

**LAWS & RULES COMMITTEE MEETING**  
**Wednesday, February 15th at 6:30 PM.**

- 1 - Memorializing Resolution to Approve and Opt-out Community Distributed Generation Program in NY - Mayor Noble
- 2 - Stony Run Apartments - Mayor Noble
- 3 - Local Law - modifications to the code to the building enforcement statute - M. Jankowski
- 4 - Encroachment at Sea Deli - D. Blackmon
- 5 - Kingston Forward Citywide Rezoning Draft DGEIS - B. Starodaj
- 6 - Refer: Request for Purchase of Street
- 7 - Amendments to Council Rules - President Shaut

**OLD BUSINESS**

- 1- Operation of Shared Bicycle, Bicycle w/ Electric Assist, Electric Scooter- Julie Noble



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# CITY OF KINGSTON

## Office of Environmental Education and Sustainability

climatesmart@kingston-ny.gov

Julie L. Noble, Coordinator



Steven T. Noble, Mayor

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February 2, 2023

Honorable Andrea Shaut  
President/Alderman-at-large  
Kingston Common Council  
420 Broadway  
Kingston, NY, 12401

Dear President Shaut,

On behalf of the Office of Sustainability and with my role as Sustainability Coordinator, I would like to request placement on the agenda of the Laws and Rules Committee to discuss the adoption of a resolution in support of Opt-Out Community Distributed Generation as a tool to enhance Community Choice Aggregation (CCA) in the City of Kingston.

On September 22, 2021, the Common Council adopted Local Law No. 3-2021, to authorize a Community Choice Aggregation program pursuant to section 10(1)(ii)(a)(12) of the New York Municipal Home Rule Law; and State of New York Public Service Commission Case No. 14-M-0224, Proceeding on Motion of the Commission to Enable Community Choice Aggregation Programs.

Kingston's CCA intends to partner with developers to bring local renewable energy to all residents and businesses at a fixed rate that is guaranteed to be lower than what they would otherwise pay. The only legal mechanism in New York State that would allow Kingston to enroll low-income households in community renewable projects is called Opt-Out CDG, which is a program previously authorized by Order of the Public Service Commission in 2018. The Public Service Commission withdrew authorization for this program on November 22, 2021, to clarify and improve certain aspects of the program related to customer billing procedures. Kingston's CCA has been waiting several months for the program to be reauthorized.

The Public Service Commission issued an Order on January 19, 2023, updating the CCA Regulations without reauthorizing Opt-Out CDG. This Order suggested an alternate utility run program called Expanded Solar For All as an alternative to Opt-Out CDG. This Order left the CCA communities in New York in the dark about the future of Opt-Out CDG.

It is in the City of Kingston's best interest to join our neighbors in advocating that the Public Service Commission reauthorize Opt-Out CDG, so that we may provide residents with equitable access to

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**CITY OF KINGSTON**  
**Office of Environmental Education and Sustainability**  
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Julie L. Noble, Coordinator



Steven T. Noble, Mayor

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affordable electricity and renewable energy and show that Kingston is leading the way in the response to climate change.

The Mayor has also signed a letter of support, which is enclosed.

Thank you for your consideration.

Sincerely,

Julie L. Noble  
Sustainability Coordinator

**Enclosures:**

Unlocking Opt\_Out CDG Policy Brief  
Opt Out Letter of Support from Mayor Noble  
Resolution Supporting Authorization of Opt-Out CDG  
Committee Report

THE CITY OF KINGSTON COMMON COUNCIL

LAWS & RULES  
COMMITTEE REPORT

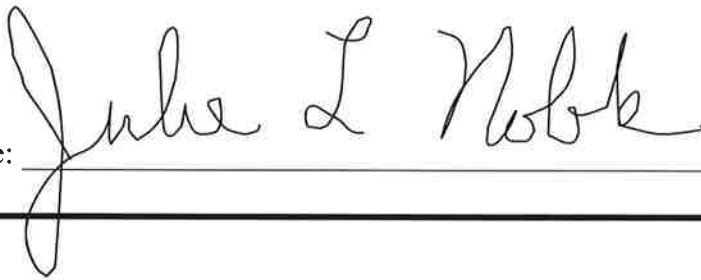
DEPARTMENT: Parks and Recreation

DATE: 2/2/2023

Description

Request for adoption of a resolution in support of the Public Service Commission to authorize Opt-Out CDG.

Signature: \_\_\_\_\_



Motion by \_\_\_\_\_

Seconded by \_\_\_\_\_

Action Required:

SEQRA Decision:  
Type I Action \_\_\_\_\_  
Type II Action \_\_\_\_\_  
Unlisted Action \_\_\_\_\_

Negative Declaration of Environmental Significance: \_\_\_\_\_

Conditioned Negative Declaration: \_\_\_\_\_

Seek Lead Agency Status: \_\_\_\_\_

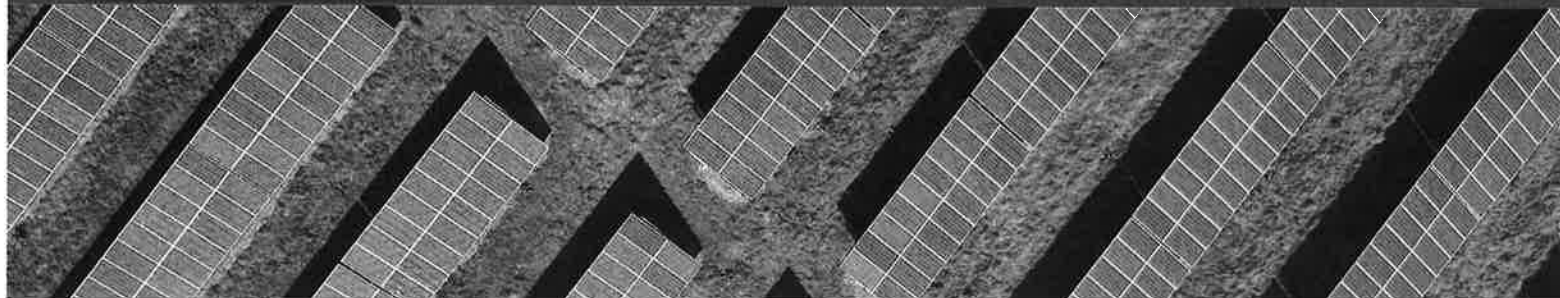
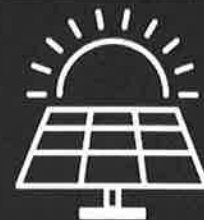
Positive Declaration of Environmental Significance: \_\_\_\_\_

<u>Committee Vote</u>	<u>YES</u>	<u>NO</u>
Rita Worthington, Ward 4, Chairman		
Barbara Hill, Ward 1		
Carl Frankel, Ward 2		
Rennie Scott-Childress, Ward 3		
Michael Olivieri, Ward 7		



# Unlocking the Benefits of Opt-Out Community Solar

POLICY BRIEF



## Empowering Communities with Lower Solar Costs

“When CCAs integrate opt-out community solar, participating homes and small businesses are enrolled in one or more community solar projects from which they receive credits on their electric bill. These credits directly reduce the charges on the bill. Customers who are enrolled in community solar typically receive guaranteed savings of 5% to 10%. Opt-out community solar allows CCAs to enroll hundreds, or even thousands, of people at once. This significantly reduces soft costs associated with solar and makes the economics of solar all the more attractive. This arrangement has potential to continue the downward trend in solar prices and incentives, while the total amount of solar dramatically increases.”

- **NYS Climate Action Council Scoping Plan**

## Executive Summary

Opt-Out Community Distributed Generation (CDG), also known as Opt-Out Community Solar, is a program within New York’s Community Choice Aggregation (CCA) policy. It is an innovative way for local governments to give residents and businesses access to clean energy by automatically enrolling them in community solar. This means that instead of having to actively sign up for a community solar project, eligible residents and businesses are enrolled automatically. Project participants receive utility bill credits, which offset the charges they would typically pay. This cost-effective program empowers communities to advance state and local clean energy goals, save money on electricity, and capture the benefits of clean energy, especially for households living in state-designated Disadvantaged Communities (DACs). It’s a win-win for families, businesses, and the environment.

**However, the New York State Public Service Commission (PSC) put the program on hold in 2021.** The PSC was expected to restart the program pending new program operation, oversight, and enforcement rules, but a recent PSC Order calls for more study of alternatives to Opt-Out CDG.

**This is not just a delay... It has taken away a critical tool that local governments have to shape their energy future.** Local governments are at the forefront of the movement to advance clean energy. They stand ready to fulfill their role in fighting climate change and building the new clean energy economy, but they need supportive regulations. Opt-Out CDG empowers communities across New York to play their part in achieving New York State’s ambitious climate and equity goals.

A broad coalition of local governments, environmental groups, and industry stakeholders is calling for this important program to be approved and implemented in New York State.

**Join Our Coalition**

Visit [www.OptOutCDG.org](http://www.OptOutCDG.org) to learn more



## Benefits of Opt-Out CDG

### Lower Utility Bills

By aggregating the energy demand of residents and small businesses within participating jurisdictions, communities can increase their bargaining power and negotiate better prices and terms for community solar. This results in lower utility bills for CCA members.

### Increased Access to Clean Energy

Opt-Out CDG programs prioritize enrollment of low-to-moderate (LMI) income households, disadvantaged communities, and environmental justice areas. With this approach, New York can benefit from special incentives under the Inflation Reduction Act (IRA).

### Helps Meet NYS Clean Energy Goals

Opt-Out CDG is expected to result in more solar projects being financed, developed, and interconnected to the state's distributed energy grid. It directly contributes to the state's goal of 10 Gigawatts of distributed solar by 2030. Most important, it lowers the cost of meeting that goal.

## Background

Opt-Out Community Distributed Generation (CDG) is a program that allows local governments to enroll homes and businesses in their jurisdiction into community solar, making it easier for residents and businesses to benefit from local clean energy projects, especially low-to-moderate income (LMI) households. Opt-Out CDG was first approved in New York State in 2018 by the PSC, but in 2021 they paused the program pending the development of new program operation, oversight, and enforcement rules.

Restarting the Opt-Out CDG program is currently under consideration by the PSC. But rather than restarting Opt-Out CDG, the PSC's recent Order calls for study of alternatives to Opt-Out CDG stating, "In relation to its consideration of Opt-Out CDG, the Commission seeks more information on potential alternatives to the model that has been discussed to date. One potential avenue to furnish the benefits of CDG to more customers could be the adoption statewide of a program similar to the Expanded Solar For All (eSFA) program approved in the Niagara Mohawk Power Corporation d/b/a National Grid (National Grid) service territory."

PSC regulations already allow the stacking of benefits from CDG and eSFA. Opt-Out CDG and eSFA can work well together but Opt-Out CDG should not be delayed while eSFA is being developed. While eSFA has potential to benefit low-income residents throughout the state, it is a utility-led initiative that will require new billing processes to be developed by companies with a record of deficient billing performance and a history of failing to meet their obligations. In addition, eSFA will do little to encourage greater community engagement and local support for clean energy. Authorizing both Opt-Out CDG and eSFA will accomplish much more to advance the state's goals than eSFA alone.

It has been recognized since its inception that CCA programs have the potential to integrate innovative energy programs, products, and services in ways that benefit customers and help advance state clean energy goals. Opt-Out CDG is a natural offshoot of this, as it allows for



## How You Can Help

### Share Your Support for Opt-Out CDG With Your Community

Share information about the benefits of Opt-Out CDG with your constituents and encourage them to support the program by contacting the PSC and elected officials.

### Reach Out to Other Stakeholders

Connect with other local governments, environmental groups, associations, and industry stakeholders in your area and encourage them to join the coalition.

### Sign or Send a Letter of Support

We will provide you with a sample letter that you can sign and send to the PSC and elected officials, expressing your support for Opt-Out CDG. Or you can send an email to the PSC Secretary at: [secretary@dps.ny.gov](mailto:secretary@dps.ny.gov)

### Help Us to Keep You Informed

Keep us informed of any developments in your community and let us know if you need any assistance or resources.

automatic enrollment of customers into community solar, potentially enrolling thousands of homes and businesses at a time.

New York's 10 Gigawatt Distributed Solar Roadmap issued in December 2021 by the New York State Energy Research and Development Authority (NYSERDA) and the Department of Public Service (DPS) states, "Opt-out community solar offers a new element of efficiency and soft cost reductions to CDG development, since a project owner could avoid substantial customer acquisition costs associated with recruiting many individual participants."

The DPS Staff Whitepaper on CCA Programs issued in April 2021 recommends that the PSC adopt an Opt-Out CDG model for integration into existing CCA programs. This recommendation was further expanded upon in the DPS Staff Straw Proposal on Opt-Out CDG.

The New York State Climate Action Council Scoping Plan, adopted in December 2022 pursuant to the Climate Leadership and Community Protection Act (CLCPA), recommends, "NYSERDA should continue to encourage development of CCA programs where communities choose 100% renewable energy as the default supply and where participants are automatically enrolled in Community Solar. Prioritization of these efforts should be focused on Disadvantaged Communities." The Scoping Plan states that Opt-Out CDG, "significantly reduces soft costs associated with solar," and "has potential to continue the downward trend in solar prices and incentives."

A wide range of stakeholders including municipalities, environmental groups, businesses, and individuals have commented in these proceedings, demonstrating their strong support for Opt-Out CDG.

The PSC has long recognized the potential benefits of Opt-Out CDG, acknowledging that the program could propel the development of CDG projects across the State, motivate participating communities to make cleaner energy choices, and bring the State closer to reaching its goals.

The PSC understands the need for regulations to ensure a successful program that benefits all New Yorkers. It's time for the PSC to implement these new regulations and restart the Opt-Out CDG program.

# OPT-OUT CDG POLICY BRIEF

## Make Your Voice Heard

Send the email below to the PSC at:  
[secretary@dps.ny.gov](mailto:secretary@dps.ny.gov)

Subject: Comments - Case 14-M-0224

Dear Secretary,

I am writing to express my strong support for the implementation of Opt-Out Community Distributed Generation (CDG).

The PSC's recent Order calls for alternatives to be studied, but we believe this delay is unacceptable.

Disadvantaged Communities (DACs) are disproportionately affected by energy burden and climate change and often have the least access to clean energy resources. By prioritizing these communities in Opt-Out CDG enrollment, we can make major progress towards energy equity and environmental justice.

I urge the PSC to approve Opt-Out CDG as a key component of the state's Community Choice Aggregation program.

Thank you for your consideration.

Sincerely,  
[name]  
[organization]

## Recommendation

The PSC should immediately issue an Order to restart the Opt-Out CDG program under the following cases and proceedings:

Case 14-M-0224	Proceeding on Motion of the Commission to Enable Community Choice Aggregation Programs.
Case 19-M-0463	In the Matter of Consolidated Billing for Distributed Energy Resources.
Case 15-E-0082	Proceeding on Motion of the Commission as to the Policies, Requirements and Conditions For Implementing a Community Net Metering Program.

## Conclusion

Opt-Out CDG programs are a win-win for everyone involved. They can lower utility bills, increase access to clean energy, and help the state meet its clean energy goals. By working together, our coalition of local governments, environmental groups, and industry stakeholders encourages the PSC to approve Opt-Out CDG and unlock its many benefits for all New Yorkers.



The Opt-Out CDG Coalition represents a diverse group of local governments, environmental organizations, and industry stakeholders seeking New York State support for local climate action including the implementation of Opt-Out CDG.

# CITY OF KINGSTON

## Office of the Mayor

mayor@kingston-ny.gov



Steven T. Noble  
Mayor

February 2nd, 2023

Hon. Michelle L. Phillips  
Secretary to the Commission  
New York State Public Service Commission  
Empire State Plaza Agency Building 3  
Albany, NY 12223-1350

Re: Case 14-M-0224 Proceeding on Motion of the Commission to Enable Community Choice Aggregation Programs.  
Case 19-M-0463 In the Matter of Consolidated Billing for Distributed Energy Resources.  
Case 15-E-0082 Proceeding on Motion of the Commission as to the Policies, Requirements and Conditions For Implementing a Community Net Metering Program.

Dear Secretary Phillips,

As the Mayor of the City of Kingston, I am writing to express my strong support for the immediate implementation of Opt-Out Community Distributed Generation (CDG) in New York.

Our city recently announced the launch of Kingston Community Energy, a Community Choice Aggregation (CCA) program where it is our goal that all residents, regardless of income level, benefit from locally generated clean energy. We have selected Mid-Hudson Energy Transition, a Kingston-based non-profit, to serve as our CCA Administrator with PowerMarket in the role of implementation partner and technical advisor.

Our strategy builds on actions our city has already taken. We are a Silver-Certified Climate Smart Community and were the first city to earn the NYSERDA Clean Energy Community designation. We have implemented various strategies and actions to reduce greenhouse gas emissions, set energy use reduction goals, and commit to 100% clean energy through our recently updated Climate Action Plan and 100% Renewable Energy Transition Roadmap. Kingston Community Energy is a central component that has the potential to greatly reduce our city's carbon footprint.

Opt-Out CDG is a key strategy we need to allow our citizens to benefit directly from our city's sustainability agenda. Our capacity to support clean energy initiatives is greatly influenced by our ability to deliver benefits to our constituents. Opt-Out CDG is vital in maintaining broad support for clean energy. Opt-Out CDG creates guaranteed utility bill saving for participants and this mitigates risks and balances the CCA's reliance on electricity supply contracts to benefit end-users, strengthening the CCA program's long-term sustainability. With a strong CCA program, Opt-Out CDG will allow Kingston Community Energy to deliver other innovative clean energy programs with the goal of achieving community-wide decarbonization.

With Opt-Out CDG, Kingston has plans to prioritize enrollments in Kingston's state-designated Disadvantaged Community (DAC) areas. Kingston's CCA program and others like it will provide benefits that would not be available through Expanded Solar-For-All alone, including soft-cost reductions relative to conventional CDG. These benefits of Opt-Out CDG are described in the Electricity Sector Key Strategies section of state's Climate Action Council Scoping Plan and the state's 10 Gigawatt Distributed Solar Roadmap. Opt-Out CDG is likely

one of the most cost-effective ways to meet the state's statutory obligations to deliver at least 35 percent of the benefits of clean energy spending to DACs under the Climate Leadership and Community Protection Act (CLCPA).

We encourage the Commission to approve both Opt-Out CDG and Expanded Solar-For-All. Public Service Commission (PSC) regulations already allow the stacking of benefits from both programs. They can work well together but Opt-Out CDG should not be delayed while Expanded Solar-For All is being developed. While Expanded Solar-For-All has potential to benefit low-income residents throughout the state, it is a utility-led initiative that will require new billing processes to be developed by companies with a record of deficient billing performance and a history of failing to meet their obligations. In addition, Expanded Solar-For-All will do little to encourage greater community engagement and local support for clean energy. Authorizing both Opt-Out CDG and Expanded Solar-For-All will accomplish much more to advance the state's goals than Expanded Solar-For-All alone.

I urge the Commission to approve Opt-Out CDG without delay as a key component of the state's CCA program. Our community stands ready to work with the Commission and other stakeholders to ensure the successful implementation of this program.

Thank you for considering our support for Opt-Out CDG.

Sincerely,



Steven T. Noble  
Mayor

cc: The Honorable Kathy Hochul, Governor  
The Honorable Rory M. Christian, CEO, Department of Public Service  
The Honorable Doreen M. Harris, President and CEO, NYSERDA  
The Honorable Basil Seggos, Commissioner, Department of Environmental Conservation  
The Honorable Michelle Hinchey, State Senator  
The Honorable Sarahana Shrestha, Assembly Member  
The Honorable Jen Metzger, Ulster County Executive

**RESOLUTION CALLING FOR NEW YORK STATE TO APPROVE AND  
IMPLEMENT AN OPT-OUT COMMUNITY DISTRIBUTED GENERATION  
(CDG) PROGRAM IN NEW YORK**

**WHEREAS**, the Common Council of the City of Kingston (the “Common Council”) is concerned about the impact of conventional energy sources on the environment, as well as the rising cost of energy for our residents and businesses, and

**WHEREAS**, Community Distributed Generation (CDG) is a state-authorized program that allows participants to receive the benefits of solar without having to install panels on their property, and

**WHEREAS**, Opt-Out CDG is an innovative way for local governments to give residents and businesses access to clean energy by automatically enrolling them in community solar projects through the state’s Community Choice Aggregation (CCA) policy, and

**WHEREAS**, Opt-Out CDG is expected to result in savings of up to 10 percent on the eligible electricity costs of virtually all homes and small businesses in the jurisdiction, and

**WHEREAS**, the Opt-Out CDG program has been designed to prioritize enrollment of low-income households, which will help quickly expand access to clean energy for all New Yorkers, including those living in state-designated Disadvantaged Communities (DACs), and

**WHEREAS**, Opt-Out CDG is supported by the NYS Climate Action Council Scoping Plan, the State’s 10 Gigawatt Distributed Solar Roadmap, Clean Energy Communities, and Climate Smart Communities, and directly contributes to the State’s nation-leading clean energy and equity goals, and

**WHEREAS**, Opt-Out CDG would support the City of Kingston’s 2030 Climate Action Plan and Resolution #179 of 2017 of the Council committing to 100% Clean Energy by 2050, and

**WHEREAS**, Opt-Out CDG was first approved in New York State in 2018 by the PSC, but in 2021 the PSC paused the program and recently called for alternatives to be studied, further delaying the roll out of the program, and

**WHEREAS**, the delay in the approval and implementation of Opt-Out CDG is hindering progress toward state and local clean energy goals and causing lost savings and increased costs for communities,

**NOW, THEREFORE,**

**BE IT RESOLVED**, that the Council hereby supports the approval and implementation of Opt-Out CDG in New York State, and urges the PSC to take immediate action to bring this program to fruition, and;

**BE IT FURTHER RESOLVED**, that the Council hereby commits to actively support and participate in the Opt-Out CDG Coalition.

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# CITY OF KINGSTON

## Office of the Mayor

mayor@kingston-ny.gov

L+R

Steven T. Noble  
Mayor



February 2nd, 2023

Hon. Michelle L. Phillips  
Secretary to the Commission  
New York State Public Service Commission  
Empire State Plaza Agency Building 3  
Albany, NY 12223-1350

<p>Re: Case 14-M-0224 Case 19-M-0463 Case 15-E-0082</p>	<p>Proceeding on Motion of the Commission to Enable Community Choice Aggregation Programs. In the Matter of Consolidated Billing for Distributed Energy Resources. Proceeding on Motion of the Commission as to the Policies, Requirements and Conditions For Implementing a Community Net Metering Program.</p>
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Our strategy builds on actions our city has already taken. We are a Silver-Certified Climate Smart Community and were the first city to earn the NYSERDA Clean Energy Community designation. We have implemented various strategies and actions to reduce greenhouse gas emissions, set energy use reduction goals, and commit to 100% clean energy through our recently updated Climate Action Plan and 100% Renewable Energy Transition Roadmap. Kingston Community Energy is a central component that has the potential to greatly reduce our city's carbon footprint.

Opt-Out CDG is a key strategy we need to allow our citizens to benefit directly from our city's sustainability agenda. Our capacity to support clean energy initiatives is greatly influenced by our ability to deliver benefits to our constituents. Opt-Out CDG is vital in maintaining broad support for clean energy. Opt-Out CDG creates guaranteed utility bill saving for participants and this mitigates risks and balances the CCA's reliance on electricity supply contracts to benefit end-users, strengthening the CCA program's long-term sustainability. With a strong CCA program, Opt-Out CDG will allow Kingston Community Energy to deliver other innovative clean energy programs with the goal of achieving community-wide decarbonization.

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one of the most cost-effective ways to meet the state's statutory obligations to deliver at least 35 percent of the benefits of clean energy spending to DACs under the Climate Leadership and Community Protection Act (CLCPA).

We encourage the Commission to approve both Opt-Out CDG and Expanded Solar-For-All. Public Service Commission (PSC) regulations already allow the stacking of benefits from both programs. They can work well together but Opt-Out CDG should not be delayed while Expanded Solar-For-All is being developed. While Expanded Solar-For-All has potential to benefit low-income residents throughout the state, it is a utility-led initiative that will require new billing processes to be developed by companies with a record of deficient billing performance and a history of failing to meet their obligations. In addition, Expanded Solar-For-All will do little to encourage greater community engagement and local support for clean energy. Authorizing both Opt-Out CDG and Expanded Solar-For-All will accomplish much more to advance the state's goals than Expanded Solar-For-All alone.

I urge the Commission to approve Opt-Out CDG without delay as a key component of the state's CCA program. Our community stands ready to work with the Commission and other stakeholders to ensure the successful implementation of this program.

Thank you for considering our support for Opt-Out CDG.

Sincerely,



Steven T. Noble  
Mayor

cc: The Honorable Kathy Hochul, Governor  
The Honorable Rory M. Christian, CEO, Department of Public Service  
The Honorable Doreen M. Harris, President and CEO, NYSERDA  
The Honorable Basil Seggos, Commissioner, Department of Environmental Conservation  
The Honorable Michelle Hinchey, State Senator  
The Honorable Sarahana Shrestha, Assembly Member  
The Honorable Jen Metzger, Ulster County Executive



**RESOLUTION CALLING FOR NEW YORK STATE TO APPROVE AND  
IMPLEMENT AN OPT-OUT COMMUNITY DISTRIBUTED GENERATION  
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**WHEREAS**, the Common Council of the City of Kingston (the “Common Council”) is concerned about the impact of conventional energy sources on the environment, as well as the rising cost of energy for our residents and businesses, and

**WHEREAS**, Community Distributed Generation (CDG) is a state-authorized program that allows participants to receive the benefits of solar without having to install panels on their property, and

**WHEREAS**, Opt-Out CDG is an innovative way for local governments to give residents and businesses access to clean energy by automatically enrolling them in community solar projects through the state’s Community Choice Aggregation (CCA) policy, and

**WHEREAS**, Opt-Out CDG is expected to result in savings of up to 10 percent on the eligible electricity costs of virtually all homes and small businesses in the jurisdiction, and

**WHEREAS**, the Opt-Out CDG program has been designed to prioritize enrollment of low-income households, which will help quickly expand access to clean energy for all New Yorkers, including those living in state-designated Disadvantaged Communities (DACs), and

**WHEREAS**, Opt-Out CDG is supported by the NYS Climate Action Council Scoping Plan, the State’s 10 Gigawatt Distributed Solar Roadmap, Clean Energy Communities, and Climate Smart Communities, and directly contributes to the State’s nation-leading clean energy and equity goals, and

**WHEREAS**, Opt-Out CDG would support the City of Kingston’s 2030 Climate Action Plan and Resolution #179 of 2017 of the Council committing to 100% Clean Energy by 2050, and

**WHEREAS**, Opt-Out CDG was first approved in New York State in 2018 by the PSC, but in 2021 the PSC paused the program and recently called for alternatives to be studied, further delaying the roll out of the program, and

**WHEREAS**, the delay in the approval and implementation of Opt-Out CDG is hindering progress toward state and local clean energy goals and causing lost savings and increased costs for communities,

**NOW, THEREFORE,**

**BE IT RESOLVED**, that the Council hereby supports the approval and implementation of Opt-Out CDG in New York State, and urges the PSC to take immediate action to bring this program to fruition, and;

**BE IT FURTHER RESOLVED**, that the Council hereby commits to actively support and participate in the Opt-Out CDG Coalition.

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CITY OF KINGSTON

Office of the Mayor

mayor@kingston-ny.gov

L+R

Steven T. Noble  
Mayor



February 2, 2023

Honorable Andrea Shaut  
President/Alderman-at-Large  
Kingston Common Council  
420 Broadway  
Kingston, NY 12401

RE: Stony Run Apartments

Dear President Shaut,

In July of 2021, the owners of Kingston Village (Stony Run) approached the City and the Common Council to turn what is known as Stony Run Apartments into a regulated workforce development housing complex. Since that time, my administration has been working with the owners of this property to develop a solution that would create long term affordability while also helping to protect current and future residents while also making sure necessary upgrades are made to the facility. To that end, I am happy to report we have come up with proposal that we believe is in the best interest of the City and the tenants of the facility. I have outlined the agreement below:

- All current tenants will receive all ETPA protections as currently in place in the City of Kingston for as long as the tenants reside at Stony Run
- All new tenants will have to meet AMI requirements and all rents will be capped at no more than 120% AMI
- Property will be transferred to a nonprofit Housing Development Trust Fund
- Taxes will be paid. No Pilot is being requested
- Requirement that reserve funds be set up for maintenance and repair costs
- Regulatory agreement will prohibit this facility from being a Market Rate Apartment Complex for 40 years

The owners of Kingston Village (Stony Run) and our City Assessor Dan Baker would like an opportunity to discuss this agreement at the next Laws and Rules Committee.

I believe this is an innovative approach to take a market rate apartment complex and convert it to a workforce housing complex while ensuring that both current and future tenants have a well kept and fiscally sound housing facility.

Respectfully Submitted,


Steven T. Noble  
Mayor

STN:rjv



**THE CITY OF KINGSTON COMMON COUNCIL**

**LAWS & RULES  
COMMITTEE REPORT**

DEPARTMENT: <u>Mayor</u>	DATE: 2-15-23
Description	
<p>Authorize the Mayor to enter into a regulatory agreement with Village PropCo LLC and KINGSTON WORKFORCE HOUSING DEVELOPMENT FUND CORPORATION that would ensure all current tenants will receive all ETPA protections as currently in place in the City of Kingston for as long as the tenants reside at Stony Run. All new tenants will have to meet AMI requirements and all rents will be capped at no more than 120% AMI.</p>	
	
Signature: _____	

Motion by \_\_\_\_\_

Seconded by \_\_\_\_\_

Action Required:

SEQRA Decision:  
 Type I Action         
 Type II Action         
 Unlisted Action       

Negative Declaration of Environmental Significance: \_\_\_\_\_

Conditioned Negative Declaration: \_\_\_\_\_

Seek Lead Agency Status: \_\_\_\_\_

Positive Declaration of Environmental Significance: \_\_\_\_\_

<u>Committee Vote</u>	<u>YES</u>	<u>NO</u>
Rita Worthington, Ward 4, Chairman		
Barbara Hill, Ward 1		
Carl Frankel, Ward 2		
Rennie Scott-Childress, Ward 3		
Michael Olivieri, Ward 7		



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L+R

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

Steven T. Noble, Mayor  
Counsel



Barbara Graves-Poller, Corporation Counsel  
Matthew Jankowski, Asst. Corporation

February 3, 2023

*Via Email (ashaut@kingston-ny.gov)*  
President Andrea Shaut  
City of Kingston Common Counsel  
City Hall  
420 Broadway  
Kingston, NY 12401

RE: Adoption of a Local Law to bring §172 of the City Code into compliance with state law

Dear President Shaut:

Please accept this correspondence as our office's communication requesting the Common Council review and adopt the attached draft local law. This draft consists of modifications to our current building enforcement statute, § 172 of the City Code.

The proposed changes are necessary to bring the City Code into compliance with minimum standards for administration and enforcement of the Uniform Code and Energy Code, 19 NYCRR Part 1203. The text for 19 NYCRR Part 1203 can be found in the following link.

<https://dos.ny.gov/system/files/documents/2021/12/2021-12-10-full-text-of-rule-part-1203.pdf>

The minimum standards and required local compliance became effective on December 30, 2022. Accordingly it is necessary for the common council to adopt the changes to bring our statute in compliance with state law.

Please forward this communication to the next regularly scheduled Laws & Rules Committee for consideration.

Thank you for your time and consideration with this request. Please contact me if you have any questions or wish to discuss this matter further.

Sincerely,

Matthew M. Jankowski  
*Assistant Corporation Counsel*  
420 Broadway  
Kingston, New York 12401  
(845) 334-3947 (tel.)  
[MJankowski@kingston-ny.gov](mailto:MJankowski@kingston-ny.gov)  
enclosures

cc. Director Steve Knox *Via Email (sknox@kingston-ny.gov)*





THE CITY OF KINGSTON COMMON COUNCIL

LAWS & RULES  
COMMITTEE REPORT

DEPARTMENT: Cooperation Council

DATE: 2/3/23

Description: Review and Adopt a Local Law amending section 172 of the city code to bring it into compliance with the minimum standards for Administration and Enforcement of the Uniform and Energy Code, section 19 NYCRR Part 1203.

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Signature: 

Motion by \_\_\_\_\_

Seconded by \_\_\_\_\_

Action Required:

SEORA Decision:  
Type I Action \_\_\_\_\_  
Type II Action \_\_\_\_\_  
Unlisted Action \_\_\_\_\_

Negative Declaration of Environmental Significance: \_\_\_\_\_

Conditioned Negative Declaration: \_\_\_\_\_

Seek Lead Agency Status: \_\_\_\_\_

Positive Declaration of Environmental Significance: \_\_\_\_\_

<u>Committee Vote</u>	<u>YES</u>	<u>NO</u>
Rita Worthington, Chairperson		
Barbara Hill, Ward 1		
Carl Frankel, Ward 2		
Rennie Scott-Childress, Ward 3		
Michael Olivieri, Ward 7		



Local Law # of 2023.

Be it enacted by the Common Council of the City of Kingston, in the County of Ulster, as follows:

## SECTION 1. PURPOSE AND INTENT

This local law provides for the administration and enforcement of the New York State Uniform Fire Prevention and Building Code (the Uniform Code), and the NYS State Stretch Code and State Energy Conservation Construction Code (the Energy Code) in this City. This local law is adopted pursuant to section 10 of the Municipal Home Rule Law.

Except as otherwise provided in the Uniform Code, the Energy Code other state law, or other section of this local law, all buildings, structures, and premises, regardless of use or occupancy, are subject to the provisions this local law.

## ARTICLE I

### Adoption of Standards

#### **§ 172-1. Adoption by reference.**

The Common Council of the City of Kingston hereby accepts the applicability of Chapter B of the New York State Uniform Fire Prevention and Building Code for the City of Kingston in accordance with the provisions of Article 18 of the Executive Law.

#### **§ 172-2. Filing of certified copy.**

The City Clerk of the City of Kingston be and hereby is instructed to file a certified copy of this article in the principal office of the State Fire Prevention and Building Code Council and in the office of the Secretary of State at Albany, New York.

## ARTICLE II

### Building Code Administration and Enforcement

#### **§ 172-3. Definitions.**

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

**ASSEMBLY AREA-** An area in any building, or in any portion of a building, that is primarily used or intended to be used for gathering fifty or more persons for uses including, but not limited to, amusement, athletic, entertainment, social, or other recreational functions; patriotic, political, civic, educational, or religious functions; food or drink consumption; awaiting transportation; or similar purposes.

**BUILDING PERMIT** — A permit issued pursuant to § 172-5 of this article. The term "Building Permit" shall mean a building permit, construction permit, demolition permit, or other permit



that authorizes the performance of work and shall also include a Building Permit which is renewed, amended, or extended pursuant to any provision of this local law.

CERTIFICATE OF COMPLIANCE- document issued by the City stating that work was done in compliance with approved construction documents and the Codes.

CERTIFICATE OF OCCUPANCY- document issued by the City certifying that the building or structure, or portion thereof, complies with the approved construction documents that have been submitted to, and approved by the City, and indicating that the building or structure, or portion thereof, is in a condition suitable for occupancy.

CITY — The City of Kingston.

CODE ENFORCEMENT OFFICER — The Code Enforcement Officer appointed pursuant to § 172-4 of this article.

CODE ENFORCEMENT PERSONNEL — The Code Enforcement Officer and all inspectors (Building, Housing, Plumbing and Fire).

CODES- the Uniform Code and Energy Code.

ENERGY CODE — The New York State Stretch Energy Code and those portions of the New York State Energy Conservation Construction Code not amended by NYS Stretch Code, as currently in effect and as hereafter amended from time to time.

FCNYS- Fire Code of New York State as currently incorporated by reference in 19 NYCRR Part 1225.

FIRE SAFETY AND PROPERTY MAINTENANCE INSPECTION- an inspection performed to determine compliance with the applicable provisions of 19 NYCRR Part 1225 and the publications incorporated therein by reference and the applicable provisions of 19 NYCRR Part 1226 and the publications incorporated therein by reference.

HAZARDOUS PRODUCTION MATERIALS- a solid, liquid, or gas associated with semiconductor manufacturing that has a degree-of-hazard rating in health, flammability, or instability of Class 3 or 4, as ranked by NFPA 704 (Standard Systems for Identification of the Hazards of Materials for Emergency Response), and which is used directly in research, laboratory, or production processes which have, as their end product, materials that are not hazardous.

INSPECTOR — An inspector appointed pursuant to § 172-4D of this article.

MOBILE FOOD PREPARATION VEHICLES- vehicles that contain cooking equipment that produces smoke or grease-laden vapors for the purpose of preparing and serving food to the public. Vehicles intended for private recreation shall not be considered mobile food preparation vehicles.

OPERATING PERMIT — A permit issued pursuant to § 172-11 of this article. The term "operating permit" shall also include an operating permit which is renewed, amended or extended pursuant to any provision of this article.

ORDER TO REMEDY— An order issued by the Code Enforcement Officer pursuant to § 172-16A of this article, which is also known as a "Compliance Order".

PERMIT HOLDER — The person to whom a building permit has been issued.

PERSON — An individual, corporation, limited liability company, partnership, limited partnership, business trust, estate, trust, association, or any other legal or commercial entity of any kind or description.

PMCNYS- the 2020 Property Maintenance Code of New York State as currently incorporated by reference in 19 NYCRR Part 1226.



RCNYS- shall mean the 2020 Residential Code of New York State as currently incorporated by reference in 19 NYCRR Part 1220.

REPAIR- the reconstruction, replacement, or renewal of any part of an existing building for the purpose of its maintenance or to correct damage

STOP-WORK ORDER — An order issued pursuant to § 172-7 of this article.

SUGARHOUSE- a building used, in whole or in part, for the collection, storage, or processing of maple sap into maple syrup and/or maple sugar.

TEMPORARY CERTIFICATE — A certificate issued pursuant to § 172-8D of this article.

UNIFORM CODE — The New York State Uniform Fire Prevention and Building Code, as currently in effect and as hereafter amended from time to time.

#### **§ 172-4. Code Enforcement Officer; inspectors.**

A. The office of Code Enforcement Officer is hereby created. The Code Enforcement Officer shall administer and enforce all the provisions of the Uniform Code, the Energy Code and this article. The Code Enforcement Officer shall have the following powers and duties:

(1) To receive, review, and approve or disapprove applications for building permits, certificates of occupancy/certificates of compliance, temporary certificates and operating permits, and the plans, specifications and construction documents submitted with such applications;

(2) Upon approval of such applications, to issue building permits, certificates of occupancy/certificates of compliance, temporary certificates and operating permits, and to include in building permits, certificates of occupancy/ certificates of compliance, temporary certificates and operating permits such terms and conditions as the Code Enforcement Officer may determine to be appropriate;

(3) To conduct construction inspections, inspections to be made prior to the issuance of certificates of occupancy/certificates of compliance, temporary certificates and operating permits, fire safety and property maintenance inspections, inspections incidental to the investigation of complaints, and all other inspections required or permitted under any provision of this article;

(4) To issue stop-work orders;

(5) To review and investigate complaints;

(6) To issue orders pursuant to § 172-16A, Orders to Remedy /Compliance Orders, of this article;

(7) To maintain records;

(8) To collect fees as set by the Common Council of the City of Kingston;

(9) To pursue administrative enforcement actions and proceedings;

(10) In consultation with the City of Kingston's attorney, to pursue such legal actions and proceedings as may be necessary to enforce the Uniform Code, the Energy Code and this article, or to abate or correct conditions not in compliance with the Uniform Code, the Energy Code or this article; and

(11) To exercise all other powers and fulfill all other duties conferred upon the Code Enforcement Officer by this article.

B. The Code Enforcement Officer shall be appointed by the Mayor. The Code Enforcement Officer shall possess background experience related to building construction or fire prevention and shall, within the time prescribed by law, obtain such basic training, in-service training, advanced in-service training and other training as the State of New York shall require for code





enforcement personnel, and the Code Enforcement Officer shall obtain certification from the State Fire Administrator pursuant to the Executive Law and the regulations promulgated thereunder.

C. In the event that the Code Enforcement Officer is unable to serve as such for any reason, an individual shall be appointed by the Mayor to serve as Acting Code Enforcement Officer. The Acting Code Enforcement Officer shall, during the term of his or her appointment, exercise all powers and fulfill all duties conferred upon the Code Enforcement Officer by this article.

D. One or more inspectors may be appointed by the Mayor to act under the supervision and direction of the Code Enforcement Officer and to assist the Code Enforcement Officer in the exercise of the powers and fulfillment of the duties conferred upon the Code Enforcement Officer by this article. Each inspector shall, within the time prescribed by law, obtain such basic training, in-service training, advanced in-service training and other training as the State of New York shall require for code enforcement personnel, and each inspector shall obtain certification from the Department of State pursuant to the Executive Law and the regulations promulgated thereunder.

E. The compensation for the Code Enforcement Officer and inspectors shall be fixed from time to time by the Common Council of the City of Kingston.

#### **§ 172-5. Building permits.**

A. Building permits required. Except as otherwise provided in Subsection B of this section, a building permit shall be required for any work which must conform to the Uniform Code and/or the Energy Code, including, but not limited to, the construction, enlargement, alteration, improvement, removal, relocation or demolition of any building or structure, or any portion thereof, or any excavation in preparation for any of the foregoing activities and for the installation of a solid fuel burning heating appliance, chimney, or flue in any dwelling unit. No Person shall commence any work for which a Building Permit is required without first having obtained a Building Permit from the City of Kingston.

B. Exemptions. No building permit shall be required for work in any of the following categories:

- (1) Installation of swings and other playground equipment associated with a one- or two-family dwelling or multiple single-family dwellings (townhouses);
- (2) Installation of fences which are not part of an enclosure surrounding a swimming pool;
- (3) Construction of retaining walls with a height of three feet or less;
- (4) Construction of temporary motion-picture, television and theater stage sets and scenery;
- (5) Installation of window awnings supported by an exterior wall of a one- or two- family dwelling or multiple single-family dwellings (townhouses);
- (6) Installation of partitions or movable cases less than five feet nine inches in height;
- (7) Painting, wallpapering, tiling, carpeting, or other similar finish work;
- (8) Installation of listed portable electrical, plumbing, heating, ventilation or cooling equipment or appliances;
- (9) Replacement of any equipment, provided the replacement does not alter the equipment's listing or render it inconsistent with the equipment's original specifications; or
- (10) Repairs, provided that such repairs do not involve:
  - (a) The removal or cutting away of a load-bearing wall, partition, or portion thereof, or of any structural beam or load-bearing component;



(b) The removal or change of any required means of egress; or the rearrangement of parts of a structure in a manner which affects egress;

(c) The enlargement, alteration, replacement or relocation of any building system; or

(d) The removal from service of all or part of a fire protection system for any period of time.

C. Exemption not deemed authorization to perform noncompliant work. The exemption from the requirement to obtain a building permit for work in any category set forth in Subsection B of this section shall not be deemed an authorization for work to be performed in violation of the Uniform Code or the Energy Code.

D. Applications for building permits. Applications for a building permit shall be made in writing on a form provided by or otherwise acceptable to the Code Enforcement Officer. The application shall be signed by the owner of the property where the work is to be performed or by an authorized agent of the owner. The application shall include such information as the Code Enforcement Officer deems sufficient to permit a determination by the Code Enforcement Officer that the intended work complies with all applicable requirements of the Uniform Code and the Energy Code. The application shall include or be accompanied by the following information and documentation:

(1) A description of the proposed work;

(2) The Tax Map number and the street address of the premises where the work is to be performed;

(3) The occupancy classification of any affected building or structure;

(4) Where applicable, a statement of special inspections prepared in accordance with the provisions of the Uniform Code; and

(5) At least two sets of construction documents (drawings and/or specifications) which:

(a) Define the scope of the proposed work;

(b) Are prepared by a New York State registered architect or licensed professional engineer where so required by the Education Law;

(c) Indicate with sufficient clarity and detail the nature and extent of the work proposed;

(d) Substantiate that the proposed work will comply with the Uniform Code and the Energy Code; and

(e) Where applicable, include a site plan that shows any existing and proposed buildings and structures on the site, the location of any existing or buildings and structures and the lot lines.

E. Construction documents. Construction documents will not be accepted as part of an application for a building permit unless they satisfy the requirements set forth in Subsection D(5) of this section. Construction documents which are accepted as part of the application for a building permit shall be marked as accepted by the Code Enforcement Officer in writing or by stamp. One set of the accepted construction documents shall be retained by the Code Enforcement Officer, and one set of the accepted construction documents shall be returned to the applicant to be kept at the work site so as to be available for use by the Building Safety personnel. However, the return of a set of accepted construction documents to the applicant shall not be construed as authorization to commence work, nor as an indication that a building permit will be issued. Work shall not be commenced until and unless a building permit is issued.

F. Issuance of building permits. An application for a building permit shall be examined to ascertain whether the proposed work is in compliance with the applicable requirements of the Uniform Code and Energy Code. The Code Enforcement Officer shall issue a building permit if the proposed work is in compliance with the applicable requirements of the Uniform Code and Energy Code.



G. Building permits to be displayed. Building permits shall be visibly displayed at the work site and shall remain visible until the authorized work has been completed.

H. Work to be performed in accordance with construction documents. All work shall be performed in accordance with the construction documents which were submitted with and accepted as part of the application for the building permit. The building permit shall contain such a directive. The permit holder shall immediately notify the Code Enforcement Officer of any change occurring during the course of the work. The building permit shall contain such a directive. If the Code Enforcement Officer determines that such change warrants a new or amended building permit, such change shall not be made until and unless a new or amended building permit reflecting such change is issued.

I. Time limits. Building permits shall become invalid unless the authorized work is commenced within six months following the date of issuance. Building permits shall expire 12 months after the date of issuance. A building permit which has become invalid or which has expired pursuant to this subsection may be renewed upon application by the permit holder, payment of the applicable fee, and approval of the application by the Code Enforcement Officer.

J. Revocation or suspension of building permits. If the Code Enforcement Officer determines that a building permit was issued in error because of incorrect, inaccurate or incomplete information, or that the work for which a building permit was issued violates the Uniform Code or the Energy Code, the Code Enforcement Officer shall revoke the building permit or suspend the building permit until such time as the permit holder demonstrates that all work then completed is in compliance with all applicable provisions of the Uniform Code and the Energy Code and all work then proposed to be performed shall be in compliance with all applicable provisions of the Uniform Code and the Energy Code.

K. Fee. The complete cost of a building permit is payable with the application. In the event that a building permit is not issued for any reason, one-third of the fee will be refundable after a request is made in writing to the Code Enforcement Officer.

#### **§ 172-6. Construction inspections.**

A. Work to remain accessible and exposed. Work shall remain accessible and exposed until inspected and accepted by the Code Enforcement Officer or by an inspector authorized by the Code Enforcement Officer. The permit holder shall notify the Code Enforcement Officer when any element of work described in Subsection B of this section is ready for inspection.

B. Elements of work to be inspected. The following elements of the construction process shall be inspected, where applicable:

- (1) Work site prior to the issuance of a building permit;
- (2) Footing and foundation;
- (3) Preparation for concrete slab;
- (4) Framing;
- (5) Building systems, including underground and rough-in;
- (6) Fire-resistant construction;
- (7) Fire-resistant penetrations;
- (8) Solid-fuel-burning heating appliances, chimneys, flues or gas vents;
- (9) Energy Code compliance; and
- (10) A final inspection after all work authorized by the building permit has been completed.

C. Inspection results. After inspection, the work or a portion thereof shall be noted as satisfactory as completed, or the permit holder shall be notified as to where the work fails to



comply with the Uniform Code or Energy Code. Work not in compliance with any applicable provision of the Uniform Code or Energy Code shall remain exposed until such work shall have been brought into compliance with all applicable provisions of the Uniform Code and the Energy Code, reinspected, and found satisfactory as completed.

**§ 172-7. Stop-work orders.**

A. Authority to issue. The Code Enforcement Officer is authorized to issue stop-work orders pursuant to this section. The Code Enforcement Officer shall issue a stop-work order to halt:

(1) Any work that is determined by the Code Enforcement Officer to be contrary to any applicable provision of the Uniform Code or Energy Code, without regard to whether such work is or is not work for which a building permit is required, and without regard to whether a building permit has or has not been issued for such work; or

(2) Any work that is being conducted in a dangerous or unsafe manner in the opinion of the Code Enforcement Officer, without regard to whether such work is or is not work for which a building permit is required, and without regard to whether a building permit has or has not been issued for such work; or

(3) Any work for which a building permit is required which is being performed without the required building permit, or under a building permit that has become invalid, has expired, or has been suspended or revoked.

B. Content of stop-work orders. Stop-work orders shall be in writing, be dated and signed by the Code Enforcement Officer, state the reason or reasons for issuance, and if applicable, state the conditions which must be satisfied before work will be permitted to resume.

C. Service of stop-work orders. The Code Enforcement Officer shall cause the stop-work order, or a copy thereof, to be served on the owner of the affected property (and, if the owner is not the permit holder, on the permit holder) personally or by certified mail. The Code Enforcement Officer shall be permitted, but not required, to cause the stop-work order, or a copy thereof, to be served on any building, architect, tenant, contractors, subcontractor, construction superintendent, or their agents, or any other person taking part or assisting in work affected by the stop-work order, personally or by certified mail; provided, however, that failure to serve any person mentioned in this sentence shall not affect the efficacy of the stop-work order.

D. Effect of stop-work order. Upon the issuance of a stop-work order, the owner of the affected property, the permit holder and any other person performing, taking part in or assisting in the work shall immediately cease all work which is the subject of the stop-work order.

E. Remedy not exclusive. The issuance of a stop-work order shall not be the exclusive remedy available to address any event described in Subsection A of this section, and the authority to issue a stop-work order shall be in addition to, and not in substitution for or limitation of, the right and authority to pursue any other remedy or impose any other penalty under § 172-16, Enforcement; penalties for offenses, of this article or under any other applicable local law or state law. Any such other remedy or penalty may be pursued at any time, whether prior to, at the time of, or after the issuance of a stop-work order.

**§ 172-8. Certificates of occupancy.**

A. Certificates of occupancy required. A certificate of occupancy shall be required for any work which is the subject of a building permit and for all structures, buildings, or portions thereof, which are converted from one use or occupancy classification or subclassification to another. Permission to use or occupy a building or structure, or portion thereof, for which a





building permit was previously issued shall be granted only by issuance of a certificate of occupancy.

B. Issuance of certificates of occupancy. The Code Enforcement Officer shall issue a certificate of occupancy if the work which was the subject of the building permit was completed in accordance with all applicable provisions of the Uniform Code and Energy Code and, if applicable, the structure, building or portion thereof that was converted from one use or occupancy classification or subclassification to another complies with all applicable provisions of the Uniform Code and Energy Code. The Code Enforcement Officer or an inspector authorized by the Code Enforcement Officer shall inspect the building, structure or work prior to the issuance of a certificate of occupancy. In addition, where applicable, the following documents, prepared in accordance with the provisions of the Uniform Code by such person or persons as may be designated by or otherwise acceptable to the Code Enforcement Officer, at the expense of the applicant for the certificate of occupancy, shall be provided to the Code Enforcement Officer prior to the issuance of the certificate of occupancy:

(1) A written statement of structural observations and/or a final report of special inspections; and

(2) Flood hazard certifications.

C. Contents of certificates of occupancy. A certificate of occupancy shall contain the following information:

a. The building permit number, if any;

b. The date of issuance of the building permit, if any;

c. The name, address and Tax Map number of the property;

d. If the certificate of occupancy is not applicable to an entire structure, a description of that portion of the structure for which the certificate of occupancy is issued;

e. The use and occupancy classification of the structure;

f. The type of construction of the structure;

g. The assembly occupant load of the structure, if any;

h. If an automatic sprinkler system is provided, a notation as to whether the sprinkler system is required;

i. Any special conditions imposed in connection with the issuance of the building permit; and

j. The signature of the Code Enforcement Officer issuing the certificate of occupancy and the date of issuance.

D. Temporary certificate. The Code Enforcement Officer shall be permitted to issue a temporary certificate allowing the temporary occupancy of a building or structure, or a portion thereof, prior to completion of the work which is the subject of a

building permit. However, in no event shall the Code Enforcement Officer issue a temporary certificate unless the Code Enforcement Officer determines that the building or structure, or the portion thereof covered by the temporary certificate, may be occupied safely, that any fire- and smoke-detecting or fire protection equipment which has been installed is operational, and that all required means of egress from the building or structure have been provided. The Code Enforcement Officer may include in a temporary certificate such terms and conditions as he or she deems necessary or appropriate to ensure safety or to further the purposes and intent of the Uniform Code. A temporary certificate shall be effective for a period of time, not to exceed six months,



which shall be determined by the Code Enforcement Officer and specified in the temporary certificate. During the specified period of effectiveness of the temporary certificate, the permit holder shall undertake to bring the building or structure into full compliance with all applicable provisions of the Uniform Code and the Energy Code.

- E. Revocation or suspension of certificates. If the Code Enforcement Officer determines that a certificate of occupancy or a temporary certificate was issued in error because of incorrect, inaccurate or incomplete information, and if the relevant deficiencies are not corrected to the satisfaction of the Code Enforcement Officer within such period of time as shall be specified by the Code Enforcement Officer, the Code Enforcement Officer shall revoke or suspend such certificate.
- F. Fee. The fee specified in or determined in accordance with the provisions set forth in § 172-17, Fees, of this article must be paid at the time of submission of an application for a certificate of occupancy or for a temporary certificate.

**§ 172-9. Notification regarding fire or explosion.**

The chief of any fire department providing fire-fighting services for a property within this City shall promptly notify the Code Enforcement Officer of any fire or explosion involving any structural damage, fuel-burning appliance, chimney or gas vent.

**§ 172-10. Unsafe buildings and structures.**

Unsafe structures and equipment in this City shall be identified and addressed in accordance with the procedures established by Local Law No. 1 of 1989 (Ch. 178, Art. I, in the Code of the City of Kingston), as now in effect or as hereafter amended from time to time.

**§ 172-11. Operating permits.**

- A. Operating permits required.
  - (1) Operating permits shall be required for conducting the activities or using the categories of buildings listed below:
    - (a) Manufacturing, storing or handling hazardous materials in quantities exceeding those listed in Table 2703.1.1(1), 2703.1.1(2), 2703.1.1(3) or 2703.1.1(4) in the publication entitled "Fire Code of New York State" and incorporated by reference in 19 NYCRR 1225.1; commercial and industrial operations which produce combustible dust as a byproduct, fruit and crop ripening, and waste handling;
    - (b) Use of pyrotechnic devices in assembly occupancies;
    - (c) Buildings containing one or more areas of public assembly with an occupant load of 100 persons or more; and
    - (d) Buildings whose use or occupancy classification may pose a substantial potential hazard to public safety, as determined by resolution adopted by the Common Council of this City.
  - (2) Any person who proposes to undertake any activity or to operate any type of building listed in this Subsection A shall be required to obtain an operating permit prior to commencing such activity or operation.
- B. Applications for operating permits. An application for an operating permit shall be in writing on a form provided by or otherwise acceptable to the Code Enforcement Officer. Such application shall include such information as the Code Enforcement Officer deems sufficient to



permit a determination by the Code Enforcement Officer that quantities, materials, and activities conform to the requirements of the Uniform Code. If the Code Enforcement Officer determines that tests or reports are necessary to verify conformance, such tests or reports shall be performed or provided by such person or persons as may be designated by or otherwise acceptable to the Code Enforcement Officer, at the expense of the applicant.

C. Inspections. The Code Enforcement Officer or an inspector authorized by the Code Enforcement Officer shall inspect the subject premises prior to the issuance of an operating permit.

D. Multiple activities. In any circumstance in which more than one activity listed in Subsection A of this section is to be conducted at a location, the Code Enforcement Officer may require a separate operating permit for each such activity, or the Code Enforcement Officer may, in his or her discretion, issue a single operating permit to apply to all such activities.

E. Duration of operating permits. Operating permits shall be issued for such period of time, not to exceed one year in the case of any operating permit issued for an area of public assembly and not to exceed three years in any other case, as shall be determined by the Code Enforcement Officer to be consistent with local conditions. The effective period of each operating permit shall be specified in the operating permit. An operating permit may be reissued or renewed upon application to the Code Enforcement Officer, payment of the applicable fee, and approval of such application by the Code Enforcement Officer.

F. Revocation or suspension of operating permits. If the Code Enforcement Officer determines that any activity or building for which an operating permit was issued does not comply with any applicable provision of the Uniform Code, such operating permit shall be revoked or suspended.

G. Fee. The fee specified in or determined in accordance with the provisions set forth application for an operating permit, for an amended operating permit, or for reissue or renewal of an operating permit.

#### **§ 172-12. Fire safety and property maintenance inspections.**

A. Inspections required. Fire safety and property maintenance inspections of buildings and structures shall be performed by the Code Enforcement Officer or an inspector designated by the Code Enforcement Officer at the following intervals:

(1) Fire safety and property maintenance inspections of buildings or structures which contain an area of public assembly shall be performed at least once every 12 months.

(2) Fire safety and property maintenance inspections of buildings or structures being used for public and private schools and colleges, including any buildings of such schools or colleges containing classrooms, dormitories, fraternities, sororities, laboratories, physical education, dining, or recreational facilities shall be performed at least once every 12 months.

(3) Fire safety and property maintenance inspections of all multiple dwellings not included in Subsection A(1) or (2), and all nonresidential buildings, structures, uses and occupancies not included in Subsection A(1) and (2) shall be performed at least once every 36 months.

B. Remote inspections. At the discretion of the Code Enforcement Officer or Inspector authorized to perform fire safety and property maintenance inspections, a remote inspection may be performed in lieu of in-person inspections when, in the opinion of the Code Enforcement Officer or such authorized Inspector, the remote inspection can be performed to the same level and quality as an in-person inspection and the remote inspection shows to the satisfaction of the Code Enforcement Officer or such authorized Inspector that the premises conform with the



applicable provisions of 19 NYCRR Part 1225 and the publications incorporated therein by reference and the applicable provisions of 19 NYCRR Part 1226 and the publications incorporated therein by reference. Should a remote inspection not afford the Code Enforcement Officer or such authorized Inspector sufficient information to make a determination, an in-person inspection shall be performed.

C. Inspections permitted. In addition to the inspections required by Subsection A of this section, a fire safety and property maintenance inspection of any building, structure, use, or occupancy, or of any dwelling unit, may also be performed by the Code Enforcement Officer or an inspector designated by the Code Enforcement Officer at any time upon:

- (1) the request of the owner of the property to be inspected or an authorized agent of such owner;
- (2) receipt by the Code Enforcement Officer of a written statement alleging that conditions or activities failing to comply with the Uniform Code or Energy Code exist; or
- (3) receipt by the Code Enforcement Officer of any other information, reasonably believed by the Code Enforcement Officer to be reliable, giving rise to reasonable cause to believe that conditions or activities failing to comply with the Uniform Code or Energy Code exist; provided, however, that nothing in this subdivision shall be construed as permitting an inspection under any circumstances under which a court order or warrant permitting such inspection is required, unless such court order or warrant shall have been obtained.

D. OFPC Inspections. Nothing in this section or in any other provision of this local law shall supersede, limit, or impair the powers, duties and responsibilities of the New York State Office of Fire Prevention and Control ("OFPC") and the New York State Fire Administrator or other authorized entity under Executive Law section 156-e and Education Law section 807-b.

E. Fee. The fee specified in or determined in accordance with the provisions set forth in § 172-17, Fees, of this article must be paid prior to or at the time each inspection is performed pursuant to this section. This subsection shall not apply to inspections performed by OFPC.

### **§ 172-13. Complaints.**

The Code Enforcement Officer shall review and investigate complaints which allege or assert the existence of conditions or activities that fail to comply with the Uniform Code, the Energy Code, this article, or any other local law, ordinance or regulation adopted for administration and enforcement of the Uniform Code or the Energy Code. The process for responding to a complaint shall include such of the following steps as the Code Enforcement Officer may deem to be appropriate:

- A. Performing an inspection of the conditions and/or activities alleged to be in violation, and documenting the results of such inspection;
- B. If a violation is found to exist, providing the owner of the affected property and any other person who may be responsible for the violation with notice of the violation and opportunity to abate, correct or cure the violation, or otherwise proceeding in the manner described in § 172-16, Enforcement; penalties for offenses, of this article;
- C. If appropriate, issuing a stop-work order;
- D. If a violation which was found to exist is abated or corrected, performing an inspection to ensure that the violation has been abated or corrected, preparing a final written report reflecting such abatement or correction, and filing such report with the complaint.

### **§ 172-14. Recordkeeping.**





- A. The Code Enforcement Officer shall keep permanent official records of all transactions and activities conducted by all Code Enforcement personnel, including records of:
- (1) All applications received, reviewed and approved or denied;
  - (2) All plans, specifications and construction documents approved;
  - (3) All building permits, certificates of occupancy, temporary certificates, stop-work orders, and operating permits issued;
  - (4) All inspections and tests performed;
  - (5) All statements and reports issued;
  - (6) All complaints received;
  - (7) All investigations conducted;
  - (8) all condition assessment reports received;
  - (9) all fees charged and collected; and
  - (10) all other features and activities specified in or contemplated by sections 4 through 14, inclusive, of this article.
- B. All such records shall be public records open for public inspection during normal business hours. All plans and records pertaining to buildings or structures, or appurtenances thereto, shall be retained for at least the minimum time period so required by state law and regulation.

**§ 172-15. Program review and reporting.**

- A. The Code Enforcement Officer shall annually submit to the Common Council of the City of Kingston a written report and summary of all business conducted by the Code Enforcement Officer and the inspectors, including a report and summary of all transactions and activities described in § 172-14, Recordkeeping, of this article and a report and summary of all appeals or litigation pending or concluded.
- B. The Code Enforcement Officer shall annually submit to the Secretary of State, on behalf of this City, on a form prescribed by the Secretary of State, a report of the activities of this City relative to administration and enforcement of the Uniform Code.
- C. The Code Enforcement Officer shall, upon request of the New York State Department of State, provide to the New York State Department of State, from the records and related materials this City is required to maintain, excerpts, summaries, tabulations, statistics and other information and accounts of the activities of this City in connection with administration and enforcement of the Uniform Code and/or Energy Code as may be requested by the Department of State.

**§ 172-16. Violations and Enforcement; penalties for offenses.**

- A. Orders to Remedy. The Code Enforcement Officer is authorized to order in writing the remedying of any condition or activity found to exist in, on or about any building, structure, or premises in violation of the Uniform Code, the Energy Code, or this local law. An Order to Remedy shall be in writing; shall be dated and signed by the Code Enforcement Officer; shall specify the condition or activity that violates the Uniform Code, the Energy Code, or this local law; shall specify the provision or provisions of the Uniform Code, the Energy Code, or this local law which is/are violated by the specified condition or activity; and shall include a statement substantially similar to the following:



“The person or entity served with this Order to Remedy must completely remedy each violation described in this Order to Remedy by [specify date], which is thirty (30) days after the date of this Order to Remedy.”

The Order to Remedy may include provisions ordering the person or entity served with such Order to Remedy (1) to begin to remedy the violations described in the Order to Remedy immediately, or within some other specified period of time which may be less than thirty (30) days; to continue diligently to remedy such violations until each such violation is fully remedied; and, in any event, to complete the remedying of all such violations within thirty (30) days of the date of such Order to Remedy; and/or (2) to take such other protective actions (such as vacating the building or barricading the area where the violations exist) which are authorized by this local law or by any other applicable statute, regulation, rule, local law or ordinance, and which the Code Enforcement Officer may deem appropriate, during the period while such violations are being remedied. The Code Enforcement Officer shall cause the Order to Remedy, or a copy thereof, to be served on the owner of the affected property personally or by registered mail or certified mail within five (5) days after the date of the Order to Remedy. The Code Enforcement Officer shall be permitted, but not required, to cause the Order to Remedy, or a copy thereof, to be served on any builder, architect, tenant, contractor, subcontractor, construction superintendent, or their agents, or any other Person taking part or assisting in work being performed at the affected property personally or by registered mail or certified mail within five (5) days after the date of the Order to Remedy; provided, however, that failure to serve any Person mentioned in this sentence shall not affect the efficacy of the Compliance Order.

B. Appearance tickets. The Code Enforcement Officer and each inspector are authorized to issue appearance tickets for any violation of the Uniform Code.

C. Penalties. In addition to those penalties prescribed by State law,

(1) any Person who violates any provision of this local law or any term, condition, or provision of any Building Permit, Certificate of Occupancy, Certificate of Compliance, Temporary Certificate, Stop Work Order, Operating Permit or other notice or order issued by the Code Enforcement Officer pursuant to any provision of this local law, shall be punishable by a fine of not more than [specify amount] per day of violation, or imprisonment not exceeding [specify time period], or both; and

(2) any Person who violates any provision of the Uniform Code, the Energy Code or this article, or any term or condition of any building permit, certificate of occupancy/certificate of compliance, temporary certificate, stop-work order, operating permit or other notice or order issued by the Code Enforcement Officer pursuant to any provision of this article, shall be liable to a civil penalty of not more than \$200 for each day or part thereof during which such violation continues. The civil penalties provided by this subsection shall be recoverable in an action instituted in the name of this City.

D. Injunctive relief. An action or proceeding may be instituted in the name of this City, in a court of competent jurisdiction, to prevent, restrain, enjoin, correct, or abate any Code, this article, or any term or condition of any building permit, certificate of occupancy, certificate of compliance, temporary certificate, stop-work order, operating permit, compliance order, or other notice or order issued by the Code Enforcement Officer pursuant to any provision



of this article. In particular, but not by way of limitation, where the construction or use of a building or structure is in violation of any provision of the Uniform Code, the Energy Code, or this article, an action or proceeding may be commenced in the name of this City, in the Supreme Court or in any other court having the requisite jurisdiction, to obtain an order directing the removal of the building or structure or an abatement of the condition in violation of such provisions. No action or proceeding described in this subsection shall be commenced without the appropriate authorization from the Mayor of this City.

E. Remedies not exclusive. No remedy or penalty specified in this section shall be the exclusive remedy or penalty available to address any violation described in this section, and each remedy or penalty specified in this section shall be in addition to, and not in substitution for or limitation of, the other remedies or penalties specified in this section, in § 172-7, Stop-work orders, of this article, in any other section of this article, or in any other applicable law. Any remedy or penalty specified in this section may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any other remedy or penalty specified in this section, in § 172-7, Stop-work orders, of this article, in any other section of this article, or in any other applicable law. In particular, but not by way of limitation, each remedy and penalty specified in this section shall be in addition to, and not in substitution for or limitation of, the penalties specified in Subdivision (2) of § 382 of the Executive Law, and any remedy or penalty specified in this section may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any penalty specified in Subdivision (2) of § 382 of the Executive Law.

#### **§ 172-17. Fees.**

A fee schedule shall be established by resolution of the Common Council of this City. Such fee schedule may thereafter be amended from time to time by like resolution. The fees set forth in, or determined in accordance with, such fee schedule or amended fee schedule shall be charged and collected for the submission of applications, the issuance of building permits, amended building permits, renewed building permits, certificates of occupancy, certificates of compliance, temporary certificates, operating permits, fire safety and property maintenance inspections, and other actions of the Code Enforcement Officer described in or contemplated by this article.

#### **§ 172-18. Intermunicipal agreements.**

The Common Council of this City may, by resolution, authorize the Mayor of this City to enter into an agreement, in the name of this City, with other governments to carry out the terms of this article, provided that such agreement does not violate any provision of the Uniform Code, the Energy Code, Part 1203 of Title 19 of the NYCRR, or any other applicable law.

#### **§ 172-19. Condition Assessments of Parking Garages**

A. Definitions. For the purposes of this section:

(1) the term “condition assessment” means an on-site inspection and evaluation of a parking garage for evidence of deterioration of any structural element or building component of such parking garage, evidence of the existence of any unsafe condition in such parking garage, and evidence indicating that such parking garage is an unsafe structure;



(2) the term “deterioration” means the weakening, disintegration, corrosion, rust, or decay of any structural element or building component, or any other loss of effectiveness of a structural element or building component;

(3) the term “parking garage” means any building or structure, or part thereof, in which all or any part of any structural level or levels is used for parking or storage of motor vehicles, excluding:

(i) buildings in which the only level used for parking or storage of motor vehicles is on grade;

(ii) an attached or accessory structure providing parking exclusively for a detached one- or two-family dwelling; and

(iii) a townhouse unit with attached parking exclusively for such unit;

(4) the term “professional engineer” means an individual who is licensed or otherwise authorized under Article 145 of the Education Law to practice the profession of engineering in the State of New York and who has at least three years of experience performing structural evaluations;

(5) the term “responsible professional engineer” means the professional engineer who performs a condition assessment, or under whose supervision a condition assessment is performed, and who seals and signs the condition assessment report. The use of the term “responsible professional engineer” shall not be construed as limiting the professional responsibility or liability of any professional engineer, or of any other licensed professional, who participates in the preparation of a condition assessment without being the responsible professional engineer for such condition assessment.

(6) the term “unsafe condition” includes the conditions identified as “unsafe” in section 304.1.1, section 305.1.1, and section 306.1.1 of the PMCNYS; and

(7) the term “unsafe structure” means a structure that is so damaged, decayed, dilapidated, or structurally unsafe, or is of such faulty construction or unstable foundation, that partial or complete collapse is possible.

B. Condition Assessments – general requirements. The owner operator of each parking garage shall cause such parking garage to undergo an initial condition assessment as described in subdivision (c) of this section, periodic condition assessments as described in subdivision (d) of this section, and such additional condition assessments as may be required under subdivision (e) of this section. Each condition assessment shall be conducted by or under the direct supervision of a professional engineer. A written report of each condition assessment shall be prepared, and provided to the City, in accordance with the requirements of subdivision (f) of this section. Before performing a condition assessment (other than the initial condition assessment) of a parking garage, the responsible professional engineer for such condition assessment shall review all available previous condition assessment reports for such parking garage.

C. Initial Condition Assessment. Each parking garage shall undergo an initial condition assessment as follows:

(1) Parking garages constructed on or after August 29, 2018, shall undergo an initial condition assessment following construction and prior to a certificate of occupancy or certificate of compliance being issued for the structure.

(2) Parking garages constructed prior to August 29, 2018, shall undergo an initial condition assessment as follows:

(i) (if originally constructed prior to January 1, 1984, then prior to October 1, 2019;





- (ii) if originally constructed between January 1, 1984 and December 31, 2002, then prior to October 1, 2020; and
- (iii) if originally constructed between January 1, 2003 and August 28, 2018, then prior to October 1, 2021.

(3) Any parking garage constructed prior to the effective date of the local law enacting this provision that has not undergone an initial condition assessment prior to that effective date shall undergo an initial condition assessment prior to six months after the effective date of this article.

D. Periodic Condition Assessments. Following the initial condition assessment of a parking garage, such parking garage shall undergo periodic condition assessments at intervals not to exceed three (3) years.

E. Additional Condition Assessments.

(1) If the latest condition assessment report for a parking garage includes a recommendation by the responsible professional engineer that an additional condition assessment of such parking garage, or any portion of such parking garage, be performed before the date by which the next periodic condition assessment would be required under subdivision (c) of this section, the owner or operator of such parking garage shall cause such parking garage (or, if applicable, the portion of such parking garage identified by the responsible professional engineer) to undergo an additional condition assessment no later than the date recommended in such condition assessment report.

(2) If the City becomes aware of any new or increased deterioration which, in the judgment of the City, indicates that an additional condition assessment of the entire parking garage, or of the portion of the parking garage affected by such new or increased deterioration, should be performed before the date by which the next periodic condition assessment would be required under subdivision (c) of this section, the owner or operator of such parking garage shall cause such parking garage (or, if applicable, the portion of the parking garage affected by such new or increased deterioration) to undergo an additional condition assessment no later than the date determined by the City to be appropriate.

F. Condition Assessment Reports. The responsible professional engineer shall prepare, or directly supervise the preparation of, a written report of each condition assessment, and shall submit such condition assessment report to the City within Forty Five (45) days. Such condition assessment report shall be sealed and signed by the responsible professional engineer, and shall include:

- (1) an evaluation and description of the extent of deterioration and conditions that cause deterioration that could result in an unsafe condition or unsafe structure;
- (2) an evaluation and description of the extent of deterioration and conditions that cause deterioration that, in the opinion of the responsible professional engineer, should be remedied immediately to prevent an unsafe condition or unsafe structure;
- (3) an evaluation and description of the unsafe conditions;
- (4) an evaluation and description of the problems associated with the deterioration, conditions that cause deterioration, and unsafe conditions;
- (5) an evaluation and description of the corrective options available, including the recommended timeframe for remedying the deterioration, conditions that cause deterioration, and unsafe conditions;
- (6) an evaluation and description of the risks associated with not addressing the deterioration, conditions that cause deterioration, and unsafe conditions;



- (7) the responsible professional engineer's recommendation regarding preventative maintenance;
- (8) except in the case of the report of the initial condition assessment, the responsible professional engineer's attestation that he or she reviewed all previously prepared condition assessment reports available for such parking garage, and considered the information in the previously prepared reports while performing the current condition assessment and while preparing the current report; and
- (9) the responsible professional engineer's recommendation regarding the time within which the next condition assessment of the parking garage or portion thereof should be performed. In making the recommendation regarding the time within which the next condition assessment of the parking garage or portion thereof should be performed, the responsible professional engineer shall consider the parking garage's age, maintenance history, structural condition, construction materials, frequency and intensity of use, location, exposure to the elements, and any other factors deemed relevant by the responsible professional engineer in their professional judgment.

G. Review Condition Assessment Reports. The City shall take such enforcement action or actions in response to the information in such condition assessment report as may be necessary or appropriate to protect the public from the hazards that may result from the conditions described in such report. In particular, but not by way of limitation, the City shall, by Order to Remedy or such other means of enforcement as the City may deem appropriate, require the owner or operator of the parking garage to repair or otherwise remedy all deterioration, all conditions that cause deterioration, and all unsafe conditions identified in such condition assessment report pursuant to paragraphs (2) and (3) of subdivision (f). All repairs and remedies shall comply with the applicable provisions of the Uniform Code. This section shall not limit or impair the right of the City to take any other enforcement action, including but not limited to suspension or revocation of a parking garage's operating permit, as may be necessary or appropriate in response to the information in a condition assessment report.

H. The City shall retain all condition assessment reports for the life of the parking garage. Upon request by a professional engineer who has been engaged to perform a condition assessment of a parking garage, and who provides the City with a written statement attesting to the fact that he or she has been so engaged, the City shall make the previously prepared condition assessment reports for such parking garage (or copies of such reports) available to such professional engineer. The City shall be permitted to require the owner or operator of the subject parking garage to pay all costs and expenses associated with making such previously prepared condition assessment reports (or copies thereof) available to the professional engineer.

I. This section shall not limit or impair the right or the obligation of the City:

- (1) to perform such construction inspections as are required by section 5 (Construction Inspections) of this article;
- (2) to perform such periodic fire safety and property maintenance inspections as are required by section 11 (Fire Safety and Property Maintenance Inspections) of this article; and/or
- (3) to take such enforcement action or actions as may be necessary or appropriate to respond to any condition that comes to the attention of the City by means of its own inspections or observations, by means of a complaint, or by any other means other than a condition assessment or a report of a condition assessment.



**§ 172-20 Climatic and Geographic Design Criteria**

A. The Code Enforcement Officer shall determine the climatic and geographic design criteria for buildings and structures constructed within this City as required by the Uniform Code. Such determinations shall be made in the manner specified in the Uniform Code using, where applicable, the maps, charts, and other information provided in the Uniform Code. The criteria to be so determined shall include but shall not necessarily be limited to, the following:

- (1) design criteria to include ground snow load; wind design loads; seismic category; potential damage from weathering, frost, and termite; winter design temperature; whether ice barrier underlayment is required; the air freezing index; and the mean annual temperature;
- (2) heating and cooling equipment design criteria for structures within the scope of the RCNYS. The design criteria shall include the data identified in the Design Criteria Table found in Chapter 3 of the RCNYS; and
- (3) flood hazard areas, flood hazard maps, and supporting data. The flood hazard map shall include, at a minimum, special flood hazard areas as identified by the Federal Emergency Management Agency in the Flood Insurance Study for the community, as amended or revised with:
  - (i) the accompanying Flood Insurance Rate Map (FIRM);
  - (ii) Flood Boundary and Floodway Map (FBFM); and
  - (iii) related supporting data along with any revisions thereto.

B. The Code Enforcement Officer shall prepare a written record of the climatic and geographic design criteria determined pursuant to subdivision (a) of this section, shall maintain such record within the office of the Code Enforcement Officer, and shall make such record readily available to the public.

**§172-21**

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



(B)

(L+R)

**Higgins, Janet**

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**From:** Jankowski, Matthew  
**Sent:** Thursday, February 02, 2023 1:05 PM  
**To:** Higgins, Janet  
**Subject:** FW: [EXTERNAL EMAIL] Fw: 654 Broadway, LLC from Whittaker  
**Attachments:** 3830 LEWIS PDF SEA DELI SHOWING ENCROACHMENT AREA EMAIL 2-1-23.pdf; 3830 LEWIS DESCRIPTION OF LANDS OF DANIEL LEWIS.docx; 3830 LEWIS BUILDING ENCROACHMENT DESC..docx; title 23-01.pdf; 02.02.23 Shaut..ltr.pdf

---

**From:** Dana Blackmon <[dblackmonlaw@hotmail.com](mailto:dblackmonlaw@hotmail.com)>  
**Sent:** Thursday, February 2, 2023 10:29 AM  
**To:** Jankowski, Matthew <[mjankowski@kingston-ny.gov](mailto:mjankowski@kingston-ny.gov)>  
**Subject:** [EXTERNAL EMAIL] Fw: 654 Broadway, LLC from Whittaker

Good morning Matt:

Attached is my proposed letter to Andrea Shaut as well as the survey map, survey descriptions and title report. Please let me know if this is good to send or if you suggest any revisions.

Thanks.

Dana D. Blackmon, Esq., P.C.  
303 Clinton Avenue  
PO Box 4074  
Kingston, NY 12402  
(845) 331-2725 telephone  
(845) 338-0868 fax  
[dblackmonlaw@hotmail.com](mailto:dblackmonlaw@hotmail.com)

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Thank you

---

**From:** Michael Vetere III <[mike@veteresurveying.com](mailto:mike@veteresurveying.com)>  
**Sent:** Wednesday, February 1, 2023 7:32 PM  
**To:** Dana Blackmon <[dblackmonlaw@hotmail.com](mailto:dblackmonlaw@hotmail.com)>





**Cc:** DAN LEWIS JR <[danol822@aol.com](mailto:danol822@aol.com)>

**Subject:** RE: 654 Broadway, LLC from Whittaker

All, Attached herewith please find a PDF of the Lewis mapping. Please also find attached a legal description of said parcel and legal description for said building encroachment. Please be advised that calculated area of the encroachment is shown on the attached mapping. Dana, The legal descriptions attached to the provided title policy, are the same descriptions the survey was prepared from. These items included with your letter to the City of Kingston should help finalize this matter. Best, Mike

Michael C. Vetere, PLS

P: 845-336-0043

F: 845-336-8373



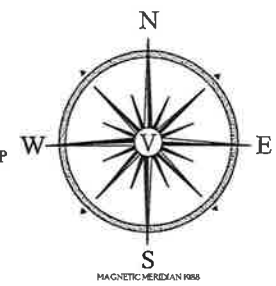
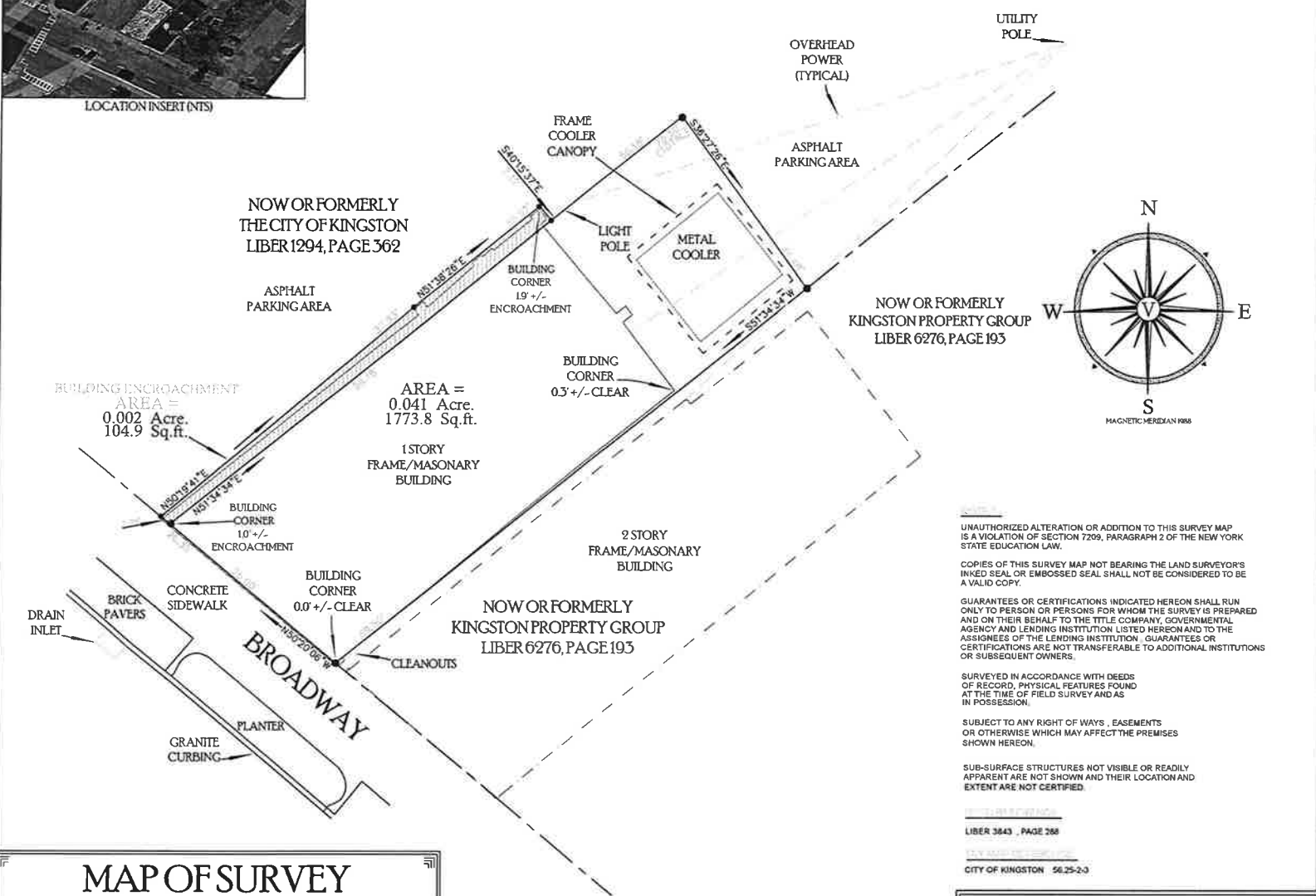
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LOCATION INSERT (NTS)



UNAUTHORIZED ALTERATION OR ADDITION TO THIS SURVEY MAP IS A VIOLATION OF SECTION 7209, PARAGRAPH 2 OF THE NEW YORK STATE EDUCATION LAW.

COPIES OF THIS SURVEY MAP NOT BEARING THE LAND SURVEYOR'S INKED SEAL OR EMBOSSED SEAL SHALL NOT BE CONSIDERED TO BE A VALID COPY.

GUARANTEES OR CERTIFICATIONS INDICATED HEREON SHALL RUN ONLY TO PERSON OR PERSONS FOR WHOM THE SURVEY IS PREPARED AND ON THEIR BEHALF TO THE TITLE COMPANY, GOVERNMENTAL AGENCY AND LENDING INSTITUTION LISTED HEREON AND TO THE ASSIGNEES OF THE LENDING INSTITUTION. GUARANTEES OR CERTIFICATIONS ARE NOT TRANSFERABLE TO ADDITIONAL INSTITUTIONS OR SUBSEQUENT OWNERS.

SURVEYED IN ACCORDANCE WITH DEEDS OF RECORD, PHYSICAL FEATURES FOUND AT THE TIME OF FIELD SURVEY AND AS IN POSSESSION.

SUBJECT TO ANY RIGHT OF WAYS, EASEMENTS OR OTHERWISE WHICH MAY AFFECT THE PREMISES SHOWN HEREON.

SUB-SURFACE STRUCTURES NOT VISIBLE OR READILY APPARENT ARE NOT SHOWN AND THEIR LOCATION AND EXTENT ARE NOT CERTIFIED.

LIBER 3843, PAGE 268  
CITY OF KINGSTON 56.25-2-3

MAP OF SURVEY  
PREPARED FOR

**DANIEL  
LEWIS, JR.**

CITY OF KINGSTON    ULSTER COUNTY, N.Y.  
SCALE 1" = 10'    JANUARY 14, 2023

REVISED TO SHOW BUILDING ENCROACHMENT AREA 2/1/2023

MAP NO. 3830

VETERE LAND SURVEYING, PLLC  
LICENSED PROFESSIONAL LAND SURVEYOR

943 ULSTER LANDING ROAD  
SAUGERTIES, NY 12477



## DESCRIPTION OF BUILDING ENCROACHMENT

All that piece or parcel of land situate in the City of Kingston, County of Ulster and State of New York, being more particularly bounded and described as follows:

Beginning at a point on the Northeasterly street line of Broadway, said point being the Northwesterly corner of lands of Daniel Lewis, Jr.; thence North  $50^{\circ}-20'-06''$  West, along the last mentioned street line, 1.35 feet to a point; thence through the lands of The City of Kingston the following three courses and distances,

1. North  $50^{\circ}-19'-41''$  East, 37.83 feet to a point; thence
2. North  $51^{\circ}-38'-26''$  East, 18.57 feet to a point; thence
3. South  $40^{\circ}-15'-37''$  East, 2.12 feet to a point on the Northwesterly bounds of lands of Daniel Lewis, Jr.; thence

South  $51^{\circ}-34'-34''$  West, along the last mentioned bounds, 56.18 feet to the point of the beginning.

Being 104.9 square feet more or less.



## DESCRIPTION OF LANDS OF DANIEL LEWIS, JR.

All that piece or parcel of land situate in the City of Kingston, County of Ulster and State of New York, being more particularly bounded and described as follows:

Beginning at a point on the Northeasterly street line of Broadway, said point being the Northwesterly corner of lands of Kingston Property Group; thence North  $50^{\circ}-20'-06''$  West, along said Northeasterly street line of Broadway, 25.00 feet to a point, said point being the Southwesterly corner of lands of The City of Kingston; thence, along the bounds of The City of Kingston, North  $51^{\circ}-34'-34''$  East, 75.50 feet and South  $36^{\circ}-27'-26''$  East, 24.48 feet to a point on the Northwesterly bounds of lands of Kingston Property Group; thence South  $51^{\circ}-34'-34''$  West, along the last mentioned bounds, 69.50 feet to the point of the beginning.

Being 1773.8 square feet or 0.041 acre more or less.





Agent Name (#) : AAA ABSTRACT, LLC(0742)

Title Number : 23-01

Commitment Number : 0000172005

Title Insurance Commitment By

## CONESTOGA TITLE INSURANCE CO. Agreement To Issue Policy

We agree to issue a policy to you according to the terms of the Commitment. When we show the policy amount and your name as the proposed Insured in Schedule A, this Commitment becomes effective as of the Commitment Date shown in Schedule A.

If the Requirements shown in this Commitment have not been met within 180 days of the Commitment Date, our obligation under this Commitment will end. Also, our obligation under this Commitment will end when the Policy is Issued, and then our obligation to you will be under the Policy.

Our obligation under this Commitment is limited by the following:  
The Provisions in Schedule A.  
The Requirements in Schedule B-I.  
The Exceptions in Schedule B-II.  
The Conditions below.

This Commitment is not valid without Schedule A and Sections I and II of Schedule B.

### CONDITIONS

#### 1. DEFINITIONS

- A. "Mortgage" means Mortgage, Deed of Trust, or other security instrument.  
B. "Public Records" means title records that give constructive notice of matters affecting your title, according to the state statutes where your land is located.

#### 2. LATER DEFECTS

The Exceptions in Schedule B-Section II may be amended to show any defects, liens or encumbrances that appear for the first time in the public records or are created or attach between the Commitment Effective Date and the date on which all of the Requirements (1) and (3) of Schedule B-Section I are met. We shall have no liability to you because of this amendment.

#### 3. EXISTING DEFECTS

If any defects, liens or encumbrances existing at Commitment Date are not shown in Schedule B, we may amend Schedule B to show them. If we do amend Schedule B to show these defects, liens or encumbrances, we shall be liable to you according to Paragraph 4 below unless you knew of this information and did not tell us about it in writing.

#### 4. LIMITATION OF OUR LIABILITY

Our only obligation is to issue to you the Policy referred to in this Commitment, when you have met its Requirements. If we have any liability to you for any loss you incur because of an error in this Commitment, our liability will be limited to your actual loss caused by your relying on this Commitment when you acted in good faith to:

- A. Comply with the Requirements shown in Schedule B-Section I; or  
B. Eliminate with our written consent any Exceptions shown in Schedule B-Section II.

We shall not be liable for more than the Policy Amount shown in Schedule A of this Commitment and our liability is subject to the terms of the Policy form to be issued to you.

#### 5. CLAIMS MUST BE BASED ON THIS COMMITMENT

Any claim, whether or not based on negligence, which you may have against us concerning the title to the land must be based on this Commitment and is subject to its terms.

Countersigned:

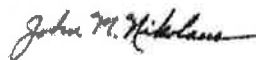
  
Authorized Signatory  
Valid Only When Countersigned



CONESTOGA TITLE INSURANCE CO.

By:

President



Attest:

Secretary



### Important Notice

The Title Insurance Commitment is a legal contract between you and the Company. It is issued to show the basis on which we will issue a Title Insurance Policy to you. The Policy will insure you against certain risks to the land title, subject to the limitations shown in the Policy.

The Company will give you a sample of the Policy form, if you ask.

*The Policy contains an arbitration clause. All arbitrable matters when the Amount of Insurance is \$2,000,000 or less shall be arbitrated at the option of either the Company or you as the exclusive remedy of the parties. You may review a copy of the arbitration rules at [www.alta.org](http://www.alta.org).*

The Commitment is based on the land title as of the Commitment Date. Any changes in the land title or the transaction may affect the Commitment and the Policy.

The Commitment is subject to its Requirements, Exceptions and Conditions.

**This Information is Not Part Of The Title Insurance Commitment. You Should Read The Commitment Very Carefully.**

If you have any questions about the commitment, contact

CONESTOGA TITLE INSURANCE CO.

137-139 East King Street, Lancaster, PA 17602

Phone: (800) 732-3555 or (717) 299-4805

Fax: (717) 299-6994 or (717) 399-9823

Web: [www.contitle.com](http://www.contitle.com)

#### TABLE OF CONTENTS AGREEMENT TO ISSUE POLICY SCHEDULE A

1. Commitment Date
2. Policies to be Issued, Amounts and Proposed Insureds
3. Interest in the Land and Owner
4. Description of the Land

#### SCHEDULE B-I - REQUIREMENTS

#### SCHEDULE B-II - EXCEPTIONS

#### CONDITIONS



**Name and Address:**  
AAA ABSTRACT, LLC  
PO Box 3153  
(115 Green St.)  
Kingston NY 12402  
Phone 845-331-1058

**THIS REPORT IS NOT A TITLE INSURANCE POLICY! PLEASE READ IT CAREFULLY.  
THE REPORT MAY SET FORTH EXCLUSIONS UNDER THE TITLE INSURANCE POLICY AND MAY  
NOT LIST ALL LIENS, DEFECTS, AND ENCUMBRANCES AFFECTING TITLE TO THE PROPERTY.  
YOU SHOULD CONSIDER THIS INFORMATION CAREFULLY.**

## CONESTOGA TITLE INSURANCE CO.

### TITLE INSURANCE COMMITMENT

Commitment Typed: 1/11/23  
Effective Date: 1/17/23

Policy No. 172005  
Title No. 23-01

#### SCHEDULE A

1. Policy or Policies to be issued:	AMOUNT
(a) 06-17-06 ALTA Owner's Policy Proposed Insured: 654 Broadway, LLC	\$75,000.00
(b) 06-17-06 ALTA Loan Policy Proposed Insured:	\$
(c) 06-17-06 Other (Please specify) Proposed Insured:	\$

2. The Fee Simple estate or interest in the land described or referred to in this Commitment is owned, at the Commitment Date by:

**Frank Piccoli and John Piccoli, DBA Sea Deli by a Correction deed dated 1/4/23 from William Weishaupt and Nina Postupack as Co-Executors of the Estate of Gloria Ruzzo, late of City of Kingston County of Ulster State of New York DOD:2/26/2017, for purposes of correcting a prior deed by the deceased Glori Ruzzo, to the grantees, which improperly named the grantees therein, and recorded 1/17/23 in the Ulster County Clerk's Office as instrument #2023-556.**

**The prior deed being corrected above, was vested in Sea Deli, Inc. by a deed from Gloria Ruzzo dated 3/4/04 and recorded 3/15/04 in the Ulster County Clerk's Office as instrument #2004-7410.**

3. The land referred to in this Commitment is described in Schedule C attached hereto and made a part hereof.

Note: For Information Only

The land referred to in this Commitment is commonly known as: **654 Broadway, Kingston, NY**

Standard NY

Endorsements to be issued with Lenders Policy:

*This Commitment is not valid unless the Commitment jacket and Schedule B-Section I and Schedule B-Section II are attached*



**TAXES**

City of Kingston County of Ulster

Assessed to: Sea Deli, Inc.

Section 56.25 Block 2 Lot 3

Assessment - Land \$10,000.00

Full \$167,143.00

Exemptions - none

Property Class Code 485

Property Swiss Code 510800

Property Size 25 X 69

School District Kingston Consolidated

**2023 General Taxes \$2,186.86 Proof of/or payment due at closing.**

2022-23 School Taxes \$3,843.28 1<sup>st</sup> half \$1,921.64 paid 10/17/22.  
2<sup>nd</sup> half unpaid. The amount due by 1/31/23 \$2,058.07, or the  
amount due by 2/28/23 \$2,078.25.

**Subject to a final water reading to be paid at closing.**

FYI:

City Taxes

January 1<sup>st</sup> – December 31<sup>st</sup>

Due (1<sup>st</sup> ½) February 14<sup>th</sup> & (2<sup>nd</sup> ½) May 1st

School Taxes

July 1<sup>st</sup> – June 30<sup>th</sup>

Kingston Consolidated - 1<sup>st</sup> ½ due Oct 17<sup>th</sup> & 2<sup>nd</sup> ½ due December 15<sup>th</sup>

Endorsements to be issued with Lenders Policy:

*This Commitment is not valid unless the Commitment jacket and Schedule B-Section I and Schedule B-Section II are attached*



**REQUIREMENTS**

THE FOLLOWING REQUIREMENTS MUST BE MET:

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1. Documents satisfactory to us creating the interest in the land and/or the mortgage to be insured must be signed, delivered and recorded:

**A deed from Frank Piccoli and John Piccoli, DBA Sea Deli to 654 Broadway, LLC.**

A Deed or Mortgage must contain the covenant required by Section 13 of the Lien Law and such covenant must be absolute and not conditional. The covenant is not required in a deed from a referee or a person appointed by a court for the sole purpose of selling.

2. Pay us the premiums, fees and charges for the policy.
3. Pay the purchase price for the interest in the land or, in the case of a mortgagee, pay the loan amount.
4. You must tell us in writing the name of anyone not referred to in this Commitment who will get an interest in the land or who will make a loan on the land. We may then make additional requirements or exceptions.
5. Liens and defects intervening between the date hereof and the time of recording of instruments creating interests to be insured must be satisfied or released.
6. Terms and conditions of any unrecorded agreements or leases and tenancy of present occupants must be disclosed to us and a proper settlement of those interests must be satisfactory to us.
7. Payment of all taxes, charges, and assessments levied and/or assessed against the subject premises, which are due and payable.
8. Proof that all natural persons in this transaction are of full age and legally competent.
9. Proof of identification ( Photo I.D. ) & social security number will be required at time of closing
10. Proof is required that record owner is not in default under the mortgage(s) encumbering the premises as defined in Real Property Law Section 265 -a.

If in default, this Company requires compliance with RPL Section 265-a:

1. a. Company requires copy of contract to determine if notices required under RPL Section 265 -a (4)(I) and (6)(a) are made a part thereof.
2. b. The closing cannot take place before midnight of the fifth business day after the date on which the contract is executed.
3. c. If the contract contains a reconveyance option, the deed from the equity seller to the equity purchaser must state so in its face, and must state the terms of the reconveyance arrangement. All reconveyance arrangements must be simultaneously recorded with the deed in the Office of the County Clerk where the property is located.
4. d. Company requires proof, in the form of an affidavit, as to whether English Or Spanish is the equity seller's primary language. If it is Spanish, the contract, in it entirety and the notices required under RPL Section 265-a (4)(I) and 265-a(6) and must be in both English and Spanish.
5. e. Company requires proof, in the form of any affidavit, that the equity seller provided the equity purchaser with two copies of the covered contract and notice of cancellation.





**REQUIREMENTS**

THE FOLLOWING REQUIREMENTS MUST BE MET:

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11. If a Power of Attorney is going to be used to execute any of the closing documents a copy must be submitted to this company for approval prior to closing; and the original must be submitted for recording at the time of closing.
12. Under NY Tax Law #663, any deed from an individual, estate, or trust will not be recorded by any recording agents unless each transferor/seller listed as a grantor/transferor on Form TP-584, Schedule A (or an attachment to Form TP-584) has signed Form TP-584, Schedule D or presents at closing an executed and completed Form IT-2663 along with a check payable to NYS Income Tax for any estimated income tax due. This Company is not responsible and held harmless from any complication or delay that may result from the seller's completion of the IT-2663 form.
13. State, County, Town and Property Street address has to be recited in closing instruments.
14. Mortgages open of record: Nothing Found of Record.
15. From Sea Deli: A resolution to sell the real property.
16. From 654 Broadway, LLC: Articles of Organization, filing receipt, a copy of the operating agreement, proof to show filing of a certificate of publication and affidavits of publication in two (2) newspapers; once in each week, for six (6) successive weeks filed with the Department of State within the 120 day period, and a resolution to purchase the real property.



**EXCEPTIONS**

Any policy we issue will have the following exceptions unless they are taken care of to our satisfaction.

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- 1a. **The following affects an Owner's Policy if the land is improved by a 1-4 family dwelling and in the absence of a survey acceptable to the Company:** Any variation in location and dimensions, conflicts in boundary lines, encroachments, overlaps, easements not of record and any other objections which a survey made in accordance with "Minimum Standard Detail Requirements for Land Title Surveys as adopted by American Land Title Association and American Congress on Surveying and Mapping" would disclose.
- 1b. **An Owner's policy issued pursuant hereto will contain under Schedule B the following exceptions:**
  - (i) Rights or claims of parties in possession not shown by the public records.
  - (ii) Easements, or claims of easements, not shown by the public records.
  - (iii) Taxes or special assessments which are not shown as existing liens or charges by the public records.
  - (iv) Any lien, or right to a lien, for services, labor or material heretofore or hereafter furnished, imposed by law and not shown by the public records.
2. Right of present tenants, lessees or parties in possession.
3. The exact acreage is not insured.
4. Rights, if any, in favor of any electric light or telephone company to maintain guy wires extending from said premises to poles located on the roads on which said premises abut, but policy will insure, however, that there are no such agreements of record in connection therewith, except as may be shown herein.
5. Underground encroachments and easements, if any, including pipes and drains and such rights as may exist for entry upon said premises to maintain and repair the same, but policy will insure however, that there are no such easements and rights of record in connection therewith, except as may be shown herein.
6. For Information Only: Broadway is publicly maintained.  
Certificate of Compliance letter attached. **NOTE: OPEN BUILDING PERMIT.**  
Patriot Search attached.  
Franchise Tax Search for Sea Deli attached.  
  
The foregoing reports are provided for information only and will not be continued to the date of closing. The Company does not guarantee or insure the accuracy of the reports and does not assume liability for errors contained in the reports.
7. Riparian rights, if any, in favor of the premises herein are not insured.
8. Rights of others to drain through creeks or streams, if any, which cross premises and the natural flow thereof will be excepted.
9. Rights, easements, conditions, covenants, restrictions and encroachments, if any, for utility poles, wires, lines, guy wires, pipes, drains and similar installations, together with such rights as may exist to operate, maintain and repair the same.
10. No title is insured to any land lying within the lines of any street, road, avenue, lane turnpike or highway in front of or adjoining the premises described in Schedule C or which may cross over the same.
11. We will not insure any titles coming out of foreclosure where MERS, either in its individual capacity or as nominee, was the Foreclosing plaintiff. This prohibition includes transactions where title is currently in the referee and transactions where the foreclosure by MERS is in the chain of title.
12. Subject to sewer recitation recited in Liber 1511 page 797. See "B" Att.



**LEGAL DESCRIPTION**

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See Attached.



All that certain piece, parcel or tract of land situate, lying and being in the City of Kingston, County of Ulster and State of New York bounded and described as follows:

Beginning at a point on the northerly side of Broadway, a distance of 75 feet easterly from the corner formed by the intersection of the northerly side of Broadway and the easterly side of Down Street, said point marking the easterly corner of lands now or formerly City of Kingston and runs thence from said point of beginning along lands of the City of Kingston North 51 degrees 51 minutes 40 seconds east 75.50 feet to a point; thence still along same South 36 degrees 10 minutes 20 seconds East 24.48 feet to a point; thence along other lands of Frank J. Piccolli, Jr. and John Piccolli South 51 degrees 51 minutes 40 seconds West 69.50 feet to the bounds of Broadway; thence along Broadway North 50 degrees 03 minutes 00 seconds West 25.00 feet to the point and place of beginning.





CONSULT YOUR LAWYER BEFORE SIGNING THIS INSTRUMENT - THIS INSTRUMENT SHOULD BE USED BY LAWYERS ONLY

THIS INDENTURE, made the 10<sup>th</sup> day of September, nineteen hundred and Eighty-four  
BETWEEN HELEN R. CAPASSO, residing at 30 Maiden Lane, Kingston,  
New York,

party of the first part, and GLORIA RUZZO, residing at 30 Maiden Lane,  
Kingston, New York,

party of the second part,

WITNESSETH, that the party of the first part, in consideration of Ten Dollars and other valuable consideration paid by the party of the second part, does hereby grant and release unto the party of the second part, the heirs or successors and assigns of the party of the second part forever, MY UNDIVIDED ONE-HALF INTEREST

IN AND TO ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the City of Kingston, County of Ulster and State of New York, bounded and described as follows, to-wit:

OP BEGINNING at a point on the northerly side of Broadway, distant 75 feet easterly from the corner formed by the intersection of the northerly side of Broadway, and the easterly side of Downs Street and running thence northerly and parallel with Downs Street 75 feet 6 inches, more or less; thence easterly and at or about right angles to the last mentioned line 14 feet 5 1/2 inches, more or less, to lands formerly of John Stephens, thence southerly and again parallel with Downs Street along lands of said John Stephens 69 feet 6 inches, more or less to the northerly side of Broadway, and thence westerly along said northerly side of Broadway 25 feet, more or less, to the point or place of beginning.

IT IS MUTUALLY UNDERSTOOD AND AGREED by the parties hereto that the sewers on said premises do not connect directly with the street sewers but pass through adjoining lands not owned by the party of the first part and no right to use or continue to use the same is hereby intended to be conveyed.

BEING the same premises conveyed by Alessandrina Ruzzo to Gloria Ruzzo and Helen R. Capasso as joint tenants by deed dated October 12, 1953 and recorded in the Ulster County Clerk's Office on February 5, 1954 in Liber 881 of Deeds at page 271.

" B "

TOGETHER with all right, title and interest, if any, of the party of the first part in and to any streets and roads abutting the above described premises to the center lines thereof; TOGETHER with the appurtenances and all the estate and rights of the party of the first part in and to said premises; TO HAVE AND TO HOLD the premises herein granted unto the party of the second part, the heirs or successors and assigns of the party of the second part forever.

AND the party of the first part covenants that the party of the first part has not done or suffered anything whereby the said premises have been encumbered in any way whatever, except as aforesaid.

AND the party of the first part, in compliance with Section 13 of the Lien Law, covenants that the party of the first part will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose. The word "party" shall be construed as if it read "parties" whenever the sense of this indenture so requires.

IN WITNESS WHEREOF, the party of the first part has duly executed this deed the day and year first above written.

IN PRESENCE OF:

Helen R. Capasso  
Helen R. Capasso



**CITY OF KINGSTON**  
**Building Safety and Zoning Enforcement**  
buildings@kingston-ny.gov

Steven T. Noble, Mayor



Stephan Knox, Director

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**REPLY TO CERTIFICATE OF COMPLIANCE RESEARCH REQUEST**

01/21/2023

Sea Dell Inc  
654 Broadway  
Kingston, NY 12401

Re: 654 Broadway

Section/Block/Lot: 56.25-2-3

Dear Property Owner:

In reference to the above-referenced address, our property records currently indicate:

- 1. There are 1 open building permits on this property.  
*ALTERATION / 19-763 / Permit Issued / facade work*
2. There are no violations on this property.
3. The property is located in the following zone **C-2**
4. The property is listed as a **485 1 Sty. Sm. Str.-Multioccup.**
5. The property abuts a street that is maintained by the municipality.
6. The property pre-dates the current zoning laws for the City of Kingston. There is no original Certificate of Occupancy in our files.

The fee for the Certificate of Compliance Research Request is: \$150.00. Please make checks payable to the City of Kingston Comptroller, Please remit payment to: Kingston Building Safety and Zoning Enforcement, 5 Garraghan Drive, Kingston, New York 12401.

Thank you.

Sincerely,

Stephen Knox, Director  
Building Safety and Zoning Enforcement





**Corporate Tax Search**

AAA ABSTRACT LLC

PO BOX 3153  
 KINGSTON NY 12402  
 Attention: MARY

Articles 9, 9-A, 13,  
 13-A, 32, and 33.

Reference ID  
 2301

Corporation name: **SEA DELI**

Incorp Date	Filing period	Termination date	Termination type
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According to our records, tax liens exist for the periods below.

Franchise tax returns are missing for the period(s) ended:

**No Record**

Franchise tax payments are past due for period(s) ended:

**No Record**

**Other fees due**

License fee (Article 9, section 181):

Maintenance fee for period (s) ended:

**Lien Provision**

The tax shall become a lien on the date the return is required to be filed (without regard to any extension of time for filing the return), except that such tax shall become a lien not later than the date the taxpayer ceases to be subject to the tax or to exercise its franchise or to do business in New York State in a corporate or organized capacity. A dissolved corporation that continues to conduct business shall also be subject to the tax imposed by this article.

**Need help?**



Visit our Web site at [www.tax.ny.gov](http://www.tax.ny.gov)

- get information and manage your taxes online
- check for new online services and features



**Telephone assistance**

Corporation Tax Information Center: (518) 485-6027  
 To order forms and publications: (518) 457-5431



**Text Telephone (TTY) Hotline** (for persons with hearing and speech disabilities using a TTY): If you have access to a TTY, contact us at (518) 485-5082. If you do not own a TTY, check with independent living centers or community action programs to find out where machines are available for public use.



**Persons with disabilities:** In compliance with the Americans with Disabilities Act, we will ensure that our lobbies, offices, meeting rooms, and other facilities are accessible to persons with disabilities. If you have questions about special accommodations for persons with disabilities, call the information center.





**OFAC**

Office of Foreign Assets Control

# Sanctions List Search

Specially Designated Nationals and Blocked Persons List ("SDN List") and all other sanctions lists administered by OFAC, including the Foreign Sanctions Evaders List, the Non-SDN Iran Sanctions Act List, the Sectoral Sanctions Identifications List, the List of Foreign Financial Institutions Subject to Correspondent Account or Payable-Through Account Sanctions and the Non-SDN Palestinian Legislative Council List. Given the number of lists that now reside in the Sanctions List Search tool, it is strongly recommended that users pay close attention to the program codes associated with each returned record. These program codes indicate how a true hit on a returned value should be treated. The Sanctions List Search tool uses approximate string matching to identify possible matches between word or character strings as entered into Sanctions List Search, and any name or name component as it appears on the SDN List and/or the various other sanctions lists. Sanctions List Search has a slider-bar that may be used to set a threshold (i.e., a confidence rating) for the closeness of any potential match returned as a result of a user's search. Sanctions List Search will detect certain misspellings or other incorrectly entered text, and will return near, or proximate, matches, based on the confidence rating set by the user via the slider-bar. OFAC does not provide recommendations with regard to the appropriateness of any specific confidence rating. Sanctions List Search is one tool offered to assist users in utilizing the SDN List and/or the various other sanctions lists; use of Sanctions List Search is not a substitute for undertaking appropriate due diligence. The use of Sanctions List Search does not limit any criminal or civil liability for any act undertaken as a result of, or in reliance on, such use.

[Download the SDN List](#)

[Sanctions List Search: Rules for use](#)

[Visit The OFAC Website](#)

[Download the Consolidated Non-SDN List](#)

[Program Code Key](#)

**Lookup**

<b>Type:</b>	All	▼	<b>Address:</b>	
<b>Name:</b>	sarkis simonlan		<b>City:</b>	
<b>ID #:</b>			<b>State/Province:*</b>	
<b>Program:</b>	<div style="border: 1px solid gray; padding: 2px;"> All  561-Related  BALKANS  BALKANS-EO14033 </div>		<b>Country:</b>	All
			<b>List:</b>	All
<b>Minimum Name Score:</b>		100	<input type="button" value="Search"/>	<input type="button" value="Reset"/>

**Lookup Results: 0 Found**

Name	Address	Type	Program(s)	List	Score ▼
Your search has not returned any results.					

\* U.S. states are abbreviated on the SDN and Non-SDN lists. To search for a specific U.S. state, please use the two letter U.S. Postal Service abbreviation.

SDN List last updated on: 1/6/2023 7:03:45 AM  
Non-SDN List last updated on: 12/15/2022 7:07:16 AM







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**Lookup**

<b>Type:</b>	All	▼	<b>Address:</b>	
<b>Name:</b>	Daniel C. Lewis, Jr.		<b>City:</b>	
<b>ID #:</b>			<b>State/Province*:</b>	
<b>Program:</b>	<div style="border: 1px solid gray; padding: 2px;"> All  561-Related  BALKANS  BALKANS-EO14033 </div>		<b>Country:</b>	All
			<b>List:</b>	All
<b>Minimum Name Score:</b>	<input type="text" value="100"/>		<input type="button" value="Search"/> <input type="button" value="Reset"/>	

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**Lookup**

<b>Type:</b>	All	▼	<b>Address:</b>	
<b>Name:</b>	John Plccoli		<b>City:</b>	
<b>ID #:</b>			<b>State/Province*:</b>	
<b>Program:</b>	<div style="border: 1px solid gray; padding: 2px;"> All  561-Related  BALKANS  BALKANS-EO14033 </div>		<b>Country:</b>	All
			<b>List:</b>	All
<b>Minimum Name Score:</b>		100	<input type="button" value="Search"/>	<input type="button" value="Reset"/>

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[Program Code Key](#)

**Lookup** 🔍

<b>Type:</b>	All <span style="float: right;">▼</span>	<b>Address:</b>	
<b>Name:</b>	Frank Piccoll	<b>City:</b>	
<b>ID #:</b>		<b>State/Province*:</b>	
<b>Program:</b>	<div style="border: 1px solid gray; padding: 2px;"> All  561-Related  BALKANS  BALKANS-EO14033 </div>	<b>Country:</b>	All <span style="float: right;">▼</span>
		<b>List:</b>	All <span style="float: right;">▼</span>
<b>Minimum Name Score:</b>	<input type="text" value="100"/>	<input type="button" value="Search"/>	<input type="button" value="Reset"/>

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5

L+R

**CITY OF KINGSTON**  
Office of Housing Initiatives

Bartek Starodaj, Director



Steven T. Noble, Mayor

February 2, 2023

Ald. At Large Andrea Shaut, President  
City of Kingston Common Council  
City Hall - 420 Broadway  
Kingston, NY 12401

Re: Kingston Forward Citywide Rezoning Draft DGEIS

Dear President Shaut,

As you know, the City of Kingston is currently considering adopting a citywide form-based code. The Common Council accepted the final draft of the code and set a public hearing via Resolution 23 of 2023.

Before the code can be adopted, the City must follow the State Environmental Quality Review Act Process. The Common Council has already determined that adoption of the form-based is a Type I Action and made a positive declaration of potential significant adverse environmental impact. It also already adopted a Final Scoping document and directed the City's Consultant's to create a Draft Generic Environmental Impact Statement ("DGEIS") that discusses all potential environmental impacts, issues, and alternatives identified in the Final Scoping.

I am submitting a DGEIS for the adoption of the citywide form-based code and asking the Common Council to accept it as complete in scope and content. This will allow Housing Initiatives to circulate the DGEIS for public review and comment.

I ask that you please forward this communication to the next regularly scheduled Laws & Rules Committee for consideration.

Respectfully Submitted,

Bartek Starodaj  
Director, Housing Initiatives

- Cc: Steve T. Noble, Mayor
- E. Tinti, City Clerk
- B. Graves-Poller, Corporation Counsel
- M. Jankowski, Assistant Corporation Counsel
- S. Cahill, Planning Director





**THE CITY OF KINGSTON COMMON COUNCIL**

**LAWS & RULES  
COMMITTEE REPORT**

DEPARTMENT: **HOUSING INITIATIVES**

DATE: \_\_\_\_\_

**Description: RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF KINGSTON, NEW YORK, ACCEPTING A DRAFT GENERIC ENVIRONMENTAL STATEMENT AS COMPLETE FOR THE KINGSTON FORWARD CITYWIDE REZONING, AND SCHEDULING NOTIFICATIONS AND A PUBLIC HEARING SESSION AND PUBLIC INPUT SCHEDULE AS PART OF THE STATE ENVIRONMENTAL QUALITY REVIEW ACT (SEQRA) PROCESS**

Signature: \_\_\_\_\_

Motion by \_\_\_\_\_

Seconded by \_\_\_\_\_

Action Required:

SEQRA Decision:  
 Type I Action \_\_\_\_\_  
 Type II Action \_\_\_\_\_  
 Unlisted Action \_\_\_\_\_

Negative Declaration of Environmental Significance: \_\_\_\_\_

Conditioned Negative Declaration: \_\_\_\_\_

Seek Lead Agency Status: \_\_\_\_\_

Positive Declaration of Environmental Significance: \_\_\_\_\_

<u>Committee Vote</u>	<u>YES</u>	<u>NO</u>
Rita Worthington, Ward 4, Chairman		
Barbara Hill, Ward 1		
Carl Frankel, Ward 2		
Rennie Scott-Childress, Ward 3		
Michael Olivieri, Ward 7		



RESOLUTION \_\_\_ of 2023

**RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF KINGSTON, NEW YORK, ACCEPTING A DRAFT GENERIC ENVIRONMENTAL STATEMENT AS COMPLETE FOR THE KINGSTON FORWARD CITYWIDE REZONING, AND SCHEDULING NOTIFICATIONS AND A PUBLIC HEARING SESSION AND PUBLIC INPUT SCHEDULE AS PART OF THE STATE ENVIRONMENTAL QUALITY REVIEW ACT (SEQRA) PROCESS**

Sponsored by: Laws & Rules Committee Aldermen: Alderman Worthington, Hill, Frankel, Scott-Childress, Davis, Olivieri

**WHEREAS**, the City of Kingston Common Council is undertaking a project to rewrite the City's zoning code, as form based zoning, to describe the desired form and character for future improvements and preservation throughout the City called Kingston Forward (the "Project"); and

**WHEREAS**, by Resolution 58 of 2022, the Common Council declared themselves Lead Agency in the environmental review of the Project and determined that the Project is a Type I Action under SEQRA; and

**WHEREAS**, by Resolution 59 of 2022, the Common Council has determined that the proposed Project may result in a potential significant adverse impact and therefore requires a Positive Declaration; and

**WHEREAS**, by Resolution 116 of 2022, the Common Council adopted a Final Scoping Document as outlined under Part 617.8 of SEQRA and directed the City's Consultant to create a Draft Generic Environmental Impact Statement ("DGEIS"); and

**WHEREAS**, the City's consultants have prepared a DGEIS for the review and consideration of the Common Council; and

**WHEREAS**, the DGEIS discusses all potential environmental impacts and issues and all reasonable project alternatives that were identified in the DGEIS scoping process.

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

**SECTION 1:** That the Common Council accepts the DGEIS as complete in scope and content and that this DGEIS document shall be immediately publicized on the City's website and Engage Kingston and made available for public review at the office of the City Clerk;

**SECTION 2:** That the Common Council shall host a public hearing on the DGEIS and shall open a public comment period that shall run for no less than ten calendar days after the public hearing to collect any comments for use in preparation of the final GEIS.

**SECTION 3:** That the Office of Housing Initiatives is hereby directed to circulate the draft DGEIS for public review and comment and shall circulate the DGEIS to all additional interested agencies listed in the Final Scoping Document, plus any other parties with standing pursuant to 6 NYCRR Part 617.

**SECTION 4:** That a Notice of Completion must be filed with parties identified in 6 NYCRR Part 617 and notice of such provided to the Environment Notice Bulletin, along with a copy of the DGEIS transmitted to the NY State Department of Environment Conservation.

**SECTION 5:** That this resolution shall take effect immediately.

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

12

**Higgins, Janet**

---

**From:** Shaut, Andrea  
**Sent:** Thursday, February 02, 2023 1:41 PM  
**To:** Higgins, Janet; Jankowski, Matthew  
**Subject:** Re: [EXTERNAL EMAIL] Request to purchase part of Jervis Ave between W Chester and Ohio streets

I looked at the code and it is specific to say that the council shall direct the Planner. Does this have to go through a committee, or would this be considered complete by passing it along to Sue in an email?

Section 355-58:

Alternatively, any person who shall desire to purchase a street or portion thereof which is no longer used as a public thoroughfare shall address such request to the Mayor and the Common Council. The Council shall determine whether the street is of public use or whether it is in the interest of the City of Kingston to sell such street. Prior to its determination that it would be appropriate for the City of Kingston to sell said street, the Council shall direct the Planner to cause a deed description of said property to be prepared by the Engineer's office. The deed description shall be prepared within 30 days from the date of referral to the Planner by the Common Council.

Andrea Shaut

Council President, City of Kingston

---

**From:** Shaut, Andrea <ashaut@kingston-ny.gov>  
**Sent:** Thursday, February 2, 2023 1:16 PM  
**To:** Higgins, Janet <jhiggins@kingston-ny.gov>; Jankowski, Matthew <mjankowski@kingston-ny.gov>  
**Subject:** Fw: [EXTERNAL EMAIL] Request to purchase part of Jervis Ave between W Chester and Ohio streets

Here it is! Can you keep me informed on this? I'm sure I will hear from the constituents.

Thank you

Andrea Shaut

Council President, City of Kingston

---

**From:** waheins@icloud.com <waheins@icloud.com>  
**Sent:** Monday, January 9, 2023 12:15 PM  
**To:** Noble, Steve <SNoble@kingston-ny.gov>; Shaut, Andrea <ashaut@kingston-ny.gov>; Graves-Poller, Barbara <BGraves@kingston-ny.gov>  
**Cc:** 'Judit German-Heins' <juditheins@mac.com>; 'Michael Boyd' <boydmichael@gmail.com>  
**Subject:** [EXTERNAL EMAIL] Request to purchase part of Jervis Ave between W Chester and Ohio streets

Dear Mayor, Common Council, and Corporation Counsel:



Pursuant to City of Kingston § 355-58 (Request to Purchase Streets), we request to purchase a portion of Jervis Ave West of W Chester St, as illustrated in the attached pdf.

William Heins and Judit German-Heins would like to purchase from the South edge of parcel 56.34-7-14 to the center line of Jervis Ave. Michael Boyd would like to purchase from the North edge of parcel 56.34-7-20 to the center line of Jervis Ave.

Thank you for your consideration in this matter.

Sincerely,

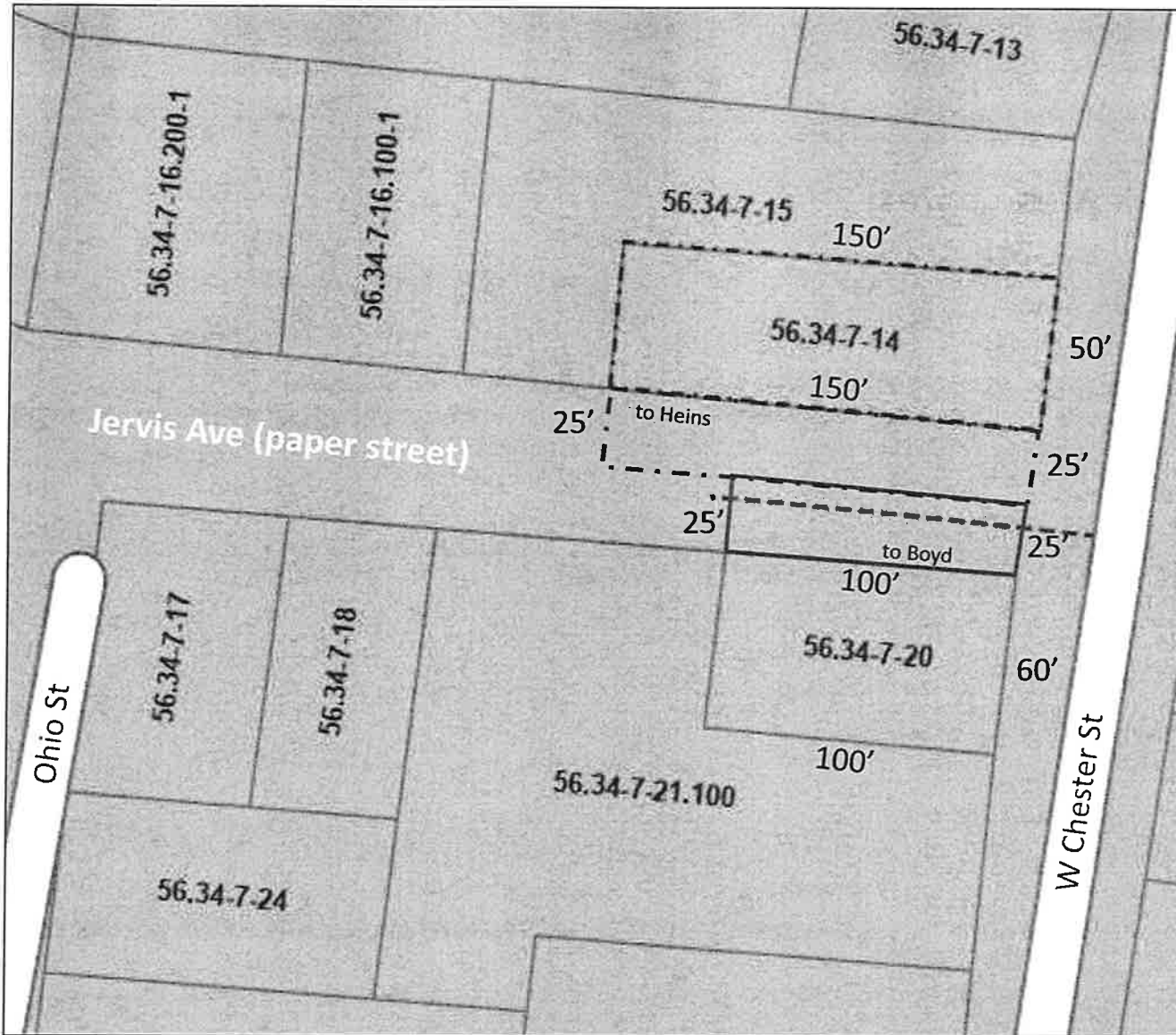
William Heins & Judit German-Heins  
107 W Chester St  
Kingston NY 12401  
713-992-0724 (Bill)  
281-908-1024 (Judit)

Michael Boyd  
111 W Chester St  
Kingston NY 12401  
917-532-6027

*ATTENTION: This email came from an external source. Do not open attachments or click on links from unknown senders or unexpected emails.*







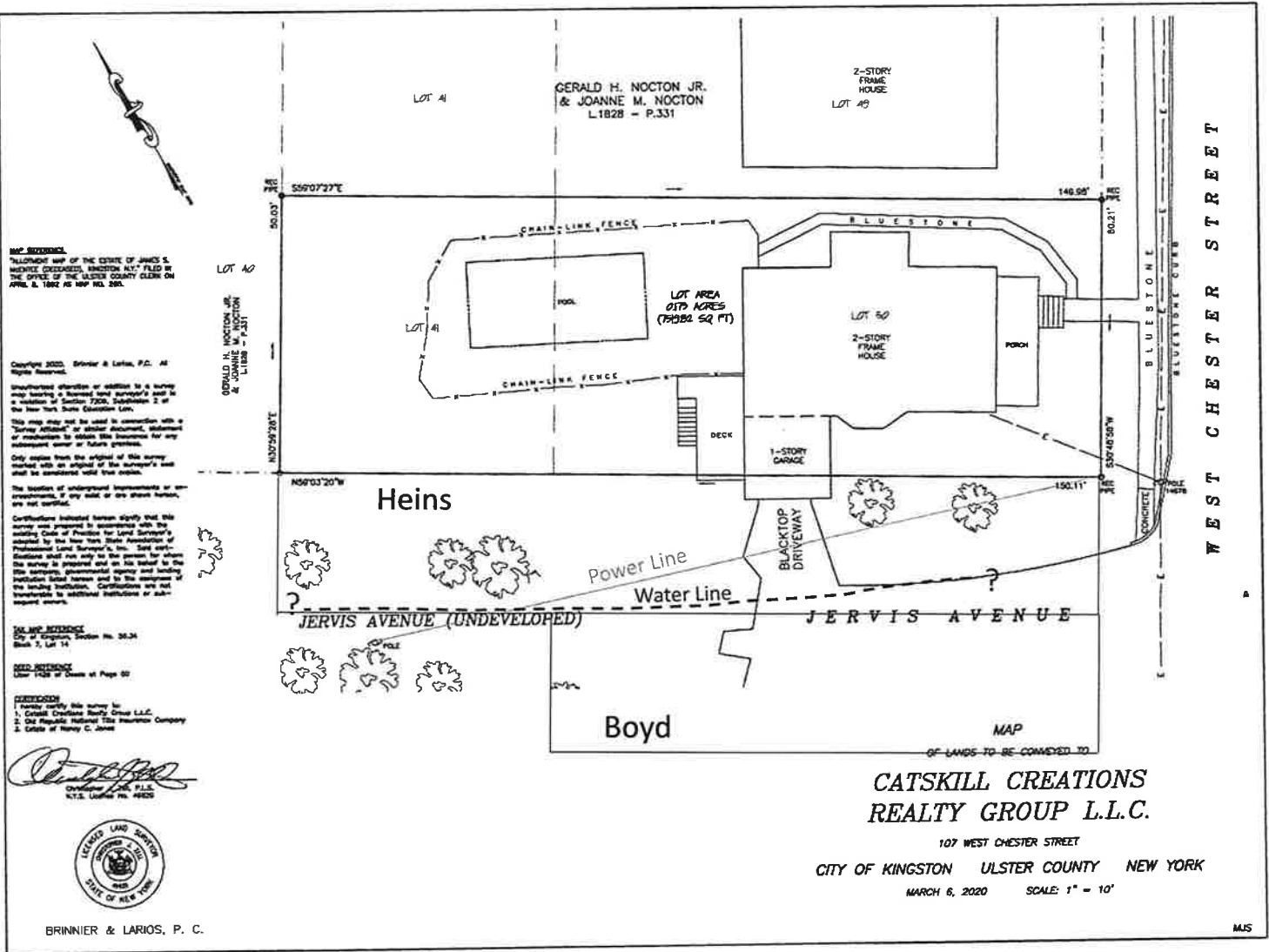
56.34-7-15  
 103 W Chester St  
 Gerard, Joanne Nocton

56.34-7-14  
 107 W Chester St  
 William Heins, Judit German-Heins

56.34-7-20  
 111 W Chester St  
 Michael Boyd

56.34-7-21.100  
 121 W Chester St  
 Rebecca Blackwell Hafner, Ali Hammoud





**MAP REFERENCE**  
"ALLOTMENT MAP OF THE ESTATE OF JAMES S. HEINCE (DECEASED), WASHINGTON ACT" FILED IN THE OFFICE OF THE ULSTER COUNTY CLERK ON APRIL 8, 1992 AS MAP NO. 285.

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Unauthorized alteration or addition to a survey map bearing a licensed land surveyor's seal is a violation of Section 7209, Subparagraph 2 of the New York State Education Law.

This map may not be used in connection with a "Survey Affidavit" or similar document, statement or modification to define the boundaries for any subsequent owner or future premises.

Only copies from the original of this survey marked with an original of the surveyor's seal shall be considered valid true copies.

The location of underground improvements or encroachments, if any, shall be shown hereon, and certified.

Certifications indicated herein signify that this survey was prepared in accordance with the existing Code of Practice for Land Surveyors adopted by the New York State Association of Professional Land Surveyors, Inc. Said certifications shall run only to the person for whom the survey is prepared and on his behalf to the title insurance, governmental agency and lending institution listed herein and to the satisfaction of the lending institution. Certifications are not transferable to additional institutions or subsequent owners.

**TAX MAP REFERENCE**  
City of Kingston, Section No. 36.34  
Block 7, Lot 14

**DEED REFERENCE**  
Libr 1428 of Deeds at Page 57

**LEGEND**  
I hereby certify this survey to:  
1. Catskill Creations Realty Group L.L.C.  
2. One Republic National Title Insurance Company  
3. Estate of Nancy C. Jones

*[Signature]*  
Dariusz J. P.L.S.  
N.Y.S. License No. 49225



BRINNIER & LARIOS, P. C.

**CATSKILL CREATIONS  
REALTY GROUP L.L.C.**

107 WEST CHESTER STREET  
CITY OF KINGSTON ULSTER COUNTY NEW YORK

MARCH 6, 2020 SCALE: 1" = 10'

MJS



7

L+R

**Tinti, Elisa**

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**From:** Shaut, Andrea  
**Sent:** Thursday, February 02, 2023 10:52 PM  
**To:** Tinti, Elisa  
**Subject:** Council Rule Communication

Good evening,

I plan on asking the Laws & Rules Committee to discuss three possible amendments to the Council Rules this month.

- 1 - codify the local law process
- 2 - include a section that allows the correction of "typographical or stenographic errors"
- 3 - what happens to a committee report without a majority vote

Please include this email in my communication folder. I will assign it to committee for February and will provide specifics before the meeting.

Sincerely,

Andrea Shaut

Council President, City of Kingston



## Tinti, Elisa

---

**From:** Shaut, Andrea  
**Sent:** Friday, February 03, 2023 12:42 PM  
**To:** Tinti, Elisa  
**Subject:** Fw: [EXTERNAL EMAIL] Request to purchase part of Jervis Ave between W Chester and Ohio streets  
**Attachments:** Conceptual 2-way division of Jervis paper street.pdf

Dear Elisa,

There has been a request to purchase a city street. In following our code, the first step is for the council to request the Planning Department to provide a deed description. I am assigning this to February's Laws & Rules committee to do so. Can you please add this to the list of communications, including the below message?

Thank you,

Andrea Shaut

Council President, City of Kingston

---

**From:** waheins@icloud.com <waheins@icloud.com>  
**Sent:** Monday, January 9, 2023 12:15 PM  
**To:** Noble, Steve <SNoble@kingston-ny.gov>; Shaut, Andrea <ashaut@kingston-ny.gov>; Graves-Poller, Barbara <BGraves@kingston-ny.gov>  
**Cc:** 'Judit German-Heins' <juditheins@mac.com>; 'Michael Boyd' <boyd michael@gmail.com>  
**Subject:** [EXTERNAL EMAIL] Request to purchase part of Jervis Ave between W Chester and Ohio streets

Dear Mayor, Common Council, and Corporation Counsel:

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Thank you for your consideration in this matter.

Sincerely,

William Heins & Judit German-Heins  
107 W Chester St  
Kingston NY 12401  
713-992-0724 (Bill)  
281-908-1024 (Judit)

Michael Boyd  
111 W Chester St  
Kingston NY 12401

917-532-6027

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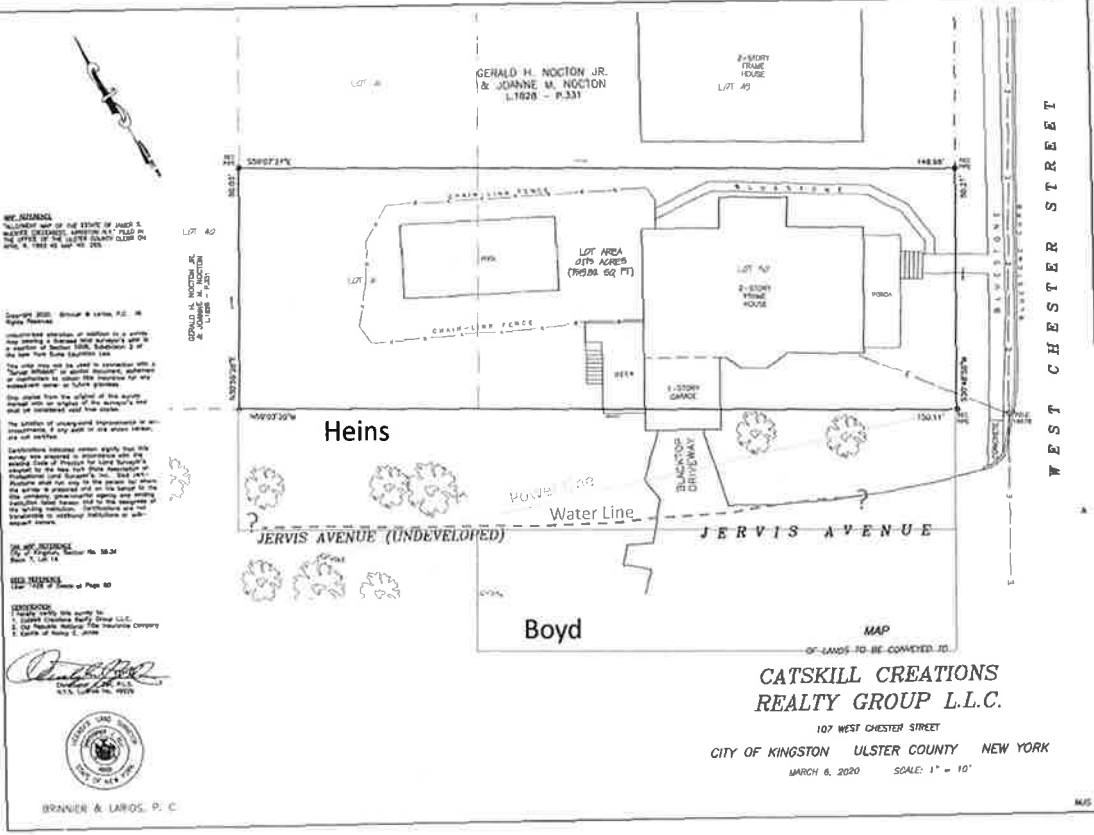


56.34-7-15  
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 Michael Boyd

56.34-7-21.100  
 121 W Chester St  
 Rebecca Blackwell Hafner, Ali Hammoud



**NOTICE:**  
 ALL RIGHTS RESERVED BY THE STATE OF NEW YORK.  
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 ALL RIGHTS RESERVED BY THE STATE OF NEW YORK.

**GENERAL NOTES:**  
 1. THIS MAP WAS PREPARED BY THE ENGINEER IN CHARGE OF THE SURVEY AND IS NOT TO BE USED FOR ANY OTHER PURPOSE.  
 2. THE SURVEY WAS MADE IN ACCORDANCE WITH THE SURVEYING ACT OF 1920 AND THE SURVEYING REGULATIONS OF 1921.  
 3. THE SURVEY WAS MADE IN ACCORDANCE WITH THE SURVEYING ACT OF 1920 AND THE SURVEYING REGULATIONS OF 1921.  
 4. THE SURVEY WAS MADE IN ACCORDANCE WITH THE SURVEYING ACT OF 1920 AND THE SURVEYING REGULATIONS OF 1921.

**DEED RECORDS:**  
 1. DEED RECORDS, BOOK 10, PAGE 10.  
 2. DEED RECORDS, BOOK 10, PAGE 10.

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 2. DEED RECORDS, BOOK 10, PAGE 10.

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 2. DEED RECORDS, BOOK 10, PAGE 10.

**CATSKILL CREATIONS  
 REALTY GROUP L.L.C.**

107 WEST CHESTER STREET  
 CITY OF KINGSTON ULSTER COUNTY NEW YORK  
 MARCH 6, 2020 SCALE: 1" = 10'



BRANNEN & LAROS, P.C.

MUS

**OLD BUSINESS**



## Tinti, Elisa

---

**From:** Noble, Julie  
**Sent:** Friday, February 10, 2023 3:32 PM  
**To:** Worthington, Rita; Shaut, Andrea  
**Cc:** Tinti, Elisa; Graves-Poller, Barbara; Gartenstein, Arielle; Marisa Hansen; Frankel, Carl; Barbara Hill; Rennie Scott-Childress; Olivieri, Michael; Noble, Steve; Gartenstein, Arielle  
**Subject:** RE: Bike Share follow up

Rita et. al,

Thank you for your feedback.

Although we are not able to seek quotes shy of a full professional bid, my office has been researching models from around the state and country, and have their expenditures available. We are compiling this now into a matrix which I will share Wednesday at Laws and Rules.

For the other points, and I ask Barbara and Marisa to chime in/correct if I am misspeaking- regarding the ability for a vendor to come and set up their system without permission: at this time, my understanding is that a vendor can come in with their system without our oversight, using private property. For example, one of our local bike shops could just start a shared system; the YMCA could start a shared system; a national vendor could do the same. All they would need to do would be to work with private businesses to use their locations for docking, etc. Yes, they would need permission to do anything on city property, but it could easily be done on private property, without our oversight.

Regarding the differentiation of establishing a regulatory policy vs having a shared system in place is a function of a few things:

- 1) If the policy is adopted, then a vendor must follow that policy in order to have a presence in Kingston. That means, they would not be able to set up a shared system, even private property, without obtaining a permit to do so from the City (section 160-7). That would prohibit random establishment by a vendor without our oversight.
- 2) Simply passing the policy does not mean that we must either solicit or permit any system. That is an operational decision on the part of the Executive Branch. However, should the Common Council adopt the policy, it is no longer the Common Council's authority to decide whether or not the Executive Branch decides to effectuate it, that is the authority of the Mayor.

I look forward to discussing more Wednesday.

Thanks,  
Julie

Julie L. Noble  
City of Kingston  
Environmental Education & Sustainability Coordinator  
467 Broadway  
Kingston, NY 12401  
845-481-7339

**From:** Worthington, Rita <ward4@kingston-ny.gov>

**Sent:** Thursday, February 9, 2023 8:47 PM

**To:** Noble, Julie <JulieLNoble@kingston-ny.gov>; Shaut, Andrea <ashaut@kingston-ny.gov>

**Cc:** Tinti, Elisa <emtinti@kingston-ny.gov>; Graves-Poller, Barbara <BGraves@kingston-ny.gov>; Gartenstein, Arielle <agartenstein@kingston-ny.gov>; Marisa Hansen <mhansen@kingston-ny.gov>; Frankel, Carl <ward2@kingston-ny.gov>; Barbara Hill <bhillward1@gmail.com>; Rennie Scott-Childress <rscottchildress@gmail.com>; Olivieri, Michael <ward7@kingston-ny.gov>

**Subject:** Re: Bike Share follow up

Julie,

I wanted to get back to you with some of the committee's thoughts on the Bike Sharing Services proposal.

After speaking with a few committee members, the general feeling is we are in favor of the initial proposal. However, it is troubling that we are not able to get an estimate of the costs for the standard bike sharing system. While this program will be funded with ARPA monies, it would be good to have an estimate of just how much the program would cost.

At the last Laws & Rules committee meeting it was stated that without a system in place, any vendor would essentially be able to come into the city and "set up camp" for lack of a better phrase. It would seem that this would not be the case as one would hope that permission would need to be granted to use any city properties. In addition, if a vendor wanted to use city property, it would be assumed that they would need some kind of permit to do so.

I, along with committee members I believe, are in favor of having a more robust enforcement and safety policy/campaign for cycles, be it standard bikes, e-bikes or the like. However, the shared services system placed on hold. Are we able to separate the two? Can we procure an electric bike policy without having the shared services system?

With the recent pedestrian accidents, two of which just happened, I feel like we really need to focus on a more in-depth traffic safety program for both motorist, pedestrians and cyclists. That said, we would be glad to continue discussions.

I am cc'ing the full Laws & Rules committee in case they wish to weigh in.

Thank you.

Rita

Rita Worthington  
Alderwoman, Ward 4  
City Phone: (845)392-3426  
Mobile: (845)532-1398  
[ward4@kingston-ny.gov](mailto:ward4@kingston-ny.gov)

**From:** Noble, Julie <[JulieLNoble@kingston-ny.gov](mailto:JulieLNoble@kingston-ny.gov)>

**Sent:** Wednesday, February 1, 2023 1:13 PM

**To:** Shaut, Andrea <[ashaut@kingston-ny.gov](mailto:ashaut@kingston-ny.gov)>; Worthington, Rita <[ward4@kingston-ny.gov](mailto:ward4@kingston-ny.gov)>

**Cc:** Tinti, Elisa <[emtinti@kingston-ny.gov](mailto:emtinti@kingston-ny.gov)>; Graves-Poller, Barbara <[BGraves@kingston-ny.gov](mailto:BGraves@kingston-ny.gov)>; Gartenstein, Arielle <[agartenstein@kingston-ny.gov](mailto:agartenstein@kingston-ny.gov)>; Marisa Hansen <[mhansen@kingston-ny.gov](mailto:mhansen@kingston-ny.gov)>

**Subject:** Bike Share follow up

President Shaut and Alderperson Worthington,

As a follow up regarding the bike share proposal that was put before Laws and Rules in January, we were tasked with seeking quotes for a standard bike share system and to bring that back to Laws and Rules in February.

Since the funding would be going through ARPA, there is a very prescriptive procurement process that needs to be followed, along with following our own procurement process, both of which stipulate that if the service were to cost over \$35,000, that a formal RFP would need to be used. Thus, I am not able to seek informal quotes, or otherwise, there would be collusion in the process as any vendor would then have advanced notice of our intent and proposal.

That said, I am not able to seek quotes and thus don't have even a general sense of the cost of the program and won't until we have language for an RFP. I can either wait for the adoption of the local law and use any final stipulations that are determined as part of that process to develop the RFP OR I can create an RFP now, prior to anticipated adoption, but the language and stipulations may end up changing, and the RFP process is 1-2 months minimum.

I look forward to discussing this proposal further at Laws and Rules this month, but in the meantime, please let me know if you have any thoughts.

Thanks,  
Julie

Julie L. Noble  
City of Kingston  
Environmental Education & Sustainability Coordinator  
467 Broadway  
Kingston, NY 12401  
845-481-7339







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

Steven T. Noble, Mayor



Lynsey Timbrouck, Director

January 5, 2023

Honorable Andrea Shaut  
 President/Alderman-at-Large  
 Kingston Common Council  
 420 Broadway  
 Kingston, NY 12401

Re: An Ordinance Regulating the Operation of Shared Bicycle, Shared Bicycle with Electric Assist and Shared Electric Scooter Systems

Dear President Shaut,

The Sustainability Office, with support from the Complete Streets Advisory Council, the Live Well Kingston Commission, and the Climate Smart Kingston Commission, would like to request that the Kingston Common Council consider adoption of an ordinance permitting the use of e-bikes, e-scooters, and shared micro-mobility services within the City of Kingston.

Currently, e-bikes and e-scooters are not legal for private operation off City streets, per 2020 N.Y. Chapter 58, Part XX, §§ 1-10, which requires municipalities in New York State enact local laws legalizing the devices within their own boundaries, as opposed to statewide regulation. However, use of these devices is already currently widespread in public parks, lots, and paths. While they are generally operated safely, establishing an ordinance that grants specific permission for their use will allow the City to implement regulations for these devices that are not applicable to standard bicycles. Further, legalization will encourage expanded use of mobility devices with electrical assist, which are popular and helpful tools for anyone seeking a reduced reliance on vehicular mobility, reduction of which is an essential climate action. As such, this ordinance is directly in line with the mission of the Climate Smart Kingston Commission, and our 2030 Climate Action Plan.

The ordinance will further permit the City to solicit offers from ride-share and micro-mobility services, that, with the explicit consent of City government, may apply for permitting to install bike-share services within the City. We believe that these bike share services will encourage the use of alternate modes of transportation, alleviate vehicle traffic, improve the health and wellness of the citizens, and be a popular activity for tourism and therefore economic growth.

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

Steven T. Noble, Mayor



Lynsey Timbrouck, Director

---

A draft ordinance was provided by the Complete Streets Advisory Council, who began working on this initiative during summer 2021. A template law was pulled from an implementation guide titled "Regulating E-Bicycles and E-Scooters: Issues and Options, A Guide for New York Communities - *Version 2.0*" published by Peter W. Martin of Cornell Law School in May, 2022. Following expression of public interest in a Citywide bikeshare program, the provided language was then adjusted by my office, based on program recommendations provided by the Complete Streets Advisory Board, the Live Well Kingston Commission, and the Climate Smart Kingston Commission.

The Draft Ordinance is currently under final review by Corporation Counsel. This Draft will be provided to you in advance of your meeting for consideration.

Sincerely,



Julie L. Noble

CC: Barbara Graves-Poller  
Emily Flynn  
John Grossbohl





(A)

(L+R)

**Tinti, Elisa**

---

**From:** Shaut, Andrea  
**Sent:** Wednesday, January 04, 2023 10:05 AM  
**To:** Tinti, Elisa; Graves-Poller, Barbara; Clark, Johnathan  
**Subject:** Redistricting

Good morning,

The Redistricting Subcommittee met on Tuesday 1/3 and narrowed down their preferences of maps to Map A and Map C. The next step is for Laws & Rules to take the subcommittee's recommendation into discussion for the Laws & Rules Committee's final recommendation to the full council.

Elisa - can you please include this email in my communication folder? I will be assigning the discussion to Laws & Rules for January's meeting.

Thank you,

Andrea Shaut

Council President, City of Kingston



**THE CITY OF KINGSTON COMMON COUNCIL**

**LAWS & RULES  
COMMITTEE REPORT**

DEPARTMENT: ASR Accept DATE: 1/12/02

Description: Recommendation to ~~Accept~~ Map C for  
the redistricting of the City of Kingston

Signature: \_\_\_\_\_

Motion by CF

Seconded by BH

Action Required: \_\_\_\_\_

SEQRA Decision:  
 Type I Action \_\_\_\_\_  
 Type II Action \_\_\_\_\_  
 Unlisted Action \_\_\_\_\_

Negative Declaration of Environmental Significance: \_\_\_\_\_

Conditioned Negative Declaration: \_\_\_\_\_

Seek Lead Agency Status: \_\_\_\_\_

Positive Declaration of Environmental Significance: \_\_\_\_\_

<u>Committee Vote</u>	<u>YES</u>	<u>NO</u>
<u>Rita Worthington</u> Rita Worthington, Chairperson		✓
<u>Barbara A. Hill</u> Barbara Hill, Ward 1	✓	
<u>Carl Frankel</u> Carl Frankel, Ward 2	✓	
<u>Rennie Scott-Childress</u> Rennie Scott-Childress, Ward 3		✓
<u>Michael Olivieri</u> Michael Olivieri, Ward 7		✓





**THE CITY OF KINGSTON COMMON COUNCIL**

**LAWS & RULES  
COMMITTEE REPORT**

DEPARTMENT: L&R DATE: 1/12/22

Description: Recommendation to Accept MAP A For  
The Redistricting of the City of Kingston

Signature: \_\_\_\_\_

Motion by RSC

Seconded by MO

Action Required: \_\_\_\_\_


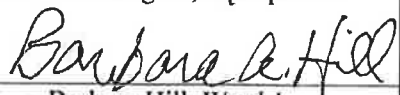

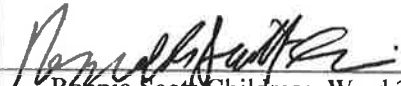
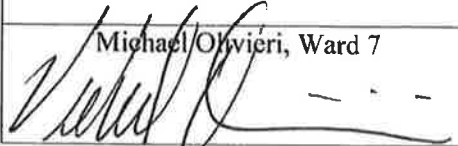
SEQRA Decision:  
 Type I Action \_\_\_\_\_  
 Type II Action \_\_\_\_\_  
 Unlisted Action \_\_\_\_\_

Negative Declaration of Environmental Significance: \_\_\_\_\_

Conditioned Negative Declaration: \_\_\_\_\_

Seek Lead Agency Status: \_\_\_\_\_

Positive Declaration of Environmental Significance: \_\_\_\_\_

<u>Committee Vote</u>	<u>YES</u>	<u>NO</u>
 Rita Worthington, Chairperson	✓	
 Barbara Hill, Ward 1		✓
 Carl Frankel, Ward 2		✓
 Rennie Scott-Childress, Ward 3	✓	
 Michael Onwieri, Ward 7		✓



OLD BUSINESS



## **CHAPTER 160: REGULATION OF MOBILITY DEVICES AND SHARED MOBILITY DEVICE SYSTEMS**

### **§ 160-1. Definitions.**

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

*ADA-compliant ramp* – A ramp which meets the requirements of the Americans with Disabilities Act of 1990 (ADA).

*Allotted fleet size* – The maximum number of permitted shared bicycles, shared bicycles with electric assist, and shared electric scooters that an operator is authorized to have available at any single point in time per day.

*Applicant* – An individual or entity with a pending application for a shared system permit.

*Bicycle* – A device as defined in § 102 of the New York State Vehicle and Traffic Law.

*Bicycle with electric assist* – A bicycle as defined in § 102-c(a) or § 102-c(b) of the New York State Vehicle and Traffic Law.

*Crosswalk* – A portion of a roadway as defined in § 110 of the New York State Vehicle and Traffic Law.

*Deployment* – The initial placement of a shared mobility device for availability on an individual day.

*Driveway* – An entrance or exit as defined in § 114 of the New York State Vehicle and Traffic Law which is used by vehicular traffic.

*Electric mobility device* – Any bicycle with electric assist or electric scooter as defined in this chapter.

*Electric scooter* – A device as defined in § 114-e of the New York State Vehicle and Traffic Law.

*Furnishings zone* – That portion of a sidewalk adjacent to the curb that contains elements such as street trees, signal poles, streetlights, bicycle racks or other street furniture. This area does not include the curb itself or the pedestrian through-zone.

*Geofencing* – The use of Global Positioning System ("GPS"), Radio Frequency Identification ("RFID"), or other technology to create a virtual geographic boundary, enabling software to trigger a response in a shared mobility device when it enters or leaves a particular area.

*Grouping* – The placement of two or more shared mobility devices at a docking station.

*Mobility device* – A bicycle or an electric mobility device as defined in this chapter.

*Multiuse path* – A public way designed and designated for use by pedestrians, persons riding bicycles, and, to the extent also permitted, those employing other non-motorized conveyances (such as in-line skates, roller skates, skateboards, and kick scooters).

*Not-for-profit operator* – A company, person, or philanthropic organization that engages in or operates a shared system but does not charge for its use.

*Operator* – An individual, sole proprietorship, partnership, association, corporation, or not-for-profit organization that engages in or operates a shared system business or enterprise, including the employees, agents, designees, representatives, officers, and/or directors thereof. For the purposes of this section, there shall be no distinction between an operator and a permit holder.

*Pedestrian through-zone* – That portion of a sidewalk used primarily by pedestrians for travel and for accessing transit or buildings. It does not include the furnishings zone.

*Permit holder* – The individual, sole proprietorship, partnership, association, corporation, or not-for-profit organization that is the named holder of a permit issued pursuant to this chapter. For the purposes of this section, there shall be no distinction between an operator and a permit holder.

*Public highway* – A public way as defined in § 134 of the New York State Vehicle and Traffic Law.

*Rebalancing* – The act of relocating shared mobility devices from overcrowded stations to those with a shortage of devices.

*Shared bicycle system* – A network of publicly available bicycles as defined in § 1243 of the New York State Vehicle and Traffic Law.

*Shared bicycle with electric assist system* – A network of publicly available bicycles with electric assist as defined in § 1243 of the New York State Vehicle and Traffic Law.

*Shared electric mobility device* – A bicycle with electric assist or electric scooter that is part of a shared mobility device system.

*Shared mobility device* – A bicycle, bicycle with electric assist, or electric scooter that is part of a shared mobility device system.

*Shared electric scooter system* – A network of publicly available electric scooters as defined in § 1282 of the New York State Vehicle and Traffic Law.

*Shared mobility device system* – A shared bicycle system, shared bicycle with electric assist system, shared electric scooter system, or any network offering a combination of two (2) or more types of shared mobility devices for public use.

*Shared mobility device system permit* – A permit issued by the City as provided in this chapter.

*Sidewalk* – A portion of a street intended for pedestrian use as defined in § 144 of the New York State Vehicle and Traffic Law.

*User* – A natural person who operates a shared mobility device in a shared mobility device system.

### **§ 160-2. Scope.**

This chapter applies to the operation of bicycles, electric bicycles, and scooters and to the regulation of shared mobility device systems on any public highway, crosswalk, multi-use path, park or public space, municipal or private parking lot within the City of Kingston that is open to and used by the general public.

## **ARTICLE I. BICYCLES**

### **§ 160-3. State law provisions.**

- A. This article is adopted pursuant to §180 of the New York State General Municipal Law.
- B. Should the requirements of this article conflict with or otherwise be inconsistent with any provision or requirement of the New York State Vehicle and Traffic Law, the provisions imposing the higher standards shall govern.

### **§ 160-4. Operational requirements.**

- A. When two or more persons in a group are operating bicycles on a roadway, they shall ride single file.
- B. No person operating a bicycle shall carry another person, except upon a seat specifically provided for such passenger.
- C. No person operating a bicycle shall cling or attach himself or the bicycle to any other moving vehicle.
- D. No person shall operate a bicycle while in an intoxicated condition.
- E. No person shall operate a bicycle while using a mobile telephone (as defined in § 1225-C of the New York State Vehicle and Traffic Law) or a portable electronic device (as defined in § 1225-D of the New York State Vehicle and Traffic Law).
- F. No person shall operate a bicycle while wearing any headset or headphones which cover both ears or with earbuds or while wearing earplugs in both ears.
- G. No person shall operate a bicycle while their ability to operate such a bicycle is impaired by the use of a drug as defined in § 114-a of the New York State Vehicle and Traffic Law.

- H. No bicycle shall be operated within the period from sunset to sunrise without using a headlight attached to the front of the bicycle, visible under normal atmospheric conditions from the front thereof a distance of not less than 300 feet, nor without having a red light or a reflector attached to the rear of the bicycle, which is clearly visible in the headlight beam of a motor vehicle for a distance of not less than 200 feet to the rear of the bicycle.
- I. No person shall operate a bicycle that, due to its mechanical condition, cannot be safely operated.
- J. Any person operating a bicycle shall refrain from any trick riding and shall operate said bicycle with at least one hand on the handlebars. For the purposes of this chapter, “trick riding” shall mean operating a bicycle on a roadway or occupied parking lot in a reckless manner or performing tricks or nonstandard bicycling maneuvers. This definition includes, but is not limited to, having all or more than one of the wheels of the bicycle not touching the ground, weaving in and out of traffic, spinning the bicycle or any of its wheels outside of the customary rotations associated with the standard operation of a bicycle, and any stunts, including acrobatic maneuvering of the bicycle or handstands.
- K. No person shall operate a bicycle at a speed greater than is reasonable and prudent under the conditions and having regard to the actual and potential hazards then existing.
- L. Every person operating a bicycle shall strictly observe and obey all traffic signs, traffic control signals, and all other applicable traffic rules and regulations, and shall obey the orders and directions of every officer of the City authorized to direct or regulate traffic.

## **ARTICLE II. ELECTRIC MOBILITY DEVICES**

### **§ 160-5. State law provisions.**

- A. This article is adopted pursuant to §1242(3) and § 1281(2) of the New York State Vehicle and Traffic Law.
- B. Should the requirements of this article conflict with or otherwise be inconsistent with any provision or requirement of the New York State Vehicle and Traffic Law, the provisions imposing the higher standards shall govern.

### **§ 160-6. Operational requirements.**

- A. Every person operating an electric mobility device is subject to all of the duties applicable to the driver of a vehicle and the rider of a bicycle under the New York State Vehicle and Traffic Law and the traffic regulations of the City, including, without limitation, Article I of this chapter.
- B. No person shall operate a bicycle with electric assist in excess of twenty (20) miles per hour or an electric scooter in excess of fifteen (15) miles per hour. Notwithstanding the foregoing,



no person shall operate a bicycle with electric assist or an electric scooter at a speed greater than is reasonable and prudent under the conditions then existing.

- C. Operation of electric scooters is prohibited on any roadway or highway with a posted speed limit in excess of 30 miles per hour, and electric scooters shall not be operated within designated bicycle lanes.
- D. Every person operating an electric mobility device must wear a helmet designed to protect against serious head injury at all times that the electric mobility device is in motion.
- E. When two or more persons in a group are operating electric mobility devices on a roadway, they must ride single file.
- F. No electric mobility device shall be used to carry more than one person at one time. No person operating an electric mobility device shall carry any person as a passenger in a pack fastened to the operator or fastened to the electric mobility device.
- G. No person operating an electric mobility device shall carry any package, bundle or article which prevents that person from keeping at least one hand upon the handlebars, or which obstructs their vision in any direction, and all wheels of the electric mobility device shall remain upon the ground at all times during operation.
- H. Every person operating an electric mobility device must yield the right-of-way to pedestrians in all circumstances.
- I. Every electric mobility device operated within the period from sunset to sunrise must have a properly lighted headlight attached to the front of the device, visible under normal atmospheric conditions from the front thereof a distance of not less than 300 feet, nor without having a red light or a reflector attached to the rear of the device, which is clearly visible in the headlight beam of a motor vehicle for a distance of not less than 200 feet to the rear of the device.
- J. No person shall operate an electric mobility device while using a mobile telephone (as defined in § 1225-C of the New York State Vehicle and Traffic Law) or a portable electronic device (as defined in § 1225-D of the New York State Vehicle and Traffic Law).
- K. No person shall operate an electric mobility device while wearing any headset or headphones which cover both ears or with earbuds or earplugs in both ears.
- L. No person shall operate an electric mobility device while in an intoxicated condition.
- M. No person shall operate an electric mobility device while their ability to operate such a device is impaired by the use of a drug as defined in § 114-a of the New York State Vehicle and Traffic Law.
- N. Every person operating an electric mobility device must strictly observe all traffic signs, traffic control signals, and all other applicable traffic rules and regulations.

## **ARTICLE III. REGULATION OF SHARED MOBILITY DEVICE SYSTEMS**

### **§ 160-7. Permitting required for operation of shared mobility device systems.**

- A.** Every person engaged in the operation of a shared mobility device system must first obtain a permit for such operation from the Kingston City Clerk.
- B.** A shared mobility device system permit shall be issued only where an applicant meets all the requirements of this section and any criteria in addition thereof established by the City as deemed necessary to effectuate the purposes of this chapter.
- C.** Each shared mobility device system permit shall be valid for no more than one (1) year from the date of issuance.
- D.** An application for a shared mobility device system permit must be submitted on a form prescribed by the Kingston City Clerk which will include, without limitation, the following information:
  - 1. Legal name of the operator;
  - 2. The operator's "Doing Business As" (DBA) certificate, if applicable;
  - 3. Certified copy of the operator's Certificate of Incorporation and proof of registration with the New York State Department of State;
  - 4. Certificate of insurance evidencing required coverage pursuant to this section;
  - 5. Company address;
  - 6. Contact name;
  - 7. Contact telephone number;
  - 8. Contact email address;
  - 9. The operator's proposed fleet size and composition;
  - 10. The operator's plan for equitable shared device deployment and service, including, without limitation: education of, marketing to, and engagement with low-income, minority, non-English speaking, and zero-car populations;
  - 11. The operator's proposed method for users to access the shared mobility device system without a smartphone and/or a credit or debit card; and
  - 12. Any other information as specified on the application form.
- E.** As a condition of the issuance of a shared mobility device system permit, each applicant shall furnish proof of commercial liability insurance consistent with the City's insurance requirements. Such insurance shall be issued by an insurance company which is licensed to do business in New York State and shall name the City as an additional insured.
- F.** The application fee, permit fee, subsequent permit renewal fees, and other fees as applicable shall be as provided in § 160-15 of this chapter.

**§ 160-8. Denial, termination, and non-renewal of permits.**

- A. The City may, in its sole discretion, deny an application for a shared mobility device system permit.
- B. The City reserves the right to terminate a shared mobility device system permit at any time and require the removal from service of the entire fleet of devices to which such permit applies. Such notice of termination shall be delivered to the operator as outlined in the permit. Fleet removal shall be completed within thirty (30) days of the date of the notice of termination unless a different time period is established by the City.
- C. The City may, in its sole discretion, refuse to renew a shared mobility device system permit.
- D. If the City declines to renew a shared mobility device system permit, the permit holder must remove its shared mobility devices within five (5) business days of the permit expiration date.
- E. The City may suspend operation of a permitted shared mobility device system if the City believes that continued operation under the permit would constitute a direct and substantial threat to public health or safety.

**§ 160-9. Safety of shared mobility devices.**

- A. All bicycles used in shared mobility device systems issued a permit under this chapter shall meet the standards outlined in the Code of Federal Regulations (CFR) under Title 16, Chapter II, Subchapter C, Part 1512-Requirements for Bicycles. Additionally, permitted shared mobility systems shall meet the safety standards outlined in the International Organization for Standardization (ISO) section 43.150-Cycles, subsection 4210.
- B. All bicycles with electric assist used in shared mobility device systems issued a permit under this chapter shall meet the definition of low-speed electric bicycles in 15 U.S. Code § 2085; and shall be subject to the same requirements as bicycles described in paragraph A of this section.
- C. All electric scooters used in shared mobility device systems issued a permit under this chapter shall meet all applicable standards established by the Consumer Product Safety Commission.
- D. All shared mobility devices used in shared mobility device systems issued a permit under this chapter shall meet the equipment requirements of Title VII, Articles 34 and 34-D of the New York State Vehicle and Traffic Law.
- E. Operators shall educate users on the safe and lawful operation of shared mobility devices, which shall include, at a minimum, providing the following at the time of registration and at subsequent activations of shared mobility devices:
  - 1. Information on compliance with traffic rules and signals;

2. Information on locations where riding and parking shared mobility devices is and is not permitted; and
3. Other information as may be required by the City.

**F.** Operators shall use best efforts to ensure that users comply with all applicable New York State and local laws, rules, regulations during the use of shared mobility devices, including, without limitation, those outlined in Article I and Article II of this chapter.

**§ 160-10. Fleet size.**

- A.** An operator shall comply with the maximum fleet size requirements specified in the operator's permit.
- B.** An operator may submit an application for an increase in its permitted fleet size up to one (1) time per month, provided that at least two (2) months have elapsed since the initial issuance of the permit. To obtain such an increase, an operator must demonstrate to the City's satisfaction that, on average, each shared mobility device in its fleet is being used more than three (3) times per day.
- C.** Each application for an increase in permitted fleet size will be subject to an application fee as provided in § 160-15 of this chapter.

**§ 160-11. Fleet deployment.**

- A.** Shared mobility devices shall only be deployed at locations that comply with the parking regulations in § 160-13 of this chapter.
- B.** Shared mobility devices shall only be deployed:
  1. In groupings with a combined length of no greater than ten (10) feet, immediately abutting one another; and
  2. With at least twenty (20) feet left clear between groupings of shared mobility devices along the same block face. (For the purposes of this chapter, "block face" shall mean any of the four (4) sides of a City block.)
- C.** Operators shall cease deploying shared mobility devices at any address or coordinates provided by the City within twenty-four (24) hours' notice.
- D.** Operators shall pull support and redeployment vehicles all the way up to, and parallel with, the curb, for shared mobility device loading and unloading. Operators shall not load or unload shared mobility devices in a vehicle or bicycle lane, or in a manner that impedes travel in those lanes.

- E. If, in the City's sole discretion, the City determines that an operator's redeployment or collection activities are being performed in an unsafe manner or in violation of applicable laws, that determination shall be grounds for permit termination pursuant to § 160-8 of this chapter.

**§ 160-12. Fleet operations and maintenance.**

- A. An operator shall maintain staffed locations within the City for the purpose of maintaining and rebalancing the shared mobility devices within the operator's fleet.
- B. An operator shall maintain a twenty-four (24) hour customer service hotline for users and members of the public to report safety concerns, maintenance issues, make complaints, or ask questions. The customer service hotline shall make assistance available in both English and Spanish.
- C. Each shared mobility device in an operator's fleet shall contain clearly displayed identifying information, which must include, without limitation, the operator's name, contact information, and a unique device identifier which is visible from a distance of ten (10) feet, not covered by branding or other marking, and used in the operator's tracking and record-keeping systems to identify the shared mobility device.
- D. Each shared mobility device must be equipped with active GPS location-tracking capabilities to ensure the prompt location of damaged or inoperable devices, to identify the sites of reported unsafe and/or unlawful riding and/or parking of devices, and to facilitate the collection of such data as the City may require.
- E. Operators shall remove any inoperable or unsafe shared mobility device from public availability within a reasonable time after notice thereof. The operator shall return such inoperable or unsafe shared mobility device to full working order before returning it to public availability.
- F. Operators shall maintain records of maintenance activities, including, without limitation, the maintenance record for each shared mobility device which corresponds to that device's unique device identifier. Operators shall make such records available to the City for inspection upon the City's request.
- G. Operators shall provide the City or its designee with a monthly activity report, in such format and containing such information as shall be prescribed by the City.
- H. In the event of extreme weather, in the City's sole discretion, the City may require an operator to remove all shared mobility devices from the streets if safe operation is not deemed feasible. Shared mobility devices shall be stored by the operator for the duration of the extreme weather conditions and shall be returned to public availability once deemed safe by the City.
- I. The City may, in its sole discretion and without prior notice to an operator, remove any shared mobility device in an operator's fleet from its current location. In such a case, the City will attempt to notify the operator within a reasonable time thereafter. The operator shall pay the

cost of any such removal and the City will not be liable for any damages that occur as a result of the removal.

**§ 160-13. Parking of shared mobility devices.**

- A. Any shared mobility device shall be parked only in designated bicycle or electric mobility device parking areas.
- B. No user, operator, or agent thereof shall park a shared mobility device on the private property of another without permission.
- C. A user may park a shared mobility device in officially designated bicycle or electric mobility device parking areas, in a sidewalk furnishings zone, or any other place where it is not otherwise prohibited by publicly authorized signs, this chapter or any other ordinance, state law, or federal law.
- D. No user shall attach or secure a shared mobility device to public or private property in a manner that may damage, impair, or render such property unusable.
- E. No user shall leave a shared mobility device lying on its side on or adjacent to any sidewalk or multi-use path, or park a shared mobility device in any of the following locations:
  - 1. Within a designated no-parking zone;
  - 2. Within a designated public transit stop, except in designated bicycle racks or designated bicycle or electric mobility device parking areas;
  - 3. On a public sidewalk obstructing the pedestrian through zone or on a multiuse path;
  - 4. on any part of an ADA-compliant ramp or in any other manner that would restrict the movement of persons with disabilities;
  - 5. In designated and marked special use zones, including, but not limited to, commercial service zones, passenger loading zones, customer service zones, and valet zones;
  - 6. In a manner that obstructs fire suppression appurtenances, building entryways, exits, or driveways;
  - 7. in a manner that obstructs street furniture that pedestrians access, including but not limited to benches and parking pay stations;
  - 8. on those public highways without curbs in a manner so as to force a pedestrian to walk in the traveled portion of the roadway;

9. within a designated handicapped parking space and adjoining clear zones;
10. in front of or within a public or private driveway or the entrance to an alley;
11. within any portion of a sidewalk, street, trail, or building entrance or exit that provides access to disabled persons in accordance with the American with Disabilities Act;
12. within **15** feet of a fire hydrant;
13. within a pedestrian crosswalk;
14. within **20** feet of the driveway entrance to any fire station or on the side of the street opposite the entrance to any fire station within **75** feet of the entrance when properly posted;
15. within a designated turn or bicycle lane;
16. within the traveled portion of a public highway, including an intersection and pedestrian crossing;
17. within a landscaped or planted area;
18. within a roadway median; or
19. within an area scheduled and posted for cleaning or snow removal.

**§ 160-14. Geofencing.**

- A. The City shall maintain a list on file with the Kingston City Clerk of areas within its boundaries that are:
  1. geofenced to prevent all operation of shared mobility devices;
  2. geofenced to reduce the speed of bicycles with electric assist and electric scooters to a specific motor-assisted speed limit, as determined by the City; and
  3. geofenced to prevent the parking of a shared mobility device and ending of a ride, unless done so in a designated shared mobility device parking area.
- B. During temporary street or other right-of-way closures due to scheduled construction, special events, or other planned activities, the City may, in its sole discretion, establish temporary geofenced areas. The City shall, where practicable, provide operators with a twenty-one (21) day notice of such establishment.

C. In the event of extreme weather or emergency circumstances as determined by the City, the City may, in its sole discretion, establish temporary geofenced areas and shall, where practicable, provide operators with a twenty-four (24) hour notice of such establishment.

**§ 160-15. Fees and fines.**

A. Applicants and operators shall pay fees consistent with the fee schedule established in Chapter 217, including, but not limited to:

1. permit application fees;
2. permit renewal fees; and
3. non-compliance fees, for any operator that has failed to secure or maintain the permits required under this chapter.

B. Not-for-profit operators may apply to the Common Council for a waiver of any fees assessed pursuant to this section.