

**Local Law 7 of 2023**

**LOCAL LAW OF THE COMMON COUNCIL OF THE CITY OF KINGSTON, NEW YORK AMENDING LOCAL LAW 4 OF 1992**

Sponsored by: Laws & Rules Committee Aldermen: Alderman Worthington, Scott-Childress, Pasti, Frankel, Muhammed

**WHEREAS**, via Resolution 138 of 2023, the City of Kingston Common Council adopted the Kingston Forward Form-Based Code;

**WHEREAS**, the form-based code describes the desired form and character for future improvements and preservation throughout the City; and

**WHEREAS**, form-based code amended the administrative approvals process for new development, in part to improve the predictability of development in the City and to reduce the administrative barriers for new development; and

**WHEREAS**, under the form-based code, the Heritage Area Commission no longer reviews development occurring within the Kingston Heritage Area or those actions occurring within the Local Waterfront Revitalization Program Coastal Boundary; and

**WHEREAS**, as part of New York State's Local Waterfront Revitalization Program, the City of Kingston must designate a Waterfront Advisory Committee to ensure that proposed actions are consistent with the Kingston Local Waterfront Revitalization Program policy standards and conditions.

**NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF KINGSTON, NEW YORK, AS FOLLOWS:**

**SECTION 1.** That the City of Kingston amends Local Law 4 of 1992 as follows:

The following shall be removed from Section III 8.:

“Waterfront Advisory Committee” or “Committee” means the Urban Cultural Parks Commission of the City of Kingston, as created by Chapter 33 of the Code of the Cide of Kingston.”

The following shall be added to Section III 8.:

“Waterfront Advisory Committee” or “Committee” means the Planning Board of the City of Kingston, as created by Chapter 96 of the Code of the Code of Kingston.”

**SECTION 2.** If any provisions of this local law are held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, the remaining provisions of the local law shall remain in effect.

**SECTION 3.** This local law shall take effect upon filing with the Secretary of State.

Submitted to the Mayor this \_\_\_\_ day of \_\_\_\_\_, 2023

Approved by the Mayor this \_\_\_\_ day of \_\_\_\_\_, 2023

\_\_\_\_\_  
Elisa Tinti, City Clerk

\_\_\_\_\_  
Steven T. Noble, Mayor

Adopted by Council on \_\_\_\_\_, 2023

## CITY OF KINGSTON

Local Law No. 4 of the year 1992  
Be it enacted by the Common Council of the City of Kingston  
as follows

### GENERAL PROVISIONS

#### I. Title

This local law will be known as the City of Kingston Waterfront Consistency Review Law.

#### II. Authority and Purpose:

1. This local law is adopted under the authority of the Municipal Home Rule Law and the Waterfront Revitalization of Coastal Areas and Inland Waterways Act of the State of New York (Article 42 of the Executive Law).
2. The purpose of this local law is to provide a framework for agencies of the City of Kingston to consider the policies and purposes contained in the Local Waterfront Revitalization Program when reviewing applications for actions or direct agency actions located in the coastal area; and to assure that such actions and direct actions are consistent with the said policies and purposes.
3. It is the intention of the City of Kingston that the preservation, enhancement, and utilization of the natural and manmade resources of the unique coastal area of the City take place in a coordinated and comprehensive manner to ensure a proper balance between natural resources and the need to accommodate populations growth and economic development. Accordingly, this local law is intended to achieve such a balance, permitting the beneficial use of coastal resources when preventing: loss of living estuarine resources and wildlife; diminution of open space areas or public accesses to the waterfront; erosion of shoreline; impairment of scenic beauty; losses due to flooding, erosion and sedimentation; or permanent adverse changes to ecological systems.

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

III. Definitions:

1. "Actions" mean either Type I or unlisted actions as defined in SEQRA regulations (6 N.Y.C.R.R. 617.2) which are undertaken by an agency and which include:
  - (1) projects or physical activities, such as construction or other activities that may affect the environment by changing the use, appearance or condition of any natural resource or structure, that:
    - (i) are directly undertaken by an agency; or
    - (ii) involve funding by an agency; or
    - (iii) require one or more new or modified approvals from an agency or agencies;
  - (2) agency planning and policy making activities that may affect the environment and commit the agency to a definite course of future decisions.
  - (3) adoption of agency rules, regulations and procedures, including local laws, codes, ordinances, executive orders and resolutions that may affect the environment; and
  - (4) any combinations of the above.

This law does not apply to Type II, excluded or exempt actions as defined in the S.E.Q.R.A. regulations 6 N.Y.C.R.R. Part 617.

2. "Agency" means any board, agency, department, office, other body, or officer of the City of Kingston.

3. "Coastal area" means that portion of New York State coastal waters and adjacent shorelands as defined in Article 42 of the Executive Law which is located within the boundaries of the City of Kingston, as shown on the Coastal Area map on file in the office of the Secretary of State and as delineated in the City of Kingston Local Waterfront Revitalization Program.
4. "Coastal Assessment Form (CAF)" means the form used by an agency to assist it in determining the consistency of an action with the Local Waterfront Revitalization Program.
5. "Consistent" means that the action will fully comply, to the extent practicable, with the LWRP policy standards and conditions and, whenever practicable, will advance one or more of them.
6. "Direct Actions" means actions planned and proposed for implementation by an agency, such as, but not limited to a capital project, rule making, procedure making and policy making.
7. "Local Waterfront Revitalization Program (LWRP)" means the Local Waterfront Revitalization Program of the City of Kingston, approved by the Secretary of State pursuant to the Waterfront Revitalization and Coastal Resources Act (Executive Law, Article 42), a copy of which is on file in the Office of the Clerk of the City of Kingston.
8. "Waterfront Advisory Committee" or "Committee" means the Urban Cultural Parks Commission of the City of Kingston, as created by Chapter 33 of the Code of the City of Kingston.

#### IV. Waterfront Advisory Committee

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

V. Review of Actions:

1. Whenever a proposed action is located in the City's Coastal Area, an agency shall, prior to approving, funding or undertaking the action, make a determination that it is consistent with the LWRP policy standards and conditions set forth in Paragraph 7 herein.
2. Whenever an agency receives an application for approval or funding of an action or as early as possible in the agency's formulation of a direct action to be located in the Coastal Area, the applicant, or in the case of a direct action, the agency, shall prepare a Coastal Assessment Form (CAF) to assist with the consistency review of the proposed action.
3. The agency shall refer a copy of the completed CAF to the Committee within twenty (20) days of its submission and prior to making its determination, shall consider the recommendation of the Committee with reference to the consistency of the proposed action.
4. After referral from an agency, the Committee shall consider whether the proposed action is consistent with the LWRP policy standards and conditions set forth in Paragraph 7 herein. The Committee shall require the applicant to submit all completed applications, CAFs and any other information deemed to be necessary to its consistency recommendation.
5. The Committee shall render its written recommendation to the agency within thirty (30) days following referral of the CAF from the agency, unless extended by mutual agreement of the Committee and the applicant, or in the case of direct action, the agency, or extended if additional information is requested by the Committee to render a written recommendation. The recommendation shall indicate whether, in the opinion of the Committee, the proposed action is consistent with or inconsistent with one or more of the LWRP policy standards or conditions and shall elaborate in writing the basis for its opinion.

The Committee shall, along with its consistency recommendation, make any suggestions to the agency concerning modification, of the proposed action to make it consistent with LWRP policy standards and conditions or to greater advance them.

In the event that the Committee's recommendation is not forthcoming within the specified time, the referring agency may make its decision without the benefit of the Committee's recommendation.

6. The agency shall make the determination of consistency based on the CAF, the Committee recommendation and such other information as is deemed to be necessary in its determination. The agency shall issue its determination within forty-five (45) days following receipt of the Committee's recommendation and submission by the applicant of any additional required information. The agency shall have the authority, in its finding of consistency, to impose practicable and reasonable conditions on an action to ensure that it is carried out in accordance with this Chapter.
7. Actions to be undertaken within the Kingston Coastal Area shall be evaluated for consistency in accordance with the following LWRP policy standards and conditions, which are derived from and further explained and described in Section III of the City of Kingston LWRP, a copy of which is on file in the City Clerk's office and available for inspection during normal business hours. Agencies which undertake direct actions shall also consult with Section IV of the LWRP in making their consistency determination. The action shall be consistent with the policy to:
  1. Revitalize the deteriorated and underutilized waterfront areas of Kingston (Policies 1, 1A, 1B, 1C, 1D, and 1E).
  2. Retain and promote commercial and recreational water-dependent uses (Policies 2, 2A, 2B, and 2C).
  3. Strengthen the economic base of Kingston's smaller harbor areas by encouraging traditional uses and activities (Policies 4, 4A, 4B, and 4C).

4. Ensure the development occurs where adequate public infrastructure is available to reduce health and pollution hazards (Policies 5, 5A, and 5B).
5. Expedite local permit procedures and use performance standards for development within the waterfront area (Policy 6).
6. Protect significant and locally important fish and wildlife habitats from human disruption and chemical contamination (Policies 7, and 8).
7. Encourage and expand commercial fishing facilities to promote commercial and recreational fishing opportunities (Policies 9, 10, and 10A).
8. Minimize flooding and erosion hazards through non-structural means, carefully-selected, long-term structural measures, and appropriate siting of structures (Policies 11, 13, 13A, 14, 15, 16, and 17).
9. Safeguard economic, social and environmental interests in the coastal area when major actions are undertaken (Policy 18).
10. Maintain and improve public access to the shoreline and the water-related recreational facilities while protecting the environment (Policies 1, 1A, 1B, 1E, 2, 2B, 2C, 4, 4A, 4B, 4C, 5, 5A, 9, 19A, 19B, 20, 20A, 21, 21A, 21B, and 22).
11. Protect and restore historic and archeological resources (Policies 23 and 23A).
12. Protect and upgrade scenic resources (Policies 25, 25a, and 25B).
13. Site and construct energy facilities in a manner in which will be compatible with the environmental and contingent upon the need for a waterfront or water location (Policies 27, 30, 30A, 30B, 31, 33, 33A, 33B, 35, 36, 36A, 37, 38, 39, 40, 41, 42, 43, and 44).



14. Protect surface and groundwaters from direct and indirect discharge of pollutants and from overuse (Policies 30, 30A, 30B, 31, 32, 33, 33A, 33B, 34, 34A, 35, 36, 36A, 37, 38, 39, 40, and 44).
  15. Perform dredging and dredge spoil in a manner protective of natural resources (Policies 15 and 35).
  16. Handle and dispose of solid and hazardous wastes and effluents in a manner which will not adversely affect the environment nor expand existing landfills (Policies 34, 34A, 35, 36, 36A, and 39).
  17. Protect air quality (Policies 41, 42, and 43).
  18. Protect freshwater wetlands (Policy 44).
8. If the agency determines that the action would not be consistent with one or more of the LWRP policy standards and conditions, such action shall not be undertaken unless the agency makes a written finding with respect to the proposed action that no reasonable alternatives exist which would permit the action to be undertaken in a manner which will not substantially hinder the achievement of such LWRP policy standards and conditions, and that:
1. The action would be undertaken in a manner which will minimize all adverse effects on such LWRP policy standards and conditions, or
  2. The action will advance one or more of the other LWRP policy standards and conditions, or
  3. The action will result in an overriding City, regional or state-wide public benefit.
- Such a finding shall constitute a determination that the action is consistent with the LWRP policy standards and conditions.
9. Each agency shall maintain a file for each action made the subject of a consistency determination, including any recommendations received from the Committee. Such files shall be made available for public inspection upon request.

VI. Enforcement:

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

VII. Violations:

1. A person who violates any of the provisions of, or who fails to comply with any conditions imposed by this Chapter shall have committed a violation, punishable by a fine not exceeding five hundred dollars for a conviction of a first offense and punishable by a fine of one thousand dollars for a conviction of a second or subsequent offense. For the purpose of conferring jurisdiction upon courts and judicial officers, each week of continuing violation shall constitute a separate additional offense.
2. The City Corporation Counsel is authorized and directed to institute any and all actions and proceedings necessary to enforce this local law. Any civil penalty shall be in addition to and not in lieu of any criminal prosecution and penalty. The City may also enforce this local law by injunction or other civil proceeding.

VIII. Severability:

The provisions of this local law are severable. If any provision of this local law is found invalid, such finding shall not affect the validity of this local law as a whole or any part of provision hereof other than the provision so found to be invalid.

IX. Effective Date:

This local law shall take effect immediately upon filing with the Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.

Submitted to the Mayor this 14<sup>th</sup>  
day of July, 1992.

Approved by the Mayor this 14<sup>th</sup>  
day of July, 1992.

Margaret M Phelan  
MARGARET PHELAN, CITY CLERK

John A. Amarello  
JOHN A. AMARELLO, MAYOR

