Reasonable charges not to exceed \$40 may be imposed by the licensee to enable the owner to pick up the vehicle at other than normal business hours of the licensee. Licensees shall be available to owners desiring to pick up vehicles at least 10 hours per day, Monday through Saturday, holidays excepted, which hours must include either 8:00 a.m. or 6:00 p.m., as the licensee shall elect. Hours of availability shall be filed with the Kingston Police Department.

[Amended 5-6-2008, approved 5-12-2008]

E. The charges and fees herein provided may be modified from time to time by resolution of the Common Council of the City of Kingston, New York.

§ 370-17. Designation of licensees on towing roster on rotating basis.

[Amended 12-4-2001; approved 12-28-2001]

The Chief of Police of the Kingston Police Department or his authorized agent is hereby authorized to designate licensees from the towing roster on a rotating basis for the purpose of towing motor vehicles to the place of business of the tow truck applicant, except elsewhere at the request of the owner. The roster shall be filed with the City Clerk for availability to the public and shall be amended on the first working day of the month only in the event of an addition or deletion of a licensed applicant.

§ 370-18. Loss of turn on towing roster.

The licensee shall furnish twenty-four-hour telephone numbers for the licensee, his business and/or his designated agent. If a licensee or his designated agent does not answer the call of the duty officer of the Kingston Police Department or is not available when called, he shall lose his turn on the towing roster and must wait for the roster to be called in its entirety before he is eligible to be called again.

§ 370-19. Removal of debris at accidents.

A licensee called to the scene of an accident, if necessary, must sweep or clean up any debris, but only if he is provided with police protection against vehicles at the scene.

§ 370-20. Nontransferability of place on roster.

It shall be unlawful for a licensee to transfer or exchange his place on the roster with any other licensee or other person on the towing roster.

§ 370-21. Accidents requiring more than one tow truck.

If more than one tow truck is needed at the scene of an accident, the aforesaid Police Department, through its authorized agent, shall call the next licensee in rotation. The police officer at the scene shall designate which licensee tows which vehicle. The first licensee to appear on the scene shall, however, assist the police officer in clearing the motor vehicles from the public highways onto the shoulder of the highway.

§ 370-22. Unauthorized towing.

It shall be unlawful for any person who is not designated from the towing roster, as aforesaid, or who does not have the prior consent and direction of the police officer at the scene or owner of the vehicle, to tow away any motor vehicle which has been involved in an accident. The police officer, if at the scene, will determine when the aforesaid vehicle shall be removed. No vehicle will be towed in any event unless the Kingston Police Department is notified or has been at the scene.

§ 370-23. Refusal to respond to call or tow vehicle.

It shall be unlawful for any licensee on the towing roster to willfully refuse to tow away a motor vehicle after having appeared upon the scene, or to willfully fail to arrive at the disabled vehicle scene after being duly designated as herein provided, regardless of the hour of day or distance to the scene of the disabled vehicle, provided that his equipment is not otherwise employed, personnel are unavailable or the licensee is physically incapacitated. A conviction of violating this section shall result in an automatic suspension from the towing roster for 60 days.

§ 370-24. Licensee to have one place on roster.

A licensee duly qualified shall have but one place on the towing roster, although he maintains several licensed tow trucks in the City of Kingston.

§ 370-25. Maximum prices for towing and storage.

It shall be unlawful for any licensee to charge any person more than the maximum fees set forth in its application or filed with the Kingston Police Department for the towing and storage of motor vehicles, except when called from the towing roster, the maximum fees as herein provided shall apply.

§ 370-26. Solicitation at accidents prohibited.

It shall be unlawful for any person to solicit towing or body work at the scene of any motor vehicle accident on private property or on a public highway within the City of Kingston.

§ 370-27. Driving on streets to solicit work prohibited.

It shall be unlawful for any person to drive along any public street or highway within the City of Kingston for the purpose of soliciting towing work, or repair work, or both.

§ 370-28. Hearing procedure.

- A. Whenever it shall be provided herein that a hearing shall be held, such hearing shall be held on a date and at a place and hour designated by the Chief of Police or his agent.
- B. The Chief of Police or his agent shall give notice thereof, stating the name and address of the applicant or license holder concerned, the subject matter of the hearing and date, place and hour thereof designated therefor, by mailing a copy thereof to the applicant or license holder concerned at the address shown upon the most recent application of such applicant or licensee at least 10 days before such hearing.
- C. Upon any hearings, the applicant or license holder involved shall be entitled to be represented by legal counsel and to present such competent and material testimony or other evidence in his own behalf that may be relevant to the subject matter at the hearing.
- D. All witnesses shall be sworn and examined under oath.

§ 370-29. Suspension and revocation of license.

- A. Any license issued hereunder may be suspended for a period of not more than three months or revoked by the Chief of Police or his agent if the holder thereof shall violate any provisions of this chapter or any ordinance of the City or be convicted of the violation of any traffic law, ordinance or regulation of the State of New York or any municipality of the State of New York or of any crime, or be guilty of making a false statement or misrepresentation in his application. A license hereunder shall not be suspended or revoked by the Chief of Police or his agent without a hearing having been held thereupon, which hearing shall be held not less than 20 days after written notice thereof to the licensee, either in person or by certified mail.
- B. The Chief of Police, upon receiving information giving him reasonable cause to believe that the holder of any license has violated any provisions of this chapter, or has been convicted of any violation referred to herein, or has been indicted or charged with or for any crime or offense, or is guilty of having made false statements or misrepresentations in his application, may temporarily suspend such licensee from the towing roster until such time as hearing is held by said Chief of Police or his agent, as provided herein, and the Chief of Police or his agent shall have rendered its determination thereon.
- C. Towing authorization. No vehicle shall be removed without authorization of the police officer, the owner of the vehicle or other person in charge thereof. Such authorization shall be for the towing and the storage of the vehicle only.

§ 370-30. Administration and enforcement.

The Chief of Police or his agent shall have the power to prescribe reasonable rules and regulations for the proper and efficient administration and enforcement of this chapter.

§ 370-31. Regulations for tow truck drivers.

[Amended 12-4-2001; approved 12-28-2001]

- A. A licensed tow truck driver:
 - (1) Shall have an identification card, approved by the Chief of Police, signed by the licensee, attesting to the employment and qualifications of such driver as required herein in his

possession at all times while engaged in his occupation as a tow truck driver, and, while so engaged, shall also be in possession of his operator's or chauffeur's license.

- (2) Shall not permit any other person to use his identification card.
 - (3) Shall not be engaged on an unlicensed tow truck or on a tow truck, the license for which has been suspended or revoked.
 - (4) Shall promptly report the loss of his identification card to the Chief of Police or his agent.
 - (5) Shall report a change of address to the Chief of Police or his agent within 48 hours.
 - (6) Shall have with him at all times properly authorized forms for towing and repair, such forms to be printed and maintained by the tow truck owners.
 - (7) Shall refrain from use of addictive drugs, except those medically prescribed, or intoxicating liquors, while on duty either at the garaging facility, office or place of accident.
- B. Each driver at the scene of an accident:
- (1) Shall exhibit his identification card to the owner of a disabled vehicle or person in charge thereof or to any City officer or member of the Kingston Police Department.
 - (2) Shall not remove any vehicle involved in an accident in which a person has been injured until released by a duly authorized member of the Kingston Police Department.
 - (3) Shall notify the Kingston Police Department of personal or property damage at an accident scene unless a police officer is or has been present.
 - (4) Shall notify the Kingston Fire Department if any evidence of fire or a liquid leak is apparent or if the vehicle to be towed may contain hazardous or contaminated substances.
 - (5) Shall notify the Kingston Police Department of their arrival and departure times from the scene of the call. The times shall also be noted on the bill for services.
- C. Every tow truck driver shall obey all traffic laws, ordinances, local laws, rules and regulations while operating a tow truck and, upon receipt of a summons or his arrest for any alleged violation of any such law, ordinance, local law, rule or regulation, shall report the same within three days to the Chief of Police or his agent, advising him of the nature of the offense charged and the name and the location of the court and the date upon which said summons is returnable or the date upon which the hearing or such trial is to be held.

§ 370-32. General regulations.

- A. The owner or driver of any disabled vehicle shall have the right to require the services of any available licensed tow truck and it shall be unlawful for any owner or driver of any licensed tow truck to refuse to render such services if such owner or driver of such disabled motor vehicle is able and willing to pay the fee prescribed in the schedule of prices filed by the owner of such licensed tow truck with the Chief of Police or his agent; unless such tow service is physically unable for good cause shown to tow such motor vehicle in that all of its available equipment is already engaged in other towing operations.
- B. Licensed tow truck owners and drivers, when required, will answer all communications received from the Chief of Police or his agent.
- C. It shall be unlawful for any owner or driver to refuse to surrender a license or licenses to the Chief of Police or his agent upon demand, after such license or licenses have been suspended, revoked

or expired.

- D. It shall be unlawful for any person to demand or receive any payment in excess of the maximum charges permitted by this chapter on the schedule filed by the owner with the Police Department.
- E. Rules regulating agreements and estimates for repairs. It shall be unlawful for any tow truck owner, driver or any person to make repairs or to charge a fee directly or indirectly for making an estimate for repairs on any motor vehicle in an accident or otherwise disabled without entering into a signed agreement with the owner or other person in charge of said disabled motor vehicle, fixing the cost on a form prescribed.
- F. If any other City or town in the County of Ulster shall adopt an ordinance or local law permitting holders of licenses issued hereunder to operate upon the public highways thereof without further license or fee and file a certified copy of such local law or ordinance with the Chief of Police or his agent of the City of Kingston, any holder of a license to operate tow truck issued by such City or town may operate tow trucks upon the public highways of the City of Kingston, provided, in all instances, that all standards of this chapter are complied with without further license or fee.

§ 370-33. Penalties for offenses.

An offense against any provision of this chapter shall be a violation of the chapter, which shall be punishable by a fine of not more than \$100 or imprisonment for a period not to exceed 30 days for each such offense, or by both such fine and imprisonment, except that any person or persons, associations or corporations committing an offense against any provisions of the licensing section of this chapter hereof shall be guilty of a Class B misdemeanor which shall be punishable by a fine of no more than \$500 or imprisonment for a period not exceeding three months for each such offense, or by both such fine and imprisonment.

Laws and Rules Committee Agenda Item Report

Meeting Date: August 21, 2019

Submitted by: Dee Sills

Submitting Department: Parks and Recreation

Item Type: Authorization Request

Agenda Section:

Subject:

EIC PACE

Suggested Action:

Attachments:

[20190815143313.pdf](#)

CITY OF KINGSTON
Office of Environmental Education and Sustainability
climatesmart@kingston-ny.gov

Julie L. Noble, Coordinator



Steven T. Noble, Mayor

August 1, 2019

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 to enable Open C-Pace.

New York State has amended its PACE Law to make PACE financing more accessible to clean energy projects. The changes listed below ("Open C-Pace") will expand the usefulness of Energize NY PACE and increase its appeal to energy efficiency and renewable energy project developers, while also removing all municipal obligations from the provision of the public benefit of PACE. In order to effectuate this change in Kingston, the Common Council will need to amend our local PACE law to incorporate the amendments and the other refinements to Open C-Pace described in the attachment: Open C-Pace Memo to EIC Members.

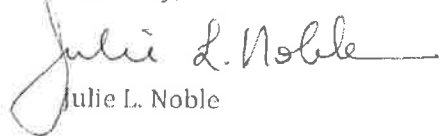
To advance our compliance, I have attached the following, which are being reviewed by the City's Corporation Counsel as well as the EIC's Counsel:

- 1) Amended Local Law: A Local Law to Establish a Sustainable Energy Loan Program (Open C-Pace) 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).

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

Thank you for your consideration.

Sincerely,


Julie L. Noble

Sustainability Coordinator

Cc: Mayor Steve Noble
Elisa Tinti, Clerk
Andrea Shaut, Chair, Laws and Rules

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: jtukey@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.nyserra.ny.gov/cpace-guidelines
Link to Energize NY PACE 2.0 Underwriting Standards	http://energizeny.org/images/uploads/ENY_PACE_2dot0_Standards.pdf

MUNICIPAL AGREEMENT

BETWEEN

ENERGY IMPROVEMENT CORPORATION

AND

CITY OF KINGSTON

RELATING TO

ENERGIZE NY OPEN C-PACE FINANCING PROGRAM

DATED AS OF _____, 2019

TABLE OF CONTENTS

	Page
1. Definitions.....	1
2. Representation and Warranties of the Parties.....	3
(a) EIC	3
(b) Participating Municipality	4
3. Obligations of EIC	5
(a) Program Requirements	5
(b) Qualified Project Requirements.....	7
(c) Finance Agreement for Qualified Project.....	7
(d) Levy and Recording of Benefit Assessment Lien	8
(e) Annual Installment Liens.....	8
(f) Final Payment and Release	9
(g) Billing and Collection of Annual Installment Amounts	9
(h) Collection of Delinquent Payments	10
4. Obligations of the Participating Municipality	10
(a) Appointment of EIC as Agent	10
(b) Assignment of Benefit Assessment Lien.....	10
(c) Notices	11
(d) Promotion of Program; Assistance to EIC; Modification of Program	11
5. Indemnification	12
6. Term.....	12
7. Default.....	12
8. Remedies Upon Default.....	12
9. Miscellaneous	13
(a) Assignment or Transfer	13
(b) Severability	13
(c) Counterparts.....	13
(d) Notices	13
(e) Amendment and Waivers	15
(f) Governing Law	15
(g) Entire Agreement.....	15
Exhibit A – Certificate of Levy and Lien of Benefit Assessment.....	A-1
Exhibit B – Assignment of Benefit Assessment Lien	B-1
Exhibit C – Form of Consent of Mortgage Holders	C-1
Exhibit D – Satisfaction and Release of Lien of Benefit Assessment.....	D-1

**ENERGY IMPROVEMENT CORPORATION
MUNICIPAL AGREEMENT (OPEN C-PACE)**

This Agreement made as of this ____ day of _____, 2019 (the “*Agreement*”), by and between [County/City/Town/Village], a municipal corporation organized and existing under the laws of the State of New York (the “*Participating Municipality*”) and the Energy Improvement Corporation, a local development corporation formed under the laws of the State of New York (“*EIC*”) (both the Participating 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 Participating Municipality’s participation in the Energize NY Open C-PACE Financing Program (“*Open C-PACE*” or the “*Program*”), as more fully described herein. Capitalized terms used herein, unless otherwise defined herein, have the meanings assigned to them in Section 1 herein.

WHEREAS, EIC has established the Program as a sustainable energy financing program pursuant to the Enabling Act through which the member municipalities, including the Participating Municipality, may levy charges against Qualified Properties within the Participating Municipality for the purpose of promoting, facilitating and financing clean energy improvements to Qualified Properties, thereby promoting the public good by reducing greenhouse gas emissions, mitigating the effect of global climate change and lessening the burdens of government;

WHEREAS, the Participating Municipality has adopted the Local Law authorizing the provision of financing through Open C-PACE to Qualified Properties within its geographical boundaries and has authorized EIC to act on its behalf to effectuate Open C-PACE within the Participating Municipality; and

WHEREAS, EIC wishes to provide for the terms and conditions pursuant to which the Participating Municipality will participate in Open C-PACE.

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

1. Definitions.

“Annual Installment Amount” means, with respect to each Benefited Property, the amount of the Benefit Assessment to be repaid by the Benefited Property Owner in installments made at least annually, in accordance with the schedule attached to the Finance Agreement for such Benefited Property. The Annual Installment Amount may be adjusted to reflect any Financing Charges as provided in Section 4(d) of this Agreement.

“Authority” means The New York State Energy Research and Development Authority, as defined by subdivision two of section 1851 of the Public Authorities Law of the State, or its successor.

“Benefit Assessment” means, as of the date a Finance Agreement is executed, the charge assessed against the Qualified Property, as such assessment may be modified pursuant to Section 4(d) of this Agreement, and as otherwise provided in the Finance Agreement.

“Benefit Assessment Lien” means a lien which evidences a Benefit Assessment and is recorded by EIC, on behalf of the Participating Municipality, on the land records against a Benefited Property.

“Benefited Property” means a Qualified Property for which the Qualified Property Owner has entered into a Finance Agreement for a Qualified Project.

“Benefited Property Owner” means the owner of record of a Benefited Property meeting requirements for participation in the Program as an owner.

“Business Day” means any day on which EIC is open for business and banks are not required by law to close in New York, New York.

“Eligible Costs” means costs incurred by the Benefited Property Owner in connection with a Qualified Project and the related Finance Agreement, including application fees, EIC’s Program administration fee, closing costs and fees, title and appraisal fees, professionals’ fees, permits, fees for design and drawings and any other related fees, expenses and costs, in each case as approved by EIC and the Financing Party under the Finance Agreement

“Enabling Act” means Article 5-L of the General Municipal Law of the State, or a successor law, as in effect from time to time.

“Energy Audit” is defined to have the meaning assigned thereto in the Enabling Act, as amended from time to time.

“Energy Efficiency Improvement” is defined to have the meaning assigned thereto in the Enabling Act, as amended from time to time.

“Finance Agreement” means a written agreement between a Financing Party and a Qualified Property Owner for the financing of a Qualified Project on the Qualified Property to which EIC, on behalf of the Participating Municipality, shall be a third-party beneficiary.

“Financing Charges” means all charges, fees and expenses related to the Loan including accrued interest, capitalized interest, prepayment premiums and penalties as a result of a default or late payment and costs and reasonable attorneys’ fees incurred by the Financing Party as a result of a foreclosure or other legal proceeding brought against the Benefited Property to enforce any delinquent Annual Installment Liens.

“Financing Party” means any third-party capital provider approved by EIC to provide financing to Qualified Property Owners or other financial support to Open C-PACE which has entered into an agreement with EIC to administer Open C-PACE in the Participating Municipality.

“Loan” means a loan made by a Financing Party to a Qualified Property Owner for a Qualified Project pursuant to Open C-PACE.

“Local Law” means Local Law No. __ pursuant to Municipal Home Rule Law and the Enabling Act, authorizing the provision of financing through the Energize NY Open C-PACE Financing Program.

“Municipal Lien” means a lien on Benefited Property which secures the obligation to pay real property taxes, municipal charges or governmentally imposed assessments in respect of services or benefits to a Benefited Property.

“Non-Municipal Lien” means a lien on Benefited Property which secures any obligation other than the obligation to pay real property taxes, municipal charges, or governmentally-imposed assessments in respect of services or benefits to a Benefited Property Owner or Benefited Property.

“Policies and Procedures” shall have the meaning assigned thereto in Section 3(a)(ii) of this Agreement.

“Qualified Project” means the acquisition, construction, reconstruction or equipping of Energy Efficiency Improvements or Renewable Energy Systems or other projects authorized under the Enabling Act on a Qualified Property, together with a related Energy Audit, Renewable Energy System Feasibility Study and/or other requirements under or pursuant to the Enabling Act, with funds provided in whole or part by Financing Parties under the Program to achieve the purposes of the Enabling Act.

“Qualified Property” means any real property, other than a residential dwelling containing less than three dwelling units, located within the boundaries of the Participating Municipality that has been determined to be eligible to participate in the Program under the procedures for eligibility set forth under this Agreement, the Local Law and the Enabling Act and has become the site of a Qualified Project.

“Qualified Property Owner” means the owner of record of a Qualified Property meeting requirements for participation in the Program as an owner.

“Renewable Energy Systems” is defined to have the meaning assigned thereto in the Enabling Act, as amended from time to time.

“Renewable Energy System Feasibility Study” is defined to have the meaning assigned thereto in the Enabling Act, as amended from time to time.

“RPTL” means the Real Property Tax Law of the State, as amended from time to time.

“State” means the State of New York.

2. Representation and Warranties of the Parties.

(a) EIC.

- (i) EIC hereby represents that it is a local development corporation, duly organized under section 1411 of the Not-For-Profit Corporation Law of the State, authorized to implement the Program by arranging Loans to Qualified Property Owners and providing for repayment of the Loans from monies collected by or on behalf of the Participating Municipality as a Benefit Assessment.

- (ii) EIC represents and warrants 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 EIC's execution of this Agreement or the performance of its obligations contained herein. The individual executing this Agreement on behalf of EIC has been and is duly authorized to bind EIC.

(b) Participating Municipality.

- (i) *Authority.* The Participating Municipality is a municipal corporation, constituting a tax district as defined in Section 1102 of the RPTL of the State, duly organized and existing under the laws of the State and has full legal right, power and authority to (i) adopt the Local Law, (ii) assess, collect, remit and assign Benefit Assessments for Benefited Properties located within its geographical boundaries, (iii) levy Benefit Assessment Liens against Benefited Properties located within its geographical boundaries, (iv) conduct its business and own its properties, (v) enter into this Agreement and to comply with its terms, and (vi) carry out and consummate, by contract or otherwise, all other transactions contemplated by its participation in Open C-PACE.
- (ii) *Adoption of Local Law.* The Participating Municipality has on _____ adopted the Local Law authorizing the provision of financing through Open C-PACE to Qualified Properties for Qualified Projects.
- (iii) *Approvals and Consents.* The Participating Municipality has duly approved the execution and delivery of this Agreement and approved implementation of Open C-PACE by EIC and has authorized EIC to act on its behalf in effectuating Open C-PACE; and any and all consents, authorizations and approvals of any third-party required with respect thereto have been obtained.
- (iv) *Capacity.* The Participating Municipality has the legal, institutional, managerial, technical, contractual and financial capability to (a) ensure adequate and timely assessment and collection of property taxes in the Participating Municipality, (b) levy and record Benefit Assessment Liens on Benefited Properties within its geographical boundaries, and (c) assign or authorize EIC, on its behalf, to assign the Benefit Assessment Liens to third-party capital providers in connection with the financing of Qualified Projects.
- (v) *Binding Obligation.* This Agreement has been duly authorized, executed and delivered by the Participating Municipality and constitutes a legal, valid and binding obligation of the Participating Municipality except as

enforceability may be limited by applicable bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally and the application of general principles of equity by a court of competent jurisdiction (whether in an action of law or a proceeding in equity); the defense of sovereign immunity is not available to the Participating Municipality in any proceedings by EIC to enforce any of the obligations of the Participating Municipality under this Agreement.

- (vi) *No Action.* There is no claim, action, suit, litigation, proceeding, arbitration, inquiry or investigation of any kind, at law or in equity, before or by any court, public board or body, pending or known to be threatened against the Participating Municipality, nor is there any basis therefore, (i) affecting the creation, organization or existence of the Participating Municipality or the title of its officers to their respective offices, (ii) seeking to prohibit, restrain or enjoin or in any way contest the execution of this Agreement, the Finance Agreement or any other agreement entered into in connection with the Participating Municipality's participation in the Program, or (iii) seeking to prohibit, restrain, enjoin or in any way contesting or affecting the validity or enforceability of the Local Law, this Agreement or any agreement or instrument relating to any of the foregoing or used or contemplated for use in the consummation of the transactions contemplated by any of the foregoing.
- (vii) *No Material Default.* The Participating Municipality is not in material default under any finance agreement, note, bond, mortgage or other instrument evidencing or securing indebtedness of the Participating Municipality. The execution and delivery of this Agreement, and the adoption of the Local Law and compliance with the respective provisions hereof and thereof, will not conflict with or constitute a breach of or material default under any applicable law or administrative regulation of the State or the United States of America or any applicable judgment or decree or any agreement or other instrument to which the Participating Municipality is a party or by which it or any of its property is bound.

3. Obligations of EIC.

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

- (a) Program Requirements.
 - (i) The establishment and administration of Open C-PACE to provide financing to Qualified Properties within the Participating Municipality in order to promote, facilitate and finance Qualified Projects in accordance with the terms of the Local Law and this Agreement.

- (ii) Receive and review (or provide for the review of) applications submitted by Qualified Property Owners within the Participating Municipality for the financing of Qualified Projects, and the approval or disapproval of such applications in accordance with the Authority's guidelines, any restrictions imposed by the Participating Municipality, and the policies and procedures adopted by EIC with respect to Open C-PACE (the "*Policies and Procedures*"). The governing Board of EIC reserves the right to reject an application for financing for any reason.
- (iii) Prepare and deliver to the Participating Municipality by February 15th of each calendar year an annual report (the "*Annual Report*") which Annual Report may be filed by the Participating Municipality on the land records and shall contain information related to each Benefited Property within the Participating Municipality through December 31st of the immediately preceding calendar year, identified in the Annual Report by address and Tax Map Identification (i.e. section, block and lot) including:
 - A. A list of each Benefited Property for which a Qualified Property Owner executed a Finance Agreement during the prior calendar year (for which a Benefit Assessment Lien was added by EIC, on behalf of the Participating Municipality, to its land records in accordance with Section 3(d) below);
 - B. A list of each Benefited Property within the Participating Municipality where the Benefit Assessment and all obligations under the related Finance Agreement have been satisfied or paid in full during the prior calendar year, including the satisfaction date and a copy of the notice of satisfaction;
 - C. The total Annual Installment Amount paid to each Financing Party for each Benefited Property in the Participating Municipality during the prior calendar year;
 - D. For each Benefited Property with an outstanding Benefit Assessment, (i) the Annual Installment Amount collected in the current year, (ii) any amount of the Annual Installment Amount due and remaining uncollected in the current year, including any Financing Charges, and (iii) the Annual Installment Amount due to be collected in the following calendar year; and
 - E. All other information EIC may deem to be relevant to each Benefited Property within the Participating Municipality.

(b) Qualified Project Requirements.

If a Qualified Property Owner requests financing from EIC under the Program, EIC shall:

- (i) Require performance of an Energy Audit or Renewable Energy System Feasibility Analysis on the Qualified Property that assesses the expected energy cost savings of the Energy Efficiency Improvements or Renewable Energy Systems over the useful life of such Energy Efficiency Improvements and/or Renewable Energy Systems before approving such financing;
 - (ii) Impose requirements and criteria to ensure that the proposed Energy Efficiency Improvements or Renewable Energy Systems are consistent with the purpose of the Program;
 - (iii) Require that the Qualified Property Owner obtain the consent of any existing holder of a mortgage on the Qualified Property substantially in the form of Exhibit C attached hereto, prior to the recording of a Benefit Assessment Lien against the Qualified Property;
 - (iv) Receive the certificates of completion executed by the Benefited Property Owner or its duly authorized representative during or following installation or construction of the Qualified Project to determine compliance with the Policies and Procedures; and
 - (v) Verify and report to the Participating Municipality on the installation and performance of Renewable Energy Systems and Energy Efficiency Improvements financed by the Program.
- (c) Finance Agreement for Qualified Project. The Financing Party and the Qualified Property Owner shall enter into a Finance Agreement for the Qualified Project which shall set forth the terms and conditions for the disbursement and repayment of the Loan and the duties and obligations of the parties with respect to the acquisition, construction and installation of the Qualified Project. EIC, on behalf of the Participating Municipality, shall be a third-party beneficiary to the Finance Agreement. The Finance Agreement shall state (a) the legal description of the Benefited Property, (b) the total Benefit Assessment that will be levied against the Benefited Property which shall include the cost of the Qualified Project together with any Eligible Costs and Financing Charges approved by EIC and by the Financing Party, (c) the fixed rate of interest on the Loan, and (d) a schedule of the Annual Installment Amounts due in each year of the Loan. Additionally, the Finance Agreement shall disclose the Financing Charges and risks associated with participation in the Program, including the risk of foreclosure in case of nonpayment of any Annual Installment Amount. Upon execution of the Finance Agreement by the Financing Party and the Qualified Property Owner, the property

that is the subject of the Finance Agreement shall be deemed a “Benefited Property.”

(d) Levy and Recording of Benefit Assessment Lien.

- (i) Upon execution of a Finance Agreement, EIC, on behalf of the Participating Municipality, shall promptly record the Benefit Assessment Lien against the Benefited Property in the land records for properties in the Participating Municipality. The Benefit Assessment Lien shall be substantially in the form of Exhibit A to this Agreement and include a legal description of the Benefited Property and a schedule of the Annual Installment Amounts due in each year of the Loan. There shall be no charge, mortgage recording tax or other fee for recording the Benefit Assessment Lien on the land records for the Participating Municipality in the same manner as if recorded by the Participating Municipality. As provided in the Enabling Act and the Local Law, the Benefit Assessment levied pursuant to this Agreement and the interest, fees and any penalties thereon shall constitute a lien against the Benefited Property on which they are made until they are paid. The Benefit Assessment shall be payable by the Benefited Property Owner in Annual Installment Amounts as provided in the Finance Agreement. Only delinquent Annual Installment Amounts that are due and owing may be subject to enforcement.
- (ii) Pursuant to the Finance Agreement, the final amount of the Benefit Assessment may be adjusted after the recording of the Benefit Assessment Lien on the land records for the Participating Municipality. Such an adjustment would likely be the result of a change in the energy improvement service contract amount during the construction period, additional Financing Charges, or an amendment to the Finance Agreement. In the event that the final Benefit Assessment needs to be adjusted at the completion of the Qualified Project, or any other time, EIC, on behalf of the Participating Municipality, will record the new Benefit Assessment Lien on the land records to reflect such adjustment, together with a new schedule of Annual Installment Amounts. Such recording of the new Benefit Assessment Lien against the Benefited Property shall be exempt from any charge, mortgage recording tax or other fee in the same manner as if recorded by the Participating Municipality.

(e) Annual Installment Liens.

- (i) As provided in the Local Law, each Annual Installment Amount shall be considered a charge upon the Benefited Property and shall become a lien on the Benefited Property as of the first day of January of the fiscal year for which levied (the “Annual Installment Lien”) and shall remain a lien until paid. Payment to the Financing Party shall be considered payment for this purpose. Delinquent Annual Installment Amounts may accrue Financing Charges as may be provided in the Finance Agreement. Any additional

Financing Charges imposed by the Financing Party pursuant to the Finance Agreement shall increase the Annual Installment Amount and the Annual Installment Lien for the year in which such overdue payments were first due.

- (ii) The Benefit Assessment Lien shall be automatically reduced annually by the amount of each Annual Installment Lien when each Annual Installment Lien becomes a lien. Each Annual Installment Lien shall be subordinate to all Municipal Liens, whether created by Section 902 of the RPTL or any other State or Local Law. No Annual Installment Amount shall be recovered by the Participating Municipality, EIC, or any assignee upon foreclosure, sale or other disposition of the Benefited Property unless and until all Municipal Liens are fully discharged. Each Annual Installment Lien, however, shall have priority over all Non-Municipal Liens, irrespective of when created, except as otherwise required by law.
 - (iii) Neither the Benefit Assessment Lien nor any Annual Installment Lien shall be extinguished or accelerated in the event of a default or bankruptcy of the Benefited Property Owner. Each Annual Installment Amount shall be considered a charge upon the Benefited Property and shall be collected by EIC, on behalf of the Participating Municipality, at the same time and in the same manner as real property taxes or municipal charges. Each Annual Installment Lien shall remain a lien until paid. Amounts collected in respect of an Annual Installment Lien shall be remitted to EIC or the Financing Party, as may be provided in the Finance Agreement.
- (f) Final Payment and Release. Upon notice from the Financing Party that the Benefit Assessment has been satisfied and paid in full, together with all Eligible Costs and Financing Charges provided under the Finance Agreement, EIC, on behalf of the Participating Municipality, will execute a Satisfaction and Release of Benefit Assessment Lien (the “Release”) substantially in the form attached hereto as Exhibit D, and record the Release on the land records for the Participating Municipality. There shall be no charge, mortgage recording tax or other fee for recording the Release on the land records for the Participating Municipality in the same manner as if recorded by the Participating Municipality.
- (g) Billing and Collection of Annual Installment Amounts.
 - (i) The Finance Agreement shall provide for the repayment of the Benefit Assessment in Annual Installment Amounts. EIC will act as the Participating Municipality’s agent in the billing and collection of the Benefit Assessment for each Benefited Property listed in the Annual Report in accordance with the related Finance Agreement.
 - (ii) In the event of a default in payment of any Annual Installment Amount for a Benefited Property, EIC agrees to take at least the following steps to

collect the delinquent Annual Installment Amount on behalf of the Participating Municipality:

- A. Mail a written notice of delinquency and demand for payment to the Benefited Property Owner by both certified mail, return receipt requested, and first class mail; and
 - B. Mail a second notice of delinquency to the Benefited Property Owner by both certified mail, return receipt requested, and first class mail at least 30 days after the date of the first notice if the delinquency is continuing.
- (iii) If the Benefited Property Owner fails to cure the delinquency within 30 days after the mailing of the second notice of delinquency, then the Financing Party may redeem the Benefited Property and pursue collection of the delinquent Annual Installment Amounts as provided in paragraph (h) of this Section 3.

(h) Collection of Delinquent Payments.

- (i) If any Benefited Property Owner fails to pay an Annual Installment Amount, the Financing Party may redeem the Benefited Property by paying the amount of all unpaid Municipal Liens thereon, and thereafter have the right to collect any amounts in respect of an Annual Installment Lien by foreclosure pursuant to the RPTL or any other remedy available at law.
- (ii) EIC shall provide written notice to the Participating Municipality of the institution of a judicial foreclosure or other proceeding against any Benefited Property located within the Participating Municipality for payment of delinquent Annual Installment Amounts.

4. Obligations of the Participating Municipality.

- (a) Appointment of EIC as Agent. The Participating Municipality hereby appoints EIC to act as its agent in the administration of the Open C-PACE Program within the Participating Municipality and in its dealings with Financing Parties, Qualified Property Owners and Benefited Property Owners. EIC is authorized on behalf of the Participating Municipality to levy and record the Benefit Assessment Lien, any amendments or assignments thereof and the Release in the land records for properties in the Participating Municipality without charge, and to take any reasonable actions in the performance of its duties hereunder.
- (b) Assignment of Benefit Assessment Lien.
 - (i) The Participating Municipality authorizes EIC, on its behalf, to sell or assign any and all Benefit Assessment Liens and Annual Installment Liens to a Financing Party that provides financing to a Qualified Property pursuant to a Finance Agreement. The Assignment of Benefit Assessment Lien shall

be in substantially the form attached hereto as Exhibit B, and shall be filed by EIC, on behalf of the Participating Municipality, in the land records for the Participating Municipality at the same time as the Benefit Assessment Lien.

The Financing Party may sell or assign for consideration any and all Benefit Assessment Lien and Annual Installment Liens received from EIC, on behalf of the Participating Municipality, subject to certain conditions provided in the administration agreement between EIC and the Financing Party. Any such assignment shall be in a form acceptable to EIC, and shall be filed by the Financing Party or, at its request and upon indemnification, by EIC, on the land records for the Participating Municipality. The assignee or assignees of such Benefit Assessment Liens and Annual Installment Liens shall have and possess the same powers and rights at law or in equity as EIC would have had if the Benefit Assessment Lien and Annual Installments Liens had not been assigned with regard to the precedence and priority of such lien, the accrual of interest and the fees and expenses of collection. There shall be no charge, mortgage recording tax or other fee for recording of any assignment on the land records for the Participating Municipality if filed by EIC, in the same manner as if recorded by the Participating Municipality.

(c) Notices.

- (i) Within 10 days of EIC's request, the Participating Municipality will provide written notice to EIC of any delinquency in the payment of real property taxes by a Benefited Property Owner if the Benefited Property is subject to a Benefit Assessment Lien.
- (ii) The Participating Municipality will also provide written notice to EIC of any sale or assignment of its real property taxes or any institution of a judicial foreclosure or other proceeding against any Benefited Property for delinquent real property taxes if such Benefited Property is subject to a Benefit Assessment Lien.

(d) Promotion of Program; Assistance to EIC; Modification of Program.

- (i) The Participating Municipality shall use good faith efforts to assist EIC in local marketing efforts and outreach to the local business community to encourage participation in the Program such as including Program information on the Participating Municipality's website.
- (ii) The Participating Municipality shall use good faith efforts to assist in gathering and providing information for EIC to administer the Program.
- (iii) Except with respect to Qualified Properties for which an application has previously been submitted, the Participating Municipality may at any time modify Open C-PACE by changing the types of properties that may receive financing for Qualified Projects. The Participating 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 Participating 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.

5. Indemnification

EIC agrees that it will protect, defend, indemnify and hold harmless the Participating Municipality and its officers, agents and employees from and against all claims, demands, causes of action, damages, judgments, losses and expenses, including reasonable attorney's fees, arising out of or in connection with the negligent actions of EIC's officers, employees and agents under this Agreement. This provision shall survive termination of this Agreement.

6. Term.

The term of this Agreement shall commence upon the date first written above. This Agreement shall be in full force and effect until all of the Benefit Assessments for Benefited Properties in the Participating Municipality have been paid in full or deemed no longer outstanding. The Participating Municipality may opt-out of continuation in the program at any time on sixty (60) days advance notice to EIC, provided that the provisions of this Agreement shall continue with regard to Benefit Assessments assessed prior to such termination date until the Benefit Assessments have been paid in full or are no longer outstanding.

7. Default.

Each Party shall give the other Party written notice of any breach of any covenant or agreement under this Agreement and shall allow the defaulting Party 30 days from the date of its receipt of such notice within which to cure any such default or, if it cannot be cured within 30 days, to commence and thereafter diligently pursue to completion, using good faith efforts to effect such cure and to thereafter notify the other Party of the actual cure of any such default. The Parties shall have all other rights and remedies provided by law, including, but not limited to, specific performance, provided, however, in no event shall either Party have the right to terminate this Agreement prior to the expiration of the Term, except as provided in accordance with Section 6 of this Agreement.

8. Remedies Upon Default.

Should the Participating Municipality default in any of its obligations 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) EIC may sue the Participating Municipality for specific enforcement of this Agreement;

- (b) EIC shall have the right to discontinue providing any new financings to Qualified Properties located within the Participating Municipality.
- (c) EIC may suspend the Participating Municipality's membership in EIC.
- (d) EIC shall have all other rights and remedies provided by law.

9. **Miscellaneous.**

(a) **Assignment or Transfer.**

Except as provided in Section 4(b) hereof, neither Party may assign or transfer its rights or obligations under this Agreement to another unit of local government, political subdivision or agency of the State or to a private party or entity without the prior written consent of the other Party.

(b) **Severability.**

If any clause, provision or section of this Agreement is held to be illegal or invalid by any court, the invalidity of the clause, provision or section will not affect any of the remaining clauses, provisions or sections, and this Agreement will be construed and enforced as if the illegal or invalid clause, provision or section has not been contained in it.

(c) **Counterparts.**

This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, and all of which together shall constitute but one and the same instrument.

(d) **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:

Susan Morth
Co-Executive Director
Energy Improvement Corporation
2051 Baldwin Road
Yorktown Heights, NY 10598
E-mail: susanm@energizeny.org

Mark Thielking
Co-Executive Director
Energy Improvement Corporation
2051 Baldwin Road
Yorktown Heights, NY 10598
E-mail: mark@energizeny.org

Alain Pierroz
Co-Executive Director
Energy Improvement Corporation
2051 Baldwin Road
Yorktown Heights, NY 10598
E-mail: alainp@energizeny.org

With a copy to:

Anna Lee, Esq.
Partner
Norton Rose Fulbright US LLP
1301 Avenue of the Americas
New York, New York 10019

PARTICIPATING MUNICIPALITY:

Municipality Contact Name/Address:

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

With a copy to Participating Municipality's counsel:

Contact Name/Address:

Kevin Bryant, Corporation Counsel
City of Kingston
420 Broadway
Kingston, NY 12401
Email: kbryant@kingston-ny.gov

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

(e) Amendment and Waivers.

Except as otherwise set forth in this Agreement, any amendment to or waiver of any provision of this Agreement must be in writing and mutually agreed to by EIC and the Participating Municipality.

(f) 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.

(g) Entire Agreement.

This instrument constitutes the entire agreement between the Parties with respect to the Open C-PACE Program and supersedes all previous discussions, understandings and agreements between the Parties relating to the Open C-PACE Program.

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the day and year first written above.

Date: _____, 20____

ENERGY IMPROVEMENT CORPORATION

By: _____

Name:

Title:

Date: _____, 20____

PARTICIPATING MUNICIPALITY NAME:

By: _____

Name: Steven T. Noble

Title: Mayor

EXHIBIT A

CERTIFICATE OF LEVY AND LIEN OF BENEFIT ASSESSMENT

Energy Improvement Corporation, a local development corporation formed under the laws of the State of New York ("EIC"), acting on behalf of City of Kingston (the "Participating Municipality") pursuant to Article 5-L of the General Municipal Law of the State of New York and the Local Law adopted by the Participating Municipality establishing the Energize NY Open C-PACE Financing Program in the Participating Municipality, and the Municipal Agreement between the Participating Municipality and EIC dated _____, 2019, HEREBY LEVIES A BENEFIT ASSESSMENT AGAINST AND LIEN UPON certain real property commonly referred to as _____ and described more particularly in the attached **Exhibit A** (the "Benefited Property"), situated in the Participating Municipality and owned on the date hereof in whole or in part by _____ (the "Benefited Property Owner"), said levy and lien shall secure the repayment of financing for energy improvements or other improvements from time to time authorized by the Enabling Act made or to be made to the Benefited Property pursuant to that certain Finance Agreement, by and between the Benefited Property Owner and [Capital Provider] dated _____, 2019, as may be amended (the "Finance Agreement"). The amount and repayment of said levy and lien, as determined by EIC, on behalf of the Participating Municipality, are as follows: an installment payment schedule set forth in the attached **Exhibit B** is in effect for payment of the Benefit Assessment, and is based on the principal amount of the Benefit Assessment of \$_____, with interest thereon at a fixed rate equal to _____% per annum, with [#] annual installments of principal and interest (the "Annual Installment Amount") due and payable pursuant to the Finance Agreement. The Annual Installment Amount may be adjusted to reflect any permitted prepayments received or additional interest or charges due to late payments or defaults, as provided in the Finance Agreement.

Each Annual Installment Amount shall be considered a charge upon the Benefited Property and shall become a lien on the Benefited Property as of the first day of January of the fiscal year for which levied (the "Annual Installment Lien") and shall remain a lien until paid. In the event that any Annual Installment Amount shall remain unpaid for thirty days after the same shall become due and payable, interest and other charges shall be charged upon the unpaid Annual Installment Amount at the rate of _____% per annum, as provided in the Finance Agreement. All existing holders of any mortgage on the Benefited Property have consented to the levy and assessment of the Benefit Assessment Lien by the Participating Municipality against the Benefited Property, and copies of such consents have been provided to EIC.

At such time as the principal and interest payments of the Benefit Assessment have been satisfied and paid in full, a release of this Certificate shall be filed by EIC, on behalf of the Participating Municipality, in the land records for the Participating Municipality evidencing such release.

This Certificate constitutes a certificate of lien and is filed pursuant to the provisions of the Local Law to evidence a lien for the Benefit Assessment levied upon the Benefited Property for the special benefits conferred upon said Benefited Property by the energy improvements related thereto. Pursuant to the Act, this lien shall take precedence over all other liens or encumbrances

except a lien for taxes of the Participating Municipality on real property, municipal charges, or governmentally imposed assessments in respect of services or benefits to the Property, which liens shall have priority over this lien.

The portion of this Certificate which constitutes a levy of Benefit Assessment and notice of installment payment of Benefit Assessment is filed pursuant to the provisions of the Local Law and the General Municipal Law of the State of New York, as amended.

Dated at _____, New York this ____ day of _____ 20__.

By: _____
Energy Improvement Corporation
Name:
Title:

Acknowledged and Agreed:

this ____ day of _____, 20__

Property Owner

STATE OF NEW YORK)
)
COUNTY OF _____)

SS.: _____

On this the ____ day of _____, 20____, before me _____,
the undersigned officer, personally appeared _____, known to me
(or satisfactorily proven) to be the person whose name is subscribed to the within instrument and
acknowledged that he/she executed the same for the purposes therein contained and that he/she
acknowledged the same to be his/her free act and deed, before me, in his/her capacity as an
authorized officer of the Energy Improvement Corporation, acting on behalf of the City of
Kingston.

STATE OF NEW YORK)
)
COUNTY OF _____)

ss.: _____

On this the ____ day of _____, 20____, before me _____,
the undersigned officer, personally appeared _____, known to me
(or satisfactorily proven) to be the person whose name is subscribed to the within instrument and
acknowledged that he/she executed the same for the purposes therein contained and that he/she
acknowledged the same to be his/her free act and deed, before me, in his/her capacity as an
authorized officer of the [Property Owner].

Received for Record: _____, 20____ at _____ A.M./P.M.

Recorded in the _____ land records at Volume _____, Page _____.

Clerk of City of Kingston

EXHIBIT B

ASSIGNMENT OF BENEFIT ASSESSMENT LIEN

KNOW ALL PERSONS BY THESE PRESENTS, that Energy Improvement Corporation, a local development corporation formed under the laws of the State of New York (hereinafter referred to as “EIC” or the “Assignor”), acting on behalf of City of Kingston, a New York municipal corporation (the “Municipality”), pursuant to Article 5-L of the General Municipal Law of the State of New York and the Local Law adopted by the Municipality establishing the Energize NY Open C-PACE Financing Program in the Municipality, and the Municipal Agreement between the Municipality and EIC dated _____, 2019 (the “Municipal Agreement”), in consideration of One Dollar (\$1.00) and other valuable consideration, receipt of which is hereby acknowledged, hereby quit-claims, grants, bargains, sells, conveys, assigns, transfers and sets over unto [Capital Provider] (the “Assignee”) under that certain Finance Agreement, by and between the Benefited Property Owner and [Capital Provider] dated _____, 2019, as may be amended (the “Finance Agreement”), without warranty and without recourse, all of its right, title and interest in and to that certain Benefit Assessment Lien and each Annual Installment Lien and the debts secured thereby together with such interest, fees, and expenses of collection as may be provided by law, filed by EIC, on behalf of the Municipality, on the land records, on property owned on the date hereof in whole or in part by _____ and as described on Exhibit A and also commonly referred to as _____, attached hereto and made a part hereof (the “Benefit Assessment Lien”), to have and to hold the same unto the said Assignee, its successor and assigns forever.

This Assignment is made, given and executed pursuant to the authority granted to Assignor as agent of the Municipality pursuant to Article 5-L of the General Municipal Law of the State of New York, the Local Law and the Municipal Agreement.

By execution of this Assignment, the Assignor assigns to Assignee, and the Assignee assumes, all of the rights at law or in equity, obligations, powers and duties as EIC would have with respect to the Benefit Assessment Lien, if the Benefit Assessment Lien had not been assigned with regard to precedence and priority of such Benefit Assessment Lien, the accrual of interest, charges, fees and expenses of collection, pursuant to the Local Law.

This Assignment by the Assignor is absolute and irrevocable and the City of Kingston shall retain no interest, reversionary or otherwise, in the Benefit Assessment Lien.

IN WITNESS WHEREOF, we have hereunto set our hands and seal this ____ day of _____, 20____.

Assignor

By: _____
Energy Improvement Corporation
Name:
Title:

Acknowledged and Agreed:

this ____ day of _____, 20____

[Capital Provider]

STATE OF NEW YORK)
)
COUNTY OF _____)

ss.: _____

On this the ____ day of _____, 20____, before me _____,
the undersigned officer, personally appeared _____, known to me
(or satisfactorily proven) to be the person whose name is subscribed to the within instrument and
acknowledged that he/she executed the same for the purposes therein contained and that he/she
acknowledged the same to be his/her free act and deed, before me, in his/her capacity as an
authorized officer of the Energy Improvement Corporation, acting on behalf of City of Kingston.

STATE OF NEW YORK)
)
COUNTY OF _____)

SS.: _____

On this the ____ day of _____, 20____, before me _____,
the undersigned officer, personally appeared _____, known to me
(or satisfactorily proven) to be the person whose name is subscribed to the within instrument and
acknowledged that he/she executed the same for the purposes therein contained and that he/she
acknowledged the same to be his/her free act and deed, before me, in his/her capacity as an
authorized officer of the [Capital Provider].

Received for Record: _____, 20____ at _____ A.M./P.M.

Recorded in the _____ land records at Volume _____, Page _____.

Clerk of City of Kingston

EXHIBIT C

FORM OF CONSENT OF MORTGAGE HOLDERS

Date: _____
Property/Loan Information: _____
Address: _____
Owner: _____
Municipality: _____
APN: _____
Loan Number: _____

This Mortgage Holder Consent to Benefit Assessment (this “Consent”) is given by the undersigned entity, which is a mortgage holder (“Mortgage Holder”) on the above-referenced property (the “Property”) with respect to the above-referenced loan (the “Loan”).

RECITALS

Mortgage Holder is in receipt of written notice (the “Notice”) from the above-referenced owner of the Property (the “Property Owner”) that it intends to finance installation on the Property of certain energy efficiency and/or renewable energy improvements that will be permanently fixed to the Property (the “Authorized Improvements”) by participating in the Energize NY Open C-PACE Financing Program (the “Program”), sponsored by the Municipality.

Mortgage Holder understands that, as a result of an agreement between Energy Improvement Corporation (“EIC”), on behalf of the Municipality, and the Property Owner, the Benefit Assessment described in the Notice will be levied on the Property, and that the Benefit Assessment will be collected in annual installments as provided in the financing agreement for the Authorized Improvements (the “Finance Agreement”), in the same manner as and subject to the same penalties, remedies and lien priorities as real property taxes or municipal charges.

CONSENT

The undersigned hereby represents that it is authorized to execute this Consent on behalf of Mortgage Holder. Mortgage Holder hereby confirms:

A. Mortgage Holder is in receipt of written notice (the “Notice”) from the above-referenced owner of the Property (the “Property Owner”) that it intends to finance installation on the Property of certain energy efficiency and/or renewable energy improvements that will be permanently fixed to the Property by participating in the Program sponsored by the Municipality.

B. Mortgage Holder understands that, as a result of an agreement between EIC, on behalf of the Municipality, and the Property Owner, the Benefit Assessment described in the Notice will be levied on the Property, and that the Benefit Assessment will be collected by EIC, on behalf of the Municipality, in annual installments as provided in the Finance Agreement in the same manner as and subject to the same penalties, remedies and lien priorities as real property taxes or municipal

charges. Mortgage Holder acknowledges that each annual installment in respect of the Benefit Assessment shall create an Annual Installment Lien, and if such annual installment is not paid when due, each Annual Installment Lien shall constitute a statutory lien on the Property that is superior to the lien of the Loan.

C. Mortgage Holder acknowledges that the Benefit Assessment constitutes a statutory lien on the Property that is superior to the lien of the Loan.

D. This Consent shall not prohibit Mortgage Holder from pursuing any and all rights and remedies available to collect from Property Owner all amounts due to it under the Loan documents. Mortgage Holder shall have the right to cure any nonpayment by Property Owner of real property taxes and assessments (including the Benefit Assessment) to the same extent as Mortgage Holder has a right to cure nonpayment of real property taxes.

E. Mortgage Holder agrees that the levy of the Benefit Assessment will not constitute an event of default or trigger the exercise of any remedies under the Loan documents.

Mortgage Holder hereby acknowledges that the Property Owner and the Municipality will rely on the representation and consent of Mortgage Holder set forth in this Consent.

Dated this ____ day of _____, 2019

MORTGAGE HOLDER

By: _____

Name:

Title:

STATE OF NEW YORK)
)
COUNTY OF _____)

SS.: _____

On this the ____ day of _____, 20____, before me _____,
the undersigned officer, personally appeared _____, known to me
(or satisfactorily proven) to be the person whose name is subscribed to the within instrument and
acknowledged that he/she executed the same for the purposes therein contained and that he/she
acknowledged the same to be his/her free act and deed, before me, in his/her capacity as an
authorized officer of the [Mortgage Holder].

EXHIBIT D

SATISFACTION AND RELEASE OF BENEFIT ASSESSMENT LIEN

Energy Improvement Corporation, a local development corporation formed under the laws of the State of New York ("EIC"), acting on behalf of the City of Kingston (the "Participating Municipality") pursuant to Article 5-L of the General Municipal Law of the State of New York (the "Enabling Act") and the Local Law adopted by the Participating Municipality establishing the Energize NY Open C-PACE Financing Program in the Participating Municipality, and the Municipal Agreement between the Participating Municipality and EIC dated _____, 2019, having filed a Certificate of Levy and Lien of Benefit Assessment against the property of [Property Owner], on the ____ day of _____, 20__ in the land records of _____, Book _____ page _____ on the following described real property in _____, New York in the amount of \$ _____;

[Property description]

NOW, THEREFORE, the undersigned does hereby acknowledge satisfaction of the Lien of Benefit Assessment and does direct the Clerk of the [County/City/Town/Village] to release, cancel and discharge the Benefit Assessment Lien in accordance with the Enabling Act and the Local Law.

IN WITNESS WHEREOF, we have hereunto set our hands and seal this ____ day of _____, 20__.

Energy Improvement Corporation

By: _____
Name: _____
Title: _____

Acknowledged and Agreed:

this ____ day of _____, 20__

[Capital Provider]

Acknowledged and Agreed:

this ____ day of _____, 20__

[Property Owner]

STATE OF NEW YORK)
)
COUNTY OF _____)

SS.: _____

On this the ____ day of _____, 20____, before me _____,
the undersigned officer, personally appeared _____, known to me
(or satisfactorily proven) to be the person whose name is subscribed to the within instrument and
acknowledged that he/she executed the same for the purposes therein contained and that he/she
acknowledged the same to be his/her free act and deed, before me, in his/her capacity as an
authorized officer of the Energy Improvement Corporation, acting on behalf of City of Kingston .

STATE OF NEW YORK)
)
COUNTY OF _____)

SS.: _____

On this the ____ day of _____, 20____, before me _____,
the undersigned officer, personally appeared _____, known to me
(or satisfactorily proven) to be the person whose name is subscribed to the within instrument and
acknowledged that he/she executed the same for the purposes therein contained and that he/she
acknowledged the same to be his/her free act and deed, before me, in his/her capacity as an
authorized officer of the [Capital Provider].

STATE OF NEW YORK)
)
COUNTY OF _____)

SS.: _____

On this the ____ day of _____, 20____, before me _____,
the undersigned officer, personally appeared _____, known to me
(or satisfactorily proven) to be the person whose name is subscribed to the within instrument and
acknowledged that he/she executed the same for the purposes therein contained and that he/she
acknowledged the same to be his/her free act and deed, before me, in his/her capacity as an
authorized officer of the [Property Owner].

Received for Record: _____, 20____ at _____ A.M./P.M.

Recorded in the _____ land records at Volume _____, Page _____.

Clerk of City of Kingston

Laws and Rules Committee Agenda Item Report

Meeting Date: August 21, 2019

Submitted by: Dee Sills

Submitting Department: Common Council

Item Type: Informational Purposes

Agenda Section:

Subject:

Adopt-A-Highway

Suggested Action:

Attachments:

[20190815143654.pdf](#)

L + A

Tinti, Elisa

From: Carey, Bill
Sent: Wednesday, July 31, 2019 9:50 AM
To: jnoble39@aol.com; Tinti, Elisa
Subject: August communication

Jim

I would like to discuss proposals to implement Kingston's Adopt-A-Highway, Park or Shoreline Program, which is permitted according to Chapter 3 of the city Code.

Please refer to the appropriate committee for consideration.

Thank you.

Bill Carey
Ward 5

Sent from my iPhone

Laws and Rules Committee Agenda Item Report

Meeting Date: August 21, 2019

Submitted by: Dee Sills

Submitting Department: Engineering

Item Type: Proposed Resolution

Agenda Section:

Subject:

Kingston Roundabout I-587 and Albany Avenue

Suggested Action:

Attachments:

[20190815144409.pdf](#)

CITY OF KINGSTON
Office of the City Engineer
jschultheis@kingston-ny.gov

John Schultheis, P.E., City Engineer



Steven T. Noble, Mayor

August 1, 2019

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

Re: PIN 8811.26
Kingston Roundabout at I-587 and Albany Avenue
Utility Work Agreement

Dear President Noble,

Previously the Kingston Common Council authorized bonding totaling \$1,100,656.77 for sewer replacements within the work zone of the above referenced NYSDOT project as a betterment under a Utility Work Agreement. The betterment will improve reliability of the sewer and provide for an extended life.

Since that time, NYSDOT requirements have changed and NYSDOT is now requesting that a new resolution be passed that:

- Approves the cost estimate;
- Resolves that the City will maintain the sewer;
- Resolves that the City will deposit the funds (note, deposit was already completed)
- Resolves that the City will deposit additional funds if there is a deficiency;
- Authorizes the Mayor to enter into a Utility Work Agreement with NYSDOT

I request Council give consideration to this request and authorize the Mayor to sign the associated Utility Work Agreement, attached.

Please forward this communication to the next regularly scheduled meeting of the appropriate committee for further discussion.

Should you have any questions, do not hesitate to contact me.

Respectfully,

John Schultheis, P.E.
City Engineer

Cc: Steven T. Noble, Mayor
Kevin Bryant, Corporation Counsel
Douglas Koop, Chair, Kingston Common Council Finance Committee
John Tuey, Comptroller



**Department of
Transportation**

ANDREW M. CUOMO
Governor

MARIE THERESE DOMINGUEZ
Acting Commissioner

LANCE MacMILLAN, P.E.
Regional Director

June 19th, 2019

Honorable Steven Noble, Mayor
City of Kingston City Hall
420 Broadway
Kingston, New York 12401

RE: PIN 8811.26.121 / D264036
Kingston Roundabout
I-587 at Albany Avenue
City of Kingston
Ulster County

Dear Mayor Noble:

As you are aware, the Department is once again going to bid with the above referenced project. As we have a new contract and standard Department of Transportation documents have changed, enclosed please find the following documents which need to be processed by the City. Recall that the City has a share in the State project for the State contractor to build and upgrade sanitary sewer systems. To date, the City has deposited \$1,100,656.77 with the State Comptroller's office. Enclosed are the following documents for processing:

- Three copies of Utility Work Agreement, Ref. # 8B. Please sign, date and return all copies for final processing. Once executed, we will send the City a fully executed copy.
- "Resolution to Share Costs and Responsibilities of Local Features" – This resolution needs to be adopted by the City. The State needs four (4) certified copies.
- "Betterment Project Agreement" - This document needs to be executed by the City and then approved by the State Attorney General and Office of the State Comptroller. Page 8 of this document references the City resolution discussed above.

Kindly return all approved documents to my unit at your earliest convenience.

If you have any questions, please call Mr. Thomas DeRosa at (845)431-5836.

Sincerely,

Gerhard L. Wetzel, Jr., PE
Regional Utilities Engineer

Enclosures

RESOLUTION TO SHARE COSTS AND RESPONSIBILITIES OF LOCAL FEATURES

RESOLUTION #XXXXXXXX

Resolution of the City of Kingston City Council, of the City of Kingston in Ulster County; Agreeing to pay the costs and responsibilities of local features (sanitary sewer facility betterments) on the Kingston Roundabout I-587 at Albany Avenue project within the geographical jurisdiction of the City of Kingston;

WHEREAS, the New York State Department of Transportation under the project identified as PIN 8811.26.121, Kingston Roundabout I-587 at Albany Avenue reconstruction in the City of Kingston;

WHEREAS, the City of Kingston has developed and/or concurred with the design of the Kingston Roundabout I-587 at Albany Avenue and the plans and specifications have been prepared and are hereby referred to as municipal work;

WHEREAS, the City of Kingston approves the plans of this municipal work and desires to have this work included with the State project; and

WHEREAS, the State of New York has estimated the cost of the municipal work and has agreed to include this municipal work with the State project identified above and described in Schedule A provided the City of Kingston agrees to pay the cost of such Betterment(s);

NOW, THEREFORE the City of Kingston duly convened and does hereby:

1. RESOLVE that the City of Kingston does approve the cost estimate of its project to be performed by the State; and it is hereby
2. RESOLVED that the City of Kingston shall maintain such sanitary sewer utility Betterment(s); and it is hereby further
3. RESOLVED that the City of Kingston will deposit with the State Comptroller in a project escrow account the full amount of the estimate for the cost of the Betterment as described in Schedule A of the Agreement for payments by the State Comptroller for the Municipal work prior to contract letting. The Municipality will also deposit with the State Comptroller in a project escrow account the full amount of the contract bid price for the cost of the Betterment (less any amounts already deposited for purposes thereof) for payments by the Comptroller on account of Project costs within 10 days after the lowest-bidder or best-value proposer eligible for award has been identified; and it is
4. RESOLVED that in the event the cost exceeds the amount of the deposit the City of Kingston shall within 90 days of the receipt of notice from the Commissioner pay

the amount of such deficiency to the State Comptroller; and any excess of the deposit shall be paid to the Municipality on the warrant of the State Comptroller on vouchers approved by the Commissioner after project close out; and

5. RESOLVED that the City of Kingston hereby authorizes the City of Kingston Mayor to enter into an agreement with the State of New York and through the Commissioner of Transportation to commit the City of Kingston to maintain at its own expense the Betterment(s) on the above-identified project; and that such agreement provides that maintenance shall include the repair and replacement of equipments and the operation of such Betterment(s); and
6. BE IT FURTHER RESOLVED that the Clerk of the City of Kingston is hereby directed to transmit four (4) certified copies of the foregoing resolution to the State Department of Transportation addressed through:

Mr. Mark Kruk, Project Manager/Design Group
New York State Department of Transportation
4 Burnett Boulevard
Poughkeepsie, New York 12603

Clerk/Secretary

Date

Laws and Rules Committee Agenda Item Report

Meeting Date: August 21, 2019

Submitted by: Elisa Tinti

Submitting Department: Parks and Recreation

Item Type: Informational Purposes

Agenda Section:

Subject:

Open Space Plan

Suggested Action:

Attachments:

[20190821113442.pdf](#)



City of Kingston
Conservation Advisory Council
420 Broadway Kingston, NY 12401
(845) 481-7339

July 1, 2019

James L. Noble, Jr.
Alderman-at-Large
City of Kingston Common Council
City Hall
420 Broadway
Kingston, NY 12401

Re: Adoption of Kingston Open Space Plan

Dear President Noble:

As you may know, in 2017, the City of Kingston and the Conservation Advisory Council began the process of developing a Natural Resources Inventory and Open Space Index for the City. The goal of this data-collection effort was to better understand what natural resources existed in the city so that informed planning decisions could be made with regard to future growth and the conservation of these elements which are considered assets to the city. The findings of this comprehensive work were then utilized as part of a public planning project to develop the City of Kingston Open Space Plan, which is a strategy for the responsible stewardship of the important resources for future generations. The Final City of Kingston Open Space Plan was recently completed by Behan Planning and Design and is included as an attachment with this memo.

The Open Space Plan for the City of Kingston, Ulster County, New York identifies the natural resources and related areas of the community that help to: • Improve water quality • Reduce flood damage • Maintain habitats for wildlife • Reduce noise pollution • Improve air quality • Enhance outdoor recreation opportunities • Protect scenic resources • Strengthen property values

Three notable areas within the city which have significant natural resources include the coastal and upland region of the Hudson River, the coastal and upland area associated with the Rondout Creek and the lowlands and waterfront along the Esopus Creek. The plan recommends several actions to address resource conservation in these areas and includes conservation targets for those and other areas for implementation over the next 10 years: • 5,000 additional linear feet of public access created along the Hudson; • 500 additional acres of permanently protected land in the uplands along the Hudson; • 1,000 new street trees planted; • 5,000 additional linear feet of public access secured along the Rondout; • 60 additional acres of permanently protected land in the uplands along the Rondout; • 2,500 linear feet of compromised urban stream corridor restored to a more natural condition; • 10 new community gardens established in city neighborhoods; • 50 acres of farmland and natural areas protected along the Esopus; • 1 new neighborhood park created in Midtown area

The Kingston Conservation Advisory Council would like to recommend that the City of Kingston Common Council adopt the Open Space Plan as an element of the Kingston Comprehensive Plan-Kingston 2025. This action will necessitate that SEQRA requirements will need to be met, including the establishment of Lead Agency and SEQRA review.

We would like to request for this action to be referred to the Laws and Rules Committee or other committee as you see fit, for review. As chair of the Kingston CAC as well as City project manager for this project, I will be happy to be present at the August meeting, to present copies of the Open Space Plan and address any questions. Full documentation of the process and the Final Plan can also be found at www.kingston-ny.gov/NRI.

If there are any questions, please contact me for further information.

Respectfully submitted,

A handwritten signature in cursive script that reads "Julie L. Noble". The signature is written in dark ink and is positioned above the printed name and title.

Chair, Kingston Conservation Advisory Council

City of Kingston Sustainability Coordinator

Cc: Steve Noble, Mayor
Andrea Shaut, Chair Laws and Rules
Elisa Tinti, Clerk

City of Kingston, New York OPEN SPACE PLAN



A Program of the New York State Department of Environmental Conservation

**Hudson River
Estuary Program**

JUNE 25, 2019

PREPARED BY



DEVELOPING
AND DESIGN

PREPARED FOR

The City of Kingston and
the Kingston Conservation
Advisory Council

This project has been funded in part by a grant from the New York State Department of Environmental Conservation, Hudson River Estuary Program of the New York State Department of Environmental Conservation.

CITY OF KINGSTON OPEN SPACE PLAN

Mayor

Steven T. Noble

Common Council

Jeffrey Morell	James L. Noble, Jr.
Reynolds Scott-Childress	Douglas Koop
William Carey	Rita Worthington
Patrick O'Reilly	Tony Davis
Andrea Shaut	Steven Schabot

Kingston Conservation Advisory Council

Julie Noble, Chair
Emilie Hauser, Vice Chair
Kevin McEvoy, Secretary
Elizabeth Broad
Lorraine Farina
Lynn Johnson
Casey Schwarz

Acknowledgements

Special thanks to the following people who contributed their valuable ideas and time to the plan:

Laura Heady (Hudson River Estuary Program)
Greg Shaheen (Kingston Land Trust)
Julia Farr (Kingston Land Trust)

Consultants

Behan Planning and Design
112 Spring Street, Suite 305
Saratoga Springs, NY 12866
www.behanplanning.com

Copyright ©2019 Behan Planning and Design. All Rights Reserved



CITY OF KINGSTON

OPEN SPACE PLAN

TABLE OF CONTENTS

CHAPTER 1 - INTRODUCTION

• OVERVIEW.....	1
• EXECUTIVE SUMMARY.....	2
• WHAT IS AN OPEN SPACE PLAN?.....	4
• THE BENEFITS OF OPEN SPACE.....	6
• THE CHALLENGES OF OPEN SPACE.....	10
• THE PLANNING PROCESS.....	11

CHAPTER 2 - RESOURCE INVENTORY & ANALYSIS

• THE REGIONAL CONTEXT.....	17
• THE NATURAL RESOURCES INVENTORY / OPEN SPACE INDEX.....	18
• RESOURCE SCORING.....	22

CHAPTER 3 - EXISTING POLICY & LAWS

• THE CITY COMPREHENSIVE PLAN.....	33
• ULSTER COUNTY OPEN SPACE PLAN.....	35
• ZONING CODE.....	35

CHAPTER 4 - THE OPEN SPACE VISION

• PRIORITIES FOR PROTECTION.....	41
• THE HUDSON RIVER, SHORELINE & UPLANDS.....	41
• THE RONDOUT CREEK, SHORELINE & UPLANDS.....	44
• THE ESOPUS CREEK, SHORELINE & UPLANDS.....	46
• OTHER STREAM CORRIDORS.....	46
• NEIGHBORHOOD PARKS & OPEN SPACES.....	48

TABLE OF CONTENTS (CONTINUED)

• URBAN AGRICULTURE.....	49
• KINGSTON’S URBAN FOREST.....	51
• OPEN SPACE FOR STORMWATER MANAGEMENT.....	53
• CITY-WIDE TRAIL SYSTEM.....	55
• KINGSTON OPEN SPACE VISION MAP.....	57
• IMPLEMENTATION.....	59
• CONCLUSION.....	62

APPENDIX A: Public Meeting Notes & Comments

APPENDIX B: Natural Resource Scoring

DOCUMENT REFERENCES

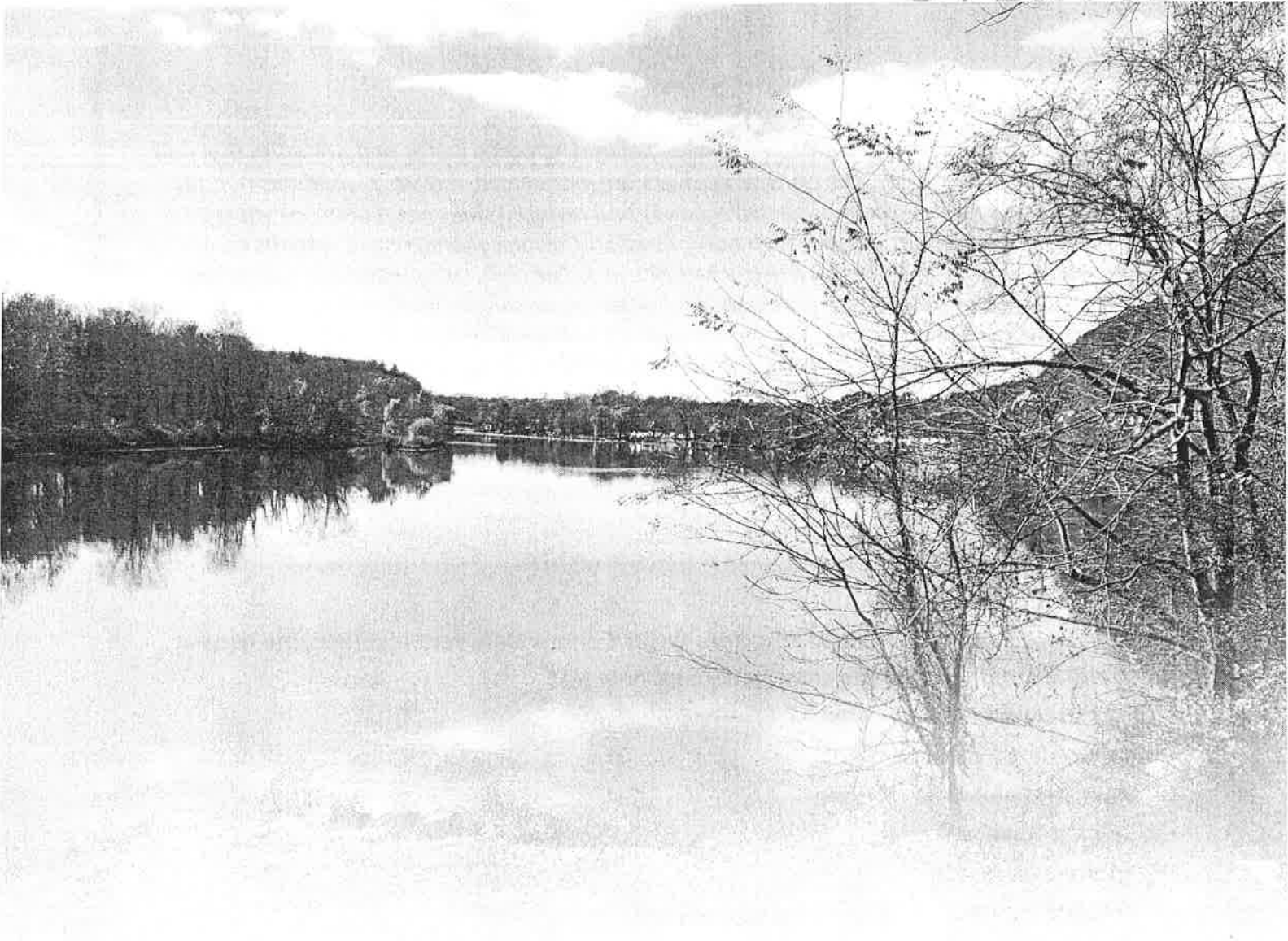
- (1) Mark Correll et al. 1978. *The Effects of Greenbelts on Residential Property Values: Some Findings on the Political Economy of Open Space*. Land Economics, and Darryl F. Caputo. 1979. *Open Space Pays: The Socioenvironmental Economics of Open Space Preservation*. Morristown, NJ Conservation Foundation. Land Economics.
- (2) American Farmland Trust. September 2016. *Cost of Community Services fact Sheet*. https://www.farmlandinfo.org/sites/default/files/Cost_of_Community_Services_Studies_AFT_FIC_201609.pdf
- (3) Margaret Bonner and Francis Gray. 2005. *Cost of Community Services Study*. Town of Rochester, NY.
- (4) New York State Hudson River Estuary Program. *Climate Change in the Hudson Valley, A Summary for the Public*. https://www.dec.ny.gov/docs/remediation_hudson_pdf/ccinthehvms.pdf
- (5) *For this state-designated significant habitat, a habitat impairment test must be met for any activity that is subject to consistency review under federal and state laws, or under applicable local laws contained in an approved local waterfront revitalization program. If the proposed action is subject to consistency review, then the habitat protection policy applies, whether the proposed action is to occur within or outside the designated area. Additional information about significant coastal fish and wildlife habitats can be found at <https://www.dos.ny.gov/opd/programs/consistency/scfwhabitats.html>*
- (6) *Riparian* came to English from the same source that gave us “river” - the Latin *riparius*, a noun deriving from *ripa*, meaning “bank” or “shore.” “Riparian” refers to things that exist alongside a river (such as riparian wetlands, habitats, trees, etc.). Source - <https://www.merriam-webster.com/dictionary/riparian>

ACRONYMS / ABBREVIATIONS

• CAC	CONSERVATION ADVISORY COUNCIL (OF THE CITY OF KINGSTON)
• GIS	GEOGRAPHIC INFORMATION SYSTEM
• NRI	NATURAL RESOURCES INVENTORY
• NYS	NEW YORK STATE
• NYSDEC	NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
• NYNHP	NEW YORK NATURAL HERITAGE PROGRAM (OF THE NYSDEC)
• OPRHP	OFFICE OF PARKS, RECREATION AND HISTORIC PRESERVATION (OF NYS)
• OSI	OPEN SPACE INDEX
• PDR	PURCHASE OF DEVELOPMENT RIGHTS
• SAV	SUBMERGED AQUATIC VEGETATION
• SBA	SIGNIFICANT BIODIVERSITY AREA
• USACOE	UNITED STATES ARMY CORPS OF ENGINEERS

CHAPTER 1

INTRODUCTION



In 2017, the City of Kingston and the Kingston Conservation Advisory Council (CAC) began the process of developing a Natural Resources Inventory and Open Space Index for the entire city. The goal of this data-collection effort was to better understand what natural resources existed in the city so that informed planning decisions could be made with regard to future growth and the conservation of these elements which are considered assets to the city. It is believed that this knowledge-based approach will not just help to protect the visual aesthetic quality of the city and inform local planning decisions, but also help to maintain clean drinking water, protect natural habitats, provide recreational opportunities and position the city to mitigate impacts from future climate change trends. The findings of this comprehensive work were then utilized as part of a public planning project to develop the City of Kingston Open Space Plan - this document - a strategy for the responsible stewardship of these important resources for future generations.

EXECUTIVE SUMMARY

OPEN SPACE VISION

Kingston's open space system is an interconnected network of parks, paths and preserves that add to the quality of life in the city. The city and its rivers are intertwined in history—and this natural and cultural legacy includes both protected uplands and restored shoreline. Enhanced waterfront access and riparian habitats coupled with naturalized stormwater management systems create the foundation of Kingston's green infrastructure network. The city's comprehensive trail system connects revitalized and expanded parklands and other community recreation resources with local and regional destinations. Community gardens and expanded urban agricultural opportunities help connect people with nature. Kingston is celebrated as a "Tree City" by the Arbor Day Foundation, recognizing the importance of an urban tree canopy and improved care of Kingston's vital city trees. Together these open space resources provide a beautiful and healthy framework for Kingston's continued revitalization; yielding benefits to the quality of life and economic vitality for all who live, work, and play in our treasured city. Source: USEPA website www.epa.gov, Climate Change Basic Information, as it appeared on January 19, 2017.

The Open Space Plan for the City of Kingston, Ulster County, New York identifies the natural resources and related areas of the community that help to:

- Improve water quality
- Reduce flood damage
- Maintain habitats for wildlife
- Reduce noise pollution
- Improve air quality
- Enhance outdoor recreation opportunities
- Protect scenic resources
- Strengthen property values

Forming a foundation of the plan was an extensive Natural Resources Inventory (NRI) developed by dozens of dedicated volunteers, commissioners, consultants and generous stakeholder groups in 2017-2018 and documented in a report and mapping documents compiled by John Mickelson of Geospatial & Ecological Services. This comprehensive inventory included geophysical aspects (geology, terrain, etc.), land cover, urban forests and biotic systems, hydrological systems, recreation resources, historic and cultural resources, among others, and considered factors affecting the environment climate change and related effects such as increased flood risk.

Community input was sought throughout the planning process and in particular in review of the natural resources inventory, identifying conservation priorities and in creating an overall vision for an open space network in the city.

Three notable areas within the city which have significant natural resources include the coastal and upland region of the Hudson River, the coastal and upland area associated with the Rondout Creek and the lowlands and waterfront along the Esopus Creek. The plan recommends several actions to address resource conservation in these areas and includes conservation targets for those and other areas for implementation over the next 10 years:

- 5,000 additional linear feet of public access created along the Hudson;
- 500 additional acres of permanently protected land in the uplands along the Hudson;
- 1,000 new street trees planted;
- 5,000 additional linear feet of public access secured along the Rondout;
- 60 additional acres of permanently protected land in the uplands along the Rondout;
- 2,500 linear feet of compromised urban stream corridor restored to a more natural condition;
- 10 new community gardens established in city neighborhoods;
- 50 acres of farmland and natural areas protected along the Esopus;
- 1 new neighborhood park created in Midtown area

These are not unambitious goals and continued and expanded community partnerships will be needed to achieve that which is envisioned. First and foremost, collaboration with willing landowners who share this conservation interest will be of great importance. As well, conservation partners like the Kingston Land Trust and Scenic Hudson are among the key players who can help the community advance its goals. Other nonprofits including the Hudson Valley YMCA and Riverkeeper, among others, have complementary programs and several county, state, and federal departments and agencies have programs that match well to the projects and actions needed to implement Kingston’s Open Space Plan. City departments and agencies and the elected leadership will all continue to be important to the advancement of the plan.

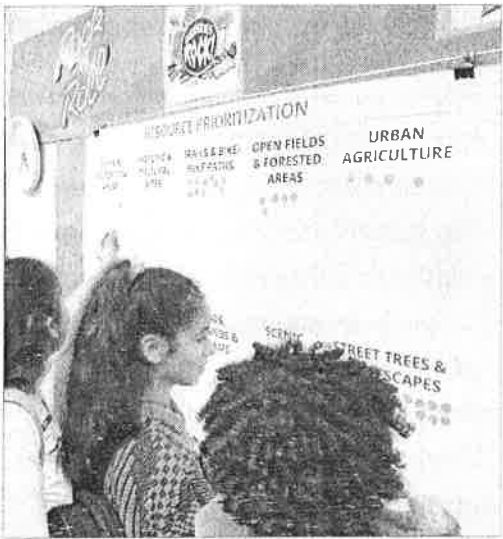


Figure 1. Young citizens helping establish conservation priorities.

It is important to recognize that this plan is visionary and conceptual in nature—its implementation will require subsequent technical work in terms of feasibility studies and establishment of priority sites for protection; initiation of more detailed, project-specific planning and design; and development of program-wide and project-specific financing strategies. By advancing the open space conservation targets described in this plan into projects that are implemented, the quality of life for Kingston’s citizens will be enhanced with benefits that will continue in perpetuity for both current and future generations. We hope that you participate in these very important activities months ahead.

WHAT IS AN OPEN SPACE PLAN?

An open space plan is a document which outlines the desired goals for the future preservation and enhancement of both the natural and man-made resources which are important to the quality of life in a community. While many people often think of open space simply as farm fields, wetlands or attractive scenery, it is not limited to that. Open space in this sense can include important historic sites or structures; cultural attractions which draw tourists; underground water sources; and public recreation areas such as parks, beaches and gardens. Even downtown streetscapes—the public realm in which people work, play and meet in a city—are an essential component of our community open space. These features contribute to the beauty of our neighborhoods, our health and our overall quality of life. These factors, in turn, contribute to the economic health of the community as well.

It is important for a community to have a plan for the preservation of these resources in much the same way as any family saves for their children's education or their retirement—they are an investment in our future. As populations grow and new development occurs, open space resources are often lost over time. Taking a look at the long-term picture, it makes sense to identify what is most important to us so that steps can be taken to preserve or enhance these resources for our grandchildren. An open space plan is the strategy to do just that.

The forested areas, rivers, wetlands and other natural resources within the City of Kingston are all part of a system. Ideally, this system must remain balanced and relatively unbroken in order to function properly as a water filtration system or wildlife habitat, but this does not mean that every acre must remain forever untouched. There are many different land uses and land development strategies which can allow for continued growth and economic development while still protecting open space. For example, conservation "cluster" development and development transfer strategies can help to keep sensitive lands open while allowing denser development elsewhere. Likewise, outdoor recreation and agriculture also help to promote tourism and economic activity while protecting the land.

Unlike the more rural towns and villages of surrounding Ulster County, Kingston is a bustling riverfront city. Because of this, there is relatively little land area today which remains undeveloped compared to the surrounding communities. Currently, the city has approximately 7% of its total land area devoted

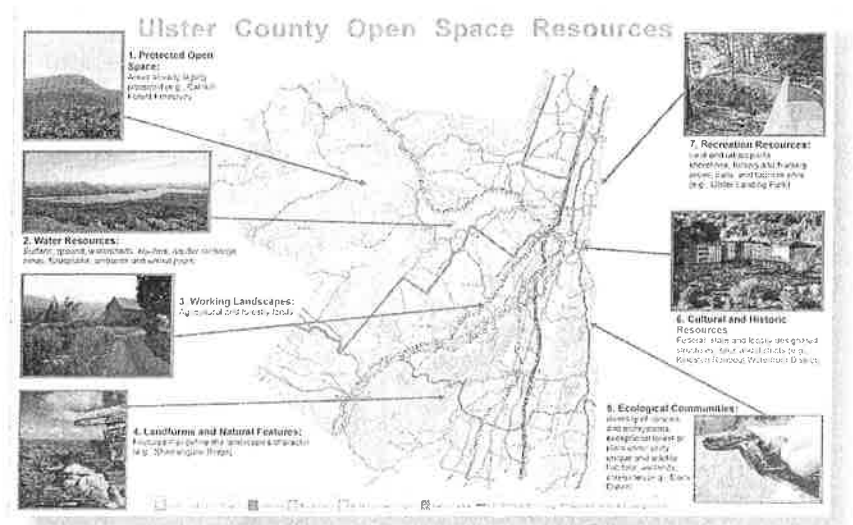


Figure 2. Ulster County Open Space Plan - Resources Map.

to protected open space. This lags behind a majority of other municipalities in the county, yet is still notable considering its urban industrial history. Today, with relatively little natural open space and forests left to maintain, it is important as ever to identify the areas which should be protected or enhanced. This plan will help to identify the resources here in Kingston which contribute to the health, well-being and quality of life of the community, and help to provide a strategy for the city to ensure that it remains healthy for future generations.

Figure 3. Permanently Protected Open Space in Ulster County

Municipality	Total Acreage	Protected Open Space Acreage	% In Protected Open Space
Town of Shandaken	79,781	55,739	70%
Town of Denning	64,932	43,487	67%
Town of Hardenburgh	51,189	27,918	55%
Town of Olive	42,045	17,830	42%
Town of Kingston	4,772	1,764	37%
Town of Wawarsing	84,971	26,701	31%
Total for Ulster County	737,599	227,434	31%
Town of Hurley	22,649	6,837	30%
Town of Rochester	57,109	16,296	29%
Town of Woodstock	43,818	12,803	29%
Village of Ellenville	1,231	147	12%
Town of Gardiner	28,418	3,184	11%
Town of New Paltz	20,707	2,299	11%
Town of Rosendale	12,738	1,413	11%
Town of Marbletown	35,669	3,163	9%
Village of Saugerties	1,437	118	8%
City of Kingston	5,625	381	7%
Town of Saugerties	36,286	2,307	6%
Town of Esopus	26,868	1,444	5%
Town of Shawangunk	36,286	1,544	5%
Village of New Paltz	1,088	57	5%
Town of Lloyd	21,357	851	4%
Town of Ulster	18,774	504	3%
Town of Marlborough	16,993	299	2%
Town of Plattekill	22,856	348	2%

Source: Ulster County Open Space Plan; Catskill Center for Conservation and Development and Open Space Institute, 2006

THE BENEFITS OF OPEN SPACE

Open natural spaces such as forests, rivers, fields and wetlands contribute in many different ways to our health and quality of life, which is why having a management plan for them is so important. While many people can appreciate the obvious visual benefits of beautiful scenery, open space can also help to improve our communities in many other ways which are not readily visible.

Property Values

Having the natural landscape to provide a counter-balance to the built environment helps to strengthen and increase local property values, as it can often provide a more visually appealing setting. This is especially true with preserved lands which cannot be developed. If a prospective buyer knows that the lands adjacent to them will remain undeveloped, they have much more certainty in what they are buying. Many economic studies have demonstrated that proximity to parks and greenbelts in more urban areas can increase nearby property values by as much as 15 - 20%.⁽¹⁾



Figure 4. T.R. Gallo Waterfront Park

THE BENEFITS OF OPEN SPACE

Recreation and Tourism Dollars

Tourism and recreation are an important part of any community, and having recreational opportunities which attract visitors and residents helps to provide money to local businesses. The Hudson River, Rondout and Esopus Creeks provide significant recreational and tourism potential, with waterfront activities, kayaking, marinas and docks which can be a draw for visitors. Supporting these assets is an investment in local businesses and the future.

Reduced Tax Burden

Development of land in any community has tax implications to provide additional services such as roads, police, fire, schools and utilities to the community. Studies conducted across the U.S. over the last 30 years on the impacts of different types of development have shown that for every dollar of tax revenue received, the municipality sometimes has to spend more to provide services in return. Residential development was found to be the most costly, requiring about \$1.16 in services for every tax dollar received. Farmland costs significantly less—generally requiring about \$0.37 per dollar of revenue, followed by commercial development at \$0.30.⁽²⁾ Because the cost to service open space is so low, the combined costs of open space and commercial development was found to be around \$0.18 per tax dollar received in the Ulster County town of Rochester.⁽³⁾ Open space helps to provide a balance to offset the high cost of residential services.

Cleaner Water

The conservation of open space helps to protect and enhance the water quality of both surface waters such as ponds and streams and sub-surface water sources. The natural riparian buffers along streams and the filtration function of wetlands and forests helps to purify water runoff from pollutants before it enters back into the local water system. This results in cleaner water downstream and underground in aquifers, and a reduced need to rely on costly filtration plants to generate clean drinking water.

Reduced Flooding

As communities develop, the additional roads, buildings and parking lots create impervious surfaces which prevent rain from being slowly absorbed into the ground and replenishing streams and the local water table. Instead, the water accumulates and becomes runoff, moving quickly across impervious surfaces where it collects pollutants and is eventually discharged in high volumes to storm drains and streams. This rapid flow of water contributes to flooding, and as more impervious surfaces are created, the more this effect is compounded. Open space areas conversely provide places for rain to be absorbed back into the ground naturally. Likewise, wetlands and floodplains provide stormwater storage areas which temporarily hold rain water and mitigate the flow into developed areas.

THE BENEFITS OF OPEN SPACE

Environmental Health

Preservation of open space helps to support the functioning of natural ecological systems which local flora and wildlife rely on to survive, and from which human communities receive benefits called “ecosystem services.” Maintaining large areas of unfragmented natural land provides important habitat and corridors for wildlife. The trees and plants which live in these areas helps to purify the air we breathe. A balanced natural system is important as degradation of certain plant or animal species can have a negative ripple effect on others.

Agriculture & Food Supply

Local agriculture and community farms help provide a reliable source of food and community gardens can provide locally-grown foods at low cost. Having a local food source is important not just for security but also helps to reduce the amount of energy spent transporting goods long distances to national grocery chains. Having fresh-picked, nutritious foods in your neighborhood—and learning how to grow them—is an important consideration and provides us with a connection to our foods when we know where they came from.

Human Health & Quality of Life

Outdoor parks, playgrounds and trails all provide recreational opportunities where walking, running or hiking contribute to healthy living and exercise. A community which has access to these amenities is more likely to take advantage of them, contributing to the health of the community. Likewise, the more access they have, the more likely they are to use them. And while many people think of open space as large forested areas or parks, in more urban communities these can take many other forms such as community gardens, pocket parks and corner playgrounds. Even a consistent planting of mature street trees—which often go unnoticed by many people as the general backdrop scenery of a street—have a profound impact on the landscape and our health. Such trees provide a regular repository of shade on hot summer days, and provide fresh oxygen in cities where air quality is often lower. They also provide welcome scenery and relief from the paved urban hardscape and make the city a more inviting place to live and work.



Figure 5. Kingston's stockade district is graced with mature street trees, which greatly contribute to the mood and character of the neighborhood. If these trees were to be taken away, the street would have a very different feel, and likely lower property values.

THE BENEFITS OF OPEN SPACE

Climate Change Resiliency

The effects of climate change are anticipated to be felt locally in the coming decades, and proper open space planning provides us the opportunity to be better prepared for it. As a community bordering three rivers, Kingston will likely see the effects of rising water levels and flooding, along with rising temperatures, extreme weather, and the spread of invasive species. Knowing in advance what changes will likely occur provides us the opportunity to prepare for them - a process known as 'climate resiliency.'

The NYSDEC's Hudson River Estuary Program notes the following expected changes and risks associated with climate change over the coming decades: ⁽⁴⁾

- Heat waves becoming more frequent and lasting longer, with the number of summer days exceeding 90 degrees Fahrenheit doubling by the year 2020, and quadrupling by 2050.
- Precipitation becoming more varied and extreme, with potential for short-term droughts and heavier rainfall events. Today's "100-year flood" is expected to become 50% more likely by 2020.
- Since 1900, sea level in the lower Hudson River has risen 15 inches. It is projected to rise another nine to 27 inches by 2050, increasing flooding in coastal areas.
- Invasive species and nuisance plants will thrive under elevated atmospheric CO₂ levels, making them spread faster and harder to contain.

WHAT IS CLIMATE CHANGE?

Climate change refers to any significant change in the measures of climate lasting for an extended period of time. In other words, climate change includes major changes in temperature, precipitation, or wind patterns, among other effects, that occur over several decades or longer.

- Humans are largely responsible for recent climate change. Over the past century, human activities have released large amounts of carbon dioxide and other greenhouse gases into the atmosphere.
- The majority of greenhouse gases come from burning fossil fuels to produce energy, although deforestation, industrial processes, and some agricultural practices also emit gases into the atmosphere.
- Greenhouse gases act like a blanket around Earth, trapping energy in the atmosphere and causing it to warm. This phenomenon is called the greenhouse effect and is natural and necessary to support life on Earth. However, the buildup of greenhouse gases can change Earth's climate and result in dangerous effects to human health and welfare and to ecosystems.

Source: USEPA website www.epa.gov, Climate Change Basic Information, as it appeared on January 19, 2017.

Some actions to mitigate adverse impacts of climate change include: Planting more trees in the city to provide shade and clean air; conserving wetlands and forests to help manage stormwater, recharge groundwater and reduce flooding; conserving land in floodplains and riparian areas to reduce damage from storms and serve as natural flood-storage areas. Avoiding the development of these areas now prevents flood damage to future investments and maintains flood storage potential that help keeps surrounding areas from being inundated.

THE CHALLENGES OF OPEN SPACE

Maintaining open natural space also presents challenges, as finding the desired balance between preservation and development often raises questions about the true value of property, property owners' rights to develop it, and the municipal income lost from taxes.

Population Growth vs. Development Style

In a newly-established or growing town, the single largest threat to open space is typically the population growth. The City of Kingston is a well-established city which has already been developed over many decades, and as such has a relatively low or steady population growth compared to many new towns. This however should not mean that there is no threat. The threat of land development more often depends on the type of development which is trending. Compact "traditional" development is a much more efficient use of land, while contemporary "sprawl" eats up available undeveloped land area at a much higher rate. The historic development styles of our past are still giving way to the convenience of suburban parking lots and big box stores, where the more rural areas outside of the city center are now in highest demand. Cities such as Kingston have already developed much of their "developable" land years ago, and often times the land which still remains today exists only because it has more difficult terrain, or is not as conveniently located. The remaining open space here—like in cities all over the country—will continue to be developed as the local options become fewer and higher-value targets. However proper planning now will help to ensure that these remaining areas can still be better preserved.



Figure 6. The intersection of Broadway and Brewster Street.

THE PLANNING PROCESS

The Process of Developing this Plan

In 2018, Behan Planning and Design—a land-use planning consulting firm based in Saratoga Springs—was selected to assist the City of Kingston with the preparation of the open space plan. The plan was overseen by the seven-member Kingston Conservation Advisory Council (CAC), who met regularly every month to review information and coordinate decisions with the consulting team. The mission statement of the CAC is: *Ensure the conservation of the City of Kingston's natural resources and the enhancement and protection of its environment while fostering unified action on environmental matters.*

Among other regular duties, the CAC was responsible for overseeing the successful evolution of all of the information developed in the natural resource inventory into a clear and concise open space plan which would help guide future land use decisions in the city. In order to do this, it was important that the public be involved in the decision making process and have a voice for ideas and concerns.

The CAC hosted a public informational meeting on June 22, 2018 to present the findings of the Natural Resource Inventory (NRI), and formally announce the beginning of the open space planning process. Approximately 50 people attended this meeting, and all were encouraged to sign up for future meeting announcements.



Figure 7. Participants at each workshop table were invited to draw on maps to share their ideas for conservation, recreation and other community enhancements.

On September 25, 2018, the first public workshop was held at the Kingston Library to develop open space visioning ideas. This workshop was open to the public, with specific stakeholders directly invited, including those who signed-up at the informational meeting and those who owned significant tracts of vacant land within the city. Over 40 people attended this workshop, which included table discussions with aerial maps and resource prioritization exercises. The resource prioritization exercises asked participants to “vote” for the preservation of different resources by spending an allotted number of stickers on different categories.

Figure 8. Resource Prioritization Results

Local Resource to Protect / Enhance	Total Score
Street Trees & Streetscapes	87
Trails & Bike-Hike Paths	77
Parks & Recreation Areas	57
Hudson River Shoreline	57
Urban Agriculture	51
Esopus & Rondout Creeks	49
Open Fields & Forested Areas	46
Historic & Cultural Sites	45
Wetlands, Ponds & Streams	36
Scenic Views	36

THE PLANNING PROCESS

A SAMPLING OF ATTENDEES' IDEAS FROM THE SEPTEMBER PUBLIC VISIONING WORKSHOP

Conservation & City Enhancements

- Protection of the Esopus Creek floodplain.
- Preservation of the undeveloped lands west of the railroad tracks, in the vicinity of Wilbur Ave., Chapel St., and Mason Hill Road.
- Preservation of undeveloped lands in southwest area of the city, upland from the Rondout Creek.
- Kingston Plaza upgrades - sidewalk connections to surrounding areas and more greenspace / sustainable stormwater solutions.
- Uncover or "daylight" buried streams such as Tannery Brook / Twaalfskill.
- Redeveloped commercial properties could incorporate more greenspace, softer landscaping in lieu of pavement.
- Support of urban agriculture with more community gardens.
- Protection of water quality from combined Hudson River sewer overflows, turbidity from Esopus upstream impoundment operations.

New Recreation Opportunities

- Riverfront promenade along the Hudson River.
- Removal of debris from Esopus Creek to allow paddling/kayaking.
- Bringing back Clearwater Park and Lawton Park.
- More playgrounds, pocket parks, street trees in midtown areas of the city.
- Kayak launches or public access on Esopus Creek on Kingston side.
- Pocket parks along trails such as Greenline, Wallkill Valley Rail Trail, Empire State Trail.
- Academy Green upgrades.
- Safe pedestrian crossing of active railroad and sound buffers.
- Additional marina/dock space along Rondout.

THE PLANNING PROCESS

After the workshop, a public comment period was provided where people could submit additional ideas and considerations to the CAC. A highlight of some of the ideas which came out of that meeting are presented on the next page. *(A full copy of the notes and written public comments collected at this workshop is provided in the Appendix.)*

The input gathered from this meeting was used to begin defining goals and strategies for the open space plan. Not surprisingly, the public provided a wide variety of suggestions on many facets of recreation and open space protection. It was important to review these ideas, and determine what needed to be incorporated into the plan. The CAC and consultants met to review the summary material from the workshop and discuss the potential projects or efforts which were derived from the public input. A review was also conducted to determine if there were additional considerations which should be incorporated into the plan.

As part of this review, a series of resource-analysis “heat maps” were developed in GIS (Geographic Information Systems) using the data from the NRI, which looked at the geographic location of various natural and cultural resources found throughout the city. The CAC, using some of the resource prioritization input from the first public workshop, developed a scoring system for each of the various resources. Areas where more of these resources overlapped received a higher score. This allowed the CAC to visualize what geographic lands were more important or sensitive to development. When combined, the overall maps were used to identify priority areas for conservation.

The resulting heat maps and ideas collected at the first public meeting were then used to develop preliminary recommendations for discussion. Areas of the city which contained overlapping priority resources were considered for different conservation approaches, as well as potential community improvement projects. At this point, it was important to bring the discussion back to the public to get their feedback on these ideas and help determine what resources, efforts



Figure 9. An example of one of the GIS “Heat Map” analysis, showing areas of the city most vulnerable to trending climate change impacts. Multiple maps were developed for different topics and then combined together to identify the priority areas of the city for conservation.

SUMMER 2018

IDENTIFY
NATURAL
RESOURCES

PUBLIC WORKSHOP
SEPTEMBER 2018

DETERMINE
WHAT IS
IMPORTANT

FALL 2018 / WINTER 2019

IDENTIFY
PROJECTS

PUBLIC WORKSHOP
SPRING 2019

REVIEW
COMMUNITY
PRIORITIES

SUMMER 2019

FINALIZE
PLAN

THE PLANNING PROCESS



Figure 10. Participants at the open space workshop utilized a series of table maps to draw out ideas and identify areas for future recreation and preservation.

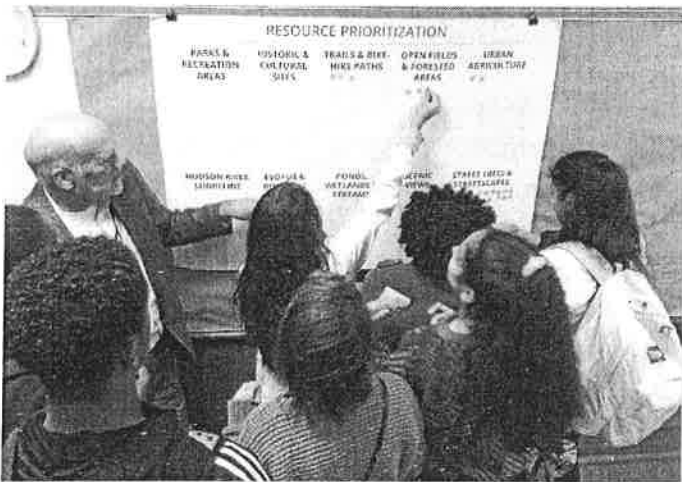


Figure 11. Participants at the open space workshop were asked to vote for categories of different local resources they would most like to see enhanced or protected using a series of voting stickers (Photo: Susan Hereth). Below: Draft Open Space Plan presentation May 2019 (Photo: City of Kingston).



and projects should be given priority. This would assist the city with general guidance on the best short and long-term implementation goals, and develop a timeline for implementation.

In May of 2019, the draft Open Space Plan was presented to the public at City Hall. The goal of this presentation was to review the major findings and recommendations of the plan and confirm that local residents and city leaders agreed with the direction and specific details of the planning document.

John Mickelson, the author of the Natural Resource Inventory, joined Laura Heady of the Department of Environmental Control in speaking about the findings of the Natural Resource Inventory which was used as the foundation for this plan. Greg Shaheen of the Kingston Land Trust also spoke about conservation techniques for future trails and land management.

The presentation included a recap of the major concerns identified in the plan, including coastal flooding, invasive species management, brownfield redevelopment, pollution and shoreline habitat. A draft vision statement was shared for discussion, as well as a summary of the proposed "10-year goals" for the City of Kingston which covered the topics of the Hudson River shoreline, Rondout Creek corridor, Esopus Creek corridor, community gardens, neighborhood parks, street trees, trail connections, farmland, and restoration of stream corridors. (A full copy of the notes collected at that meeting is provided in the Appendix.)

At the conclusion of the presentation, it was noted that a public comment period would be left open until June 14th for any additional comments and questions. The public comments from this presentation and draft review were then used to help finalize the plan.

CHAPTER 2

RESOURCE INVENTORY AND ANALYSIS

The City of Kingston, bounded on the north and south by major tributaries to the Hudson River, was a logical location for the only city in Ulster County to develop. Two of the three major waterways in the county—the Esopus and Rondout Creeks—collect their watershed rainwater and transport it downstream to the east side of the city in the Hudson River. The Esopus Creek, traveling through the mountains from the Ashokan Reservoir, today is the primary source of drinking water for New York City. These waters, once important decades ago for travel and the transport of merchandise, continue to be important today as a source of drinking water and recreation. (The residents of Kingston now get their drinking water from Cooper Lake, miles upstream in Woodstock.) Along with water, the Catskill Mountains to the west provide recreation, tourism, untamed open space and many other natural resources which are important to the area's economy and quality of life.

With these many essential and valued resources, it is prudent to protect certain lands and features as protected open space. Protected open space is any public or private land permanently protected from development, such as forest preserves, dedicated parkland, parkways, and nature preserves. In developed areas such as cities, protected open spaces can include parks, cemeteries vegetated buffer strips, historic sites, and even setbacks on private property.

The distribution of protected open space varies widely across the county. Although as much as 30% of Ulster County is made up of protected open space, a majority of this land is located in the western regions concentrated around the Catskill Mountains. The eastern region of the county has significantly less protection, despite a prevalence of wetlands and consolidated aquifers. As the only city in the county, and a hub of activity along the north-south I-87 corridor, the City of Kingston faces much different development pressures and threats than the more

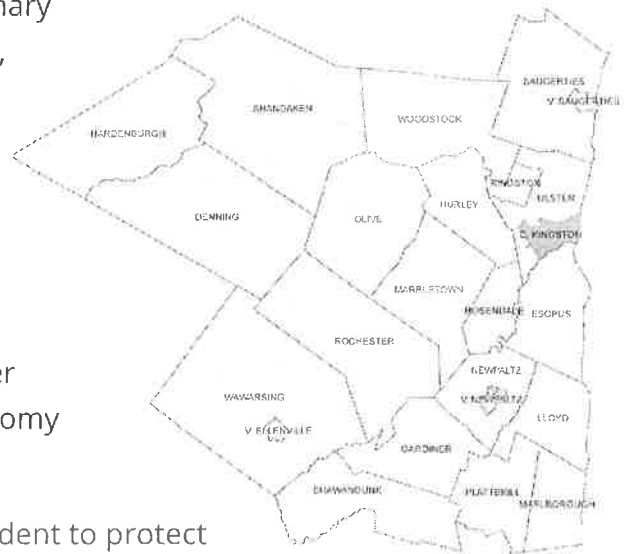


Figure 12. The City of Kingston in Ulster County.

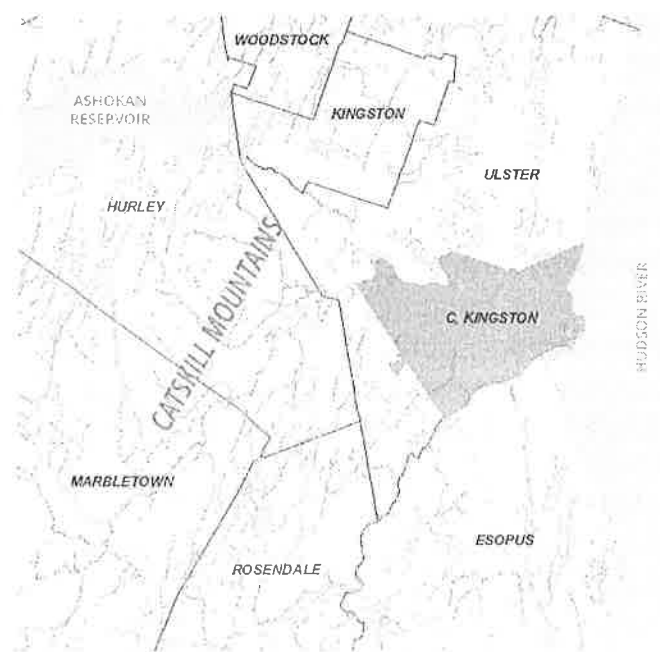


Figure 13. The City of Kingston and surrounding environs.

THE NATURAL RESOURCE INVENTORY

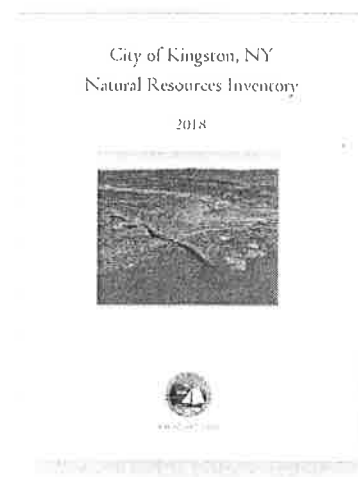
Natural Resources Inventory (NRI) and Open Space Index (OSI)

The Natural Resources Inventory was compiled in 2018 through Estuary Grant funding, and is an established foundation for this open space plan. Through the diligent work and contributions of dozens of dedicated staff, volunteers, commissioners, consultants and generous stakeholder groups, a wide array of data, reports, maps, and topical and spatial information has been assembled into a Natural Resources Inventory (NRI) and an Open Space Index by the city with the Kingston Conservation Advisory Council (CAC) working with consultant John Mickelson of Geospatial & Ecological Services. This work was completed in 2018, and provided an essential foundation for the preparation of this open space plan. It will also continue to serve as an information base for other future planning initiatives and decisions which will help conserve the city's natural resources.

Designed to be user-friendly and compatible with modern geospatial technologies (e.g. Google Earth), Kingston's NRI provides powerful, simple and free spatial tools for easy access by all. A broad array of natural resource, cultural and open space features are included: biophysical resources (geology, soils, and terrain), hydrological resources (water and aquatic habitats), biological resources (vegetation, habitats, flora, and fauna), recreational resources, urban agriculture, historical and cultural resources, scenic resources and climate.

The Open Space Index provides a breakout of some 20 important natural resource and open space variables, summarized using tax parcels as the unit of analysis. The various geographic information system (GIS) layers will greatly enhance current and future mapping in the city and ensure that GIS operators will have easy access to the comprehensive map library. To augment and expand the utility of these primary aids, the vast majority of layers that went into constructing each map were converted to KML format, for use within Google Earth. Natural resource and open space categories were organized into groups as a method for presenting and discussing both the open space (cultural) and the natural and biotic elements in the NRI process. The general organization of the NRI is listed in the sidebar to the right.

Natural Resource Inventory



GEOPHYSICAL

Geology, Soils, Terrain

LAND COVER AND BIOTIC SYSTEMS

Land Cover, Habitat Studies

URBAN FOREST

Resources, Stresses and Threats

HYDROLOGICAL SYSTEMS

Hudson River, Rondout Creek, Esopus Creek, Riparian Zones, Surface Ponds, Human Drinking Water Supply, Stresses and Threats

FLORA AND FAUNA

Resources, Stresses and Threats

RECREATIONAL RESOURCES

Resources, Stresses and Threats

URBAN AGRICULTURE

Resources, Stresses and Threats

HISTORIC AND CULTURAL

Resources, Stresses and Threats

CLIMATE AND POTENTIAL ENVIRONMENTAL CHANGES

THE NATURAL RESOURCE INVENTORY

It is not surprising that many of the high-value terrestrial biodiversity resources identified in the NRI fall within three large natural areas remaining in Kingston. The first falls within the coastal and upland regions adjacent to the Hudson River shoreline. The second area contains the floodplain forests, riparian zones, marshes and adjacent grasslands along the Esopus Creek. The third area includes the large forested areas within the southwestern corner of Kingston, within the Twaalfskill Basin. The Hudson River and the Rondout Creek contain much of the rare, endangered and special concern species. Fisheries here are also very regionally significant both from an ecological as well as a recreational perspective.

At a more detailed level, the NRI identifies a comprehensive array of important natural resources, some of which are illustrated below in maps for reference. The interested reader is encouraged to view the full report—which can be found at www.kingston-ny.gov/nri—and the associated digital maps for a more complete picture of these important local natural systems. The data from this comprehensive NRI/Open Space Index was used to help establish priority areas for conservation identified later in this plan. See page 22 - Scoring the Resources.

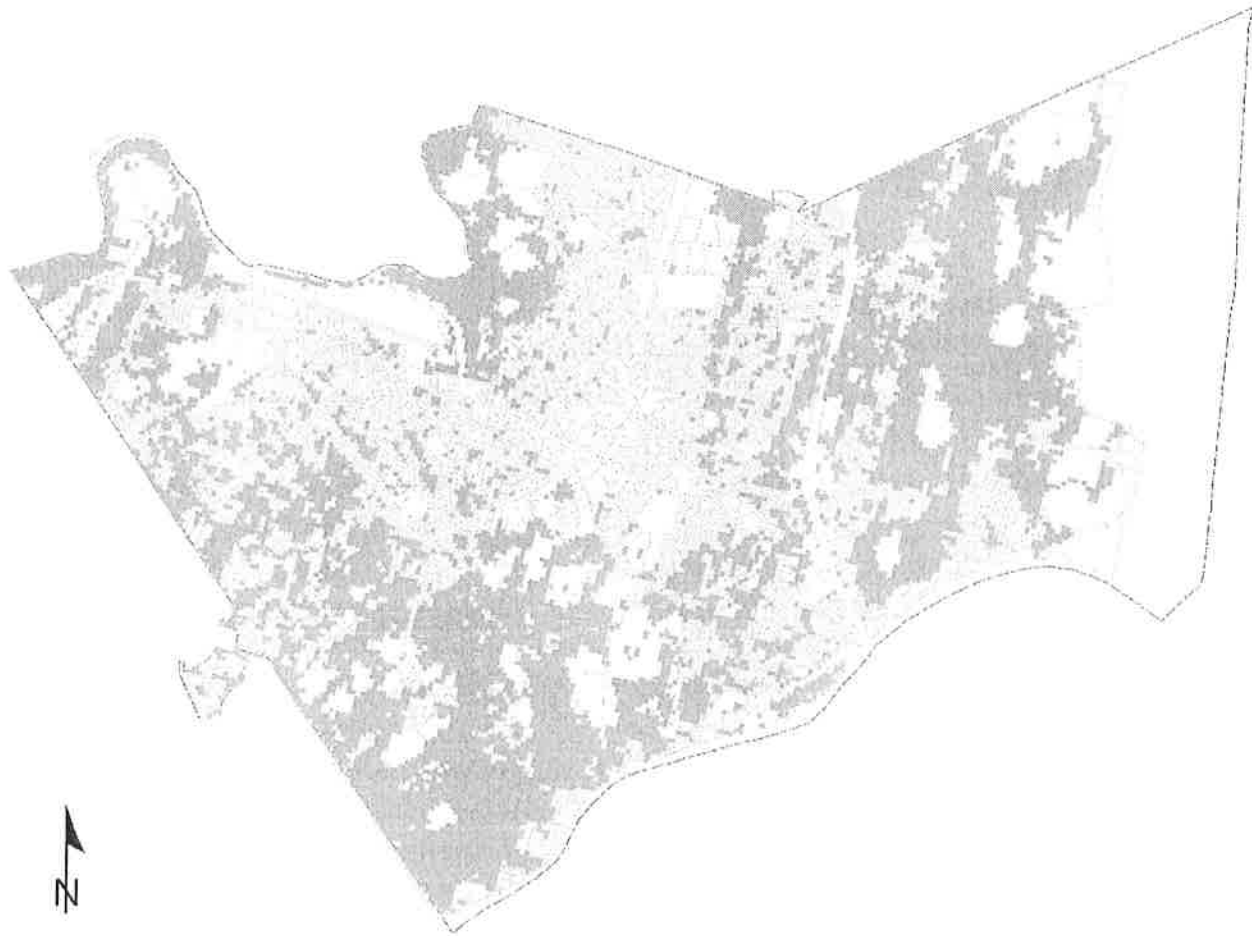


Figure 14. FOREST COVER - NRI map indicating the current geographic extents of the urban forest canopy within the City of Kingston. This measurement included area with 40% or more of tree canopy coverage.

THE NATURAL RESOURCE INVENTORY



Figure 15. BIOLOGICALLY IMPORTANT TERRESTRIAL AREAS - NRI map indicating the current geographic extents of known terrestrial (non-aquatic) biological habitats. Biologically important areas are defined as those found to contain significant and valuable habitat, plant and/or animal species, biodiversity features or ecological functions. Maintaining contiguous (non-fragmented) natural habitat areas is important for the breeding and survival of local animal life. For the purposes of mapping analysis, aquatic habitats were identified separately.

The overarching results of the NRI analysis found that a large majority of the high-value terrestrial biodiversity within the city was generally found in three large clusters around the urban center: the coastal and upland regions to the east along the Hudson River; the coastal and upland regions along the Rondout Creek to the south; and the floodplain forests, riparian zones, marshes and grasslands along the Esopus Creek to the north. Overall, the Hudson River and the Rondout Creek together were responsible for much of the rare, endangered or special concern species which were identified.

The NRI noted in the executive summary that these findings aligned very closely with those of previous habitat studies conducted by the New York State Department of Environmental Conservation (NYSDEC) and Hudsonia, Ltd., a not-for-profit institute for environmental research and education. (City of Kingston, NY Natural Resources Inventory 2018. Appendix F, Section 1. Species Tables from: 2014 Natural Areas and Wildlife in Your Community: A Habitat Summary Prepared for the City of Kingston - May 2014. NYSDEC L. Heady)

THE NATURAL RESOURCE INVENTORY

Using the findings of this NRI, an Open Space Index (OSI) was developed. The OSI database gives the city the ability to identify—by individual tax parcel—the presence and size of select natural resources. This is an important tool which can be utilized to identify the potential impact to important conservation features at the earliest stages of development review, giving land-use and design review boards (including but not limited to the Kingston Planning Board, Landmark Commission, Heritage Kingston Committee), as well as applicants, knowledge of sensitive features on-site. It is the hope of



Figure 16. RIPARIAN BUFFER AREAS - NRI map indicating the current geographic extents of riparian areas alongside streams, creeks and other watercourses. Natural riparian areas help to catch and filter out pollutants and trash from stormwater before they get back into the water, helping to preserve local water quality.

the city that this tool will be used to locate sensitive conservation features on a site or nearby before detailed engineering plans are developed, reducing design costs to applicants and protecting natural features.

Next Step - Developing The Open Space Plan. The detailed geographic data compiled from the NRI was then carried forward to be used in the development of this open space plan. By combining the findings of all of the different resource layers developed in the NRI, it is possible to assign them relative value scores, and then visualize how these scores add together when all of the resource maps are overlayed on top of each other. Using this method, it is possible to develop resource “heat maps” 105

RESOURCE SCORING

The Mapping Analysis

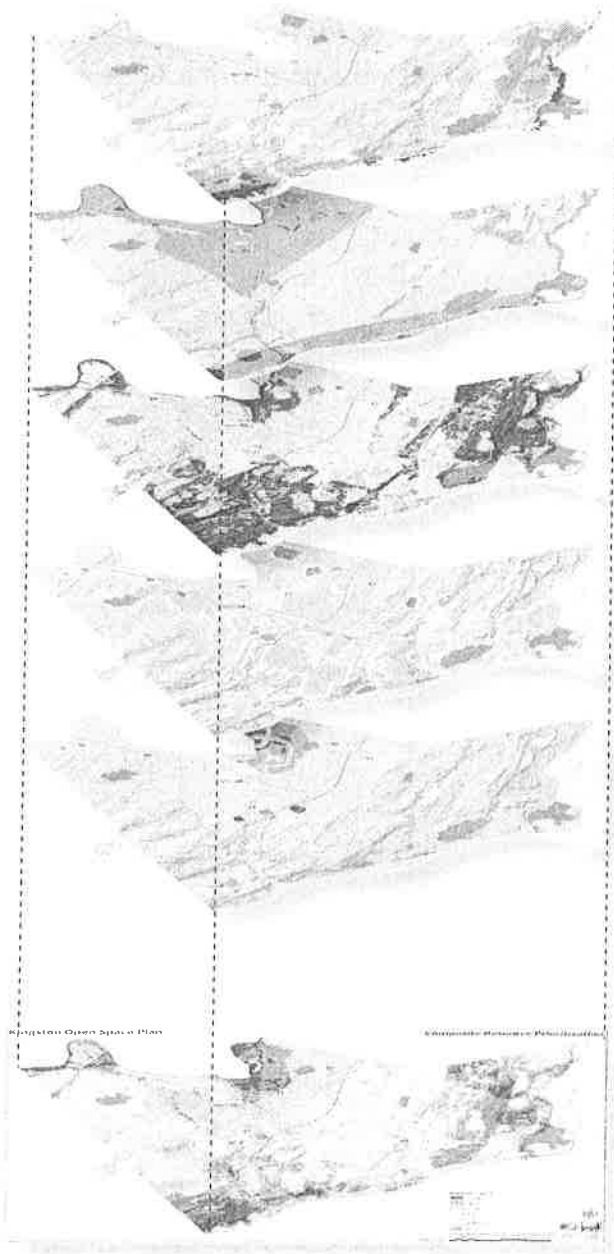


Figure 17. IDENTIFYING PRIORITY AREAS - Each of the individual natural resource categories scored and mapped, showing higher-value (higher-scoring) resources as increasingly darker areas on the map. All of the different resource map scores are then overlayed together into a composite map of all natural resources in the city. This composite map illustrates the areas where there is an overlap of multiple high-value resources, which is used to identify priority areas for conservation.

which show the highest-scoring areas which would be priorities for future conservation, as illustrated on the next page. This mapping analysis method provides us with a sound and data-driven guide to making future land conservation decisions.

Scoring the Resources. In the winter of 2018-2019 the Kingston Conservation Advisory Council reviewed the data compiled during the NRI and worked to develop and refine a scoring system which could be applied to the mapping. Since some resources are considered to be of higher value than others, it was important to develop a relative scale within each category. For example, among the various water resources found in the city, NYSDEC regulated wetland and vernal pools areas were assigned three points, while other wetlands were assigned two points. Likewise, higher-classification streams were assigned more points than lower class streams, and buffer areas immediately adjacent to resources were generally assigned higher values than those further away. This point method allowed for a logical and fine-grained approach to looking at the relative value of prioritization. The complete listing of all assigned point values for each type of resource can be found in the Appendix.

Using Geographic information System (GIS) software, the values of each feature were then scored within each category to provide the relative scale of priority. The categories were:

Water Resources (wetlands, hydric soils, riparian buffers, surface waters, streams, soil permeability, unconfined aquifers, flood plains and vernal pools)

Ecological Resources (terrestrial habitat, aquatic habitat, terrestrial corridors, tree canopy, sub aquatic vegetation, steep slopes)

RESOURCE SCORING

Cultural & Recreation Resources (historic and cultural sites, existing parks, existing and planned trails)

Agricultural Resources (active farmland, community gardens, farmland soils, agricultural land within 200 feet of waterways, agricultural buffers)

Climate Resiliency (areas of climate resilient landscape and features, based on results from The Nature Conservancy analysis and Scenic Hudson SLAMM tidal wetland data, projected sea level rise).

The results of this GIS analysis provided maps illustrating the high and low scoring areas within each category. It is important to note that each category is initially scored only against itself first—to identify the highest scoring resources within that category—before the results of all categories are combined together. This is done specifically to avoid the pitfalls of trying to compare the importance of a particular wetland up against the merits of a specific historic site, an apples-to-oranges comparison. The resulting heat map for each category then gives us a visual illustration of the most important areas within each category, as shown in the individual maps on the following pages.

The Composite Map

The results of these individual category maps are then later compiled together into a composite map which overlays all of the categories together. The composite map, shown below and on page 29, illustrates the areas in the city where there is an overlap of multiple high-value resources from multiple categories, shown in increasingly darker shades of orange and brown.

As can be seen in the map, there are notable concentrations of overlapping priority resources found in three areas of the city: the eastern shore along the Hudson River and associated upland areas; the southern corner along the Rondout and associated upland areas; and along the northwestern border along the Esopus Creek corridor. The results of this composite map were utilized to identify the high priority areas for conservation within the city.

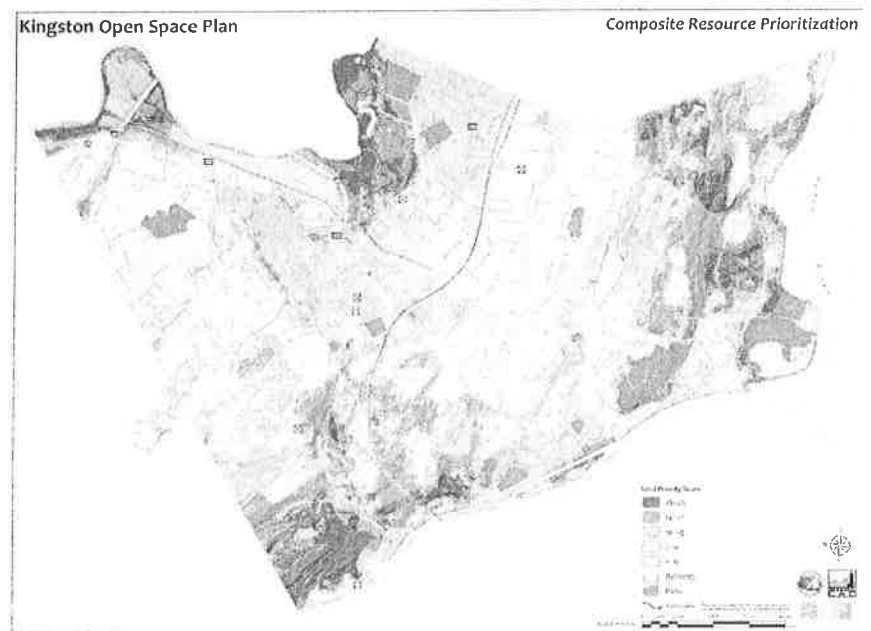


Figure 18. COMBINED COMPOSITE MAP - See page 29 for larger detail view.

Kingston Open Space Plan

Ecological Resource Prioritization

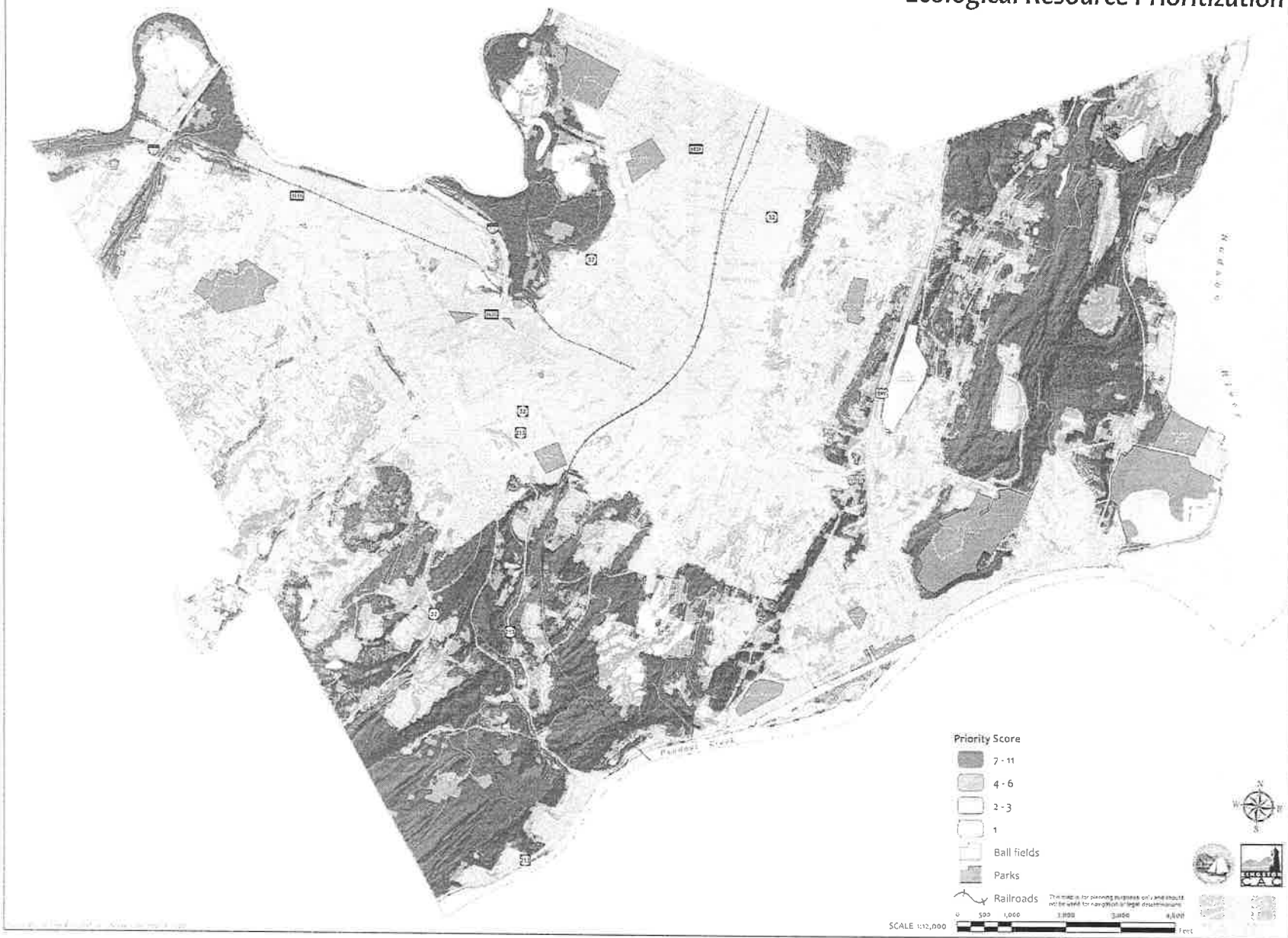
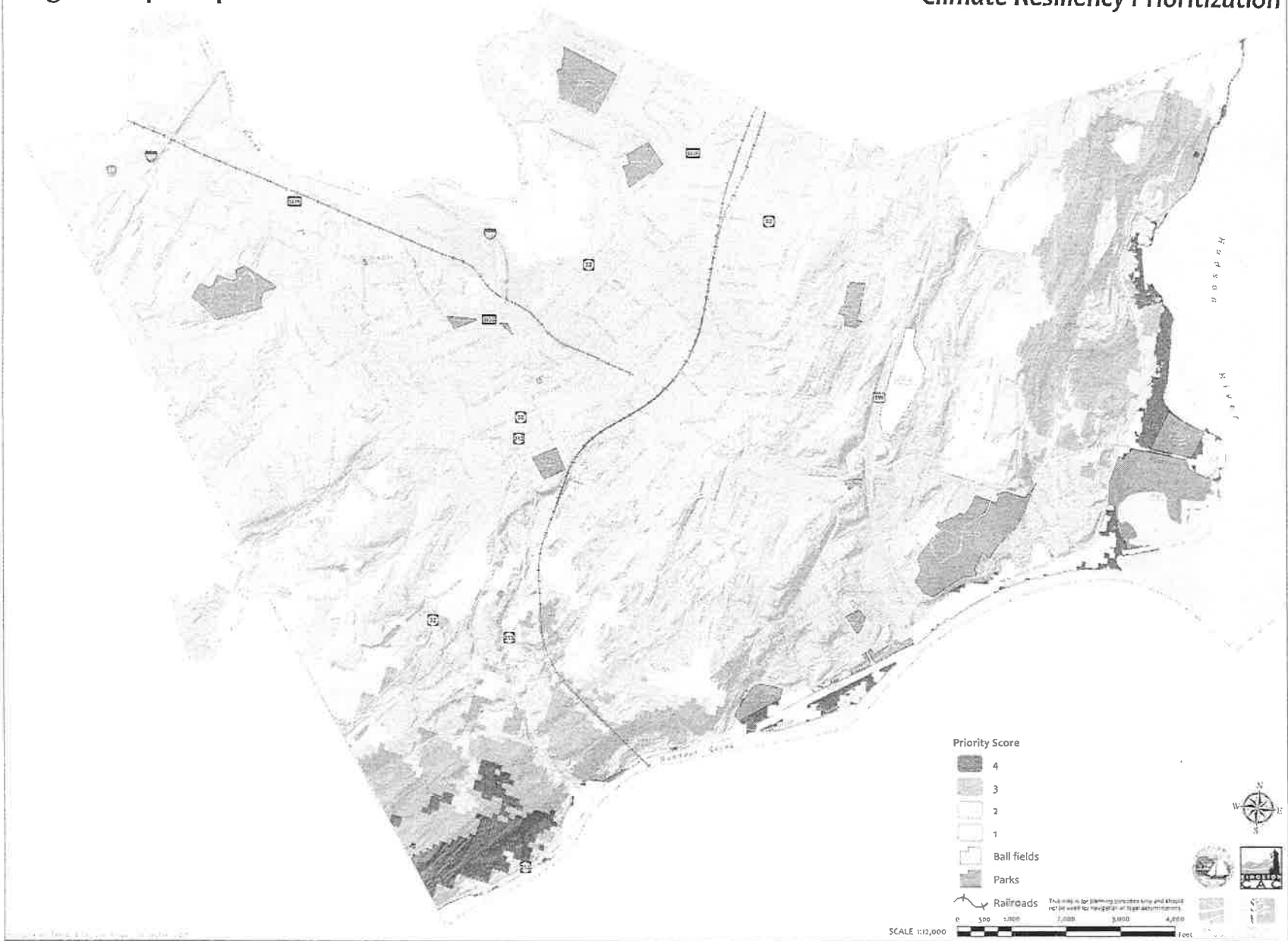


Figure 19. ECOLOGICAL RESOURCES ANALYSIS MAP - This map depicts the results of the ecological resource scoring analysis. Geographic areas which scored relatively lower are shown as lighter yellow areas, while higher scoring areas are shown in increasingly darker shades of orange to brown. Existing parkland is indicated in green.

Kingston Open Space Plan

Climate Resiliency Prioritization



RESOURCE SCORING

Figure 20. CLIMATE RESILIENCY ANALYSIS MAP - This map depicts the results of the resource scoring analysis to identify areas which are vulnerable to climate change. Geographic areas which scored relatively lower are shown as lighter yellow areas, while higher scoring areas are shown in increasingly darker shades of orange to brown.

Kingston Open Space Plan

Cultural & Recreation Resource Prioritization

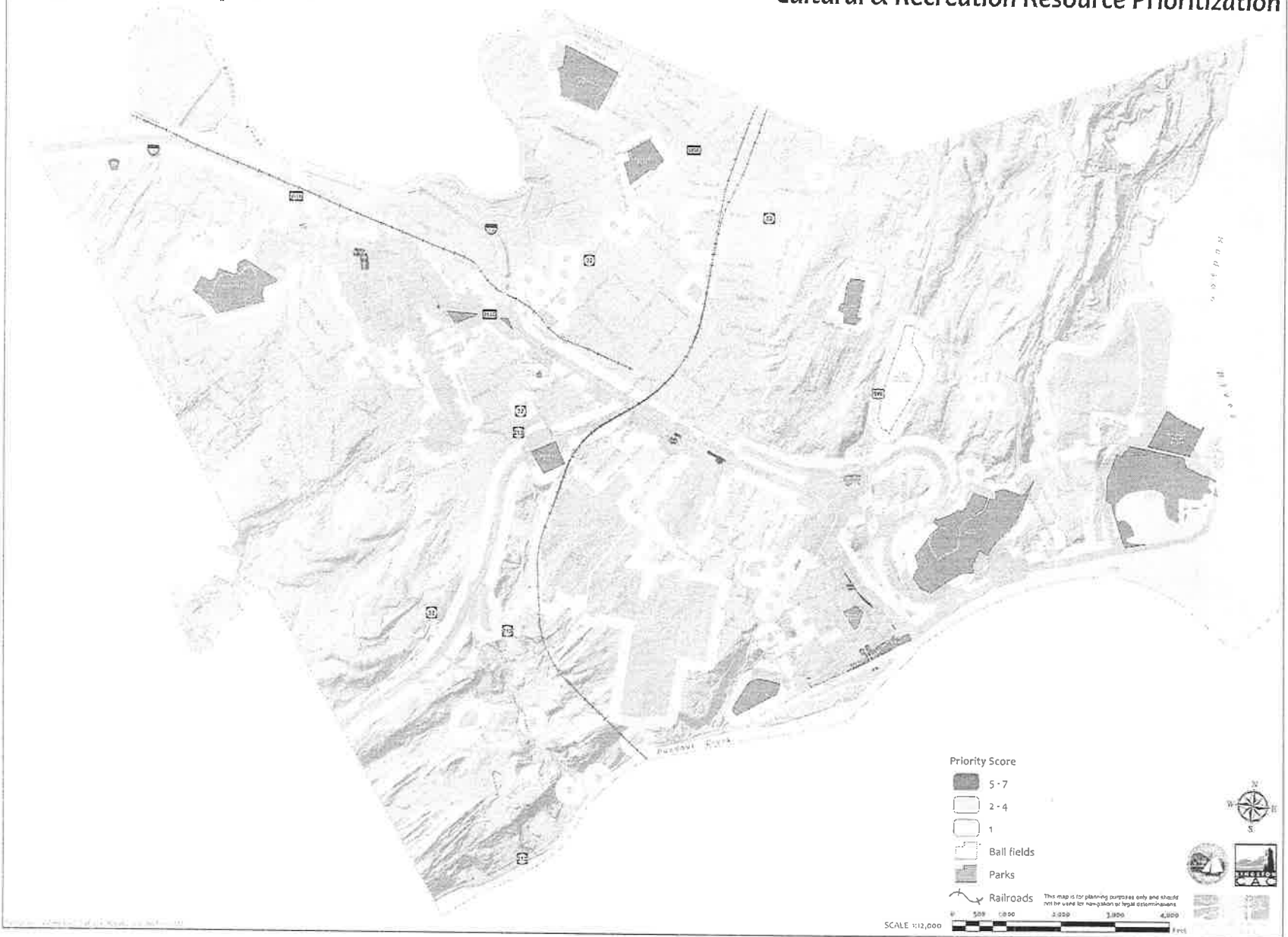
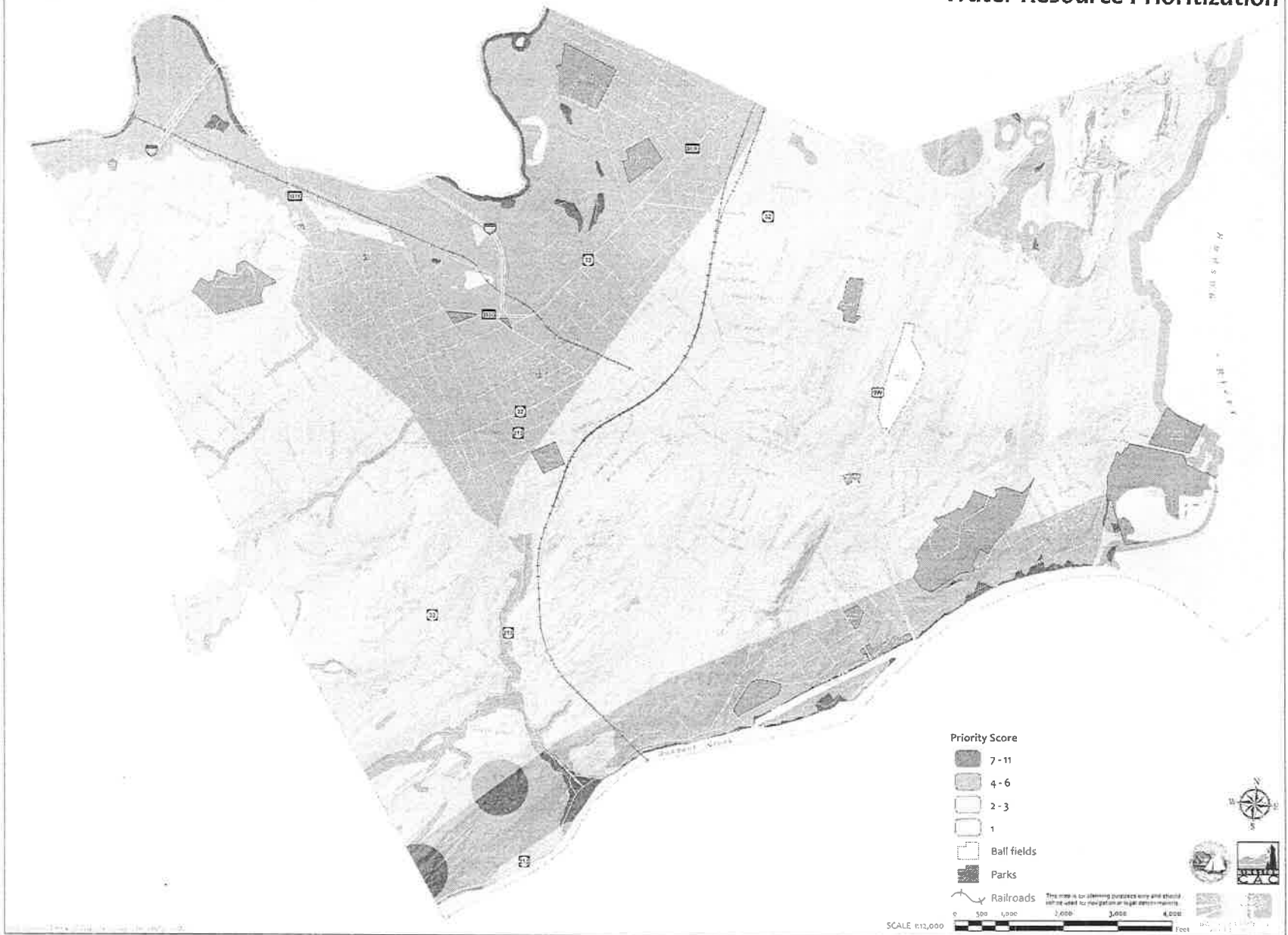


Figure 21. CULTURAL RESOURCES ANALYSIS MAP - This map depicts the results of the cultural resource scoring analysis. Geographic areas which scored relatively lower are shown as lighter yellow areas, while higher scoring areas are shown in increasingly darker shades of orange to brown. Existing parkland is indicated in green.

Kingston Open Space Plan

Water Resource Prioritization



RESOURCE SCORING

Figure 22. WATER RESOURCES ANALYSIS MAP - This map depicts the results of the water resource scoring analysis. Geographic areas which scored relatively lower are shown as lighter yellow areas, while higher scoring areas are shown in increasingly darker shades of orange to brown. Existing parkland is indicated in green.

Kingston Open Space Plan

Agricultural Resource Prioritization

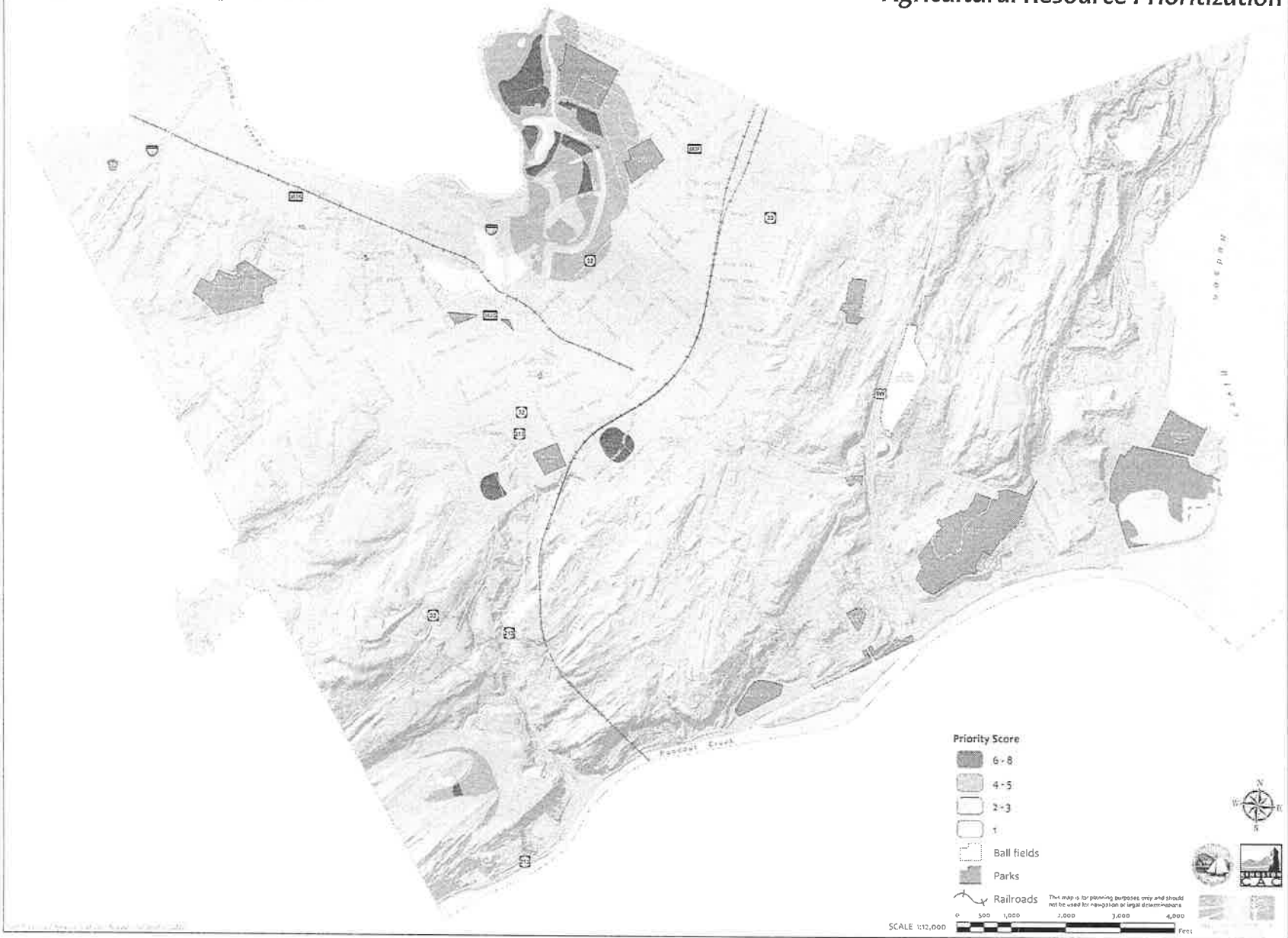
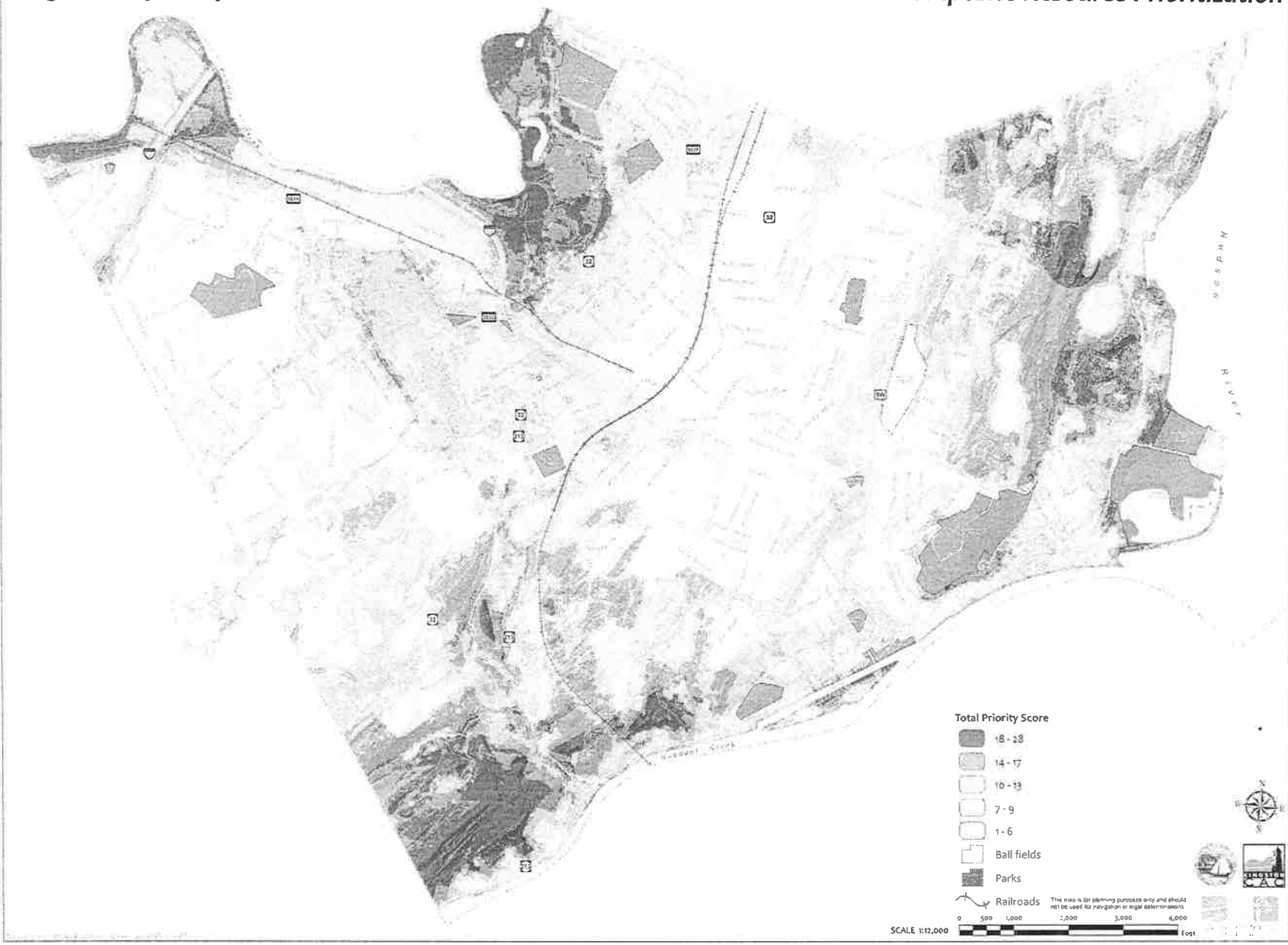


Figure 23. AGRICULTURAL RESOURCES ANALYSIS MAP - This map depicts the results of the agricultural resource scoring analysis. Geographic areas which scored relatively lower are shown as lighter yellow areas, while higher scoring areas are shown in increasingly darker shades of orange to brown. Existing parkland is indicated in green.

Kingston Open Space Plan

Composite Resource Prioritization



RESOURCE SCORING

Figure 24. COMPOSITE ANALYSIS MAP - This map depicts the results of the combined resource scoring analysis. Geographic areas which scored relatively lower are shown as lighter yellow areas, while higher scoring areas are shown in increasingly darker shades of orange to brown. Concentrations of high-priority areas are found in the northeast, southwest and north-central sections of the city. Existing parkland, which is already protected, is indicated in green.

CHAPTER 3

EXISTING POLICY & LAWS

EXISTING POLICIES AND LAWS

Every municipality is guided by official policies and laws which shape the future direction of the community. In terms of land use and future growth, these most often take the form of comprehensive plans and zoning ordinances. Together, these documents define—and sometimes dictate—exactly how future growth can be allowed to occur. However, they are often out of date and may not always align with the goals and recommendations of a newly developed open space plan. This section looks at existing policies, plans and laws which relate to the City of Kingston to identify areas where they support the findings of this plan, or areas where they may be in conflict and should be updated.

Comprehensive Plan - Kingston 2025

The City of Kingston's comprehensive plan—*Kingston 2025*—was completed in 2016 and includes open space conservation as a key program element. Some of the planning principles outlined in the comprehensive plan which most relate to open space conservation include:

- It is preferable to focus future development on lands in existing developed areas (in-fill), and in obsolete heavy commercial and industrial areas (brownfields) than on virgin undeveloped land (greenfields);
- Recreational offerings must be diverse and robust including both public and private and indoor and outdoor options;
- Land use planning must not only consider existing physically and environmentally constrained land, but also land that may be constrained in the future due to rising sea level and global climate change;
- Conservation of open space and sensitive habitat is as crucial as development of those areas that are well suited to use of land;
- Sustainable approaches to stormwater management (green infrastructure like green roofs, rain gardens, porous pavement and landscaped swales) are preferable as being more efficient and less prone to failure.

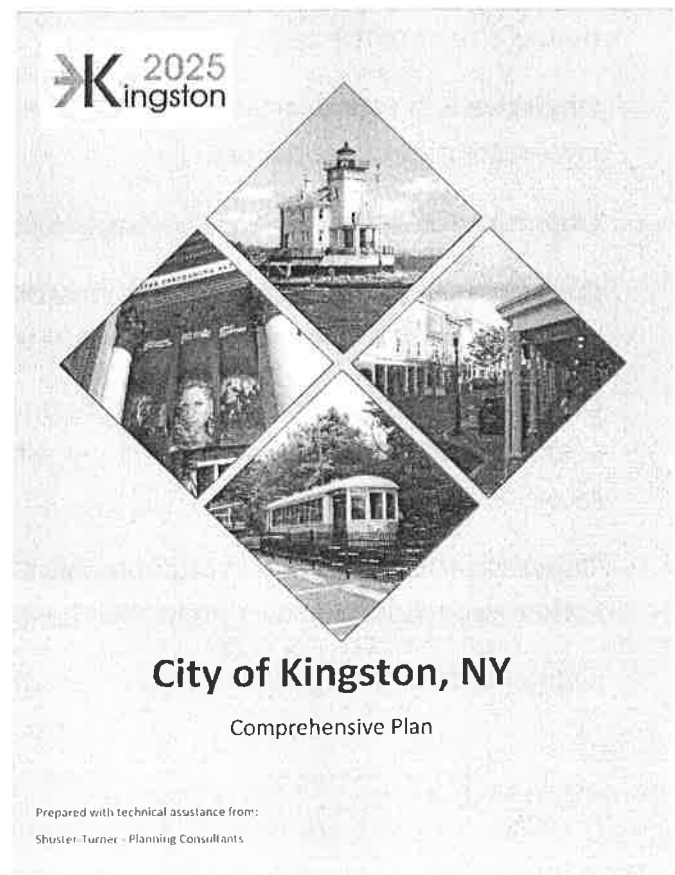


Figure 25. City of Kingston Comprehensive Plan

EXISTING POLICIES AND LAWS

Many of the goals expressed in the comprehensive plan are also supportive of open space conservation, including the following objectives:

Objective 1.2: Promote sustainable practices and green technologies be incorporated in any proposed redevelopment consistent with Climate Smart Communities Certification Program.

Objective 1.3: Promote urban agriculture as a sustainable practice as a part of local and regional food systems change, with a focus on Midtown.

Objective 2.5: Promote social interaction through the provision of neighborhood gardens, community gardens, parks and other open spaces.

Objective 3.1: Promote open space preservation throughout the city, but especially in outlying areas.

Objective 3.2: Identify and protect scenic views as seen from roadsides, parks, waterfronts, and other areas frequented by the public.

Objective 3.2.1: Support the City's Tree Commission's efforts to ensure the sustainable management of the city's trees.

Objective 3.3: Promote protection and conservation of environmentally constrained lands and important natural resources.

Objective 9.6.4: Provide a trail along the Esopus Creek.

Objective 10.1.2: Evaluate the use of natural buffers and green shoreline infrastructure to reduce flood risk and erosion and conserve natural resource functions.

Objective 10.2.2: Promote appropriate private redevelopment of Island Dock, as governed by sound planning for sea level rise, along with construction of a new passive/interpretive park at its eastern tip.

Objective 10.2.3: Provide continuous public access to the Hudson River Waterfront from Block Park to Kingston Point and on to the Town of Ulster via the future Hudson Landing Promenade.

Objective 11.2.1: Promote a waterfront trail along the Hudson River.

EXISTING POLICIES AND LAWS

The Ulster County Open Space Plan

By identifying county-wide resource patterns, Ulster County's plan helps to establish a framework for coordinating open space conservation and management efforts. Kingston's Open Space Plan is well-aligned with Ulster County's plan.

The core elements are illustrated in the graphic from the county plan which include:

1. Protected Open Space
2. Water Resources
3. Working Landscapes
4. Landforms and Natural Resources
5. Recreation Resources
6. Cultural and Historic Resources
7. Ecological Communities

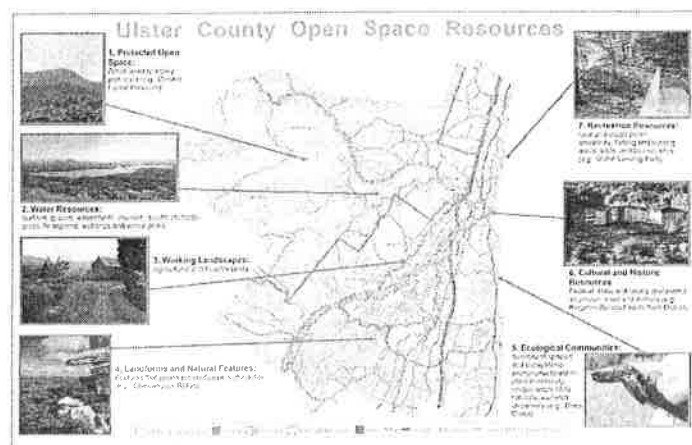


Figure 26. Ulster County Open Space Plan - Resources Map

The county's plan recognizes the importance of water-related resources including the major river systems in the City of Kingston along with stream corridors and water supply areas such as local reservoirs and groundwater aquifers. In developed communities like Kingston, the county's plan highlights the importance of protecting marginal spaces or landscaping and tree cover as part of the built landscape. Of note, green infrastructure opportunities in the county were prominently featured in National Geographic's magazine December 2016 issue entitled "Dreaming Green".

Kingston Zoning Code

Zoning codes and subdivision regulations directly establish the city's land use patterns and have great influence over development intensity. Zoning can also influence the city fiscally, controlling the amount of land set aside for residential, commercial or industrial development. This eventually impacts how the city looks and feels, and what areas are more likely to be developed. Looking at the zoning in comparison to the location of known natural resources can often inform us of what natural resource areas may be threatened, or areas where there may be a conflict between the city's conservation goals and the current land use regulations.

The current zoning for the City of Kingston is divided up among various residential and commercial/industrial districts which generally follow the topographic contours of the local geography. The relatively flat, upland areas of the city on either side of the Broadway corridor

Studies estimate that for every dollar of tax revenue collected, residential development requires \$1.16 in services (such as schools, roads, water and sewer) while open space and farmland only requires \$0.36.

Source: American Farmland Trust. 2000. *Cost of Community Services Studies Fact Sheet*. <http://www.farmlandinfo.org>

EXISTING POLICIES AND LAWS

are generally reserved for the higher intensity commercial uses and single or two-family residential neighborhoods. This is also where you find many of the higher-intensity manufacturing and multi-family residential developments. Conversely, the hilly terrain found on the outskirts of the city along the southwest and northeast quadrants are generally reserved for the lowest-intensity uses such as the RR and RRR residential districts. In general, this land use pattern works well with the goal of preserving sensitive natural areas, since the hillier outlying areas which contain a majority of the sensitive natural resources in the city are where the lowest intensity uses are allowed. However, there are some exceptions, discussed below.

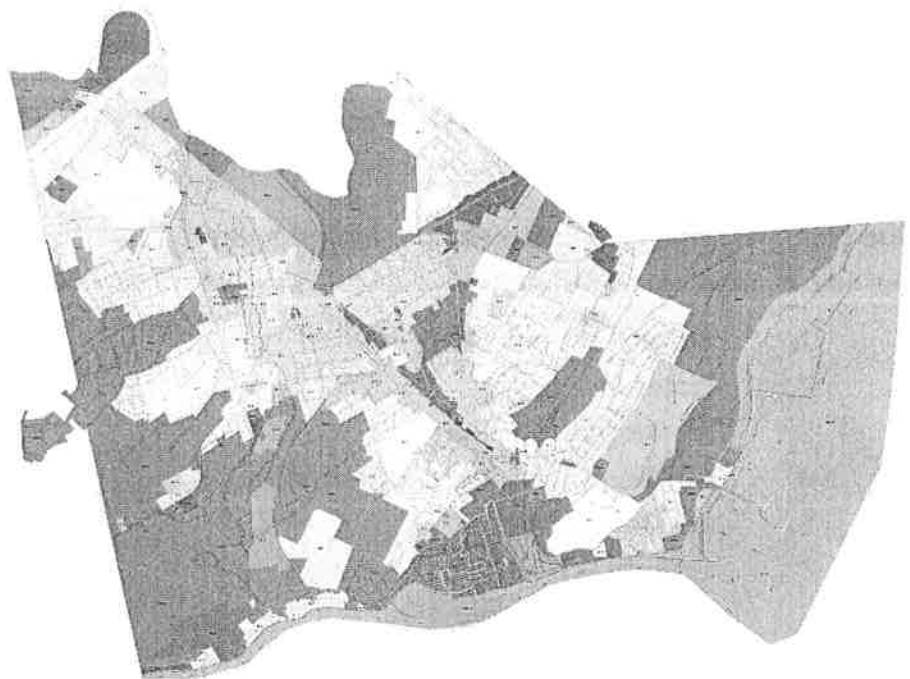


Figure 27. Kingston Zoning Map

Minimum Lot Size of Residential Districts. While the current zoning allows for a relative scale of different residential lot sizes, the lowest density residential zones in the city still permit lot sizes as small as 7,500 s.f. and 12,500 s.f. in the RR and RRR zones respectively—which is less than one-third of an acre per home. In many communities, the density of three or four units per acre would be considered urban, and are not conducive to the goal of preserving natural areas or open space. The hilly, natural terrain of the RR and RRR district areas is more in keeping with a less land-consumptive development pattern that emphasizes land conservation and development densities appropriate for a more rural and natural setting. While it is noted that cluster developments are currently permitted in the RRR district, such high densities make it uncertain if they would ever be of any use. The average density in these districts should be considered for a reduction to encourage resource conservation and minimize the impact of the development

Kingston Zoning Districts

RESIDENTIAL:

- RRR: One Family Residence
- RR: One Family Residence
- R1: One Family Residence
- R2: Two Family Residence
- R3: Three Family Residence
- R4: Two Story Residence
- R5: Three Story Residence
- R6: Multiple Residence

BUSINESS:

- C1: Shopping Center
- C2: Central Commercial
- C3: General Commercial
- NB: Convenience Business
- O1: Limited Office
- O2: Limited Office
- O3: Limited Office
- Rondout District

INDUSTRIAL:

- M1: Light Manufacturing
- M2: General Manufacturing

EXISTING POLICIES AND LAWS

footprint. In other words, separate lot size from density and decrease overall density.

RRR/RR District Allowed Uses. ‘General hospitals and nursing or convalescent homes’ are listed as a permitted use in the RR and RRR district. Hospitals do not seem appropriate for the outlying upland areas of the city. It should be clarified that nursing or convalescent homes may be permitted, perhaps by special permit only, but that a standalone hospital is not intended to be included in these areas.

Southwest - “Rondout Uplands.” The southwest quadrant of the city—referred to here as the Rondout Uplands—contains a significant portion of the priority natural resource areas, and should be prioritized for conservation. While most of this area is currently zoned RRR (Single family homes, minimum lot size 12,500 s.f.) there are some notable exceptions. Included in this area are two significant districts: General Manufacturing (M2) and Two Story Residence (R4). The R4 district allowed uses includes multifamily development and townhouses, and has already been largely developed with the Orchard Hill Apartments complex. The M2 district is intended to provide space for uses which involve “a heavy dependence on trucks and potentially noisy or otherwise objectionable industrial activity”, and includes general manufacturing. This area has not yet been developed. Both of these district areas should be considered for rezoning, considering their high conservation value, or if reasonable protective conditions on additional development should be implemented.

Northeast - “Hudson Uplands and Coastal Area.” The northeast quadrant of the city—referred to here as the Hudson Uplands—also contains a significant portion of the priority natural resource areas identified in the inventory and should be prioritized for conservation. While most of this area is currently zoned RRR, there is a large area zoned as Light Manufacturing (M1) which has only been partially developed to date. This district area should be reviewed to determine if rezoning would be appropriate, considering its high conservation value, or if reasonable protective conditions on any additional development can be implemented.

North Central - “Esopus Valley.” The northern quadrant of the city—referred to here as the Esopus Valley—contains the third significant natural resource area and should be prioritized for conservation. A large section of this valley along the bend in the creek is currently zoned as RRR, however there are areas to the west which are zoned for varying levels of commercial and high-intensity residential which could negatively impact the scenic creek corridor. To help protect against this, a provision in the zoning for these districts or an overlay should be considered which limits encroachment along the water and provides greenspace for a natural buffer, walking trail or promenade. The O&W Rail Trail, which is part of the Kingston Greenline, passes through this area and connects to the regional trail network. A connection here to a local waterfront trail would create a wonderful attraction. The existing development incentives for the RF Rondout Creek District (§ 405-31) and accompanying design standards for a pedestrian esplanade are an excellent model for this, and could be considered along the Esopus provided that the accompanying development incentives are removed.

At the northernmost tip of the city, west of Interstate 87, there are significant farm fields which are currently being utilized as a seed sanctuary and community solar farm. This land is currently zoned as General Commercial (C3). Although it is proximate to other commercial development, these parcels are largely cut-off and difficult to access from the commercial corridor. Adjacent to these parcels, just on the east side of Interstate 87, is another area which is rich with natural resources. This land is currently zoned for Limited Office (O2), however it is vacant, with a small stream bisecting it into the Esopus. Given the suitability of the soil along the creek, the high value of natural resources and the active agricultural use, these undeveloped areas along the south bank of the creek should be considered for a much less intensive zoning, and possibly considered for waterfront park and kayak access.

CHAPTER 4

THE OPEN SPACE VISION

OPEN SPACE VISION

Priorities for Protection

The results of the geographic information system analysis of the resource prioritization (scoring) system confirmed the earlier biotic or habitat assessments by Hudsonia Ltd. and the NYSDEC Hudson River Estuary Program: There are three areas of notable terrestrial biodiversity resources that are highlighted in the open space vision map for the city on page 57.

A series of conservation targets are established to create tangible objectives for advancing the open space vision for the City of Kingston over the next decade. These targets include consideration of the distribution and extent of existing resources and community goals and needs as expressed as part of the public involvement process for the formation of this plan. These targets are approximate and should be refined and updated as more detailed steps are taken to implement the plan and as conservation projects are completed. It is recognized that this plan is prepared at a point in time when several related activities have been underway for a number of years and that the targets are generally intended to comprise future accomplishments, some of which may be currently on the cusp of becoming realized.

The Hudson River, Shoreline and Uplands

A unique set of circumstances has left the city with a waterfront along the Hudson that is much less developed than its bustling past would have projected—and unlike the more urbanized waterfront of the New York City area, just 92 miles downriver, Kingston has an opportunity to maintain and restore its riparian⁽⁶⁾ edge as a more extensive naturalized shoreline—though the changing climate is creating new challenges along the waterfront due

VISION STATEMENT

Kingston's open space system is an interconnected network of parks, paths and preserves that add to the quality of life in the city. The city and its rivers are intertwined in history—and this natural and cultural legacy includes both protected uplands and restored shoreline. The forests, streams, and wetlands are recognized for the benefits they provide to help keep our air and water clean. Enhanced waterfront access and riparian habitats coupled with naturalized stormwater management systems create the foundation of Kingston's green infrastructure network. The city's comprehensive trail system connects revitalized and expanded parklands and other community recreation resources with local and regional destinations. Community gardens and expanded urban agricultural opportunities help connect people with nature. Kingston is celebrated as a "Tree City" by the Arbor Day Foundation, recognizing the importance of an urban tree canopy and improved care of Kingston's vital city trees. Together these open space resources provide a beautiful and healthy framework for Kingston's continued revitalization, yielding benefits to the quality of life and economic vitality for all who live, work, and play in our treasured city.

OPEN SPACE VISION

to sea level rise and increasing extreme weather events.

The Hudson itself has undergone a transformation toward improved water quality as a whole over the past half-century thanks to the benefits from the federal Clean Water Act and state and local actions to prevent pollution coming from sewage, stormwater and non-point sources. However pollution prevention is both an ongoing and increasing call to action as the threats to the river's health—and all surface waters in the region in general—requires ongoing vigilance and continued action to reduce the flow of pollutants into the system to ensure long-term ecosystem health and human safety.

On the Hudson River shoreline, Kingston is facing a tremendous opportunity and a tremendous challenge—to restore a more naturalized system from a landscape that has been compromised by many years of industrial use. While there are important and globally rare habitats of freshwater tidal marshes and intertidal shore areas, the compromised landscape includes filled wetlands, marshes, and floodplains, hard-engineered shoreline and filled off-shore areas along with stormwater runoff and combined sewer overflows. Invasive plant species such as water chestnut (*Trapa natans*) have infiltrated native habitat and adding to water quality concerns.

Fortunately, there is a growing body of guidance available on ways to restore the river and its habitat including the recent publication “Hudson River Comprehensive Restoration Plan” (Partners Restoring the Hudson. 2018. Hudson River Comprehensive Restoration Plan: Recommendations for the New York-New Jersey Harbor & Estuary Program Action Agenda and the New York State Hudson River Estuary Action Agenda. New York, NY. The Nature Conservancy.)

The parts of the system being explicitly considered for protection, restoration or re-imagining in the Hudson River restoration plan are called ecosystem characteristics, and restoration objectives are called targets. Together, these form Target Ecosystem Characteristics (TECs). As stated in the restoration plan “an ecosystem characteristic is an attribute of the estuary which is considered to have significant ecological or societal value. To develop a TEC, it is necessary to first describe what the attribute is, what ecological or social function it serves in the system, and establish a justification for management activity.” The restoration plan identifies “habitats and biological communities” with the following characteristics directly affiliated with natural resource attributes:

- Shallow Water and Intertidal Habitats
- Hudson River Shorelines and Riparian Areas

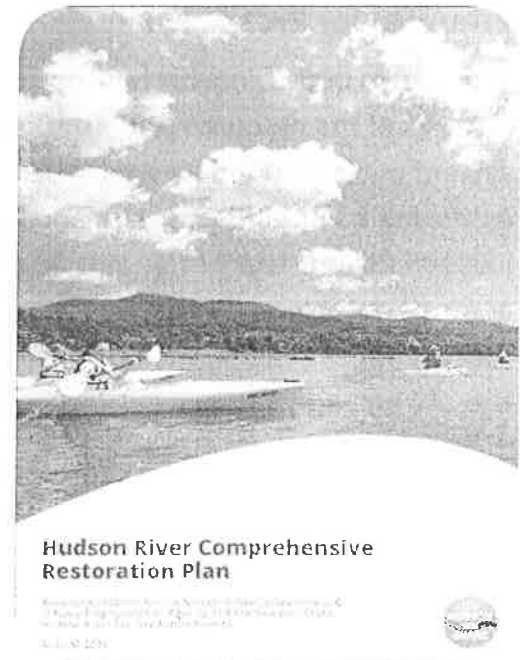


Figure 28. Hudson River Restoration Plan

OPEN SPACE VISION

- Tributary Connectivity and Barriers
- Resilient Plant and Animal Communities
- Fisheries

The plan further identifies certain “drivers of conditions” that are considered critical elements that strongly influence natural resource attributes:

- Sediment
- Contaminants
- Storm and Wastewater

Finally, the restoration plan addresses “people and shoreline communities” around certain key elements that support and inform human interactions with the estuary:

- Public Access
- Navigation Safety and Natural Resource Interactions
- Estuary Education
- Resilient Waterfronts and Community Shorelines

Some of the major concerns identified for the area of the river that includes Kingston include coastal flooding, invasive species management and brownfield remediation. Specific open space opportunities and ideas identified include:

- Restore/naturalize the Hudson’s shoreline habitat to the maximum extent practicable.
- Complete the riverfront trail (Empire State Trail) and secure additional public access to the river.
- Recognize the Kingston-Poughkeepsie Deepwater Habitat (NYS designation as a Significant Coastal Fish and Wildlife Habitats under the Coastal Management Program) for habitat protection, fishing, deep-water excursion vessels. The Kingston-Poughkeepsie Deepwater is a critical habitat for most esuarine-dependent fisheries originating from the Hudson River.⁽⁵⁾
- Recognize the Flats, (NYS designation as a Significant Coastal Fish and Wildlife Habitats under the Coastal Management Program) one of the largest contiguous areas of shallow, freshwater, tidal flats in the Hudson River, as a rare and valuable habitat.
- Conservation/preservation of the larger section of upland habitat area.
- Expand Opportunities for water views and scenic overlooks.
- Protect the habitat and water quality of Kingston Point Beach.
- Provide shoreline habitat enhancements.

OPEN SPACE VISION

Conservation Targets. Look to permanently protect approximately 500 acres of land in the “Hudson Uplands” area. This conservation target is based on securing permanent protection on a portion of the vacant/underutilized uplands area currently in private ownership that are to be dedicated to open space through the development process. This figure also recognizes the potential that a major conservation partner (Scenic Hudson) may be purchasing the lands of the Kingston Landing/AVR project.

Along the Hudson Riverfront, a target of approximately 5,000 additional linear feet public access is recommended. This figure represents a goal of securing public easements/ownership and installing improvements as/if needed on about 2/3rds of the shoreline area that is currently in private ownership along the Hudson.

The Rondout Creek Corridor, Shoreline and Uplands

From its confluence with the Hudson River up to the falls in Eddyville (about 3.6 miles upstream), the Rondout Creek is a tidal estuary and an important spawning area for migratory fish and an overwintering area for bass. The rich history of the Rondout corridor is still evident in many ways along the waterfront. Today the Rondout Creek corridor continues to transition to a more complete tourism and recreational corridor with several popular marinas, restaurants, historic sites and other attractions and featuring a popular waterfront promenade. The Rondout offers tremendous continued opportunity for the city. Specific open space opportunities and ideas identified include:

- Develop a greenline trail system for the entire creek corridor; a more formal promenade in

IMPORTANT HABITATS

As highlighted in the Kingston Natural Resource Inventory: “Aquatic systems also contain and influence a great deal of the important habitats and rare biodiversity resources that remain within the city limits. Important deep open-water, tidal and inter-tidal mudflats, shoreline habitats and submerged aquatic vegetation communities are home to some of the most significant and rare species in Kingston.”



Photo of the rare plant Delmarva Beggar-ticks (Bidens bidentoides) image by Timothy G. Howard from New York Natural Heritage Program. 2017. Online Conservation Guide for Bidens bidentoides. Available from: <http://nycnhs.org/guide.php?id=8750>. Accessed October 29th, 2018.

the lower reaches, with a more informal shared-use path in the upper reaches.

- Develop a blueway trail on the creek with access for paddlers and rowers.
- Collaborate with the owner of the Island Dock property as a combination open space park and low impact development site—consider making site for a “paddler’s paradise”.
- Protect upland undeveloped vacant lands and open spaces as parks and preserves, using low impact conservation-based design, taking advantage of southern aspect/solar orientation and views.
- Limit fragmentation of woodlands—develop management plans and “Friends-of” groups for protected open spaces.
- Preserve and restore naturalized shoreline including vegetated buffers for stream corridors leading to and including (where feasible) the Rondout and recognize, protect and restore the habitat resources that led to the designation by NYS of the Rondout Creek as a Significant Coastal Fish and Wildlife Habitats under the Coastal Management Program.

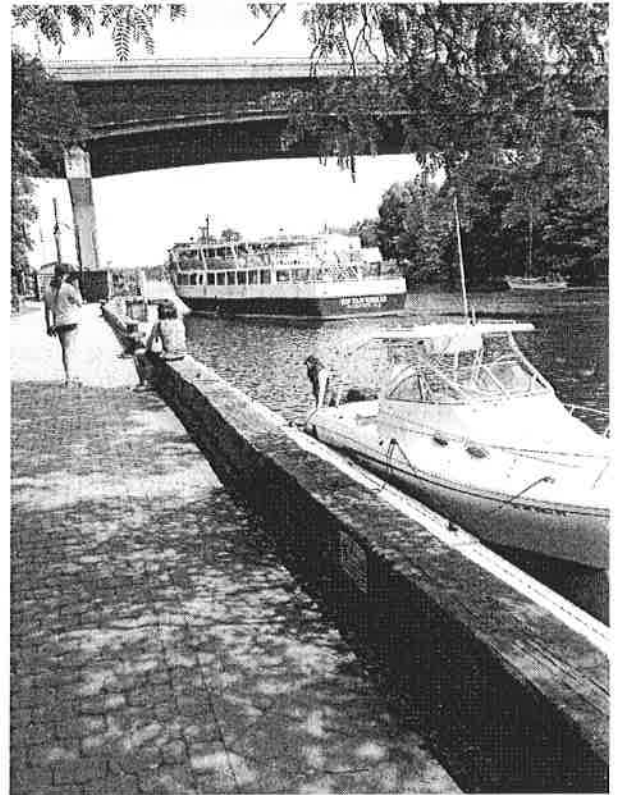


Figure 29. Boats on the Rondout.

- Improve trash can / trash pickup along the waterfront.
- Make upgrades to the existing dock access and additional marina space.

Conservation Targets. In the forested areas above the creek, the “Rondout Uplands,” the target of approximately 60 additional acres would be permanently protected. The Natural Resources Inventory recognized the large area of intact forest in the city; yet very little of the uplands above the Rondout are protected with conservation easements or similar designation. The 60-acre target is a fairly ambitious goal which would protect about half of the intact forest in the Rondout Uplands.

Along the Rondout shoreline, establishing a target of approximately 5,000 additional linear feet of public accessible shoreline is recommended. In terms of opportunity, there is a total of about 15,000 linear feet (+/- 3 miles) of shoreline in total along the Rondout in the city plus an additional 5,000+ feet along the shore of Island Dock. The public access could be visual/pedestrian access such as an improved promenade and/or include physical access such as kayak launches/landing areas, as well as

OPEN SPACE VISION

more naturalized areas. It is noted that not all of the shoreline needs to be hardened with bulkheads and that more naturalized shoreline treatment should be encouraged where appropriate and feasible in areas outside of docking areas or areas planned for bulkheads or similar treatments. (See for example the Hudson River Estuary Program on sustainable shorelines www.hrnerr.org/hudson-river-sustainable-shorelines)

The Esopus Creek Corridor and Lowlands

This relatively intact open space corridor comprises a broad, flat basin containing rich alluvial soils that supports an abundance of agricultural and farming operations. Specific open space opportunities and ideas identified were:

- Create walking paths along the water, with trail/open space connections to Ulster County Linear Park rail trail. The O&W Rail Trail, which runs from Washington Avenue to the town line and Hurley beyond, is an excellent start to continue building off of.
- Create appropriate sites for kayak and canoe launches along the south side of the creek.
- Recognize and support the Hudson Valley Farm Hub's mission and the Native American Seed Sanctuary project and build upon this unique and compelling project. <http://hvfarmhub.org/about/seed-sanctuary/>
- Recognize the existing farmland, floodplain and wetlands along the creek that provide good opportunities for long-term conservation as preserved land.
- Improve shoreline management and the removal of debris, management of the tree canopy, including vegetated shoreline buffers.

Conservation Targets. Working toward a 10-year goal for permanently protecting 50 additional acres of land including active farmland and natural areas is recommended. This 50-acre target represents a majority of land in agricultural use in the city. Given it is such a rare occurrence and agriculture is such an important part of the city's history, the target was set to protect most of the remaining land in agriculture. Woodlands, wetlands and other natural buffers to farmland could be included in this acreage target. (Note: this target does not include urban gardens; a separate category.)

Other Stream Corridors

The city's upland watershed and tributary streams including Main Street Brook, Tannery Brook and the Twaalfskill systems are important resources in themselves and for their impact on the water quality and health of the receiving waters. The Tidal Rondout Creek Watershed Management Plan (Milone and MacBroom, 2015) has a goal that is applicable city-wide: "Restore tributary streams and subwatersheds to improve water quality." By reducing sediment and pollutant loading in the city's watersheds, the overall goal of improving water quality and long-term health of the receiving waters

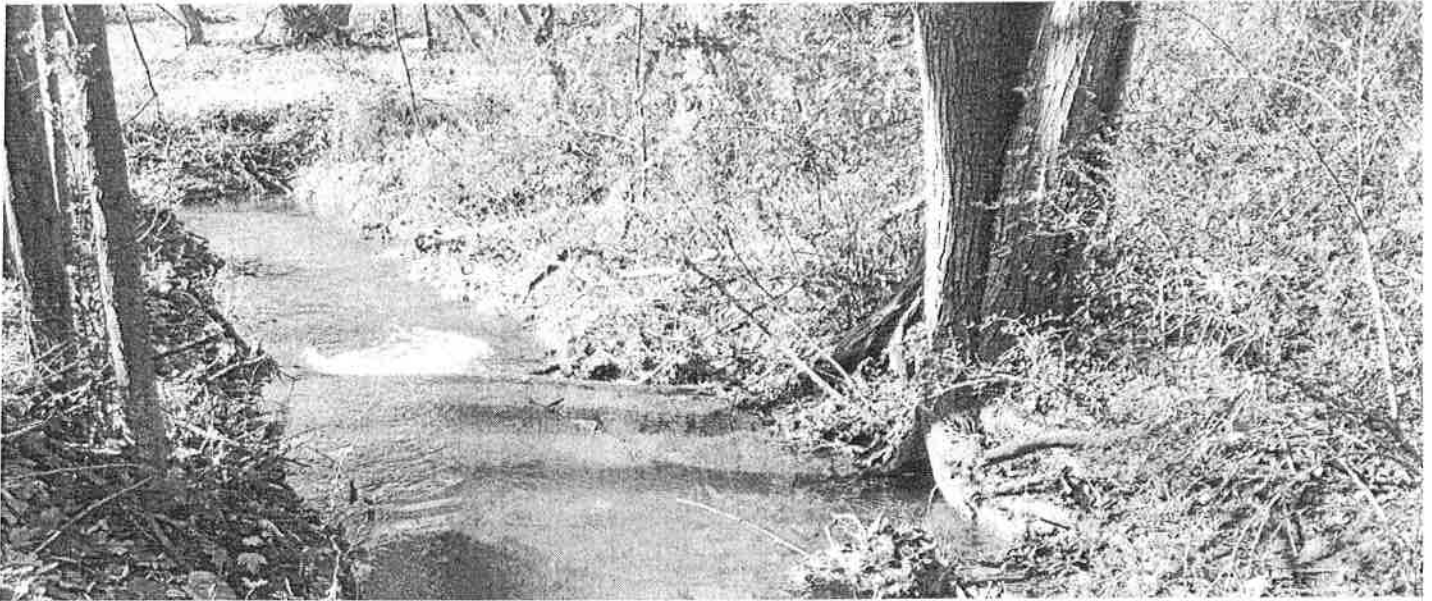


Figure 30. One of the many stream corridors in Kingston.

can be achieved.

In addition to treatment of stormwater before it enters a receiving stream, in the city's watersheds that are more highly developed, it will be important to identify ways to also treat the stormwater that has already entered tributary streams before discharging into the Hudson, Rondout or Esopus. As noted in the Rondout watershed plan, this method entails the capture of a portion of the silt and sediment load before it reaches these water bodies through the use of water quality and sediment basins at key locations along the tributary streams within the subwatersheds. This subwatershed-scale approach requires the strategic siting of facilities such as bypass channels and large basins to handle stormwater runoff from subwatershed drainage areas.

A very informative and inspiring project by Emily Vail assessed the land use history, patterns and processes around the Tannery Brook (www.tracingtannerybrook.com). That Tannery Brook initiative recommended consideration of entire watersheds, including both above and below-ground components and suggested a wide range of tactics to address stormwater management that can be considered for application in other watersheds in Kingston as well.

Conservation Targets. A goal of restoring/improving the natural character of approximately 2,500 linear feet of stream corridor is recommended as a 10-year goal. As a reference for this target, Tannery Brook and its major tributary, Main Street Brook run a total of about 12,700 linear feet through the city. With these corridors as a basis, this target would naturalize about 20% of the length of these corridors into more of their native riparian habitat—to the extent this is practicable. This effort would include stream bed and stream bank restoration, reestablishment of natural cover (plantings) and similar treatments; recognizing that these streams are challenged with the existing

OPEN SPACE VISION

urban environmental conditions including high runoff related to the land cover character of the contributing watershed area. The 2,500 foot restoration target represents a beginning of what would be a process of more extensive restoration with a long-term goal to be established in future phases and after more detailed feasibility analysis.

Neighborhood Parks and Open Spaces

Expanding access to open space and recreation facilities was a common theme heard during the public outreach, particularly within some urban core neighborhoods where there is an abundance of hardscape and relative lack of greenspace. Fortunately, the city has benefitted from the foresight and generosity of earlier generations who developed the park system along with current generations who continue the tradition of adding to the Kingston's park system in response to the evolving community needs. Of note, the importance of offering outdoor recreation and nature experiences to children is increasingly recognized.

This open space plan reflects one of the important guiding principles of the Parks and Recreation Master Plan for the City of Kingston (January 2013) which strongly supported providing recreational opportunities near residential populations—in particular in areas where there was not a nearby open space or park resource available. One of the neighborhoods noted during this open space planning process was the Midtown area, particularly north of Broadway. It is recommended that this need can be addressed in a number of ways, including expanding the city's existing greenway trail and linear park system, and adding small pocket park opportunities along the trail. It is also recommended that the city secure and improve a new open space and recreation site within the midtown neighborhood. Ideally, this new site or sites could provide active recreation (e.g., field play/indoor recreation) combined with passive recreation (e.g., walking paths, landscaped parklands, community gardens) in a location convenient to the surrounding neighborhood.

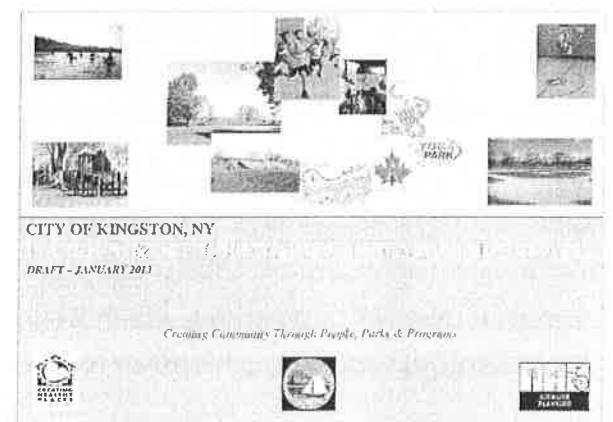


Figure 31. The Kingston Parks & Recreation Master Plan

Conservation Targets. Creating one new neighborhood park in the midtown of the city is recommended to address the dire need for this area that has been described as a “park desert”, and to serve a core environmental justice area of the city. Recognizing the city has an extensive park system, this target of establishing a new neighborhood park in the Midtown Kingston area was drawn from the Natural Resources Inventory which highlighted the lack of park resources in this densely populated area of the city and this need was reiterated during



Figure 32. Kingston's history can be understood in many ways by looking through the lens of the park system—from Academy Green Peter Stuyvesant negotiated a peace treaty with the Esopus Indians on July 15, 1660 to the parks created during and after the city's industrial heyday to the newest additions including the Midtown Linear Park being developed along the former Ulster & Delaware Railroad corridor. Fortunately, Kingston's park history has been well documented including Kingston's Magnificent City Parks, 1992, by Ron Woods (Author), William Dederick (Illustrator), and the brochure on the city's park and recreation department's website offers a quick and interesting snapshot of the park history and an overview of available facilities and programs.

the public involvement activities conducted as part of the open space planning process. Designed primarily for informal recreation often with paths, benches and attractive landscape architectural elements, neighborhood parks often have playgrounds and ideally are large enough (1+acres) to provide open lawn areas that enable varied use and free play. This city's Parks and Recreation Master Plan recommended a new park of half-acre (minimally) to an acre, but preferably between two-and three-and-a-half acres in size.

In the short-term, a smaller "pocket park" of one-quarter acre or more may be more feasible to establish, with the larger neighborhood-scaled site would be further explored as part of a community visioning session to determine the park type, size, character and facilities and a feasibility study to evaluate potential sites and select a preferred site.

Urban Agriculture

With leadership from local agencies like the YMCA, urban agriculture is recognized in Kingston as an important aspect of city life—for adults as well as for young people. The Kingston YMCA's Farm Project works with preschoolers through high-schoolers bringing young people to the farm in Midtown to work and learn about nature, agriculture and where their food comes from. Participants 14-18 years old can also help run the farm stands and earn an hourly wage. (Kingston Land Trust's South Pine

OPEN SPACE VISION

Street Farm is an earlier urban agriculture demonstration project and originated the “Dig Kid Project” later incorporated into the student farming program operating at the YMCA Farm.)

The city’s comprehensive plan notes the opportunity to potentially acquire through purchase, blighted properties and vacant lots in order to provide new public spaces either solely or as part of a larger public/private redevelopment project. These public spaces could be used for traditional pocket parks or urban agriculture and community gardens as appropriate. More than 800 acres of land in Kingston are classified as vacant, including 38 acres owned by the City of Kingston. While every effort should be made to promote investment in blighted properties, those properties that are beyond saving and that tend to be located in the most at-need areas of the city should be considered for incorporation into the network of community gardens. The Kingston Land Bank, for example, is well positioned to work in collaboration with other local agencies and non-profits for identification of vacant/underutilized parcels suitable for conservation uses such as community gardens.

Once a predominant land use in the city’s history, there remains several larger areas of working farmland in the city. These are located along the Esopus Valley, taking advantage of those fertile floodplain soils. The valley farmlands, though fragmented by development including roads and highways, are part of the core of agricultural resources being actively promoted by a local organization: The Hudson Valley Farm Hub. The Farm Hub is a non-profit education and demonstration farm founded in 2013 with a mission to foster equity and ecological resilience in the regional food system. Its service area stretches southward from the City of Kingston through the towns of Ulster, Hurley and Marbletown across the vast fertile land known as the “Hurley Flats.” This landscape was shaped by the receding glacier 10,000 years ago, leaving a legacy of mineral rich soil—some of the best farmland in New York State. <http://hvformhub.org/about/history/>

A unique and important project taking place in Kingston’s open space resources at the Farm Hub is the Native American Seed Sanctuary. In partnership with the Akwesasne Mohawk Tribe of northern New York and the support of Seedshed (<https://seedshed.org/>) the project is growing Native American varieties of corn and sunflowers for the purpose of seed saving, and, by extension, helping to preserve the rich agricultural and cultural heritage of the Native American people. Once harvested, the seeds and the food they grow are repatriated to their home communities to keep these varieties and their stories alive.



Figure 33. The Native American Seed Sanctuary at the Hudson Valley Farm Hub.

The importance of these types of agricultural

activities as part of the community's natural and cultural heritage is recognized. As the history of the growth of the city and region has demonstrated, farmland is the place where development eventually takes over. Protecting the remaining productive farmland in Kingston is a key element of this open space plan. Working with the farmland owners to create a long-term farmland protection strategy will provide a foundation for the continuance of agricultural uses. The strategy would include taking full advantage of all tools available including securing funding support through the New York State Department of Agriculture and Markets Farmland Protection Program and a similar program offered through the United States Department of Agriculture.

Conservation Targets. Creating one new community garden per year over the next ten years is suggested as a reasonable goal to bring the benefits of urban agriculture to a broader base of Kingston residents, particularly in areas where they can help to serve environmental justice areas.

Kingston's Urban Forest

Kingston is well established as a "Tree City USA" city, a recognition from the Arbor Day Foundation. The city has completed a monumental task of completing a tree inventory characterizing 3,937 street trees and park trees. The report is available on the city's website (www.kingston-ny.gov/trees). Neighborhoods graced with healthy canopies of street trees add tremendously to the aesthetics, livability, and local ecosystem; providing beauty, relief from the 'hardscape' of the city and filtering

LAND MATCHING

The Kingston Land Trust has launched an online resource that allows residents in and around Kingston to make use of underutilized private and public land. Through the website portal, approved stewards (people seeking land) and landholders (people who own or manage land and are seeking stewards) can search for each other based on location and shared land use interests. Land listings can range from a corner of a residential yard to an entire agricultural field. The land matching portal will help foster beneficial uses, such as gardening, farming, community gatherings, wellness activities, foraging, ecological land management, outdoor classrooms and play spaces.



OPEN SPACE VISION

the air of dust and producing oxygen while absorbing carbon dioxide, a greenhouse gas.

While a tremendously valuable resource, maintaining a healthy street tree and urban forest system is labor intensive and costly. Sometimes poorly planned trees cause damage to sidewalks, curbs, and other expensive infrastructure. Fortunately, there are methods to accommodate street tree planting and healthy growth in a variety of urban conditions.

Street trees and the larger urban forest are recognized as key components of the open space resources in the city and implementation of an enhanced management program will support the many benefits these trees provide while helping minimize the expense of maintaining a healthy urban forest. A top priority for city neighborhoods is continued management of the city's extensive street tree program; adding/replacing trees as needed and pruning and maintaining the existing stock and introducing street trees in areas where there are few to no street trees, deploying the latest methods of landscape architecture and urban forestry to create a beautiful, healthy and long-lived canopy of trees for the people to enjoy. Specific open space opportunities and ideas identified for the urban forest include:

- There is wide consensus on the need for more neighborhood parks, playgrounds in the urban residential neighborhoods, particularly in Midtown.
- Thanks to the tree inventory, the city has detailed digital data on every street tree—

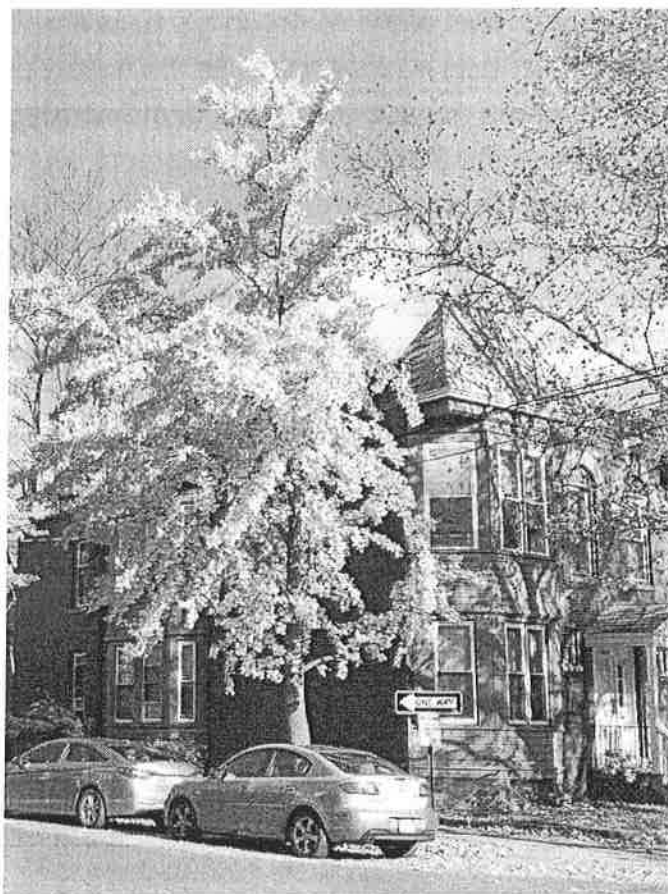


Figure 34. Kingston Gold: A striking ginkgo biloba tree in full fall glory gracing a historic Kingston neighborhood.

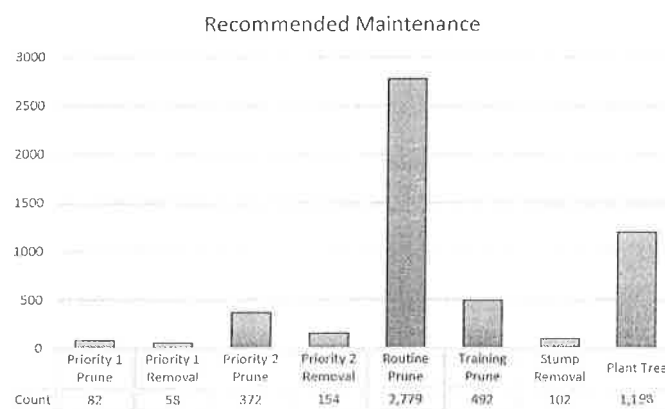
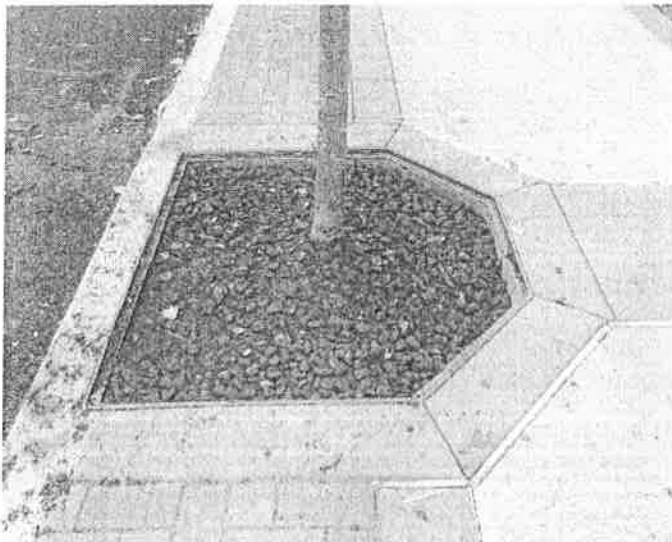


Figure 35. The Kingston tree inventory provides details on the size, species, age, health and life expectancy of over 3,000 street trees in the city. This report identifies specific trees for priority removal and pruning, as well as recommends the planting of over 1,000 new trees to replace lost inventory.



Figure 36. Protecting existing trees appropriately when doing needed construction. Utilization of structural soil for street tree plantings along sidewalks and other paved areas allows installation of hardscape features such as concrete or bluestone walks and granite curbs without damage from healthy tree root growth. Underneath the tree in the image below is a large bed of CU™ Structural Soil extending several feet in either direction around and below the root ball.



species, diameter, height, age and anticipated lifespan—which can be used to develop and implement a comprehensive street tree planting program that will start to fill in and identify empty spots for planting, trees which will need replacement in upcoming years, and a rotation schedule. This planting effort is perfect for a sponsorship or adopt-a-tree program.

- The city code should be reviewed with an eye toward finding requirements in the city tree ordinance that complicate or undermine the goals of this open space plan.
- Pollinator habitats should be encouraged and promoted throughout the city to help support the regional bee population and other pollinators.

Open Space for Stormwater Management

Urban stormwater management in American cities historically could be considered as an “out of sight, out of mind”-type of approach where streams were channelized and directed into large culverts and street-side catch basins and storm sewers shunted the flow into a combined sewer system that was sent into receiving rivers. Many Hudson River cities like Kingston still are challenged with retrofitting the remnants of those combined sewer

systems into a more sustainable approach. As cities continue to improve wastewater treatment systems and separate storm sewers from sanitary sewers, an expanded perspective is emerging.

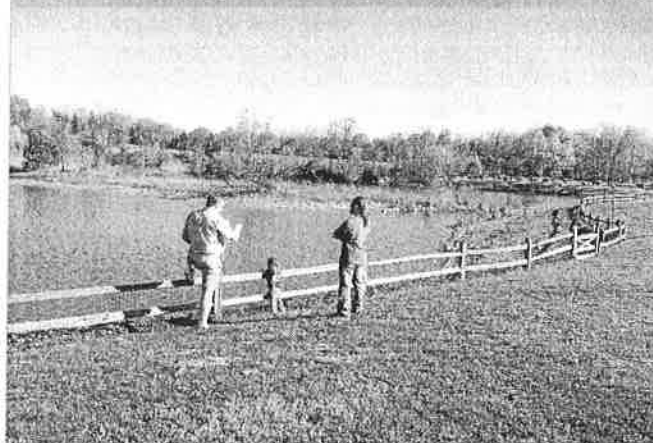
The expanded perspective first recognizes the importance of maintaining intact natural areas of natural stream corridors, floodplains and upland forests so these resources can perform their respective “ecological services” that help maintain surface water quality. These natural “green infrastructure” systems left undisturbed will keep water resources clean and healthy. However, we live in a world that is continually being more intensively used where undisturbed natural systems are becoming increasingly modified and fragmented by all forms of human use. Maintaining natural areas as green infrastructure is an important strategy to maintain high quality surface waters. For urbanized areas, where development processes have occurred and will continue, the idea of employing natural processes in formalized stormwater management systems is emerging as a proven method of maintaining and even improving stormwater runoff quality. This “green infrastructure” approach to urban stormwater management is a refreshing alternative to relying increasingly on solely “grey infrastructure” approaches that often contribute to declining quality as stormwater flows through the system.

And so, the resource protection priorities in this open space plan reflect an ecological approach to stormwater management:

- Protect large areas of intact forests and natural areas.

GREEN INFRASTRUCTURE

The green infrastructure concept recognizes the interconnected ecosystem of forests, rivers, farms, parks, wetlands, naturalized stormwater management facilities and other natural and naturalized man-made features that, when fully deployed will help ensure clean air, water and food. These natural systems sustain our environmental health, economy and quality of life. Just as we need to maintain the built infrastructure of our roads, utilities and buildings to sustain the economic activity—our green infrastructure must also be protected and maintained to keep a balanced system to sustain our health and well-being.



Watershed-based stormwater ponds can provide:

- Flood storage capacity
- Water quality improvement
- Outdoor recreation
- Fish and wildlife habitat

- Recognize the importance of maintaining naturalized stream corridors.
- Improve compromised natural areas and restore/replant with trees, shrubs and grasses/perennials.
- Reduce impervious areas and introduce permeability into parking and similar areas with constructed stormwater management solutions such as raingardens and bioswales.
- Identify key drainage basins to retrofit using green infrastructure techniques for stormwater management.

Looking forward using a green infrastructure approach, it may be possible, for example, to address the need for a new city park in Midtown Kingston by also incorporating other needed stormwater management improvements. In a larger sense, the open space plan can be considered the foundation of the green infrastructure system for the city.

City-wide Trail Systems

Kingston has been working for many years on creating a city-wide network of shared-use paths and trails connecting key areas of the city together. This open space plan recognizes those efforts and incorporates the notion of a city-wide system as an important amenity for the community. This overall system, branded by the Kingston Land Trust and the city as the Kingston Greenline, would also serve as a hub to regional trails including the Empire State

Trail which is expected to be completed by 2020.

The trail system can serve as a linear park and as a transportation alternative, offering walking, and bicycling opportunities providing both recreation and mobility benefits. A well-designed trail system can become a great amenity to neighborhoods, starting in part as a “complete streets” approach to accommodating non-vehicular paths along existing streets, and later evolving to become dedicated off-road multi-use paths where space and funding permit. “Complete Streets” is a term used to describe ordinary city streets that are designed to encourage people of all ages and abilities, by any mode of transportation to use them. The concept of complete streets is an adopted policy of the city and since 2010 the Complete Streets Advisory Council was established by the Common Council to advise the city on ways Kingston can implement complete streets principles in its planning, design and construction activities.



Figure 37. KINGSTON POINT RAIL TRAIL. — The Kingston Greenline is an example of an urban railway corridor being converted into a successful multi-use path and cherished community amenity. The city continues to expand this route and connect through the downtown and part of a linear park and loop system. Photo courtesy of the Kingston Land Trust.

139

Conservation Targets. Five miles of new trails of dedicated and shared-use paths. There are many trailway projects being planned, designed and constructed in the city. This five-mile trail target supports the concept of completing the ongoing/planned projects on what would be equivalent to the total approximate distance of an east-west corridor and a north-south corridor of shared-use paths dedicated to use for pedestrians and bicyclists in the city over the next decade. Recognizing some projects planned underway—such as the Empire State Trail—would be part of this goal, the segments of on-road bike lanes would not be counted in measuring the target for this category. (Note: some overlap exists between this category and the shoreline public access category.)

As part of this trails effort, steps should be taken to ensure that the trail corridors preserve portions of vegetated space along the trail route which enhance the natural beauty of the route, provide buffers from commercial activity where needed and provide bee pollinators and habitat for small wildlife.

5 MILES OF NEW TRAILS

- Continue to build trail system
- Connect open space resources
- Contributes to health and mobility

10 NEW URBAN COMMUNITY GARDENS

- Healthy local living opportunity
- Improve access to nutritious food
- Educational enrichment for youth

50 ADDITIONAL ACRES OF FARMLAND & NATURAL AREAS PROTECTED

- Working fertile farmland valley
- Important natural habitat and ecological resource area
- Important outdoor recreational resource



- Addresses neighborhood
- Adds to community quality



0 Feet 1000 2000



2,500 LINEAR FEET OF STREAM CORRIDOR RESTORED

- Re-naturalize ecosystem where feasible
- Helps manage stormwater flow
- Improves water quality and aesthetics



Priority Conservation Areas



Potential Future Park Areas



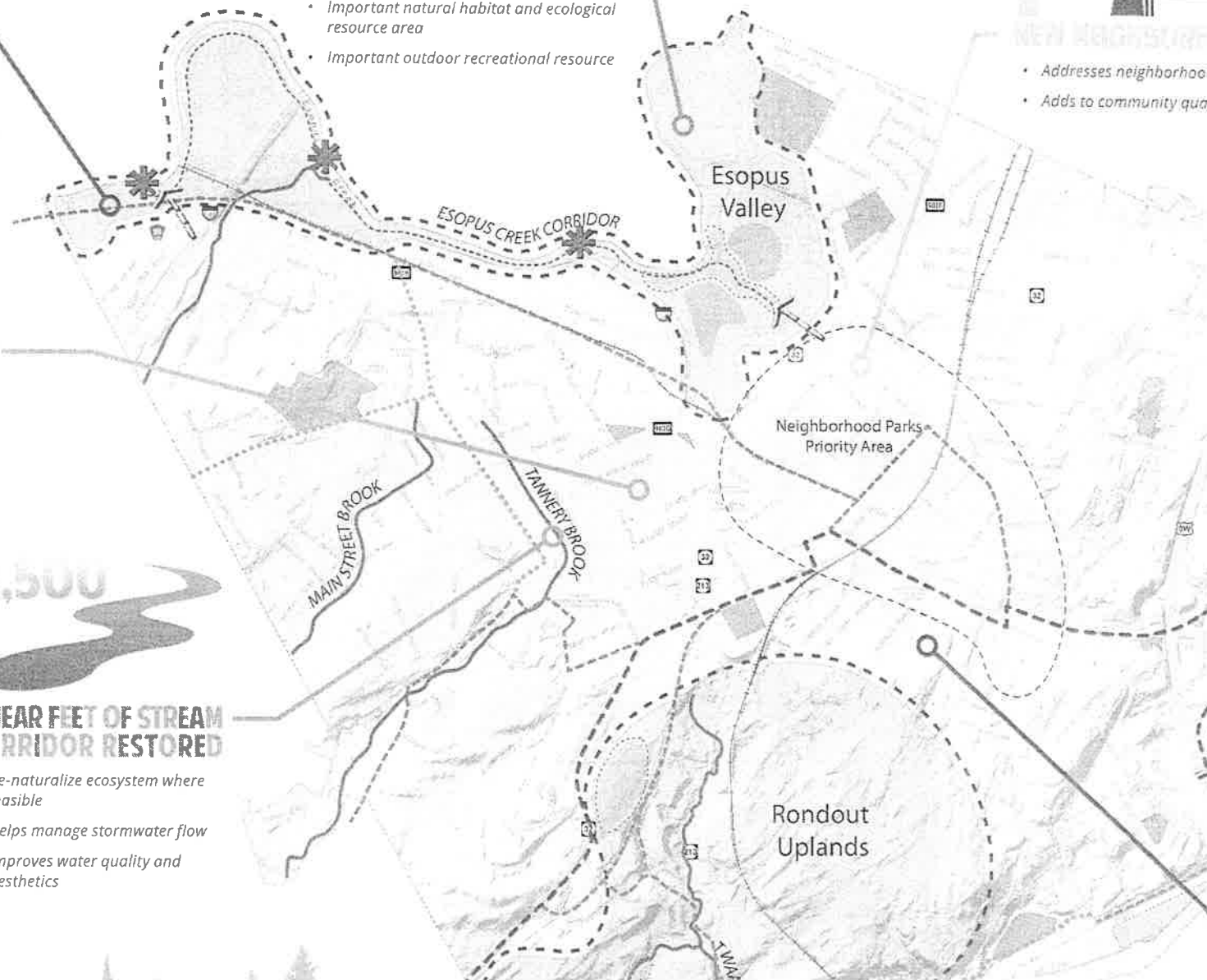
Potential Future Stormwater Retention Areas



Priority Area for Neighborhood Parks

141

Urban Forest Area



MAIN STREET BROOK

TANNERY BROOK

Esopus Valley

Neighborhood Parks Priority Area

Rondout Uplands

ESOPUS CREEK CORRIDOR

OPEN SPACE VISION

MANY NEW YORK STATE COMMUNITIES HAVE ESTABLISHED CONSERVATION FUNDS

In the Hudson Valley Region:

In November 2006, New Paltz town and village voters overwhelmingly approved a \$2 million bond to implement the open space plan. The Towns of Gardiner and Marbletown also approved open space bonds in the amounts of \$1.5 million and \$1 million respectively in 2006.

In November 2005, voters in the Town of Beekman, Dutchess County, NY supported a \$3 million open space bond by a 2.5 to 1 margin.

In 2003, voters in the Town of Red Hook, Dutchess County, NY approved a \$3.5 million open space bond by an approximately 80 percent margin to purchase the development rights from interested farmers. The Town's investment is being leveraged with dollars from a Dutchess County matching grant program, technical assistance from Dutchess Land Conservancy, and follows significant investment by Scenic Hudson, a regional conservation organization. The Town adopted an open space plan in 2000.

In 2000, voters in the Town of Warwick, Orange County, NY approved a \$9 million bond for open space and farmland protection. The local goal is to protect approximately 3,000 acres of the Town's farmland and open space. A study for the Town of Warwick estimated that the continued development otherwise would cost taxpayers an estimated \$4 to \$5 million per year in additional school taxes.

In New York State:

In 2014, voters in the Town of Webster, Monroe County, NY approved a \$5.9 million bond program, and subsequently

LAND TRUSTS IN KINGSTON

Land trusts are private not-for-profit organizations dedicated to the mission of preserving land. Many land trusts preserve land through the use of a voluntary conservation easement. This is a flexible tool that restricts development of a property. Conservation easements can be donated by landowners for significant tax benefits. In communities with a purchase of development rights program, they can also be sold. Conservation easements are a good way to preserve land while keeping property on the tax rolls.

Each land trust in the region has a specific mission and geographic area of interest. If a landowner is interested in conservation, the best way to obtain more information is to explore the websites and contact a relevant land trust working in the Kingston area:

Kingston Land Trust

www.kingstonlandtrust.org

(845) 877-LAND

Scenic Hudson

www.scenicudson.org

(845) 473-4440

CONSER

Open Space Local Appropria

Local government can appropriate fun (budget authority) collected through pr purchase lands or development rights, budget allocation can be a one-time ar or a multi-year appropriation. Local ap limited to available funds and are weig public costs, often producing limited re conservation.

Municipal Bonds

A local government can issue a bond to projects, such as open space preservat bond allows a municipality to raise cap investment in capital projects and repa principal and interest) over time. Bond 20 years or 30 years, for example. A m placed on a ballot during a local electic or it can be subject to permissive refer permissive referendum, the municipal action without a vote, however, voters to petition the decision and require a b Successful municipal bonding requires outreach and education, but provides t obtain dedicated funds for an open sp

Recreation Fees

The city already collects a recreation fe which is used to meet recreational nee In the future, the amount collected shc confirm adequacy toward meeting the the city as it grows.

IMPLEMENTATION

A partnership approach is recommended to advance the open space plan. With that approach as a guiding principle the following partnerships can become the foundation for advancing the plan:

Partners

- **Landowners**—These are very important partners with whom the city will collaborate to advance the conservation vision expressed in this plan. Organized efforts to reach out to landowners—in particular those with large acreage holdings in priority conservation areas will be important to discuss potential shared vision and goals and to explore ways to work together for the long-term conservation of the important resources present on the land.
- **Land Trusts**— Continued and expanded collaboration with land trusts including the Kingston Land Trust and Scenic Hudson will be tremendously important to turn the vision in the plan into reality. The Kingston Land Trust has extensive information on the economic benefits of open space, which can be used to help generate support from the local business community.
- **Other Non-profits**—As organizations vested in securing positive futures for the community, expanding relationships with non-profit organizations and forging new relationships centered on common goals will yield mutual benefits. Organizations like the YMCA and Hudson Valley Farm Hub, for example, are already working on projects that are perfectly aligned with the plan. Environmental advocacy organizations including Riverkeeper, among others, have been fastidious in efforts to protect and improve water quality in the Hudson and the related benefits to fisheries, water supplies and long-term economic sustainability. Look to strengthen these relationships and expand relationships with other similar non-profits that have program goals that can be matched with the open space plan.
- **Ulster County and New York State Agencies**—The city and the county have partnered on numerous open space and related initiatives and this open space plan provides a solid foundation upon which expanded partnership opportunities can be framed. Natural partnerships already exist with agencies like the New York State Department of Environmental Conservation Hudson River



~ “Plans are only good intentions unless they immediately degenerate into hard work.”

~ Peter Drucker, Business Consultant

IMPLEMENTATION

Estuary Program (funding partner for this open space plan), the NYS Department of State and Hudson River Greenway. The elements of the plan can be matched with the program objectives and funding priorities for each of these and the several other state agency partners of the city.

- **Federal Agencies**—Forestland and farmland conservation have long been priorities, respectively, of the U.S. Forest Service and the U.S. Department of Agriculture. Building relationships with these and other federal agencies can be helpful in securing financial and other support for the forestland, farmland and other natural resource protection elements of the open space plan.
- **General Public**—Citizens and property owners in the city can continue to be volunteers in service to support the city's programs and projects and also serve as shareholders of the benefits that will accrue as the plan is implemented. At some point in time, the city may need to secure additional public support for funding open space projects and the ongoing support of the general public will be of great importance.
- **Business Community**—The private sector can continue to be a key partner. For example, in the real estate development process, the private sector can help participate in the creation of the amenities envisioned in the plan such as public waterfront access—resulting in a benefit to both the development project and the general public.

City of Kingston

- **Conservation Advisory Council (CAC)/City Staff**— It is important to recognize the significant level of effort that will be required to properly implement the open space plan. After the adoption of the plan, the city staff and the CAC will focus on implementing the plan and will need to create a more detailed action agenda and timeline to help guide the overall advancement of the program. Some communities have identified the need for an open space coordinator and/or appointed an open space commission or added that responsibility to an existing staff or board member to take lead responsibility. Collaboration with other city boards and departments will continue to be important, in particular those with missions that overlap with the action and policy recommendations outlined in this open space plan.

Additional Planning/Technical Work

This plan provides an overall vision for the future of open space in the city. It will become a “point of departure” for more detailed planning that will be needed to fully establish the scope and details of future conservation projects. Some of the next steps (future phases include):

- Establishing priority sites for protection—this would be a more detailed look at the priority areas to identify parcels, potential partners and specific implementation requirements such as project financing strategies and grant applications. For local parks, a neighborhood-centered conversation will be required to identify what type of park the neighborhood needs, what features and program elements should be developed.
- Detailed planning and design development—Individual or groups of projects will need site-specific conservation plans including delineation of areas to conserve, areas where development may be appropriate. There will be the need to identify potential green infrastructure opportunity areas for example and coordination with other/future planning project such as a bike/trail master plan.
- Zoning and code amendments—The city will consider potential modifications to the city code including zoning ordinance, subdivision regulations, urban forestry, and stormwater management to conform to the recommendations outlined in this open space plan.

Figure 38. Conservation Targets Summary - Kingston Open Space Plan

Local Resource	Ten-year Goal for Protection / Enhancement	
Street Trees	1,000	Additional street trees planted.
Hudson Uplands	500	Additional acres permanently protected.
Hudson Riverfront	5,000	Additional linear feet public access.
Rondout Uplands	60	Additional acres permanently protected.
Rondout Shoreline	5,000	Additional Linear feet public access.
The Esopus Creek Valley	50	Additional acres farmland and natural areas permanently protected
Other Stream Corridors	2,500	Linear feet naturalized stream corridor restored
Neighborhood Parks	1	New neighborhood park in Midtown area
Urban Agriculture	10	Number of new urban community gardens
Greenway Trails	5	Miles of new trails

CONCLUSION

It's a spring day in 2030, you and a friend decide to ride your bikes around town. You head toward the Hudson and start up Hudson Uplands Overlook Trail and take a rest to enjoy the commanding viewpoint looking east from the upper edge of the 300-acre preserve rising above the bustling neighborhood at the former Hutton Brickyard. A dedication plaque at the overlook recognizes the contributors to the preserve project dedicated in 2025. Eagle, hawk and osprey are riding the updrafts right in front of you. On the river below the water is clear -- still too cold for most kayakers but the sailboats are cutting across the waves getting ready for the weekend regatta. You roll downhill to the Empire State Trail along the Hudson and head south to wrap around Kingston Point then upriver along the Rondout. It's so busy on the eastern end of the waterfront promenade that you get off and walk your bikes and check out the kayak shack, where rentals begin next weekend.

After enjoying a beverage at your favorite waterfront restaurant, you roll the bikes onto the self-serve solar-powered ferry (cool quiet ride is worth the \$5 scan of your credit card) and cross over to the new park at the foot of Island Dock, where you count at least 100 people walking the Island Loop path. You think about coming back next here weekend for the annual Island Dock Spring Festival—lots of food and games for the kids—could be nice.

Riding back to the mainland, past the new Rondout kayak launch, you observe the construction progress on an historic complex being renovated and a new building complementing the old going up right nearby. The bike path narrows slightly as Wilbur hamlet comes into view and it's time for a few slices and a decision—do we pedal power up the hill along the Twaalfskill or walk our bikes up along the new nature path. Walking up the path was a good decision and time for a rest at the overlook shelter, jointly named after the benefactor and land trust that partnered for its completion. At the top of the rise Midtown now is in view and its time to visit the new neighborhood park. Your friend is impressed with the small stream that used to run under the new park that was daylighted thanks to a grant from New York State and is now a centerpiece of the park's design. Kids are lining up to ride the mini zip line and the small community garden is just starting to sprout green.

As you roll down the bike path, feeling tired but refreshed, you are glad the last stop is the Esopus Park and Preserve at the bend of the river. Looking down the quiet side street, the new street trees are budding out nicely. After locking the bikes up at the preserve, the row of colorful outdoor hammocks lined up along the Esopus are perfectly inviting as you climb in to enjoy the well-deserved nap. The air is fresh and clean, the sun is perfectly warming and the rest has never been better.

This is what the City of Kingston envisions for our future, a multi-faceted network of outdoor spaces and activities which not only enhance our quality of life but also function as a strong attraction for tourists, businesses and future homeowners to come to this city. In this way, the open space amenities described in this plan act as an economic generator, providing Kingston with the recreational and aesthetic features more and more families value in choosing where to live, work and play. We believe that with strong leadership and concerted effort, this vision can become realized.

We hope that you will join us in this very important effort.

∞ “Whether you think you can, or you think you can’t—you’re right.”

– Henry Ford

APPENDIX A

PUBLIC MEETING NOTES & COMMENTS

MEMO



October 3, 2018

Kingston Open Space Plan Public Workshop Notes

On September 25, 2018, a public workshop was held at the Kingston Public Library to present an overview of the Kingston Open Space Plan, and solicit input from the public. After the initial presentation, the participants were invited to participate in table mapping discussions at three different tables. The following is a summary of the notes collected at each table.

Table One Notes: City Wide Map

1. **Rondout Creek.** Need access for paddlers, rowers, etc. The area along East Strand Street was specifically identified.
 - a. Trash cans and pickup needed along Kingston Point Rail Trail.
 - b. More trash pickup along waterfront.
 - c. Dock access needs to be upgraded in the area around TR Gallo Waterfront Park / Island Dock / Wurts Street crossing.
 - d. Island Dock – this peninsula should be made into a park.
 - e. Block Park – a walkway is needed here which connects the park.
2. **Esopus Creek.** Protect the floodplain here.
 - a. Remove debris from waterway so it can be used for paddling. Log jams block the way.
3. **Hudson River.** Waterfront promenade which follows river from Kingston Point Beach north to city line.
4. **Land for Preservation.** The currently undeveloped land west of the railroad tracks, in the vicinity of Wilbur Avenue, Chapel Street and Mason Hill Road – this land area should be preserved.
5. **Clearwater Park.** Bring back Clearwater Park.
6. **Lawton park property.** Bring back Lawton Park.
7. **Rail Trail.** Complete the rail trail along the abandoned rail line.
8. **Cemeteries**
 - a. Houghtaling cemetery marker
 - b. Houghtaling cemetery at Pine Street Professional park
 - c. African-american burial ground on Pine Street

112 Spring Street, Suite 505
Saratoga Springs, New York 12866
Phone: (518) 583-2335

315 South Main Street, Suite 200
New City, New York 10956
Phone: (815) 499-1000

9. Industrial park. Need trails in open areas around Arconic manufacturing plant.

10. General Observations

- a. Need more playgrounds
- b. Need more pocket parks
- c. More benches that face each other

Table Two Notes: City Center Map

11. Lack of greenspace / playspace / street trees. The residential neighborhood generally between Route 32 and O'Neil Street, north of Broadway has a lack of greenspace, park or street trees.

- a. This area would benefit from a local pocket park or playground.
- b. A park is needed on the block bounded by Oneil, Bruyn, Smith Ave and Downs Streets – Kingston Housing Authority property.

12. St. Mary's Cemetery. A former open field and playfield across the railroad tracks from St. Mary's Cemetery (owned by the cemetery) used to be used as a playfield. Now that cemetery is expanding into this area, that local greenspace is lost.

13. The Lace Mill. Property at The Lace Mill, corner of Cornell Street and Progress Street – needs new plantings – very barren landscape right now and not attractive.

14. Kingston Plaza. This site generates a lot of traffic / activity and is a major local circulation hub. Many improvement opportunities here.

- a. Large parking lot – a lot of impervious area, could benefit from green infrastructure program to soften area, manage stormwater better.
- b. Need sidewalks which connect plaza to uptown areas.
- c. Should ideally have a vehicular + pedestrian connection from Albany Ave, crossing 587, to the back/side of Kingston Plaza. Currently have to drive all the way around through city to get to this plaza.
- d. Have 587 revert to highway, plan for greenspace.

15. Esopus Creek. Need to open up parts along the Esopus for walking paths, outdoor enjoyment.

- a. Add more kayak launches, next nearest launch is quite a ways away.

16. The Greenline

- a. Opportunities to have small parkettes, green space along the Greenline. Potential for more formal park where Greenline comes out of tunnel to Kingston Plaza.

17. Academy Green

- a. This existing park space is underutilized. No one uses it. Opportunity to make this better and more interesting.

- b. City removed benches to discourage homeless people from using it.
- c. Was the subject of a green infrastructure proposal, but that didn't get funded.

18. Future Roundabout – Intersection of Albany Ave & Broadway

- a. Greenspace here will be lost, but maybe opportunity for new greenspace with future design?

19. Tannery Brook Stream / Twaalfskill Brook

- a. Much of these waterways have been covered / paved over. Need to daylight these streams.
- b. Program underway to “culturally daylight” the Tannery Brook by celebrating its path and drawing/artwork along route to make people aware of its presence.
- c. Emily Vail is doing Masters thesis on Tannery Brook.

20. Broadway

- a. General opportunity to provide some pocket parks along Broadway.
- b. Corner lot at intersection of Broadway and Henry Street – unpleasant corner. Could this high-visibility corner include greenspace? A pollinator habitat?
- c. Vacant lot on Broadway between Henry and Cedar – potential for urban park space.
- d. Parking lot behind Deisings Bakery, between Saccoman Lane and Green Line. Could put in a pocket park here, basketball courts, youth activities. Is all of this parking needed?
- e. Overpass for Greenkill Avenue, above Broadway. This area is ugly. Used to be able to get from Broadway up to Greenkill, but since they rebuilt bridge, cannot get up anymore. Should be a way to get up and down. People still climb up hill.
- f. Intersection of Broadway and Prince Street – Planet Wings. This is a high-visibility corner, opportunity for a park.
- g. Need more trash and recycling bins, benches.
- h. Students from Kingston High School often travel west along Broadway, and/or cut through YMCA across tracks to neighborhood beyond. Needs to be a safer route.

21. YMCA. YMCA has a community farm off of Susan Street. Working with landscape architect to expand farm and improve it.

- a. Potential for multi-use path which would connect from YMCA to cemetery in the south, running parallel to railroad tracks.
- b. Cemetery has many people who use it as a park for walking, outdoor enjoyment.
- c. Property behind YMCA – reportedly was identified as part of Brownfield Opportunity Area Midtown Forum, potential development by RUPCO as a park.

22. Rail Trail. Proposed rail trail which follows abandoned railbed along Greenkill Ave. Easements with adjacent landowners are needed.

- a. Crossing at Wilbur Avenue is potentially an issue – bridge abutment was removed, grade change back up to railbed level from road.

23. Empire State Trail. Major new trail through city. Should look at trail route and identify areas for small parks along the path, places where people can stop and relax, and/or access points to get on/off.

24. Redevelopment. Industrial building and ballfields at South Clinton Ave and Greenkill – this property is planned to be redeveloped (“Metro”).

25. Active Railroad Line. Rail traffic is quite loud, shakes nearby houses in neighborhood. There needs to be a sound buffer along active rail line, with trees or vegetation to help mask noise.

- a. High school kids cut through path over railroad tracks by YMCA.
- b. There needs to be a safe crossing for people to get from one side of the tracks to the other – it is a barrier.
- c. Many people use Wiltwyck Cemetery as an open space to walk, enjoy outdoors, like a park.
- d. Parcel adjacent to cemetery – between railroad tracks and Wilbur Ave – this is owned by the city. Is there potential to expand park-like setting of cemetery to here, provide connection across tracks to neighborhoods on the west side?
- e. Twaalfskill Brook runs through this area, gets buried. Should be daylighted.

26. Lawton Park Property. This property by South Wall Street was considered for a housing development years ago, but it never happened. Still undeveloped. Potential opportunity to make this into an actual park?

27. Pine Street

- a. Vacant flag lot property identified on map is believed to be a historic burial ground for African Americans. Potential for historic site / interpretive / recognition?
- b. Existing commercial/medical office development on Pine Street Professional Plaza. This is currently underutilized, has much more parking than it uses. Site could be consolidated / cleaned up to provide some of that as greenspace. Potential for Food trucks.
- c. Pine Street Professional Park – this site is believed to be historic burial ground.
- d. South Pine Street – there is an existing community garden at 27 S. Pine Street.

28. Interior Block Open Space. There is an interior block space bounded by Johnston Ave, Emerson, Main Street and Pearl Street – houses all around it with undeveloped space inside. Could this be an opportunity for a public space?

29. Community Garden

- a. There is an existing community garden in the vacant lot on Liberty Street, one block behind Library.

30. Henry Street / Pine Street neighborhood

- a. There is a need in this residential area for a local playground / park space with adult activities.

31. Large lots on hill, southwest of Washington Ave

- a. This area has many large lots, undeveloped forested areas, Some vacant land. Would owners here be interested in conserving the land, protecting their privacy?
- b. Vacant parcel shown on map between Conway Place and Marius Street is not actually vacant – has a house on it.

Table Three Notes: City Wide Map

32. Esopus corridor

- a. Esopus Creek corridor has some active farm fields including the Native American Seed Sanctuary on an oxbow of the creek just west of the NYS Thruway.
- b. Other fields further downstream west of the North Manor Avenue include some habitat near wetland and tributaries noted as fragile by a participant.
- c. Area in general very flood-prone. Consider encouraging native tree plantings/maintaining tree cover along stream bank as a riparian buffer (though may need to resolve any issues associated with tree cover with flood control berm located in the area.)
- d. Creek has river access on north side at Town of Ulster Park—could create additional access on south (city) side. Creek has tree/debris areas blocking canoe/kayak navigation that is problematic.
- e. Participants noted ongoing concern over creek water quality, especially turbidity related to upstream activities including operation of dam/impoundments at Ashokan Reservoir.
- f. Corridor adjacent part of O&W Rail Trail project.
- g. Concern over combined sewer overflows contributing to water quality problems. Continue to need to retrofit/upgrade storm and sanitary sewer system to address this.

33. Rondout corridor

- a. Includes low-lying relatively flat areas prone to flooding as well as very steep upland areas nearby. Erosion problems noted along northern shoreline at outlet to Hudson.
- b. River access provided by several marinas important to maintain. Participant noted there was additional demand for boat/marina access that was not being met due to limited supply of dock space.
- c. Several larger parcels of primarily wooded land along upland areas along/near Rondout. Many of these have open space/habitat/scenic value. Several large parcels “private estates” in the area.
- d. Old hamlet of “Wilbur” at upper reach of Rondout in city perceived as physically disconnected from rest of city due to steepness of terrain and lack of pedestrian facilities (no sidewalks or publicly accessible paths along Wilbur Avenue).

- e. Historic area (Bluestone port, Fitch Bluestone Company Office, etc.)
- f. Former quarry upland area—steep, wooded, some river views, “ice caves”, bat habitat
- g. Downstream bike and pedestrian connections would be very good for residents of area connecting from Wilbur along waterfront to Strand Street out to Kingston Point.

34. Hudson corridor

- a. River very important habitat—concerns for water quality from discharge from storm sewer system and combined sewer overflows (where sanitary sewer combines discharge with storm sewer during major storm events, bypassing treatment facility). Of particular concern at Kingston Point Beach.
- b. Deep channel river access is potential to be recognized (e.g. at former Hutton Brickyard site off North Street).
- c. The Kingston-Poughkeepsie Deepwater Habitat (runs about 25 miles from near mouth of Esopus to Wappingers Creek) is one of the largest spawning areas for Atlantic sturgeon and is important for a number of species.
- d. Public waterfront access important—waterfront promenade (Kingston Greenline concept). Consider concept of continual connection north into Town of Ulster
- e. Lot of great views of Hudson River from this corridor.
- f. River shoreline habitat enhancements possible?

35. Other Streams

- a. Many participants interested in exploring options to “daylight” some of the streams that have been piped underground over the years; e.g., Tannery Brook.
- b. Concept of adding “green infrastructure” to urban environment; e.g., bioswales along drainage corridors, creating wetland treatment systems for stormwater runoff prior to discharge to receiving water, etc.. See <https://www.dec.ny.gov/lands/58930.html>

36. Street Trees, Parks Greenways, and Trails

- a. Interest in continuing to improve street tree management program in city—participants like the tree inventory and concept of infill of urban street trees.
- b. Consider updating city code to address street trees (more adaptive to setting, conditions and neighborhood, adding and removing certain species, etc.).
- c. Many participants wanted to continue city effort to improve pedestrian and biking facilities to better connect neighborhoods with park, open spaces and other destinations.
- d. Improve park connections (e.g., entrance to Hasbrouck Park “worst entrance ever” to a park—kind of invisible between two houses.)
- e. Cornell Park could use natural play space, arts/performance space (solar band stand). Consider potential for community garden on land adjacent to park to north.

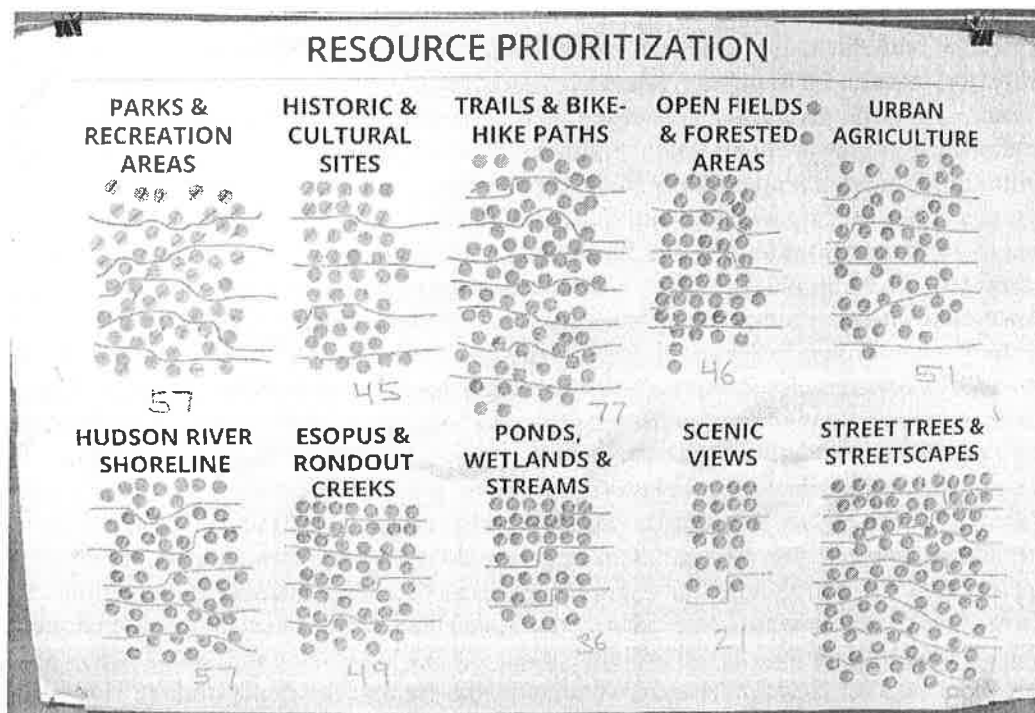
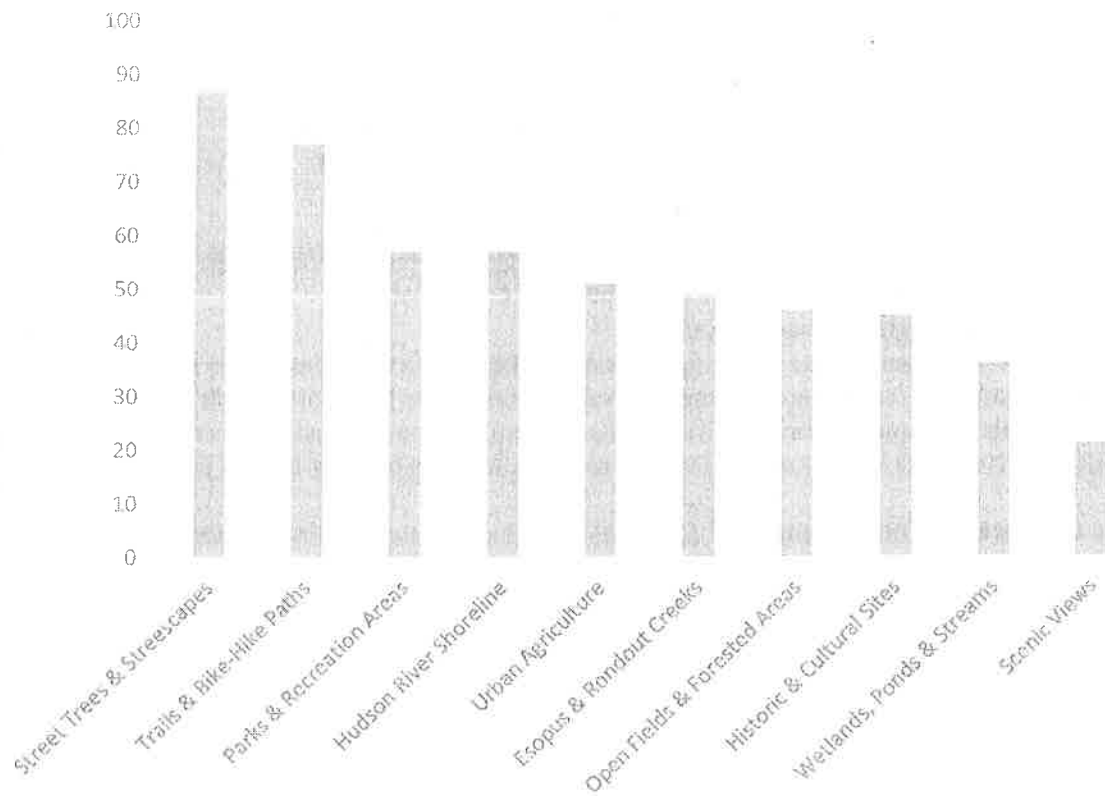
- f. Future pocket park opportunities exist around city—create sites that have nice street frontage and are highly visible from the street to enhance public safety. Green space and park space needed in neighborhood between Albany Avenue and Cornell Street.
- g. Opportunities to protect undeveloped open spaces—in particular larger blocks of open land (e.g. west side of NYS Rt. 9W west of East Chester Street).
- h. Need safe RR crossing near active rail line and Greenkill Avenue.
- i. Encourage maintaining and adding pollinator habitat in all open spaces (e.g. species that support butterflies, bees, hummingbirds, etc.,) See <https://www.nwf.org/Garden-for-Wildlife/About/National-Initiatives/Plant-For-Pollinators>

Results of Prioritization Exercise:

Resource Prioritization Exercise	
Local Resource to Protect / Enhance	Participant Score
Street Trees & Streetscapes	87
Trails & Bike-Hike Paths	77
Parks & Recreation Areas	57
Hudson River Shoreline	57
Urban Agriculture	51
Esopus & Rondout Creeks	49
Open Fields & Forested Areas	46
Historic & Cultural Sites	45
Wetlands, Ponds & Streams	36
Scenic Views	21

Kingston Open Space Plan - Workshop Notes

Page 8 of 8





**Kingston Conservation Advisory Council
Monthly Meeting FINAL Minutes
Kingston City Hall Common Council Chamber
Date: May 14, 2019 6:00pm**

Council Members Elizabeth Broad (excused), Lorraine Farina, Emilie Hauser (Vice-Chair), excused, Lynn Johnson, Kevin McEvoy (Secretary), Julie Noble (Chairperson), Casey Schwarz

Common Council Liaison: Andrea Shaut (excused)

Guests (partial list): John Behan (Behan Planning), Gerald Berke, Tanya Garment, Laura Heady (DEC HREP), Steve Ladin, John Mickelson (Consultant for Kingston Natural Resources Inventory), Rich Schiafo, Rennie Scott-Childress (Kingston Common Council), Greg Shaheen (Kingston Land Trust) Officer Shultis (KPD), Don Tallerman, Emily Vail (HRWA), Ariel Zangla (Daily Freeman). See sign in sheet for full list.

- I. Welcome Guests and Public Comment:** The Chairperson called the meeting to order at 6:05pm. Steve Ladin discussed the lagoon near Kingston Point Park as an area rich in habitat. Tanya Garment discussed the forest remnants of the Delaware Forest at the Kingston Business Park property as a significant area to be protected.
- II. Modifications to the Agenda:** None
- III. Review and Approval April 2019 Monthly Meeting Minutes:** Upon motion duly made by Casey, and seconded by Lynn, the minutes to the April meeting as amended were approved unanimously by the council members present.
- IV. Open Space Plan Public Meeting: Special Guest John Behan:** Chairperson Julie Noble provided an introduction to John Behan, of Behan Planning, the consultant hired by the City to produce the Open Space Plan. Julie Noble also thanked Kingston Land Trust for their participation in the project. John provided a slide presentation of the draft Open Space Plan and next steps. John began with defining an open space plan as a document which outlines the desired goals for the future preservation and enhancement of both the natural and man-made resources which are important to the quality of life in a community and its benefits to protect water resources, maintain habitat, improve flood control, reduce noise pollution, provide recreation, conserve farmland, conserve scenic resources, steer future zoning policy and protect property values. John continued by presenting the importance of the role of the public in providing input to the plan including the takeaways and highlights from the Sept 25, 2018 public workshop (see notes on City website with link provided at bottom of this section). John read the open space vision from the draft plan. He briefly reviewed the Natural Resource Inventory, which was used in conjunction with CAC input to provide a spatial analysis of various resources to provide prioritization and a composite map which recommended three notable areas for protection, coastal and upland areas along and near the Hudson River, lowlands along the Esopus Creek and coastal and upland regions of and near Rondout Creek. Concerns along the Hudson River such as coastal flooding, invasive species management, brownfield remediation and ongoing effluent pollution were presented with specific recommendations to restore and naturalize the shoreline habitat, complete the Empire State Trail and secure public access, protect larger sections of upland habitat and secure scenic views and overlooks. Rondout Creek was discussed with respect to the Greenline, a blueway trail for kayaks and canoes, protecting upland areas using low impact conservation design and preserving and restoring shoreline habitat and stream corridors in tributaries of the creek. Esopus Creek was presented as providing access for recreational water based uses such as kayaks and canoes, connection to the Linear Park Uptown section of the Greenline, preserving wetlands, farmlands and shoreline habitat. John Mickelson and Laura Heady spoke from the audience concerning the Natural Resource Inventory, the Habitat Summary and the Hudsonia Habitat Map utilized in the development of the draft Open Space Plan.

John Behan then went over the Open Space Vision Map which illustrated 10 year goals including the Hudson shoreline and uplands, the Rondout Creek corridor and uplands, the forest matrix of the City and community gardens, neighborhood parks, protecting and restoring stream corridors and planting new street trees in the built urban sections of the City as well as protecting farmland, wetlands and providing trail access to Esopus Creek area. Greg Shaheen, John Mickelson and Laura Heady, speaking from the audience, each discussed conservation techniques with respect to trail and land management. John Behan discussed implementation of the open space plan and the importance to work with various partners including landowners, land trusts and other non-profits, various governmental agencies, business interests and the public. Next steps presented were adoption of the plan, collaboration between interested partners, establishing priorities, implementation of zoning to include recommendations from the Open Space Plan, documenting input from this meeting, discussing priorities with CAC and revising the draft plan, based on comments heard today and during the public comment period. The Chairperson informed the attendees regarding the open public comment period for the Open Space Plan closing June 14 with comments to be sent via email to: cac@kingston-ny.gov. The City website link to the Open Space Plan is below: <https://www.kingston-ny.gov/content/8399/8491/8495/10452/10485.aspx>

- V. **Adjournment:** Upon motion made by Casey and seconded by Kevin, the Council members present unanimously agreed to adjourn the meeting at 7:28 PM.

Mission: Ensure the conservation of the City of Kingston's natural resources and the enhancement and protection of its environment while fostering unified action on environmental matters.

Note that website links are informational only. The Commission makes no representations as to content therein. These minutes represent a summarization of the meeting and not a transcription.

APPENDIX B

NATURAL RESOURCE SCORING

Kington NY Open Space Plan – Natural Resource Scoring

Water Resources - Prioritization Scoring Criteria

Feature	Points	Notes
NYSDEC Wetlands and 100' regulated buffer area	3 points	NYSDEC wetlands are important to water quality due to their size (12.4+ acre).
National Wetland Inventory wetlands and 100' buffer (<i>outside NYSDEC</i>)	3 points: $\leq 100'$ from DEC Wetland 2 points: $> 100'$ from DEC Wetland	NWI wetlands within 100' of DEC wetland are considered contributing to the NYSDEC network, regardless of size and thus also receive 3 points.
Other wetlands and hydric soils	2 points	
Riparian buffers	3 points	Using 2018 NYNHP layer
Surface waters and streams	3 points: within 100' of Class AA or A 2 points: from 100-200' of Class AA or A 2 points: all non-AA/A surface waters and/or within 100' of Class B, Class C(T) or (TS) 1 point: within 100' of Class C 1 pt – within 50' of All others	For area of overlapping water buffers the highest order buffer is used, buffer areas are not "double counted." Since riparian areas are a more defined type of buffer, the riparian score supersedes the stream buffer score in areas of overlap.
Soil Permeability	3 points: Well/Moderately well drained 2 points: Excessively /Somewhat Excessively drained; Poorly/ Somewhat poorly drained	Want to preserve the best draining soil to allow for storm water infiltration and filtering, however development in less suitable soils (excessive or poorly drained soils) could have a larger negative impact on water quality.
Unconfined aquifers	2 points	Potential drinking water source, can be easily contaminated to downstream communities
Floodplains	1 points: floodplain areas outside of other water buffer zones	
Vernal pools	3 points: Vernal pool plus 300' buffer	

Ecological Resources - Prioritization Scoring Criteria

Feature	Points	Notes
Biologically Important Area - Terrestrial	3 points	
Biologically Important Area - Aquatic	3 points	
Tree canopy	3 points	Areas with $>40\%$ tree canopy
Terrestrial corridors	2 points	
Sub Aquatic Vegetation	2 points	Areas within 100 feet of sub aquatic vegetation
Steep Slopes	3 points: 8-25% slope 2 points: $> 25\%$ slope	Slopes 8-25% are considered developable, however there is an increased risk of water quality degradation. Slopes over 25% are considered less vulnerable to development due to economics, but still large impact if disturbed.

Cultural & Recreation Resources - Prioritization Scoring Criteria

Feature	Points	Notes
Historic and Cultural Sites	2 points 1 point: within 200' of sites	Used historic districts, cemeteries, and large sites as well as 150' diameter buffer around historic points outside of historic district
Existing Parks	2 points 1 point: within 200' of sites	
Existing and planned trails	2 Points – 75' corridor 1 point: within 200' of corridor	

Agricultural Resources - Prioritization Scoring Criteria

Feature	Points	Notes
Active Farmland	4 points: 10 - 19 contiguous acres 3 points: < 10 contiguous acres <i>Note largest continuous ag is 19 acres</i>	Larger areas of farmland provide greater production value and are also more critical to keep in production.
Community Gardens	4 points 3 points: 200' buffer of community garden	YMCA Farm Project, South Pine Street Farm and Rondout Community Garden
Farmland Soils	3 points: Prime 2 points: Statewide Importance 1 point: Prime if drained	Farmland soils, in theory, provide the best conditions for successful agricultural crops
Agricultural land within 200' of watercourse	1 point: Applies to farmland only	Ag land close to streams can support water quality if managed properly
Buffer area of Agricultural land	2 points: Forest within 1/8-mile of farmland 1 point: other non-ag land within 1/8-mile of farmland	Non-ag land in close proximity to farm land buffers the farmland from other uses and also provides areas for potential expansion

Climate Resiliency - Prioritization Scoring Criteria

Feature	Points	Notes
Climate Resiliency	4 points: Far Above Average (>2 SD) 3 points: Above Average (1 SD to 2 SD) 2 points: Slightly Above Average (0.5 to 1 SD) 1 point: Average (-0.5 to 0.5 SD)	The Nature Conservancy (TNC) did an extensive analysis for climate resilient landscapes and their results were used as the basis for the scoring.
Scenic Hudson SLAMM tidal wetland data	4 points: "Resilient" wetlands 4 points: "New wetlands" 1 points: "new wetland conflict" <i>Conflict refers to areas that are currently developed</i>	Scenic Hudson modeled future wetlands based on sea level rise models and classified areas that would lose wetlands (lost), maintain wetlands (resilient), and gain wetlands (new or new with conflict). Areas that will maintain wetlands or are areas that could support future wetlands are most important in terms of climate resiliency. Tidal wetland scores are in lieu of TNC resiliency scores where they are higher, otherwise the TNC score is used as TNC included wetlands in their analysis.

Laws and Rules Committee Agenda Item Report

Meeting Date: August 21, 2019

Submitted by: Dee Sills

Submitting Department: Grants Management

Item Type: Proposed Resolution

Agenda Section:

Subject:

Safe Routes to School Henry St.

Suggested Action:

Attachments:

[20190729094410.pdf](#)

CITY OF KINGSTON
Office of Grants Management
grants@kingston-ny.gov

Kristen E. Wilson, Director



Steven T. Noble, Mayor

May 31, 2019

Honorable James L. Noble, Jr.
President/Alderman-at-Large
Kingston Common Council
420 Broadway
Kingston, NY 12401

Re: SEQR Type 1 Determination of Negative Declaration for Henry Street Safe Routes to School Project

Dear President Noble,

Last month the Office of Grants Management communicated with the Council regarding the SEQR determination for the Henry Street Project to seek designation as the Lead Agency. Following the passage of the resolution on June 4th, 2019, letters will be sent to involved agencies on June 5th, 2019, and we expect to be able to establish the Kingston Common Council as the Lead Agency by the July Common Council meeting as involved agencies have 30 days to respond.

In anticipation of the City being the Lead Agency, in June 2019, we would like members of the appropriate committee to review Parts 1, 2, and 3 of the Full Environmental Assessment Form (FEAF) and the associated documents. Then recommend the passage of resolutions declaring the Common Council as Lead Agency and determining a Negative Declaration for SEQR. Attached you will find all of the completed FEAF forms and the two relevant resolutions.

Following the SEQR designation, the City will submit a preliminary design report to the NYSDOT for review. The design proposed at the public meeting earlier this year can be viewed here:
<https://www.kingston-ny.gov/henrystreet>

Thank you for your consideration.

Sincerely,

A handwritten signature in dark ink, appearing to read "Kristen E. Wilson", is written over a light blue horizontal line.

Kristen E. Wilson
Director

THE CITY OF KINGSTON COMMON COUNCIL

LAWS & RULES COMMITTEE REPORT

DEPARTMENT: Office of Grants Management

DATE: June 19, 2019

Description:

RESOLUTION OF THE CITY OF KINGSTON COMMON COUNCIL DECLARING THE CITY OF KINGSTON AS LEAD AGENCY FOR THE HENRY STREET SAFE ROUTES TO SCHOOL PROJECT IN THE STATE ENVIRONMENTAL REVIEW QUALITY REVIEW ACT (SEQR) PROCESS PURSUANT TO 6 NYCRR PART 617

No financial impact.

Signature _____

Motion by _____

Seconded by _____

Action Required:

SEQRA Decision:

Type I Action ☒ X

Type II Action ☐

Unlisted Action ☐

Negative Declaration of Environmental Significance: ☐

Conditioned Negative Declaration: ☐

Seek Lead Agency Status: ☒ X

Positive Declaration of Environmental Significance: ☐

<u>Committee Vote</u>	<u>YES</u>	<u>NO</u>
Andrea Shaut, Chairman		
Reynolds Scott-Childress, Ward 3		
Bill Carey, Ward 5		
Patrick O'Reilly, Ward 7		
Jeffrey Venture Morell, Ward 1		

THE CITY OF KINGSTON COMMON COUNCIL

LAWS & RULES COMMITTEE REPORT

DEPARTMENT: Office of Grants Management

DATE: June 19, 2019

Description:

RESOLUTION OF THE CITY OF KINGSTON COMMON COUNCIL ISSUING A NEGATIVE DECLARATION IN CONNECTION WITH THE HENRY STREET SAFE ROUTES TO SCHOOL PROJECT IN THE STATE ENVIRONMENTAL QUALITY REVIEW ACT (SEQR) PROCESS PURSUANT TO 6 NYCRR PART 617

No financial impact.

Signature _____

Motion by _____

Seconded by _____

Action Required:

SEQRA Decision:

Type I Action ☒ X

Type II Action ☐

Unlisted Action ☐

Negative Declaration of Environmental Significance: ☒ X

Conditioned Negative Declaration: ☐

Seek Lead Agency Status: ☐

Positive Declaration of Environmental Significance: ☐

<u>Committee Vote</u>	<u>YES</u>	<u>NO</u>
Andrea Shaut, Chairman		
Reynolds Scott-Childress, Ward 3		
Bill Carey, Ward 5		
Patrick O'Reilly, Ward 7		
Jeffrey Venture Morell, Ward 1		

Full Environmental Assessment Form
Part 1 - Project and Setting

Instructions for Completing Part 1

Part 1 is to be completed by the applicant or project sponsor. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification.

Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information; indicate whether missing information does not exist, or is not reasonably available to the sponsor; and, when possible, generally describe work or studies which would be necessary to update or fully develop that information.

Applicants/sponsors must complete all items in Sections A & B. In Sections C, D & E, most items contain an initial question that must be answered either "Yes" or "No". If the answer to the initial question is "Yes", complete the sub-questions that follow. If the answer to the initial question is "No", proceed to the next question. Section F allows the project sponsor to identify and attach any additional information. Section G requires the name and signature of the applicant or project sponsor to verify that the information contained in Part 1 is accurate and complete.

A. Project and Applicant/Sponsor Information.

Name of Action or Project: Henry Street Pedestrian Improvements		
Project Location (describe, and attach a general location map): Henry Street (between Wall St and Broadway) City of Kingston, Ulster County NY		
Brief Description of Proposed Action (include purpose or need): The project consists of pedestrian and bicycle improvements with streetscape features along Henry Street from the George Washington Elementary School on Wall Street to Broadway in the City of Kingston. The existing sidewalks on Henry Street from Wall Street to Broadway consist of a combination of bluestone, concrete and asphalt. The proposed pedestrian accommodations will consist of continuous concrete sidewalks with ADA compliant curb ramps, supplemented with high-visibility crosswalks. Where needed, the existing grass maintenance strip will be reestablished adjacent to the sidewalk. Bicycle accommodations will be added to Henry Street with a proposed side path along one side of Henry Street. A bike shelter will be installed at George Washington Elementary School. The existing pavement will be milled and replaced with an asphalt overlay and the existing bluestone curb will be replaced with granite curb. Signing will be upgraded to meet MUTCD and NYS MUTCD Supplement standards. Centerline, edge, bike lane, crosswalk, and other striping will be added to clearly define the spaces for travelling vehicles, parking vehicles, and bicycles within the wide pavement section of Henry Street. Minor drainage work is also anticipated for this project.		
Name of Applicant/Sponsor: City of Kingston	Telephone: (845) 334-3924 E-Mail: kwilson@kingston-ny.gov	
Address: 420 Broadway		
City/PO: Kingston	State: NY	Zip Code: 12401
Project Contact (if not same as sponsor; give name and title/role): Kristen Wilson	Telephone: (845) 334-3924 E-Mail: kwilson@kingston-ny.gov	
Address: Office of Economic & Community Development		
City/PO: 420 Broadway	State: NY	Zip Code: 12401
Property Owner (if not same as sponsor):	Telephone: E-Mail:	
Address:		
City/PO:	State:	Zip Code:

B. Government Approvals

B. Government Approvals, Funding, or Sponsorship. ("Funding" includes grants, loans, tax relief, and any other forms of financial assistance.)

Government Entity	If Yes: Identify Agency and Approval(s) Required	Application Date (Actual or projected)
a. City Counsel, Town Board, ☒ Yes ☐ No or Village Board of Trustees	Laws and Rules Committee and Common Council	May 15, 2019 and June 3, 2019
b. City, Town or Village ☐ Yes ☒ No Planning Board or Commission		
c. City, Town or ☐ Yes ☒ No Village Zoning Board of Appeals		
d. Other local agencies ☐ Yes ☒ No		
e. County agencies ☒ Yes ☐ No	Ulster County	
f. Regional agencies ☐ Yes ☒ No		
g. State agencies ☒ Yes ☐ No	NYSDOT, NYSDEC, SHPO	
h. Federal agencies ☒ Yes ☐ No	USFWS	
i. Coastal Resources.		
i. Is the project site within a Coastal Area, or the waterfront area of a Designated Inland Waterway?		☐ Yes ☒ No
ii. Is the project site located in a community with an approved Local Waterfront Revitalization Program?		☒ Yes ☐ No
iii. Is the project site within a Coastal Erosion Hazard Area?		☐ Yes ☒ No

C. Planning and Zoning

C.1. Planning and zoning actions.

Will administrative or legislative adoption, or amendment of a plan, local law, ordinance, rule or regulation be the only approval(s) which must be granted to enable the proposed action to proceed? ☐ Yes ☒ No

- If Yes, complete sections C, F and G.
- If No, proceed to question C.2 and complete all remaining sections and questions in Part 1

C.2. Adopted land use plans.

a. Do any municipally- adopted (city, town, village or county) comprehensive land use plan(s) include the site where the proposed action would be located? ☒ Yes ☐ No

If Yes, does the comprehensive plan include specific recommendations for the site where the proposed action would be located? ☒ Yes ☐ No

b. Is the site of the proposed action within any local or regional special planning district (for example: Greenway; Brownfield Opportunity Area (BOA); designated State or Federal heritage area; watershed management plan; or other?) ☒ Yes ☐ No

If Yes, identify the plan(s):

NYS Heritage Areas: Kingston

c. Is the proposed action located wholly or partially within an area listed in an adopted municipal open space plan, or an adopted municipal farmland protection plan? ☐ Yes ☒ No

If Yes, identify the plan(s):

C.3. Zoning	
a. Is the site of the proposed action located in a municipality with an adopted zoning law or ordinance. If Yes, what is the zoning classification(s) including any applicable overlay district? R-1, R-2, M-1, C-2 and Fair St Historic District Overlay	☒ Yes ☐ No
b. Is the use permitted or allowed by a special or conditional use permit?	
☒ Yes ☐ No	
c. Is a zoning change requested as part of the proposed action? If Yes,	
☐ Yes ☒ No	
i. What is the proposed new zoning for the site?	
C.4. Existing community services.	
a. In what school district is the project site located? Kingston City School District	
b. What police or other public protection forces serve the project site? City of Kingston Police Dept.	
c. Which fire protection and emergency medical services serve the project site? City of Kingston Fire Dept.	
d. What parks serve the project site? Kingston Little League (two blocks south)	

D. Project Details

D.1. Proposed and Potential Development	
a. What is the general nature of the proposed action (e.g., residential, industrial, commercial, recreational; if mixed, include all components)? Recreational	
b. a. Total acreage of the site of the proposed action? 3.94 acres b. Total acreage to be physically disturbed? 1.73 acres c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? 3.94 acres	
c. Is the proposed action an expansion of an existing project or use? ☐ Yes ☒ No i. If Yes, what is the approximate percentage of the proposed expansion and identify the units (e.g., acres, miles, housing units, square feet)? % _____ Units: _____	
d. Is the proposed action a subdivision, or does it include a subdivision? ☐ Yes ☒ No If Yes,	
i. Purpose or type of subdivision? (e.g., residential, industrial, commercial; if mixed, specify types) _____ ii. Is a cluster/conservation layout proposed? ☐ Yes ☐ No iii. Number of lots proposed? _____ iv. Minimum and maximum proposed lot sizes? Minimum _____ Maximum _____	
e. Will the proposed action be constructed in multiple phases? ☐ Yes ☒ No i. If No, anticipated period of construction: 5 months ii. If Yes:	
• Total number of phases anticipated _____ • Anticipated commencement date of phase 1 (including demolition) _____ month _____ year • Anticipated completion date of final phase _____ month _____ year • Generally describe connections or relationships among phases, including any contingencies where progress of one phase may determine timing or duration of future phases: _____	

f. Does the project include new residential uses? ☐ Yes ☒ No If Yes, show numbers of units proposed.				
	<u>One Family</u>	<u>Two Family</u>	<u>Three Family</u>	<u>Multiple Family (four or more)</u>
Initial Phase	_____	_____	_____	_____
At completion of all phases	_____	_____	_____	_____

g. Does the proposed action include new non-residential construction (including expansions)? ☐ Yes ☒ No If Yes,	
i. Total number of structures _____ ii. Dimensions (in feet) of largest proposed structure: _____ height; _____ width; and _____ length iii. Approximate extent of building space to be heated or cooled: _____ square feet	

h. Does the proposed action include construction or other activities that will result in the impoundment of any liquids, such as creation of a water supply, reservoir, pond, lake, waste lagoon or other storage? ☐ Yes ☒ No If Yes,	
i. Purpose of the impoundment: _____ ii. If a water impoundment, the principal source of the water: ☐ Ground water ☐ Surface water streams ☐ Other specify: _____ iii. If other than water, identify the type of impounded/contained liquids and their source. _____ iv. Approximate size of the proposed impoundment. Volume: _____ million gallons; surface area: _____ acres v. Dimensions of the proposed dam or impounding structure: _____ height; _____ length vi. Construction method/materials for the proposed dam or impounding structure (e.g., earth fill, rock, wood, concrete): _____	

D.2. Project Operations

a. Does the proposed action include any excavation, mining, or dredging, during construction, operations, or both? ☐ Yes ☒ No (Not including general site preparation, grading or installation of utilities or foundations where all excavated materials will remain onsite) If Yes:	
i. What is the purpose of the excavation or dredging? _____ ii. How much material (including rock, earth, sediments, etc.) is proposed to be removed from the site? • Volume (specify tons or cubic yards): _____ • Over what duration of time? _____ iii. Describe nature and characteristics of materials to be excavated or dredged, and plans to use, manage or dispose of them. _____ _____ _____ _____ iv. Will there be onsite dewatering or processing of excavated materials? ☐ Yes ☐ No If yes, describe. _____ _____ _____ v. What is the total area to be dredged or excavated? _____ acres vi. What is the maximum area to be worked at any one time? _____ acres vii. What would be the maximum depth of excavation or dredging? _____ feet viii. Will the excavation require blasting? ☐ Yes ☐ No ix. Summarize site reclamation goals and plan: _____ _____ _____ _____	

b. Would the proposed action cause or result in alteration of, increase or decrease in size of, or encroachment into any existing wetland, waterbody, shoreline, beach or adjacent area? ☐ Yes ☒ No If Yes:	
i. Identify the wetland or waterbody which would be affected (by name, water index number, wetland map number or geographic description): _____ _____ _____	

ii. Describe how the proposed action would affect that waterbody or wetland, e.g. excavation, fill, placement of structures, or alteration of channels, banks and shorelines. Indicate extent of activities, alterations and additions in square feet or acres:

iii. Will the proposed action cause or result in disturbance to bottom sediments?

☐ Yes ☐ No

If Yes, describe:

iv. Will the proposed action cause or result in the destruction or removal of aquatic vegetation?

☐ Yes ☐ No

If Yes:

- acres of aquatic vegetation proposed to be removed: _____
- expected acreage of aquatic vegetation remaining after project completion: _____
- purpose of proposed removal (e.g. beach clearing, invasive species control, boat access): _____

- proposed method of plant removal: _____

- if chemical/herbicide treatment will be used, specify product(s): _____

v. Describe any proposed reclamation/mitigation following disturbance: _____

c. Will the proposed action use, or create a new demand for water?

☐ Yes ☒ No

If Yes:

i. Total anticipated water usage/demand per day: _____ gallons/day

ii. Will the proposed action obtain water from an existing public water supply?

☐ Yes ☐ No

If Yes:

- Name of district or service area: _____
- Does the existing public water supply have capacity to serve the proposal? ☐ Yes ☐ No
- Is the project site in the existing district? ☐ Yes ☐ No
- Is expansion of the district needed? ☐ Yes ☐ No
- Do existing lines serve the project site? ☐ Yes ☐ No

iii. Will line extension within an existing district be necessary to supply the project?

☐ Yes ☐ No

If Yes:

- Describe extensions or capacity expansions proposed to serve this project: _____

- Source(s) of supply for the district: _____

iv. Is a new water supply district or service area proposed to be formed to serve the project site?

☐ Yes ☐ No

If Yes:

- Applicant/sponsor for new district: _____
- Date application submitted or anticipated: _____
- Proposed source(s) of supply for new district: _____

v. If a public water supply will not be used, describe plans to provide water supply for the project: _____

vi. If water supply will be from wells (public or private), what is the maximum pumping capacity: _____ gallons/minute.

d. Will the proposed action generate liquid wastes?

☐ Yes ☒ No

If Yes:

i. Total anticipated liquid waste generation per day: _____ gallons/day

ii. Nature of liquid wastes to be generated (e.g., sanitary wastewater, industrial; if combination, describe all components and approximate volumes or proportions of each): _____

iii. Will the proposed action use any existing public wastewater treatment facilities?

☐ Yes ☐ No

If Yes:

- Name of wastewater treatment plant to be used: _____
- Name of district: _____
- Does the existing wastewater treatment plant have capacity to serve the project? ☐ Yes ☐ No
- Is the project site in the existing district? ☐ Yes ☐ No
- Is expansion of the district needed? ☐ Yes ☐ No

• Do existing sewer lines serve the project site? ☐ Yes ☐ No • Will a line extension within an existing district be necessary to serve the project? ☐ Yes ☐ No If Yes: • Describe extensions or capacity expansions proposed to serve this project: _____	
iv. Will a new wastewater (sewage) treatment district be formed to serve the project site? ☐ Yes ☐ No If Yes: • Applicant/sponsor for new district: _____ • Date application submitted or anticipated: _____ • What is the receiving water for the wastewater discharge? _____	
v. If public facilities will not be used, describe plans to provide wastewater treatment for the project, including specifying proposed receiving water (name and classification if surface discharge or describe subsurface disposal plans): _____ _____	
vi. Describe any plans or designs to capture, recycle or reuse liquid waste: _____ _____ _____	
e. Will the proposed action disturb more than one acre and create stormwater runoff, either from new point sources (i.e. ditches, pipes, swales, curbs, gutters or other concentrated flows of stormwater) or non-point source (i.e. sheet flow) during construction or post construction? ☒ Yes ☐ No If Yes: i. How much impervious surface will the project create in relation to total size of project parcel? _____ Square feet or <u>0.15</u> acres (impervious surface) _____ Square feet or <u>3.94</u> acres (parcel size) ii. Describe types of new point sources. <u>No new point sources. Existing point sources will remain.</u> _____ iii. Where will the stormwater runoff be directed (i.e. on-site stormwater management facility/structures, adjacent properties, groundwater, on-site surface water or off-site surface waters)? <u>Stormwater runoff will be directed to existing closed drainage system located along existing curb line.</u> _____ • If to surface waters, identify receiving water bodies or wetlands: <u>City's combined sewer system contributes to the Rondout Creek and Hudson River</u> _____ • Will stormwater runoff flow to adjacent properties? ☒ Yes ☐ No	
iv. Does the proposed plan minimize impervious surfaces, use pervious materials or collect and re-use stormwater? ☒ Yes ☐ No	
f. Does the proposed action include, or will it use on-site, one or more sources of air emissions, including fuel combustion, waste incineration, or other processes or operations? ☒ Yes ☐ No If Yes, identify: i. Mobile sources during project operations (e.g., heavy equipment, fleet or delivery vehicles) <u>heavy equipment during construction</u> ii. Stationary sources during construction (e.g., power generation, structural heating, batch plant, crushers) <u>none</u> iii. Stationary sources during operations (e.g., process emissions, large boilers, electric generation) <u>none</u>	
g. Will any air emission sources named in D.2.f (above), require a NY State Air Registration, Air Facility Permit, or Federal Clean Air Act Title IV or Title V Permit? ☐ Yes ☒ No If Yes: i. Is the project site located in an Air quality non-attainment area? (Area routinely or periodically fails to meet ambient air quality standards for all or some parts of the year) ☐ Yes ☐ No ii. In addition to emissions as calculated in the application, the project will generate: • _____ Tons/year (short tons) of Carbon Dioxide (CO₂) • _____ Tons/year (short tons) of Nitrous Oxide (N₂O) • _____ Tons/year (short tons) of Perfluorocarbons (PFCs) • _____ Tons/year (short tons) of Sulfur Hexafluoride (SF₆) • _____ Tons/year (short tons) of Carbon Dioxide equivalent of Hydrofluorocarbons (HFCs) • _____ Tons/year (short tons) of Hazardous Air Pollutants (HAPs)	

h. Will the proposed action generate or emit methane (including, but not limited to, sewage treatment plants, landfills, composting facilities)? ☐ Yes ☒ No If Yes: i. Estimate methane generation in tons/year (metric): _____ ii. Describe any methane capture, control or elimination measures included in project design (e.g., combustion to generate heat or electricity, flaring): _____			
i. Will the proposed action result in the release of air pollutants from open-air operations or processes, such as quarry or landfill operations? ☐ Yes ☒ No If Yes: Describe operations and nature of emissions (e.g., diesel exhaust, rock particulates/dust): _____			
j. Will the proposed action result in a substantial increase in traffic above present levels or generate substantial new demand for transportation facilities or services? ☐ Yes ☒ No If Yes: i. When is the peak traffic expected (Check all that apply): ☐ Morning ☐ Evening ☐ Weekend ☐ Randomly between hours of _____ to _____. ii. For commercial activities only, projected number of truck trips/day and type (e.g., semi trailers and dump trucks): _____ iii. Parking spaces: Existing _____ Proposed _____ Net increase/decrease _____ iv. Does the proposed action include any shared use parking? ☐ Yes ☐ No v. If the proposed action includes any modification of existing roads, creation of new roads or change in existing access, describe: _____ vi. Are public/private transportation service(s) or facilities available within ½ mile of the proposed site? ☐ Yes ☐ No vii. Will the proposed action include access to public transportation or accommodations for use of hybrid, electric or other alternative fueled vehicles? ☐ Yes ☐ No viii. Will the proposed action include plans for pedestrian or bicycle accommodations for connections to existing pedestrian or bicycle routes? ☐ Yes ☐ No			
k. Will the proposed action (for commercial or industrial projects only) generate new or additional demand for energy? ☐ Yes ☒ No If Yes: i. Estimate annual electricity demand during operation of the proposed action: _____ ii. Anticipated sources/suppliers of electricity for the project (e.g., on-site combustion, on-site renewable, via grid/local utility, or other): _____ iii. Will the proposed action require a new, or an upgrade, to an existing substation? ☐ Yes ☐ No			
l. Hours of operation. Answer all items which apply. <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; vertical-align: top;"> i. During Construction: • Monday - Friday: _____ 6am - 7pm • Saturday: _____ • Sunday: _____ • Holidays: _____ </td> <td style="width: 50%; vertical-align: top;"> ii. During Operations: • Monday - Friday: _____ 24 hours • Saturday: _____ 24 hours • Sunday: _____ 24 hours • Holidays: _____ 24 hours </td> </tr> </table>		i. During Construction: • Monday - Friday: _____ 6am - 7pm • Saturday: _____ • Sunday: _____ • Holidays: _____	ii. During Operations: • Monday - Friday: _____ 24 hours • Saturday: _____ 24 hours • Sunday: _____ 24 hours • Holidays: _____ 24 hours
i. During Construction: • Monday - Friday: _____ 6am - 7pm • Saturday: _____ • Sunday: _____ • Holidays: _____	ii. During Operations: • Monday - Friday: _____ 24 hours • Saturday: _____ 24 hours • Sunday: _____ 24 hours • Holidays: _____ 24 hours		

m. Will the proposed action produce noise that will exceed existing ambient noise levels during construction, operation, or both? ☒ Yes ☐ No If yes: i. Provide details including sources, time of day and duration: Construction activities will produce temporary noise which exceeds ambient noise levels. These will be limited to the construction phase during normal daytime hours between 6 am to 7 pm Monday- Friday	
ii. Will the proposed action remove existing natural barriers that could act as a noise barrier or screen? ☒ Yes ☐ No Describe: <u>Existing overgrown or diseased trees will be removed and replaced with appropriately sized street trees. A net increase in trees is expected in the corridor.</u>	
n. Will the proposed action have outdoor lighting? ☐ Yes ☒ No If yes: i. Describe source(s), location(s), height of fixture(s), direction/aim, and proximity to nearest occupied structures: _____	
ii. Will proposed action remove existing natural barriers that could act as a light barrier or screen? ☐ Yes ☐ No Describe: _____	
o. Does the proposed action have the potential to produce odors for more than one hour per day? ☐ Yes ☒ No If Yes, describe possible sources, potential frequency and duration of odor emissions, and proximity to nearest occupied structures: _____ _____	
p. Will the proposed action include any bulk storage of petroleum (combined capacity of over 1,100 gallons) or chemical products 185 gallons in above ground storage or any amount in underground storage? ☐ Yes ☒ No If Yes: i. Product(s) to be stored _____ ii. Volume(s) _____ per unit time _____ (e.g., month, year) iii. Generally, describe the proposed storage facilities: _____	
q. Will the proposed action (commercial, industrial and recreational projects only) use pesticides (i.e., herbicides, insecticides) during construction or operation? ☐ Yes ☒ No If Yes: i. Describe proposed treatment(s): _____ _____	
ii. Will the proposed action use Integrated Pest Management Practices? ☐ Yes ☐ No	
r. Will the proposed action (commercial or industrial projects only) involve or require the management or disposal of solid waste (excluding hazardous materials)? ☐ Yes ☒ No If Yes: i. Describe any solid waste(s) to be generated during construction or operation of the facility: • Construction: _____ tons per _____ (unit of time) • Operation : _____ tons per _____ (unit of time) ii. Describe any proposals for on-site minimization, recycling or reuse of materials to avoid disposal as solid waste: • Construction: _____ • Operation: _____ iii. Proposed disposal methods/facilities for solid waste generated on-site: • Construction: _____ • Operation: _____	

s. Does the proposed action include construction or modification of a solid waste management facility? ☐ Yes ☒ No

If Yes:

i. Type of management or handling of waste proposed for the site (e.g., recycling or transfer station, composting, landfill, or other disposal activities): _____

ii. Anticipated rate of disposal/processing:

- _____ Tons/month, if transfer or other non-combustion/thermal treatment, or
- _____ Tons/hour, if combustion or thermal treatment

iii. If landfill, anticipated site life: _____ years

t. Will the proposed action at the site involve the commercial generation, treatment, storage, or disposal of hazardous waste? ☐ Yes ☒ No

If Yes:

i. Name(s) of all hazardous wastes or constituents to be generated, handled or managed at facility: _____

ii. Generally describe processes or activities involving hazardous wastes or constituents: _____

iii. Specify amount to be handled or generated _____ tons/month

iv. Describe any proposals for on-site minimization, recycling or reuse of hazardous constituents: _____

v. Will any hazardous wastes be disposed at an existing offsite hazardous waste facility? ☐ Yes ☐ No

If Yes: provide name and location of facility: _____

If No: describe proposed management of any hazardous wastes which will not be sent to a hazardous waste facility: _____

E. Site and Setting of Proposed Action

E.1. Land uses on and surrounding the project site

a. Existing land uses.

i. Check all uses that occur on, adjoining and near the project site.

☒ Urban ☐ Industrial ☒ Commercial ☒ Residential (suburban) ☐ Rural (non-farm)

☐ Forest ☐ Agriculture ☐ Aquatic ☒ Other (specify): Institutional - George Washington School

ii. If mix of uses, generally describe:

Henry Street is almost entirely residential with a couple commercial buildings and a school at the intersection of Wall Street and Henry Street.

b. Land uses and covertypes on the project site.

Land use or Covertype	Current Acreage	Acreage After Project Completion	Change (Acres +/-)
• Roads, buildings, and other paved or impervious surfaces	3.33	3.48	+0.15
• Forested	0	0	0
• Meadows, grasslands or brushlands (non-agricultural, including abandoned agricultural)	0.61	0.46	-0.15
• Agricultural (includes active orchards, field, greenhouse etc.)	0	0	0
• Surface water features (lakes, ponds, streams, rivers, etc.)	0	0	0
• Wetlands (freshwater or tidal)	0	0	0
• Non-vegetated (bare rock, earth or fill)	0	0	0
• Other Describe: _____			

c. Is the project site presently used by members of the community for public recreation?	☒ Yes ☐ No
<i>i.</i> If Yes: explain: existing sidewalks may be used for recreational purposes by community members	
d. Are there any facilities serving children, the elderly, people with disabilities (e.g., schools, hospitals, licensed day care centers, or group homes) within 1500 feet of the project site?	☒ Yes ☐ No
If Yes,	
<i>i.</i> Identify Facilities:	
George Washington Elementary School	
e. Does the project site contain an existing dam?	☐ Yes ☒ No
If Yes:	
<i>i.</i> Dimensions of the dam and impoundment:	
• Dam height:	_____ feet
• Dam length:	_____ feet
• Surface area:	_____ acres
• Volume impounded:	_____ gallons OR acre-feet
<i>ii.</i> Dam's existing hazard classification: _____	
<i>iii.</i> Provide date and summarize results of last inspection: _____ _____	
f. Has the project site ever been used as a municipal, commercial or industrial solid waste management facility, or does the project site adjoin property which is now, or was at one time, used as a solid waste management facility?	☐ Yes ☒ No
If Yes:	
<i>i.</i> Has the facility been formally closed?	☐ Yes ☐ No
• If yes, cite sources/documentation: _____	
<i>ii.</i> Describe the location of the project site relative to the boundaries of the solid waste management facility: _____ _____	
<i>iii.</i> Describe any development constraints due to the prior solid waste activities: _____ _____	
g. Have hazardous wastes been generated, treated and/or disposed of at the site, or does the project site adjoin property which is now or was at one time used to commercially treat, store and/or dispose of hazardous waste?	☐ Yes ☒ No
If Yes:	
<i>i.</i> Describe waste(s) handled and waste management activities, including approximate time when activities occurred: _____ _____	
h. Potential contamination history. Has there been a reported spill at the proposed project site, or have any remedial actions been conducted at or adjacent to the proposed site?	☐ Yes ☒ No
If Yes:	
<i>i.</i> Is any portion of the site listed on the NYSDEC Spills Incidents database or Environmental Site Remediation database? Check all that apply:	
☐ Yes – Spills Incidents database	Provide DEC ID number(s): _____
☐ Yes – Environmental Site Remediation database	Provide DEC ID number(s): _____
☐ Neither database	
<i>ii.</i> If site has been subject of RCRA corrective activities, describe control measures: _____ _____	
<i>iii.</i> Is the project within 2000 feet of any site in the NYSDEC Environmental Site Remediation database? If yes, provide DEC ID number(s): V00171, C356054	
☒ Yes ☐ No	
<i>iv.</i> If yes to (i), (ii) or (iii) above, describe current status of site(s): _____	
Note: The project is over 2,300 linear feet southwest of V00171 and C356054 (both located at 85 Grand Street) and will not disturb this area. _____	

v. Is the project site subject to an institutional control limiting property uses? ☐ Yes ☒ No	
• If yes, DEC site ID number: _____ • Describe the type of institutional control (e.g., deed restriction or easement): _____ • Describe any use limitations: _____ • Describe any engineering controls: _____ • Will the project affect the institutional or engineering controls in place? ☐ Yes ☒ No • Explain: _____	
E.2. Natural Resources On or Near Project Site	
a. What is the average depth to bedrock on the project site? _____ 6 feet	
b. Are there bedrock outcroppings on the project site? ☐ Yes ☒ No If Yes, what proportion of the site is comprised of bedrock outcroppings? _____ %	
c. Predominant soil type(s) present on project site:	
RvA	79 %
RvB	13.8 %
PrC	7.2 %
d. What is the average depth to the water table on the project site? Average: _____ 6 feet	
e. Drainage status of project site soils: ☒ Well Drained: _____ 100 % of site ☐ Moderately Well Drained: _____ % of site ☐ Poorly Drained: _____ % of site	
f. Approximate proportion of proposed action site with slopes: ☒ 0-10%: _____ 100 % of site ☐ 10-15%: _____ % of site ☐ 15% or greater: _____ % of site	
g. Are there any unique geologic features on the project site? ☐ Yes ☒ No If Yes, describe: _____	
h. Surface water features.	
i. Does any portion of the project site contain wetlands or other waterbodies (including streams, rivers, ponds or lakes)? ☐ Yes ☒ No	
ii. Do any wetlands or other waterbodies adjoin the project site? ☐ Yes ☒ No	
If Yes to either <i>i</i> or <i>ii</i> , continue. If No, skip to E.2.i.	
iii. Are any of the wetlands or waterbodies within or adjoining the project site regulated by any federal, state or local agency? ☐ Yes ☒ No	
iv. For each identified regulated wetland and waterbody on the project site, provide the following information:	
• Streams:	Name _____ Classification _____
• Lakes or Ponds:	Name _____ Classification _____
• Wetlands:	Name _____ Approximate Size _____
• Wetland No. (if regulated by DEC)	_____
v. Are any of the above water bodies listed in the most recent compilation of NYS water quality-impaired waterbodies? ☐ Yes ☒ No	
If yes, name of impaired water body/bodies and basis for listing as impaired: _____	
i. Is the project site in a designated Floodway? ☐ Yes ☒ No	
j. Is the project site in the 100-year Floodplain? ☐ Yes ☒ No	
k. Is the project site in the 500-year Floodplain? ☐ Yes ☒ No	
l. Is the project site located over, or immediately adjoining, a primary, principal or sole source aquifer? ☒ Yes ☐ No	
If Yes:	
i. Name of aquifer: Principal Aquifer _____	

m. Identify the predominant wildlife species that occupy or use the project site: <u>urban wildlife</u> _____ _____ _____	
n. Does the project site contain a designated significant natural community? ☐ Yes ☒ No If Yes: i. Describe the habitat/community (composition, function, and basis for designation): _____ _____ ii. Source(s) of description or evaluation: _____ iii. Extent of community/habitat: • Currently: _____ acres • Following completion of project as proposed: _____ acres • Gain or loss (indicate + or -): _____ acres	
o. Does project site contain any species of plant or animal that is listed by the federal government or NYS as endangered or threatened, or does it contain any areas identified as habitat for an endangered or threatened species? ☒ Yes ☐ No If Yes: i. Species and listing (endangered or threatened): _____ Northern Long-eared Bat The project will not impact this species. See 11/12/18 Letter from the Fish & Wildlife Service NY Ecological Services Field Office. Tree removals will occur during the winter cutting season.	
p. Does the project site contain any species of plant or animal that is listed by NYS as rare, or as a species of special concern? ☐ Yes ☒ No If Yes: i. Species and listing: _____ _____	
q. Is the project site or adjoining area currently used for hunting, trapping, fishing or shell fishing? ☐ Yes ☒ No If yes, give a brief description of how the proposed action may affect that use: _____ _____	
E.3. Designated Public Resources On or Near Project Site	
a. Is the project site, or any portion of it, located in a designated agricultural district certified pursuant to Agriculture and Markets Law, Article 25-AA, Section 303 and 304? ☐ Yes ☒ No If Yes, provide county plus district name/number: _____	
b. Are agricultural lands consisting of highly productive soils present? ☐ Yes ☒ No i. If Yes: acreage(s) on project site? _____ ii. Source(s) of soil rating(s): _____	
c. Does the project site contain all or part of, or is it substantially contiguous to, a registered National Natural Landmark? ☐ Yes ☒ No If Yes: i. Nature of the natural landmark: ☐ Biological Community ☐ Geological Feature ii. Provide brief description of landmark, including values behind designation and approximate size/extent: _____ _____ _____	
d. Is the project site located in or does it adjoin a state listed Critical Environmental Area? ☐ Yes ☒ No If Yes: i. CEA name: _____ ii. Basis for designation: _____ iii. Designating agency and date: _____	

e. Does the project site contain, or is it substantially contiguous to, a building, archaeological site, or district which is listed on the National or State Register of Historic Places, or that has been determined by the Commissioner of the NYS Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places? ☒ Yes ☐ No	
If Yes: i. Nature of historic/archaeological resource: ☐ Archaeological Site ☐ Historic Building or District ii. Name: Eligible property: Kingston Gas & Electric Company Building, Eligible property: 3-story 4x12 bay brick commercial bldg ... iii. Brief description of attributes on which listing is based:	
Architectural significance.	
f. Is the project site, or any portion of it, located in or adjacent to an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory? ☒ Yes ☐ No	
g. Have additional archaeological or historic site(s) or resources been identified on the project site? ☐ Yes ☒ No	
If Yes: i. Describe possible resource(s): ii. Basis for identification:	
h. Is the project site within five miles of any officially designated and publicly accessible federal, state, or local scenic or aesthetic resource? ☐ Yes ☒ No	
If Yes: i. Identify resource: ii. Nature of, or basis for, designation (e.g., established highway overlook, state or local park, state historic trail or scenic byway, etc.): iii. Distance between project and resource: _____ miles.	
i. Is the project site located within a designated river corridor under the Wild, Scenic and Recreational Rivers Program 6 NYCRR 666? ☐ Yes ☒ No	
If Yes: i. Identify the name of the river and its designation: ii. Is the activity consistent with development restrictions contained in 6NYCRR Part 666? ☐ Yes ☐ No	

F. Additional Information

Attach any additional information which may be needed to clarify your project.

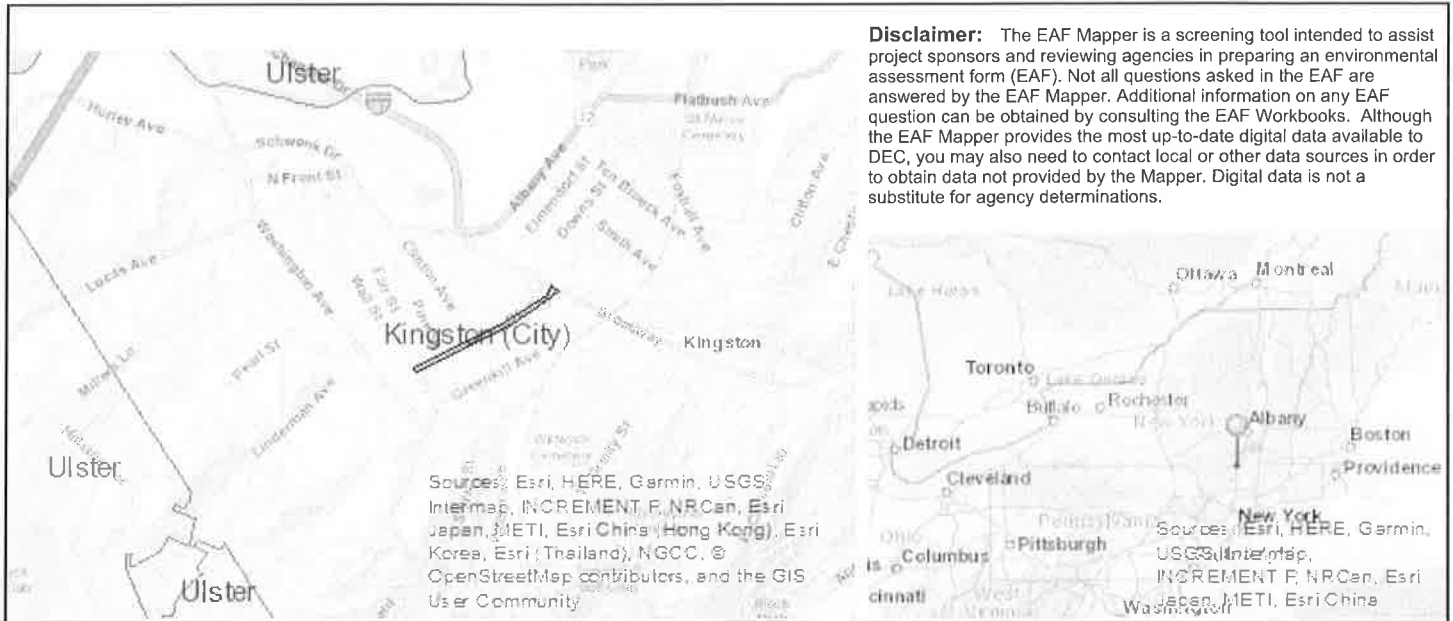
If you have identified any adverse impacts which could be associated with your proposal, please describe those impacts plus any measures which you propose to avoid or minimize them.

G. Verification

I certify that the information provided is true to the best of my knowledge.

Applicant/Sponsor Name Amanda Joy, PE Date 4/9/19

Signature  Title Project Engineer



B.i.i [Coastal or Waterfront Area]	No
B.i.ii [Local Waterfront Revitalization Area]	Yes
C.2.b. [Special Planning District]	Yes - Digital mapping data are not available for all Special Planning Districts. Refer to EAF Workbook.
C.2.b. [Special Planning District - Name]	NYS Heritage Areas: Kingston
E.1.h [DEC Spills or Remediation Site - Potential Contamination History]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h.i [DEC Spills or Remediation Site - Listed]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h.i [DEC Spills or Remediation Site - Environmental Site Remediation Database]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h.iii [Within 2,000' of DEC Remediation Site]	Yes
E.1.h.iii [Within 2,000' of DEC Remediation Site - DEC ID]	V00171, C356054
E.2.g [Unique Geologic Features]	No
E.2.h.i [Surface Water Features]	No
E.2.h.ii [Surface Water Features]	No
E.2.h.iii [Surface Water Features]	No
E.2.h.v [Impaired Water Bodies]	No
E.2.i. [Floodway]	No
E.2.j. [100 Year Floodplain]	No
E.2.k. [500 Year Floodplain]	No
E.2.l. [Aquifers]	Yes
E.2.l. [Aquifer Names]	Principal Aquifer

E.2.n. [Natural Communities]	No
E.2.o. [Endangered or Threatened Species]	Yes
E.2.o. [Endangered or Threatened Species - Name]	Northern Long-eared Bat
E.2.p. [Rare Plants or Animals]	No
E.3.a. [Agricultural District]	No
E.3.c. [National Natural Landmark]	No
E.3.d [Critical Environmental Area]	No
E.3.e. [National or State Register of Historic Places or State Eligible Sites]	Yes - Digital mapping data for archaeological site boundaries are not available. Refer to EAF Workbook.
E.3.e.ii [National or State Register of Historic Places or State Eligible Sites - Name]	Eligible property:Kingston Gas & Electric Company Building, Eligible property:3-story 4x12 bay brick commercial bldg w/storefront, Eligible property:Solomon Burger House, Community Theatre, VanSteenburgh, Tobias, House, Burger-Matthews House
E.3.f. [Archeological Sites]	Yes
E.3.i. [Designated River Corridor]	No

Full Environmental Assessment Form
Part 2 - Identification of Potential Project Impacts

Agency Use Only [If applicable]

Project :

Date :

Part 2 is to be completed by the lead agency. Part 2 is designed to help the lead agency inventory all potential resources that could be affected by a proposed project or action. We recognize that the lead agency's reviewer(s) will not necessarily be environmental professionals. So, the questions are designed to walk a reviewer through the assessment process by providing a series of questions that can be answered using the information found in Part 1. To further assist the lead agency in completing Part 2, the form identifies the most relevant questions in Part 1 that will provide the information needed to answer the Part 2 question. When Part 2 is completed, the lead agency will have identified the relevant environmental areas that may be impacted by the proposed activity.

If the lead agency is a state agency **and** the action is in any Coastal Area, complete the Coastal Assessment Form before proceeding with this assessment.

Tips for completing Part 2:

- Review all of the information provided in Part 1.
- Review any application, maps, supporting materials and the Full EAF Workbook.
- Answer each of the 18 questions in Part 2.
- If you answer “Yes” to a numbered question, please complete all the questions that follow in that section.
- If you answer “No” to a numbered question, move on to the next numbered question.
- Check appropriate column to indicate the anticipated size of the impact.
- Proposed projects that would exceed a numeric threshold contained in a question should result in the reviewing agency checking the box “Moderate to large impact may occur.”
- The reviewer is not expected to be an expert in environmental analysis.
- If you are not sure or undecided about the size of an impact, it may help to review the sub-questions for the general question and consult the workbook.
- When answering a question consider all components of the proposed activity, that is, the “whole action”.
- Consider the possibility for long-term and cumulative impacts as well as direct impacts.
- Answer the question in a reasonable manner considering the scale and context of the project.

1. Impact on Land Proposed action may involve construction on, or physical alteration of, the land surface of the proposed site. (See Part 1. D.1) <i>If “Yes”, answer questions a - j. If “No”, move on to Section 2.</i>				☐ NO	☒ YES
	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur		
a. The proposed action may involve construction on land where depth to water table is less than 3 feet.	E2d	☒	☐		
b. The proposed action may involve construction on slopes of 15% or greater.	E2f	☐	☒		
c. The proposed action may involve construction on land where bedrock is exposed, or generally within 5 feet of existing ground surface.	E2a	☒	☐		
d. The proposed action may involve the excavation and removal of more than 1,000 tons of natural material.	D2a	☒	☐		
e. The proposed action may involve construction that continues for more than one year or in multiple phases.	D1e	☒	☐		
f. The proposed action may result in increased erosion, whether from physical disturbance or vegetation removal (including from treatment by herbicides).	D2e, D2q	☒	☐		
g. The proposed action is, or may be, located within a Coastal Erosion hazard area.	B1i	☒	☐		
h. Other impacts: Retaining walls, stairs, hedges, and fences exist within the public right-of-way. These may be temporarily disturbed by construction.		☒	☐		

2. Impact on Geological Features The proposed action may result in the modification or destruction of, or inhibit access to, any unique or unusual land forms on the site (e.g., cliffs, dunes, minerals, fossils, caves). (See Part 1. E.2.g) ☒ NO ☐ YES <i>If "Yes", answer questions a - c. If "No", move on to Section 3.</i>			
	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. Identify the specific land form(s) attached: _____	E2g	☐	☐
b. The proposed action may affect or is adjacent to a geological feature listed as a registered National Natural Landmark. Specific feature: _____	E3c	☐	☐
c. Other impacts: _____		☐	☐

3. Impacts on Surface Water The proposed action may affect one or more wetlands or other surface water bodies (e.g., streams, rivers, ponds or lakes). (See Part 1. D.2, E.2.h) ☒ NO ☐ YES <i>If "Yes", answer questions a - l. If "No", move on to Section 4.</i>			
	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may create a new water body.	D2b, D1h	☐	☐
b. The proposed action may result in an increase or decrease of over 10% or more than a 10 acre increase or decrease in the surface area of any body of water.	D2b	☐	☐
c. The proposed action may involve dredging more than 100 cubic yards of material from a wetland or water body.	D2a	☐	☐
d. The proposed action may involve construction within or adjoining a freshwater or tidal wetland, or in the bed or banks of any other water body.	E2h	☐	☐
e. The proposed action may create turbidity in a waterbody, either from upland erosion, runoff or by disturbing bottom sediments.	D2a, D2h	☐	☐
f. The proposed action may include construction of one or more intake(s) for withdrawal of water from surface water.	D2c	☐	☐
g. The proposed action may include construction of one or more outfall(s) for discharge of wastewater to surface water(s).	D2d	☐	☐
h. The proposed action may cause soil erosion, or otherwise create a source of stormwater discharge that may lead to siltation or other degradation of receiving water bodies.	D2e	☐	☐
i. The proposed action may affect the water quality of any water bodies within or downstream of the site of the proposed action.	E2h	☐	☐
j. The proposed action may involve the application of pesticides or herbicides in or around any water body.	D2q, E2h	☐	☐
k. The proposed action may require the construction of new, or expansion of existing, wastewater treatment facilities.	D1a, D2d	☐	☐

I. Other impacts: _____ _____		☐	☐
----------------------------------	--	--------------------------	--------------------------

4. Impact on groundwater The proposed action may result in new or additional use of ground water, or may have the potential to introduce contaminants to ground water or an aquifer. (See Part 1. D.2.a, D.2.c, D.2.d, D.2.p, D.2.q, D.2.t) <i>If "Yes", answer questions a - h. If "No", move on to Section 5.</i>			
		☒ NO	☐ YES
	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may require new water supply wells, or create additional demand on supplies from existing water supply wells.	D2c	☐	☐
b. Water supply demand from the proposed action may exceed safe and sustainable withdrawal capacity rate of the local supply or aquifer. Cite Source: _____	D2c	☐	☐
c. The proposed action may allow or result in residential uses in areas without water and sewer services.	D1a, D2c	☐	☐
d. The proposed action may include or require wastewater discharged to groundwater.	D2d, E2l	☐	☐
e. The proposed action may result in the construction of water supply wells in locations where groundwater is, or is suspected to be, contaminated.	D2c, E1f, E1g, E1h	☐	☐
f. The proposed action may require the bulk storage of petroleum or chemical products over ground water or an aquifer.	D2p, E2l	☐	☐
g. The proposed action may involve the commercial application of pesticides within 100 feet of potable drinking water or irrigation sources.	E2h, D2q, E2l, D2c	☐	☐
h. Other impacts: _____ _____		☐	☐

5. Impact on Flooding The proposed action may result in development on lands subject to flooding. (See Part 1. E.2) <i>If "Yes", answer questions a - g. If "No", move on to Section 6.</i>			
		☒ NO	☐ YES
	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may result in development in a designated floodway.	E2i	☐	☐
b. The proposed action may result in development within a 100 year floodplain.	E2j	☐	☐
c. The proposed action may result in development within a 500 year floodplain.	E2k	☐	☐
d. The proposed action may result in, or require, modification of existing drainage patterns.	D2b, D2e	☐	☐
e. The proposed action may change flood water flows that contribute to flooding.	D2b, E2i, E2j, E2k	☐	☐
f. If there is a dam located on the site of the proposed action, is the dam in need of repair, or upgrade?	E1e	☐	☐

g. Other impacts: _____ _____		☐	☐
----------------------------------	--	--------------------------	--------------------------

6. Impacts on Air The proposed action may include a state regulated air emission source. ☒ NO ☐ YES (See Part 1. D.2.f., D.2.h, D.2.g) <i>If "Yes", answer questions a - f. If "No", move on to Section 7.</i>			
	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. If the proposed action requires federal or state air emission permits, the action may also emit one or more greenhouse gases at or above the following levels: i. More than 1000 tons/year of carbon dioxide (CO ₂) ii. More than 3.5 tons/year of nitrous oxide (N ₂ O) iii. More than 1000 tons/year of carbon equivalent of perfluorocarbons (PFCs) iv. More than .045 tons/year of sulfur hexafluoride (SF ₆) v. More than 1000 tons/year of carbon dioxide equivalent of hydrochloroflourocarbons (HFCs) emissions vi. 43 tons/year or more of methane	D2g D2g D2g D2g D2g D2h	☐ ☐ ☐ ☐ ☐ ☐	☐ ☐ ☐ ☐ ☐ ☐
b. The proposed action may generate 10 tons/year or more of any one designated hazardous air pollutant, or 25 tons/year or more of any combination of such hazardous air pollutants.	D2g	☐	☐
c. The proposed action may require a state air registration, or may produce an emissions rate of total contaminants that may exceed 5 lbs. per hour, or may include a heat source capable of producing more than 10 million BTU's per hour.	D2f, D2g	☐	☐
d. The proposed action may reach 50% of any of the thresholds in "a" through "c", above.	D2g	☐	☐
e. The proposed action may result in the combustion or thermal treatment of more than 1 ton of refuse per hour.	D2s	☐	☐
f. Other impacts: _____ _____		☐	☐

7. Impact on Plants and Animals The proposed action may result in a loss of flora or fauna. (See Part 1. E.2. m.-q.) ☒ NO ☐ YES <i>If "Yes", answer questions a - j. If "No", move on to Section 8.</i>			
	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may cause reduction in population or loss of individuals of any threatened or endangered species, as listed by New York State or the Federal government, that use the site, or are found on, over, or near the site.	E2o	☐	☐
b. The proposed action may result in a reduction or degradation of any habitat used by any rare, threatened or endangered species, as listed by New York State or the federal government.	E2o	☐	☐
c. The proposed action may cause reduction in population, or loss of individuals, of any species of special concern or conservation need, as listed by New York State or the Federal government, that use the site, or are found on, over, or near the site.	E2p	☐	☐
d. The proposed action may result in a reduction or degradation of any habitat used by any species of special concern and conservation need, as listed by New York State or the Federal government.	E2p	☐	☐

e. The proposed action may diminish the capacity of a registered National Natural Landmark to support the biological community it was established to protect.	E3c	☐	☐
f. The proposed action may result in the removal of, or ground disturbance in, any portion of a designated significant natural community. Source: _____	E2n	☐	☐
g. The proposed action may substantially interfere with nesting/breeding, foraging, or over-wintering habitat for the predominant species that occupy or use the project site.	E2m	☐	☐
h. The proposed action requires the conversion of more than 10 acres of forest, grassland or any other regionally or locally important habitat. Habitat type & information source: _____	E1b	☐	☐
i. Proposed action (commercial, industrial or recreational projects, only) involves use of herbicides or pesticides.	D2q	☐	☐
j. Other impacts: _____		☐	☐

8. Impact on Agricultural Resources The proposed action may impact agricultural resources. (See Part 1. E.3.a. and b.) ☒ NO ☐ YES <i>If "Yes", answer questions a - h. If "No", move on to Section 9.</i>			
	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may impact soil classified within soil group 1 through 4 of the NYS Land Classification System.	E2c, E3b	☐	☐
b. The proposed action may sever, cross or otherwise limit access to agricultural land (includes cropland, hayfields, pasture, vineyard, orchard, etc).	E1a, E1b	☐	☐
c. The proposed action may result in the excavation or compaction of the soil profile of active agricultural land.	E3b	☐	☐
d. The proposed action may irreversibly convert agricultural land to non-agricultural uses, either more than 2.5 acres if located in an Agricultural District, or more than 10 acres if not within an Agricultural District.	E1b, E3a	☐	☐
e. The proposed action may disrupt or prevent installation of an agricultural land management system.	E1 a, E1b	☐	☐
f. The proposed action may result, directly or indirectly, in increased development potential or pressure on farmland.	C2c, C3, D2c, D2d	☐	☐
g. The proposed project is not consistent with the adopted municipal Farmland Protection Plan.	C2c	☐	☐
h. Other impacts: _____		☐	☐

9. Impact on Aesthetic Resources The land use of the proposed action are obviously different from, or are in sharp contrast to, current land use patterns between the proposed project and a scenic or aesthetic resource. (Part 1. E.1.a, E.1.b, E.3.h.) <i>If "Yes", answer questions a - g. If "No", go to Section 10.</i>			
		☒ NO	☐ YES
	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. Proposed action may be visible from any officially designated federal, state, or local scenic or aesthetic resource.	E3h	☐	☐
b. The proposed action may result in the obstruction, elimination or significant screening of one or more officially designated scenic views.	E3h, C2b	☐	☐
c. The proposed action may be visible from publicly accessible vantage points: i. Seasonally (e.g., screened by summer foliage, but visible during other seasons) ii. Year round	E3h	☐ ☐	☐ ☐
d. The situation or activity in which viewers are engaged while viewing the proposed action is: i. Routine travel by residents, including travel to and from work ii. Recreational or tourism based activities	E3h E2q, E1c	☐ ☐	☐ ☐
e. The proposed action may cause a diminishment of the public enjoyment and appreciation of the designated aesthetic resource.	E3h	☐	☐
f. There are similar projects visible within the following distance of the proposed project: 0-1/2 mile 1/2 -3 mile 3-5 mile 5+ mile	D1a, E1a, D1f, D1g	☐	☐
g. Other impacts: _____ _____		☐	☐

10. Impact on Historic and Archeological Resources The proposed action may occur in or adjacent to a historic or archaeological resource. (Part 1. E.3.e, f. and g.) <i>If "Yes", answer questions a - e. If "No", go to Section 11.</i>			
		☐ NO	☒ YES
	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may occur wholly or partially within, or substantially contiguous to, any buildings, archaeological site or district which is listed on the National or State Register of Historical Places, or that has been determined by the Commissioner of the NYS Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places.	E3e	☒	☐
b. The proposed action may occur wholly or partially within, or substantially contiguous to, an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory.	E3f	☒	☐
c. The proposed action may occur wholly or partially within, or substantially contiguous to, an archaeological site not included on the NY SHPO inventory. Source: _____	E3g	☒	☐

d. Other impacts: <u>See NYSDOT SHPO No Potential Effect Concurrence Letter</u>		☒	☐
If any of the above (a-d) are answered "Moderate to large impact may occur", continue with the following questions to help support conclusions in Part 3:			
i. The proposed action may result in the destruction or alteration of all or part of the site or property.	E3e, E3g, E3f	☐	☐
ii. The proposed action may result in the alteration of the property's setting or integrity.	E3e, E3f, E3g, E1a, E1b	☐	☐
iii. The proposed action may result in the introduction of visual elements which are out of character with the site or property, or may alter its setting.	E3e, E3f, E3g, E3h, C2, C3	☐	☐

11. Impact on Open Space and Recreation The proposed action may result in a loss of recreational opportunities or a reduction of an open space resource as designated in any adopted municipal open space plan. ☒ NO ☐ YES (See Part 1. C.2.c, E.1.c., E.2.q.) If "Yes", answer questions a - e. If "No", go to Section 12.			
	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may result in an impairment of natural functions, or "ecosystem services", provided by an undeveloped area, including but not limited to stormwater storage, nutrient cycling, wildlife habitat.	D2e, E1b E2h, E2m, E2o, E2n, E2p	☐	☐
b. The proposed action may result in the loss of a current or future recreational resource.	C2a, E1c, C2c, E2q	☐	☐
c. The proposed action may eliminate open space or recreational resource in an area with few such resources.	C2a, C2c E1c, E2q	☐	☐
d. The proposed action may result in loss of an area now used informally by the community as an open space resource.	C2c, E1c	☐	☐
e. Other impacts: _____		☐	☐

12. Impact on Critical Environmental Areas The proposed action may be located within or adjacent to a critical environmental area (CEA). (See Part 1. E.3.d) ☒ NO ☐ YES If "Yes", answer questions a - c. If "No", go to Section 13.			
	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may result in a reduction in the quantity of the resource or characteristic which was the basis for designation of the CEA.	E3d	☐	☐
b. The proposed action may result in a reduction in the quality of the resource or characteristic which was the basis for designation of the CEA.	E3d	☐	☐
c. Other impacts: _____		☐	☐

13. Impact on Transportation

The proposed action may result in a change to existing transportation systems.
(See Part 1. D.2.j)

☐ NO☒ YES

If "Yes", answer questions a - f. If "No", go to Section 14.

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. Projected traffic increase may exceed capacity of existing road network.	D2j	☒	☐
b. The proposed action may result in the construction of paved parking area for 500 or more vehicles.	D2j	☒	☐
c. The proposed action will degrade existing transit access.	D2j	☒	☐
d. The proposed action will degrade existing pedestrian or bicycle accommodations.	D2j	☒	☐
e. The proposed action may alter the present pattern of movement of people or goods.	D2j	☒	☐
f. Other impacts: _____		☒	☐

14. Impact on Energy

The proposed action may cause an increase in the use of any form of energy.
(See Part 1. D.2.k)

☒ NO☐ YES

If "Yes", answer questions a - e. If "No", go to Section 15.

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action will require a new, or an upgrade to an existing, substation.	D2k	☐	☐
b. The proposed action will require the creation or extension of an energy transmission or supply system to serve more than 50 single or two-family residences or to serve a commercial or industrial use.	D1f, D1q, D2k	☐	☐
c. The proposed action may utilize more than 2,500 MWhrs per year of electricity.	D2k	☐	☐
d. The proposed action may involve heating and/or cooling of more than 100,000 square feet of building area when completed.	D1g	☐	☐
e. Other Impacts: _____			

15. Impact on Noise, Odor, and Light

The proposed action may result in an increase in noise, odors, or outdoor lighting.
(See Part 1. D.2.m., n., and o.)

☒ NO☐ YES

If "Yes", answer questions a - f. If "No", go to Section 16.

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may produce sound above noise levels established by local regulation.	D2m	☐	☐
b. The proposed action may result in blasting within 1,500 feet of any residence, hospital, school, licensed day care center, or nursing home.	D2m, E1d	☐	☐
c. The proposed action may result in routine odors for more than one hour per day.	D2o	☐	☐

d. The proposed action may result in light shining onto adjoining properties.	D2n	☐	☐
e. The proposed action may result in lighting creating sky-glow brighter than existing area conditions.	D2n, E1a	☐	☐
f. Other impacts: _____ _____		☐	☐

16. Impact on Human Health

The proposed action may have an impact on human health from exposure to new or existing sources of contaminants. (See Part 1.D.2.q., E.1. d. f. g. and h.)

☒ NO

☐ YES

If "Yes", answer questions a - m. If "No", go to Section 17.

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action is located within 1500 feet of a school, hospital, licensed day care center, group home, nursing home or retirement community.	E1d	☐	☐
b. The site of the proposed action is currently undergoing remediation.	E1g, E1h	☐	☐
c. There is a completed emergency spill remediation, or a completed environmental site remediation on, or adjacent to, the site of the proposed action.	E1g, E1h	☐	☐
d. The site of the action is subject to an institutional control limiting the use of the property (e.g., easement or deed restriction).	E1g, E1h	☐	☐
e. The proposed action may affect institutional control measures that were put in place to ensure that the site remains protective of the environment and human health.	E1g, E1h	☐	☐
f. The proposed action has adequate control measures in place to ensure that future generation, treatment and/or disposal of hazardous wastes will be protective of the environment and human health.	D2t	☐	☐
g. The proposed action involves construction or modification of a solid waste management facility.	D2q, E1f	☐	☐
h. The proposed action may result in the unearthing of solid or hazardous waste.	D2q, E1f	☐	☐
i. The proposed action may result in an increase in the rate of disposal, or processing, of solid waste.	D2r, D2s	☐	☐
j. The proposed action may result in excavation or other disturbance within 2000 feet of a site used for the disposal of solid or hazardous waste.	E1f, E1g E1h	☐	☐
k. The proposed action may result in the migration of explosive gases from a landfill site to adjacent off site structures.	E1f, E1g	☐	☐
l. The proposed action may result in the release of contaminated leachate from the project site.	D2s, E1f, D2r	☐	☐
m. Other impacts: _____ _____			

17. Consistency with Community Plans The proposed action is not consistent with adopted land use plans. (See Part 1. C.1, C.2. and C.3.) <i>If "Yes", answer questions a - h. If "No", go to Section 18.</i>			
		☒ NO	☐ YES
	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action's land use components may be different from, or in sharp contrast to, current surrounding land use pattern(s).	C2, C3, D1a E1a, E1b	☐	☐
b. The proposed action will cause the permanent population of the city, town or village in which the project is located to grow by more than 5%.	C2	☐	☐
c. The proposed action is inconsistent with local land use plans or zoning regulations.	C2, C2, C3	☐	☐
d. The proposed action is inconsistent with any County plans, or other regional land use plans.	C2, C2	☐	☐
e. The proposed action may cause a change in the density of development that is not supported by existing infrastructure or is distant from existing infrastructure.	C3, D1c, D1d, D1f, D1d, E1b	☐	☐
f. The proposed action is located in an area characterized by low density development that will require new or expanded public infrastructure.	C4, D2c, D2d D2j	☐	☐
g. The proposed action may induce secondary development impacts (e.g., residential or commercial development not included in the proposed action)	C2a	☐	☐
h. Other: _____		☐	☐

18. Consistency with Community Character The proposed project is inconsistent with the existing community character. (See Part 1. C.2, C.3, D.2, E.3) <i>If "Yes", answer questions a - g. If "No", proceed to Part 3.</i>			
		☒ NO	☐ YES
	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may replace or eliminate existing facilities, structures, or areas of historic importance to the community.	E3e, E3f, E3g	☐	☐
b. The proposed action may create a demand for additional community services (e.g. schools, police and fire)	C4	☐	☐
c. The proposed action may displace affordable or low-income housing in an area where there is a shortage of such housing.	C2, C3, D1f D1g, E1a	☐	☐
d. The proposed action may interfere with the use or enjoyment of officially recognized or designated public resources.	C2, E3	☐	☐
e. The proposed action is inconsistent with the predominant architectural scale and character.	C2, C3	☐	☐
f. Proposed action is inconsistent with the character of the existing natural landscape.	C2, C3 E1a, E1b E2g, E2h	☐	☐
g. Other impacts: _____		☐	☐

Project :

Date :

Full Environmental Assessment Form
Part 3 - Evaluation of the Magnitude and Importance of Project Impacts
and
Determination of Significance

Part 3 provides the reasons in support of the determination of significance. The lead agency must complete Part 3 for every question in Part 2 where the impact has been identified as potentially moderate to large or where there is a need to explain why a particular element of the proposed action will not, or may, result in a significant adverse environmental impact.

Based on the analysis in Part 3, the lead agency must decide whether to require an environmental impact statement to further assess the proposed action or whether available information is sufficient for the lead agency to conclude that the proposed action will not have a significant adverse environmental impact. By completing the certification on the next page, the lead agency can complete its determination of significance.

Reasons Supporting This Determination:

To complete this section:

- Identify the impact based on the Part 2 responses and describe its magnitude. Magnitude considers factors such as severity, size or extent of an impact.
- Assess the importance of the impact. Importance relates to the geographic scope, duration, probability of the impact occurring, number of people affected by the impact and any additional environmental consequences if the impact were to occur.
- The assessment should take into consideration any design element or project changes.
- Repeat this process for each Part 2 question where the impact has been identified as potentially moderate to large or where there is a need to explain why a particular element of the proposed action will not, or may, result in a significant adverse environmental impact.
- Provide the reason(s) why the impact may, or will not, result in a significant adverse environmental impact
- For Conditional Negative Declarations identify the specific condition(s) imposed that will modify the proposed action so that no significant adverse environmental impacts will result.
- Attach additional sheets, as needed.

The City of Kingston has determined that potential moderate to large impacts could occur related to construction on slopes 15% or greater. Due to the elevation difference between the existing sidewalk elevation and residential buildings, approximately 30% of the project has existing slopes greater than 33%. The proposed sidewalk improvements include reconstructing the sidewalk and grading the adjacent area; all efforts will be made to maintain the existing slope. The existing drainage patterns of surrounding properties will not be effected by the slope construction. The concentration of flow will remain the same to outlet locations. Therefore, a significantly adverse environmental impact is not anticipated from construction on slopes 15% or greater.

Determination of Significance - Type 1 and Unlisted Actions

SEQR Status: ☒ Type 1 ☐ Unlisted

Identify portions of EAF completed for this Project: ☒ Part 1 ☒ Part 2 ☒ Part 3

Upon review of the information recorded on this EAF, as noted, plus this additional support information
Letters from the Federal Highway Administration regarding Threatened and Endangered Species Concurrence and the NYSDOT regarding Section 106 of the National Historic Preservation Act.

and considering both the magnitude and importance of each identified potential impact, it is the conclusion of the
City of Kingston _____ as lead agency that:

☒ A. This project will result in no significant adverse impacts on the environment, and, therefore, an environmental impact statement need not be prepared. Accordingly, this negative declaration is issued.

☐ B. Although this project could have a significant adverse impact on the environment, that impact will be avoided or substantially mitigated because of the following conditions which will be required by the lead agency:

There will, therefore, be no significant adverse impacts from the project as conditioned, and, therefore, this conditioned negative declaration is issued. A conditioned negative declaration may be used only for UNLISTED actions (see 6 NYCRR 617.7(d)).

☐ C. This Project may result in one or more significant adverse impacts on the environment, and an environmental impact statement must be prepared to further assess the impact(s) and possible mitigation and to explore alternatives to avoid or reduce those impacts. Accordingly, this positive declaration is issued.

Name of Action: Henry Street Pedestrian Improvements

Name of Lead Agency: City of Kingston

Name of Responsible Officer in Lead Agency: James Noble

Title of Responsible Officer: Alderman at Large

Signature of Responsible Officer in Lead Agency:

Date:

Signature of Preparer (if different from Responsible Officer)

Date:

For Further Information:

Contact Person: Kristen Wilson, Grants Director - City of Kingston Office of Economic and Community Development

Address: 420 Broadway Kingston, NY 12401

Telephone Number: (845) 334-3962

E-mail: kwilson@kingston-ny.gov

For Type 1 Actions and Conditioned Negative Declarations, a copy of this Notice is sent to:

Chief Executive Officer of the political subdivision in which the action will be principally located (e.g., Town / City / Village of)

Other involved agencies (if any)

Applicant (if any)

Environmental Notice Bulletin: <http://www.dec.ny.gov/enb/enb.html>