

Chapter 18, BOARDS, COMMISSIONS AND COMMITTEES

[HISTORY: Adopted by the City Council of the City of Binghamton as indicated in article histories.
Amendments noted where applicable.]

GENERAL REFERENCES

Board, commission and committees procedures -- See Ch. 16.

Board of Electrical Examiners -- See Ch. 225, Art. II.

**ARTICLE I, Board of Municipal Auditorium [Adopted 10-5-1970 (Sub-Part VI of the 1970 Code);
Amended 3-17-10 by Local Law 1-2010]**

§ 18-1. Reserved

§ 18-2. Reserved

§ 18-3. Reserved

§ 18-4. Reserved

§ 18-5. Reserved

**ARTICLE II, Board of Assessment Review [Adopted 10-5-1970 (Ch. 2, § 2-50, of the 1970 Code);
Amended 12-8-10 by Ord. No. 10-59]**

§ 18-6. Composition; duties.

The Mayor of the City of Binghamton shall appoint five (5) qualified municipal residents to the Board of Assessment Review, contingent upon approval by the Council of the City of Binghamton. The Board shall hear and determine complaints in relation to the assessment roll, and shall act in accordance with the duties and regulations prescribed by New York State Real Property Tax Law § 523.

**ARTICLE III, Board of Contract and Supply [Adopted 10-5-1970 (Ch. 2, Div. 4, §§ 2-75 through 2-92,
of the 1970 Code)]**

§ 18-7. Creation; composition.

There is hereby created a Board of Contract and Supply to be composed of the Mayor, Comptroller, Commissioner of Public Works, Corporation Counsel, and City Engineer.

§ 18-8. President; meetings; quorum.

The Mayor shall be President of the Board of Contract and Supply and shall preside at all meetings. Meetings of the Board shall be held in the municipal building upon the call of the Mayor. A majority of the members of said Board shall constitute a quorum for the transaction of business.

§ 18-9. Authority to adopt rules.

The Board of Contract and Supply shall have power to adopt such rules as may not be inconsistent with the statutes and ordinances in force relative to the government of the City.

§ 18-10. Secretary.

- A. Position created; appointment; term. There is hereby created the position of Secretary of the Board of Contract and Supply. Such Secretary shall be appointed by the Board to hold office during its pleasure.
- B. Duties. It shall be the duty of said Secretary to keep a full journal of all the proceedings of the Board and to perform such additional duties as may be required by the Board, or by law or ordinance of the City Council.

§ 18-11. Awarding of contracts generally. [Amended 2-2-1976 by Ord. No. 19-1976]

- A. Except as otherwise provided by law, it shall be the duty of the Board of Contract and Supply, after public notice and in accordance with regulations prescribed by general ordinance of the City Council, to award to the lowest responsible bidder, who will give adequate security therefor, all contracts for public work involving an expenditure of more than \$20,000 and all purchase contracts involving an expenditure of more than \$10,000. [Amended 12-4-2006 by L.L. No. 2-2006]
- B. Notwithstanding the provisions of Subsection A of this section, in the case of a public emergency arising out of an accident or other unforeseen circumstances affecting public buildings, public property or the life, health, safety or property of the inhabitants of the City of Binghamton therein, or any public property requiring immediate action which cannot wait competitive bidding, contracts of public work or the purchase of supplies, materials or equipment may be let by the appropriate officer or board without a letting by contract and filing with the Board of Contract and Supply a certificate setting forth the reasons of said emergency.
- C. Upon the adoption of an ordinance by a vote of at least 4/5 of all the members of City Council therein stating that, for reasons of efficiency or economy, there is need for standardization, purchase contracts for a particular type or kind of equipment, materials or supplies of more than \$10,000 may be awarded by the Board of Contract and Supply to the lowest responsible bidder furnishing the required security after advertisement of sealed bids therefor in the manner provided in this section. Such ordinance shall contain a full explanation of the reasons for its adoption. [Amended 12-4-2006 by L.L. No. 2-2006]
- D. In the event the award is not made to the lowest qualified bidder then and in that event, before a contract is awarded to other than the lowest qualified bidder, such board shall report to the Council all bids received with a certificate from such board stating in full the particulars of and the reasons why the lowest qualified bidder is not to be awarded the contract and no contract shall be awarded by such board to other than the lowest qualified bidder unless and until a resolution of the Council is duly adopted authorizing such board to award a contract to one other than the lowest qualified bidder.

§ 18-12. Procedure in case of emergency.

In case of public emergency involving accident or other injury, by which the heating or plumbing of any of the public buildings or any of the fire or waterworks apparatus shall become disabled, the commissioner or officer having jurisdiction thereof shall promptly cause repairs thereto to be made without a letting by contract, upon filing with the Board of Contract and Supply a certificate, approved by the Mayor, showing such emergency and the necessity for such repairs.

§ 18-13. Contents of notice.

The public notice, required by § 18-11, shall describe the work and materials for which contracts will be awarded and the day and hour and place of the meeting of the Board of Contract and Supply at which proposals therefor will be opened.

§ 18-14. Details of specifications.

Specifications for the performance of any work and for the supply of any materials shall be prepared and set forth with sufficient detail to inform all persons proposing to bid therefor of the nature of the work to be done and of the materials to be supplied, and written or printed copies thereof shall be delivered to all applicants therefor.

§ 18-15. Contracts for public improvements to be based on estimate of whole cost.

Every contract for a public improvement shall be based upon an estimate of the whole cost thereof, including all expenses incidental thereto and connected therewith, to be furnished by the proper officer, board or department having charge of such improvements.

§ 18-16. Franchise required for contracts involving excavations.

No bid or proposal shall be received or contract awarded, other than for a local improvement or work to be performed by the City, which involves the construction or maintenance of any structure, erection, obstruction or excavation within, under, over, along or upon any street or public place within the City, unless the person to whom such contract shall be awarded shall have a franchise permitting the same.

§ 18-17. Bid deposits.

The Board of Contract and Supply may, in its discretion, require, as a condition precedent to the reception or consideration of any bid or proposal in respect to which it has power and authority to award a contract thereon, the deposit with it of a certified check upon a state or national bank, drawn to the order of the Comptroller, or of money, in an amount not exceeding 10% of the amount specified in such bid or proposal. Within three days after a decision as to the award of the contract, the deposits so made shall be returned to the bidders making the same, except the deposit made by the bidder whose bid has been accepted; and if the bidder whose bid has been accepted shall refuse or neglect to execute the same within 10 days after due notice that the contract has been awarded, or to give the security, if any, required for the performance thereof, the amount of the deposit made by him or her shall be forfeited to and retained by the City as liquidated damages for such neglect or refusal; but if said bidder shall execute the contract within the time aforesaid and give the security, if any, required for the performance thereof, the amount of his or her deposit shall be returned to him.

§ 18-18. Security for performance. [Amended 9-21-1981 by Ord. No. 157-81]

In cases where security is required to be given for the performance of any contract, a performance bond, executed by the contractor and by a fidelity or surety company, authorized by law to transact business within the state, shall be given to the City. Cash or equivalent or cash bonds, escrow accounts, or irrevocable letters of credit from a bank payable to the City of Binghamton shall be acceptable in lieu of a performance bond. The form of such bond or other acceptable security for performance shall be prescribed by the Corporation Counsel.

§ 18-19. Bid blanks required.

The Board of Contract and Supply shall furnish printed blanks for bids or proposals for the performance of any work or for the supply of any materials to any person demanding the same, and all bids or proposals must be made upon such blanks.

§ 18-20. Rejection of bids.

- A. The Board of Contract and Supply shall have power to reject all bids or proposals if, in its opinion, the lowest bid or proposal is excessive.
- B. The Board of Contract and Supply shall disregard all bids or proposals not complying with the terms of the public notice or advertisement inviting the same, and no bids shall be accepted from or contract awarded to any person who is in arrears to the City upon any debt or contract, or who is in default on surety or otherwise upon any obligation to the City, or who has refused or neglected to execute any contract awarded to him or her, or to give the surety, if any, required for the performance thereof within the time fixed therefor.

§ 18-21. Separation of items in bids.

Whenever any bid or proposal consists of two or more separate and distinct items, the Board of Contract and Supply may, in its discretion, award a contract upon any one or more of such items, in the same manner and with the same force and effect as though the several separate and distinct items of such bid were each in the form of a separate and distinct bid or proposal.

§ 18-22. Delinquent contractors.

After a contract is awarded, the party or parties to whom such award is made shall sign the same within 10 days from the date of said award and the work under such contract shall be commenced within the time set forth in the specifications, unless the Board of Contract and Supply shall, by a two-thirds vote of all the members, extend such time; and if the party or parties to whom such award is made shall fail to so sign, or to so begin the work as herein required, or to cause the same to progress to the satisfaction of the Commissioner of Public Works, said Commissioner shall report the same to the Corporation Counsel, whose duty it shall then be to notify the contractor and his or her sureties to proceed with said work, as required, within 10 days from the receipt of said notice, and if the contractor or his or her sureties shall fail to comply with said notice the Corporation Counsel and Commissioner of Public Works shall notify, in writing, the Board, which shall thereupon vacate the contract and relet the work to the next lowest bidder, or readvertise for new bids. The party or parties failing as above shall be barred, both directly and indirectly, from rebidding for said work, and the Corporation Counsel shall thereupon proceed against the contractor and his or her sureties and shall recover upon his or her bond all damages resulting from his or her failure to perform his or her contract, together with any liquidated damages therein provided to be paid.

§ 18-23. Approval of contracts by resolution prior to final execution.

All proposed contracts, after preparation thereof, shall be approved by resolution of the Board of Contract and Supply before final execution by the Mayor.

§ 18-24. Use of inferior materials; stopping of work; resumption of work.

The Commissioner of Public Works shall have power to stop any work being performed or materials being delivered under contract, when in his or her judgment such work or materials are inferior in character or quality, or contrary to specifications, and it shall be his or her duty thereafter to report the same immediately to the Board of Contract and Supply, and such work or delivery shall not be resumed until the Board shall so authorize.

§ 18-25. Additional requirements for responsible bidder on public works projects. [Added 4-4-2005 by Ord. No. 05-18]

- A. Whenever any person, corporation or other entity shall desire to submit a bid on any public works project or any part of such a contract, that firm shall as a part of its bid complete and submit a "Contractor/Subcontractor Questionnaire."
- B. All answers submitted in response to the Contractor/Subcontractor Questionnaire shall be complete, accurate and true for a period of five years in the past and be made under penalty of law.
- C. Whenever a bidder answers a question in the affirmative that bidder must submit an attachment, providing details concerning the matter in question, including applicable dates, locations, names or projects/project owners and circumstances.
- D. The following questions shall be contained in the Contractor/Subcontractor Questionnaire:
 - (1) Has the firm been debarred, suspended or otherwise prohibited from doing business with any federal, state or local governmental agency, or private enterprise?
 - (2) Has the firm been denied prequalification, declared nonresponsible, or otherwise declared ineligible to submit bids or proposals for work by any federal, state or local government agency, or private enterprise?
 - (3) Has the firm defaulted, been terminated for cause, or otherwise failed to complete any project that it was awarded?
 - (4) Has the firm been assessed or required to pay liquidated damages in connection with work performed on any project?

- (5) Has the firm had any business or professional license, registration, certificate or certification suspended or revoked?
 - (6) Have any liens been filed against the firm as a result of its failure to pay subcontractors, suppliers, or workers?
 - (7) Has the firm been denied bonding or insurance coverage, or been discontinued by a surety or insurance company?
 - (8) Has the firm been found in violation of any laws, including but not limited to contracting or antitrust laws, tax or licensing laws, labor or employment laws, environmental, health or safety laws?
 - (9) Has the firm or its owners, officers, directors or managers been the subject of any criminal investigation concerning any aspect of the firm's business?
 - (10) Has the firm been subject to any bankruptcy proceeding?
- E. The Contractor/Subcontractor Questionnaire shall be completed by a director, officer or manager of the entity submitting the bid and shall bear that person's signature.
- F. A failure to submit information or documents responsive to the Contractor/Subcontractor Questionnaire, or the submission of any false statement, misrepresentation or omission regarding a material fact concerning any aspect of the Contractor/Subcontractor Questionnaire, will render that bidder ineligible to be awarded the contract.
- G. Further, should the bidder engage in any conduct which would require an affirmative answer to any of the questions of the Contractor/Subcontractor Questionnaire during the completion of a public works contract, the City of Binghamton may, at its discretion, render the contract void and render the bidder ineligible for future contracts for a period of two years.

§ 18-26. Preference for bidders for public works contracts utilizing local labor. [Added 4-4-2005 by Ord. No. 05-18]

- A. It shall be the policy of the City of Binghamton to give preference to otherwise qualified contractors who will employ local labor or laborers.
- B. "Local" defined. For the purposes of this section, a labor or laborers are local if they reside or maintain their principal place of business within the County of Broome, New York.
- C. The bidding specifications for all public works contracts shall require that all bidders shall submit, with their bid, a statement of whether or not local labor or laborers will be used on the project. If local labor will not be used, the bidder may submit a statement of why local labor is not being used. If local labor is being used, then the bidder certification shall specify what percentage of the labor will be performed by local labor or laborers.

§ 18-27. Severability. [Added 4-4-2005 by Ord. No. 05-18]

The several provisions of this article shall be severable in accordance with the following rules:

- A. If any court of competent jurisdiction shall adjudge any provision of this article to be invalid, such judgment shall not affect any other provision of this chapter.
- B. If any court of competent jurisdiction shall adjudge invalid the application of any provision of this article to a particular contract, such judgment shall not affect the application of said provision to any other contract.

ARTICLE IV, Board of Estimate and Apportionment [Adopted 10-5-1970 (Ch. 2, Div. 5, §§ 2-98 through 2-102, of the 1970 Code)]

§ 18-28. Creation; composition.

There shall be a Board of Estimate and Apportionment. Said Board shall consist of the Mayor, Comptroller, Commissioner of Public Works, Corporation Counsel and City Engineer, except as provided in § 18-29.

§ 18-29. When Treasurer to serve on Board.

When the number of subordinates or the salaries thereof in the department of any of the members of the Board of Estimate and Apportionment are to be fixed and determined, the Treasurer shall temporarily take the place of the member whose number of subordinates or the salaries thereof are under consideration, for the purpose of fixing such salaries or number of subordinates, and for that purpose alone. Notwithstanding any provision of any statute or ordinance, the City Council shall have the power to diminish, increase or reject any items which relate to salaries in the annual estimate submitted by said Board of Estimate and Apportionment.

§ 18-30. Meetings; officers; journal of proceedings.

- A. The members of the Board of Estimate and Apportionment shall meet upon call of the Mayor or as directed by the Board.
- B. The Mayor shall be President of the Board and the City Clerk shall act as Secretary thereof. The Secretary shall keep a journal of all of the proceedings of the Board.

§ 18-31. Powers and duties.

Except as herein provided, the Board of Estimate and Apportionment shall possess all of the powers and perform all of the duties heretofore conferred by law upon the Board of Estimate and Apportionment.

§ 18-32. Limitation on powers.

The Board of Estimate and Apportionment shall not possess any of the powers or perform any of the duties conferred upon the City Council of the City or upon the Mayor by the provisions of the Optional City Government Law.

ARTICLE V, Planning Commission [Adopted 10-5-1970 (Ch. 2, Div. 6, §§ 2-108 through 2-112, of the 1970 Code)]

§ 18-33. Creation; composition.

A City Planning Commission is hereby created under Article 12-A of the General Municipal Law, which shall consist of nine members.

§ 18-34. Appointment of members. [Amended 6-2-1975 by Ord. No. 85-75]

The Mayor is hereby specified and designated as the public officer who shall appoint the Planning Commissioners. Such appointment shall be subject to the approval of the City Council. Of the members of the Commission so appointed, one shall be a member of the City Council.

§ 18-35. Terms of members.

The term of office for such Planning Commissioners shall be for three years; provided, however, that the appointments hereafter made during the year 1966 shall be for a term expiring December 31, 1966, and provided further that as to the appointments first made in 1967, the appointment of 1/3 of them shall be for a term of one year, 1/3 for a term of two years, and 1/3 for a term of three years, and at the expiration of such terms, the term of office of their successors shall be three years, so that the term of office of 1/3 of

such Commissioners shall expire each year. The terms of the Commissioners who are City officials shall not exceed the terms of their respective City offices.

§ 18-36. Compensation of members. [Amended 5-19-08 by Ord. No. 25-2008; Amended 12-21-11 by Ord. No. 11-52]

Each member of the Planning Commission shall be paid an annual stipend of four hundred (\$400.00) dollars. Payments shall be made in four installments, on or about April 1, July 1, October 1, and January 1 (for the previous year). Any member joining the Planning Commission other than prior to the first meeting of the year will be paid a proportionate amount of the stipend. Any member who is removed for cause or pursuant to the Code of the City of Binghamton Article I, *Vacancies due to nonattendance*; § 16-1, *Application*; or § 16-2, *Determination of vacancy*, shall not be paid for any missed meetings leading to dismissal.

§ 18-37. Powers and duties.

- A. The powers and duties of the Planning Commission shall be as set forth in Article 12-A of the General Municipal Law, but the only matter which shall be referred for report thereon, to such Commission by the City Council before final action thereon by said City Council, is the adoption of a general map or plan of the City providing for the present and future development and growth of the City as a whole, and none of the matters incident thereto as set forth in detail in § 236 of the General Municipal Law, or otherwise, shall be referred to said Planning Commission, separately, for report thereon, pending the final adoption of said plan or map as aforesaid.
- B. This section shall not be construed as intended to limit or suspend action by the City Council upon any matter or class of matters incident to the preparation of a City plan or map as referred to in § 236 of the General Municipal Law pending the final report of said Planning Commission and adoption of such plan or map.

ARTICLE VI, Commission on Architecture and Urban Design [Adopted 10-5-1970 (Ch. 2, Div. 7, §§ 2-118 through 2-129, of the 1970 Code)]

§ 18-38. Commission defined.

Whenever the term "Commission" is used in this article it shall mean the "Commission on Architecture and Urban Design of the City of Binghamton, New York."

§ 18-39. Commission established; composition; appointment and qualification of members. [Amended 7-16-1973 by Ord. No. 149-73; Amended 12-21-11 by Ord. No. 11-52; Amended 10-17-2012 by Ord. No. 12-68; Amended 3-5-2014 by LL 14-1]

To prevent the deterioration of property belonging to the City or property in which any City funds are involved and to advise builders to designers in regard to the use of space and the design of structures and to encourage protection of economic values and proper and appropriate use of surround areas, there is hereby established in and for the City a commission to be known as the "Commission on Architecture and Urban Design of the City of Binghamton". This Commission shall consist of seven (7) persons who shall be residents of the City or owners of real property situated therein, and who shall be appointed by the Mayor. Persons eligible for membership shall be persons who, by training, experience, interest or expertise, are qualified to carry out the duties of the Commission as set forth herein. The membership should include, if such persons are available and agreeable to serving, a professional engineer or contractor, an architect, and a landscape architect or an expert in the field of landscaping. Each member of the Commission on Architecture and Urban Design shall be paid an annual stipend of four hundred (\$400.00) dollars. Payments shall be made in four installments, on or about April 1, July 1, October 1, and January 1 (for the previous year). Any member joining the Commission on Architecture and Urban Design other than prior to the first meeting of the year will be paid a proportionate amount of the stipend. Any member who is removed pursuant to the

Code of the City of Binghamton Article I, *Vacancies due to nonattendance*, § 16-1, *Application*; § 16-2, *Determination of vacancy*; or § 410-91.D, *Removal of members*, shall not be paid for any missed meetings leading to dismissal.

§ 18-40. Ex officio members. [Amended 7-16-1973 by Ord. No. 149-73; 3-18-1974 by Ord. No. 36-74]

Ex officio members of the Commission shall include the Mayor of the City, the Director of Planning, Zoning, and the Code enforcement, one Council Member appointed by the City Council, the Director of the Binghamton Urban Renewal Agency, the City Engineer, the Commissioner of Parks, Building Inspector II, and other persons whom the Mayor or the Commission may appoint, which persons shall have experience or specialized talents deemed useful to the Commission. Ex officio members shall have no voting privileges.

§ 18-41. Terms of office.

Of the members first appointed to the Commission, one architect, and two of the other members shall be appointed for a term of five years; one architect and one professional engineer, and one other member shall be appointed for a term of three years, and three members shall be appointed for a term of two years; except that they may continue to serve after the expiration of their respective terms of office until their successors have been appointed and have qualified. The successors of all of such members shall be appointed for terms of five years; except that they may continue to serve after the expiration of their respective terms of office until their successors have been appointed and qualified.

§ 18-42. Filling of vacancies. [Amended 7-16-1973 by Ord. No. 149-73]

A vacancy occurring in the membership of the Commission from any cause shall be filled by the Mayor, for the unexpired term of the member whose office has become vacant. Recommendations for filling vacancies may be made to the Mayor by the Commission, which recommendations shall be made within 30 days after the date when such vacancies occur.

§ 18-43. Election of Chairperson; appointment and removal of Secretary.

The Commission shall annually elect a Chairperson and shall have the right to appoint and at pleasure to remove a Secretary.

§ 18-44. Quorum.

A majority of the Commission shall constitute a quorum for the transaction of business.

§ 18-45. Removal of members.

A member of the Commission may be removed by the Mayor for good and sufficient cause, after he or she has been afforded an opportunity to be heard in his or her defense.

§ 18-46. Duties.

The Commission shall have the following duties in addition to those elsewhere described in this article:

- A. Meetings: to hold at least one meeting in each month and as many other meetings at such other times as in the opinion of the Chairperson or majority of the Commission are necessary or desirable for the efficient discharge of the business of the Commission.
- B. Rules and regulations: to adopt such rules and regulations as may be necessary, not inconsistent with the provisions of this article and with respect to the conduct of the meetings and the business of the Commission and the other matters incidental and appropriate to the powers and duties of the Commission as described by this article and for the proper administration and enforcement of this article and to amend or repeal any of such rules or regulations by a majority vote at any special or regular meeting, with at least 30 days' written notice of the proposed change.

§ 18-47. Powers and functions concerning municipal property; approval of design of site, design of structure, location, alteration and demolition. [Amended 3-5-2014 by LL14-1]

- A. No design for a building, bridge, approach, gate, step, fence, lamp, or other structure or addition shall be erected upon any street or property owned, leased, or occupied by the City, or involving the use of funds or monies of or from the City, shall be implemented without the approval of the Commission.
- B. The Commission shall also consider the location of structures and may make recommendations for changes in location thereof.
- C. The Commission may recommend that works of art be a part of any new construction under their purview and may require that up to 1% of the total cost of construction be used for works of art. The review and approval of such art shall be under the authority of the Public Art Advisory Board, as established in Article XVIII below.

§ 18-48. Factors considered prior to approval. [Amended 3-5-2014 by LL14-1]

In considering applications for the approval, and in the recommendation of designs for buildings or structures as set forth in this article, the Commission shall review all material submitted to it, taking into consideration, but not limited to, the following factors:

- A. The location of the building, structure, or sign on the site or street.
- B. The relation of the building, or structure to adjacent open space or spaces, including adjoining property, both private and public, including streets.
- C. The form and bulk of the building, or structure in association with other nearby structures.
- D. The placing of buildings, or other structures in existing or newly created public open spaces, including parks.

ARTICLE VII, Citizens Advisory Committee on Social Services [Adopted 10-5-1970 (Ch. 19, Art. II, §§ 19-18 through 19-22, of the 1970 Code); Amended 3-17-10 by Local Law 1-2010]

§ 18-49. Reserved

§ 18-50. Reserved

§ 18-51. Reserved

§ 18-52. Reserved

§ 18-53. Reserved

ARTICLE VIII, Parks and Recreation Commission [Adopted 10-5-1970 (Ch. 15, § 15-2.1, of the 1970 Code); Amended 3-17-10 by Local Law 1-2010]

§ 18-54. Reserved

§ 18-55. Reserved

ARTICLE IX, Commission for Conservation of the Environment [Adopted 5-15-1972 by Ord. No. 95-72 (Ch. 2, Div. 10, §§ 2-159 through 2-163.3, of the 1970 Code)]

§ 18-56. Legislative intent.

The preservation and improvement of the quality of the natural and man-made environment within the City of Binghamton, in the face of population growth, urbanization, and technologic change with their accompanying demands on natural resources, are found to be of increasing and vital importance to the health, welfare, and economic well-being of present and future inhabitants and require forthright action by the governing body of the City of Binghamton. It is recognized that the biologic integrity of the natural environment on which man is dependent for survival and natural and functional beauty of our surroundings

which condition the quality of our life experience cannot be protected without the full cooperation and participation of all the people of the City working in partnership with local and state officials and with various public and private institutions, agencies, and organizations. Establishment of a commission for conservation of the environment is a necessary step in fostering unified action on environmental problems.

§ 18-57. Establishment.

The Common Council of the City of Binghamton hereby creates a commission which shall be known as the "Binghamton Commission for Conservation of the Environment," hereinafter called the "Commission."

§ 18-58. Membership; filling of vacancies.

The Commission shall consist of nine members who shall be appointed by the Common Council, and who shall serve at the pleasure of Council, and upon appointment shall serve as follows: four of the nine initial appointees shall serve one-year terms of office, and the other five initial appointees shall serve for two years. Thereafter all appointees, other than those filling unexpired vacancies, shall be for two-year terms. Persons residing within the City of Binghamton who are interested in the improvement and preservation of environmental quality shall be eligible for appointment as members of the Commission. Vacancies on the Commission shall be filled in the same manner as the original appointment, except that a vacancy occurring other than by the expiration of term of office shall be filled only for the remainder of the unexpired term. Ex officio members of Binghamton City Council, City of Binghamton Public Works Department, Binghamton Parks and Recreation Department, Binghamton Planning Commission and other City of Binghamton officials may hereafter be designated by City Council.

§ 18-59. Officers, meetings and committees.

The Common Council shall designate a member of the Commission to act as Chairperson thereof. At the first meeting of the Commission its members shall elect from among themselves a recording secretary. The Commission shall adopt rules and procedures for its meetings. It shall keep accurate records of its meetings and activities and shall file an annual report as provided in § 18-61 of this article.

§ 18-60. Powers and duties.

The powers and duties of the Commission shall be to:

- A. Advise the Common Council on matters affecting the preservation, development, and use of the natural and man-made features and conditions of the City insofar as beauty, quality, biologic integrity, and other environmental factors are concerned and, in the case of man's activities and developments, with regard to any major threats posed to environmental quality, so as to enhance the long-range value of the environment to the people of the City of Binghamton.
- B. Develop and, after receiving general approval by ordinance of the Common Council, conduct a program of public information in the community which shall be designed to foster increased understanding of the nature of environmental problems and issues and support for their solutions.
- C. Conduct studies, surveys, and inventories of the natural and man-made features within the City of Binghamton and such other studies and surveys as may be necessary to carry out the general purposes of this article.
- D. Maintain an up-to-date inventory or index of all open spaces in public or private ownership within the municipality, including but not limited to natural landmarks, glacial and other geomorphic or physiographic features; streams and their floodplains, swamps, marshlands, and other wetlands; unique biotic communities; scenic and other open areas of natural or ecological value; and of the ownership, present use and proposed use of such open areas, so as to provide a base of information for recommendations by the Commission for their preservation and/or use.

- E. Seek to coordinate, assist, and unify the efforts of private groups, institutions, and individuals within the City of Binghamton in accord with the purposes of this article.
- F. Maintain liaison and communications with public and private agencies and organizations of local, state, and national scope whose programs and activities have an impact on the quality of the environment or who can be of assistance to the Commission.
- G. Working in cooperation with the Planning Board, recommend from time to time to the Common Council features, plans, and programs relating to environmental improvement for inclusion in the Master Plan of the City of Binghamton and, similarly, recommend to the Common Council appropriate and desirable changes in existing local laws and ordinances relating to environmental control or recommend new local laws and ordinances.
- H. Prepare, print, and distribute books, maps, charts, and pamphlets in accord with the purposes of this article.
- I. Obtain and maintain in orderly fashion maps, reports, books and other publications to support the necessary researches of the Commission into local environmental conditions.
- J. When authorized by ordinance of the Common Council of the City of Binghamton, the Commission may accept by gift, grant, devise, bequest, or otherwise, property, both real and personal, in the name of the City of Binghamton, as may be necessary to conserve and otherwise properly utilize open spaces and other land and water resources within the boundaries of the City of Binghamton. Such real property may be accepted in fee for land and water rights, or as any lesser interest, development right, easement, including conservation easement, covenant, or other contractual right, including conveyance with limitations or reversions.
- K. Carry out such other duties as may be assigned from time to time by the Common Council.

§ 18-61. Reports.

The Commission shall submit an annual report to the Common Council not later than the first day of April of each year, concerning the activities and work of the Commission and from time to time shall submit such reports and recommendations as may be necessary to fulfill the purpose of this article.

§ 18-62. Compensation and expenses.

The members of the Commission, including ex officio members, shall receive no compensation for their services as members thereof but may be reimbursed for reasonable and necessary expenses incurred in the performance of their duties within the appropriations made available therefor.

§ 18-63. Construal of provisions.

This article shall be deemed an exercise of the powers of the City of Binghamton to preserve and improve the quality of the natural and man-made environment on behalf of the present and future inhabitants thereof. This article is not intended and shall not be deemed to impair the powers of any other public corporation.

ARTICLE X, Financial Advisory Committee [Adopted 6-11-1973 by Ord. No. 120-73 (Ch. 2, Div. 9, §§ 2-154 through 2-158, of the 1970 Code)]

§ 18-64. Creation.

There is hereby created and established a Binghamton Financial Advisory Committee.

§ 18-65. Advisory capacity of Committee.

The Binghamton Financial Advisory Committee shall function only in an advisory capacity to the Mayor and City Council on matters of a major budgetary or fiscal planning nature.

§ 18-66. Review of major budgetary and fiscal planning programs.

Prior to the adoption or implementation of any major budgetary or fiscal planning program or plan for the City of Binghamton, said program shall be submitted to the Binghamton Financial Advisory Committee for its review and recommendation.

§ 18-67. Composition.

Said Committee shall be composed of nine members, consisting of the Chairperson of City Council's Finance Committee, one other member of City Council of the opposite political party than the Finance Chairperson, and seven residents or real property owners of the City of Binghamton, who are skilled in financial matters, who are to be appointed by the Mayor. The Mayor and Director of Finance shall be ex officio members of said Committee.

§ 18-68. Terms of citizen members.

Said citizen Committee members shall serve for a term of three years. The initial appointments shall be as follows:

Two members, one year.

Two members, two years.

Three members, three years.

ARTICLE XI, Board of Management Directors for Old City Hall [Adopted 5-10-1976 by Ord. No. 103 (Ch. 2, Div. 12, §§ 2-163.26 through 2-163.31, of the 1970 Code)]

§ 18-69. Establishment.

A permanent Board of Management Directors for Old City Hall shall be established.

§ 18-70. Composition.

Said Board shall be comprised of 11 voting members representative of City Council, the Community Development Department, the City of Binghamton Engineering Department, the Commission on Architecture and Urban Design, the Corporation Counsel's staff, and the Landmark Society of Broome County.

§ 18-71. Appointment of voting members; ex officio members.

- A. The 11 voting members shall be appointed in the following manner:
- (1) Three members of CAUD to be selected by its membership to serve for two-year terms, at the end of which any or all may be reappointed by its (CAUD) membership for successive two-year terms.
 - (2) Two representatives from City Council to be selected by the Planning and Community Development Committee, to serve for one-year terms, at the end of which any or all may be reappointed by the Committee for successive one-year terms.
 - (3) Two representatives of the City of Binghamton Community Development Department, one representative being the Director of Planning or his or her designee, and one representative to be appointed by the Director of Community Development to serve for a one-year term, at the end of which said representative may be reappointed by the Director of the Community Development Department for additional one-year terms.
 - (4) One representative of the City of Binghamton Engineering Department, said representative being, if possible, the City Engineer, or his or her designee.
 - (5) One Corporation Counsel staff member, said representative to be the Corporation Counsel or the First Assistant Corporation Counsel, as decided by the Corporation Counsel.

- (6) One representative of the Landmark Society of Broome County, to be selected by its membership to serve for a two-year term, at the end of which said representative may be reappointed by its membership for successive two-year terms.
 - (7) One member at large appointed by the Mayor of the City of Binghamton to serve for two years.
- B. The Mayor of the City of Binghamton and the remaining seven City Council members shall serve as ex officio members of the Board.

§ 18-72. Organization.

This Board of Management Directors shall meet as soon as possible after enactment of this article, under the temporary chairpersonship of the Chairman of CAUD, to:

- A. Elect a Chairperson (for a one-year term; no one member may be Chairperson more than two successive years).
- B. Establish a quorum.
- C. Adopt rules of order.

§ 18-73. Duties and responsibilities.

The Board of Management Directors for Old City Hall shall accept as its charge the implementation of recommendations made by the special task force as approved by City Council and shall be responsible for recommending to City Council and the Mayor the contract arrangements for the restoration and reuse of old City Hall, for their approval, and for as long as the building is owned by the City.

§ 18-74. Reports.

The Board of Management Directors shall report to the Mayor and/or the Planning and Community Development Committee of City Council on a regular basis.

ARTICLE XII, Landmarks Preservation Commission [Adopted 12-18-1978 by Ord. No. 273-78 (Ch. 2, Div. 13, §§ 2-163.32 through 2-163.41, of the 1970 Code); Amended 4-21-10 by Ord. No. 19-2010]

§ 18-75. Purpose [Amended 4-21-10 by Ord. No. 19-2010]

It is hereby declared as a matter of public policy that the protection, enhancement and perpetuation of landmarks and historic districts are necessary to promote the economic, cultural, educational, and general welfare of the public. Inasmuch as the identity of a people is founded on its past and inasmuch as Binghamton has many significant historic, architectural and cultural resources, which constitute its heritage, this act is intended to:

- A. Protect and enhance the landmarks and historic districts, which represent distinctive elements of Binghamton's historic, architectural, and cultural heritage;
- B. Foster civic pride in the accomplishments of the past;
- C. Protect and enhance Binghamton's attractiveness to visitors and the support and stimulus to the economy thereby provided;
- D. Ensure new or remodeled structures, located within historic districts, be designed and constructed to harmonize with structures located within the historic district;
- E. Strengthen the economy of the City and provide a stimulus to new business; and

F. Ensure the harmonious, orderly, and efficient growth and development of the City.

§ 18-76. Historic Preservation Commission [Amended 4-21-10 by Ord. No. 19-2010; Amended 10-17-2012 by Ord. No. 12-68]

- A. In order to effectuate the purpose and intent of this article, there is hereby established in and for the City of Binghamton a commission to be known as the Binghamton Historic Preservation Commission (“the Commission”).
- B. This Commission shall be one and the same as the Commission on Architecture and Urban Design.
- C. The Commission shall consist of seven (7) members to be appointed, to the extent available in the community, by the mayor and composed of:
- (1) An architect experienced in working with historic buildings;
 - (2) A historian;
 - (3) A resident of a historic district;
 - (4) An engineer or contractor experienced in working with historic buildings;
 - (5) A community member who has demonstrated significant interest in and commitment to the field of historic preservation evidenced either by involvement in a local historic preservation group, employment or volunteer activity in the field of historic preservation, or other serious interest in the field; and
 - (6) All members shall have a known interest and/or expertise in historic preservation, real estate law, architectural development, and/or economic development within the City of Binghamton.
 - (7) Persons eligible for membership shall be persons who, by training, experience, interests or expertise, are qualified to carry out the duties of the Commission, as set forth herein.
- D. Ex officio members shall include, to the extent available, the Mayor, the Planning Director, a Code Inspector, a member of the Susquehanna Heritage Area Commission, a member of the Preservation Association of the Southern Tier (PAST), a member from Binghamton Downtown Inc., a member of Broome County Department of Planning and Economic Development, and other persons whom the Mayor or the Commission may appoint, which persons shall have experience or specialized talents deemed useful to the Commission. Ex officio members shall have no voting privileges.
- E. Commission members shall serve for a term of three (3) years, with the exception of the initial term of one of the seven (7) members, which shall be one year, one, which shall be two years, and one, which shall be three years.
- F. A member of the Commission may be removed by the Mayor for good and sufficient cause, after he or she has been afforded an opportunity to be heard in his or her defense.
- G. A vacancy occurring in the membership of the Commission from any cause shall be filled by the Mayor, for the unexpired term of the member whose office has become vacant. Recommendations for filling vacancies may be made to the Mayor by the Commission, which recommendations shall be made within 30 days after the date when such vacancies occur.
- H. The Chairman and Vice Chairman of the Commission shall be elected by and from among the members of the Commission.
- I. The powers of the Commission shall include:

- (1) Engage staff and/or professional consultants as necessary to carry out the duties of the Commission, subject to the availability of funding and subject to approval by the City Council and the Mayor;
- (2) Promulgate rules and regulations as necessary to carry out the duties of the Commission;
- (3) Adopt criteria for the identification of significant historic, architectural, and cultural landmarks and for the delineation of historic districts;
- (4) Conduct surveys of significant historic, architectural, and cultural landmarks and historic districts within the City;
- (5) Designate identified structures or resources as landmarks and historic districts;
- (6) Accept on behalf of the City government of the donation of facade easements and development rights and the making of recommendations to the City government concerning the acquisition of facade easements or other interests in real property as necessary to carry out the purposes of this act;
- (7) Increase public awareness of the value of historic, cultural and architectural preservation by developing and participating in public education programs;
- (8) Seek out local, State, Federal, or private funds for historic preservation, and make recommendations to the Binghamton City Council concerning the most appropriate uses of any funds acquired;
- (9) Recommend acquisition of a landmark structure by the City government where its preservation is essential to the purposes of this act and where private preservation is not feasible;
- (10) Approve or disapprove applications for Certificates of Appropriateness pursuant to this act;
- (11) Approve or disapprove the design of buildings, bridges, approaches, gates, steps, fences, lamps and/or other structures or additions which shall be erected upon any street or property owned, leased, or occupied by the City, or involving the use of funds or monies of or from the City prior to implementation; and
- (12) Recommend that the Binghamton City Council exercise its authority to exempt such structures, as may be designated by the Commission as having historical and architectural value, from municipal taxation for such period of years as the Council may determine; provided, however, that the owner of such structures, for themselves, their heirs and assigns, shall agree by covenant, contained in duly executed instruments, capable of being recorded, in the Broome County Clerk's Office, land records, the Clerk of the City of Binghamton, and the Commission, that those structures shall never be altered or demolished without the approval of the Commission. [Previously § 18-79(g)]

J. The Commission shall meet at least monthly on a specific date and time to be determined yearly by the Commission, but meetings may be held at any time on the written request of any two of the Commission members or on the call of the Chairman or the Mayor.

K. A quorum for the transaction of business shall consist of four (4) of the Commission's members, but not less than a majority of the full-authorized membership may grant or deny a Certificate of Appropriateness.

§ 18-77. Designation of Landmarks or Historic Districts [Amended 4-21-10 by Ord. No. 19-2010]

- A. The Commission may designate an individual property as a landmark if it:
- (1) Possesses special character or historic or aesthetic interest or value as part of the cultural, political, economic or social history of the locality, region, state or nation; or
 - (2) Is identified with historic personages; or
 - (3) Embodies the distinguishing characteristics of an architectural style; or
 - (4) Is the work of a designer whose work has significantly influenced an age; or

- (5) Because of unique location or singular physical characteristic, represents an established and familiar visual feature of the neighborhood.
- B. The Commission may designate a group of properties as a historic district if it:
- (1) Contains properties which meet one or more of the criteria for designation of a landmark; and
 - (2) By reason of possessing such qualities, it constitutes a distinct section of the City.

The boundaries of each historic district designated henceforth shall be specified in detail and shall be filed, in writing, in the City Clerk's Office for public inspection.

- C. Unless as determined by the Commission to have exceptional importance, properties which have achieved significance within the last fifty (50) years shall not be considered eligible for designation.
- D. Notice of a proposed designation shall be sent by registered mail to the owner of the property proposed for designation, describing the property and announcing a public hearing by the Commission to consider the designation. Where the proposed designation involves so many owners that individual notice is infeasible, notice may instead be published at least once in a newspaper of general circulation at least ten (10) days prior to the date of the public hearing. Once the Commission has issued notice of a proposed designation, no building or demolition permits shall be issued by the building inspector until the Commission has made its decision.
- E. The Commission shall hold a hearing prior to designation of any landmark or historic district, which shall be open to members of the public. The Commission, property owners and any interested parties may present testimony or documentary evidence at the hearing which will become part of a record regarding the historic, architectural, or cultural importance and/or architectural, cultural, or economic impact of the proposed landmark or historic district. The record may also contain staff reports, public comments, or other evidence offered outside of the hearing.
- F. Within seven days after designation of a landmark or historic district, the Commission shall file a copy of such designation with the Planning Commission and with the Common Council. Within 30 days of the designation by the Commission, the Planning Commission shall file a report with the Council with respect to the relation of such designation to the Master Plan, the zoning laws, projected public improvements and any plans for the redevelopment of the site or area involved. The Council shall, within 30 days from the date of submission of the report of the Planning Commission to the Council, approve or disapprove, or refer back to the Commission for modification, said proposal. Any designation approved by the Council shall be in effect on and after the date of approval by the City Council.
- G. The Commission shall forward notice of each property designated as a landmark and the boundaries of each designated historic district to the office of the Broome County Clerk for recordation.

§ 18-78. Certificate of Appropriateness for Alterations or New Construction Affecting Landmarks or Properties within Historic Districts [Amended 4-21-10 by Ord. No. 19-2010; Amended 4-17-2013 by Ord. No. 29-2013]

- A. No person shall carry out any exterior alteration, restoration, reconstruction, new construction, or moving of a landmark or property within a local historic district, nor shall any person make any material change in the appearance of such property, its light fixtures, signs, awnings, fences, steps, paving or other exterior elements which affect the appearance and cohesiveness of the landmark or historic district, without first obtaining a Certificate of Appropriateness from the Commission.

- B. Administrative Certificate of Appropriateness. Notwithstanding Subsection A above, certain minor exterior alterations, restorations and material changes which conform to the standards established in the most recently adopted City of Binghamton Historic Preservation Design Guidelines and the Secretary of the Interior's Standards for Historic Preservation may be approved on behalf of the Commission and issued an Administrative Certificate of Appropriateness by the Historic Preservation Planner, or any other City-contracted qualified professional meeting the Professional Qualifications referenced in the Code of Federal Regulations, 26 CFR Part 61 in the fields of History, Architectural History, Architecture, or Historic Architecture; such approval shall be made in consultation with the Senior Planner and/or the Chair of the Commission. Activities which may be eligible for an Administrative Certificate of Appropriateness are limited to the following:
- (1) Painting of exterior wooden or metal materials and previously painted masonry materials with colors as pre-approved from time to time by the Commission.
 - (2) Roofing
 - (a) Replacement of existing roofing materials with roofing materials original to the structure as supported by documentation.
 - (b) In-kind replacement of roofing materials with new roofing materials to be substantially similar to the existing in design, composition and color.
 - (c) In-kind replacement of existing rubber roofing materials on a flat roof provided: (1) it is not visible from the public right-of-way; (2) it does not obscure or cover any skylights; and (3) it does not require removal or replacement of existing wall coping materials.
 - (d) Replacement of non-original gutters and downspouts with new gutters and downspouts of an appropriate material and color; straps or hangers must be hidden.
 - (3) Minor ornamentation (such as, but not limited to, fascia, spindles, brackets, shutters, and skirting)
 - (a) In-kind replacement of existing minor ornamentation with new minor ornamentation of the same material(s) and to substantially match the existing in size, location, design and color.
 - (b) Reintroduction of historic minor ornamentation based on documented evidence of its original presence.
 - (4) Masonry repointing, using an appropriate mortar with a joint to match the existing joint
 - (5) Light fixtures
 - (a) Replacement of non-original light fixtures with new fixtures of a period appropriate design.
 - (b) Ground lighting for the purposes of illumination of existing ground signage.
 - (c) Must be in compliance with §410-25(j) of the City of Binghamton Code of Ordinances
 - (6) Windows or doors
 - (a) Replacement of non-original or deteriorated windows or doors with new windows or doors of a period appropriate material, size, operation, design and color when there are not alterations to the existing opening(s), location(s), lintel(s), sill(s) or trim.
 - (b) Replacement of deteriorated window elements (such as, but not limited to, jambs, muntins, glazing, stiles, or rails) with new window elements to match the existing in materials, size, operation, design and color when repair of the existing window elements is not possible due to their condition.
 - (7) Mechanical (such as, but not limited to HVAC, exterior vent pipes and exhaust systems)

- (a) Installation of new mechanical systems when restricted to areas not visible from the public right-of-way and installed in such a way as to be reversible without resulting in damage to the historic fabric of the structure.
 - (b) Replacement of existing mechanical provided it does not exceed any existing in size by more than ten percent (10%) and is not visible from the public-right-of-way.
- (8) Awnings
 - (a) Installation of new awning fabric, to be canvas or treated fabric, on an existing awning frame.
 - (b) Awnings with signage require full review by the Commission.
- (9) Accessibility Ramps. Construction of a new accessibility ramp may be approved if it is: (1) in compliance with standards of the Americans with disabilities act (ADA); (2) located and designed such that it is not visible from the public right-of-way; and (3) designed and constructed to be compatible with the architecture and materials of the building.
- (10) Site Features.
 - (a) Installation of new, period appropriate fencing along the rear property line.
 - (b) In-kind replacement of existing fencing along any rear or side property line with new fencing of a substantially similar style, material, height and color.
 - (c) In-kind replacement of existing steps with new steps of a period appropriate design, materials and color.
 - (d) Construction or replacement of brick, stone, concrete patios, or other paved, non-vehicular areas, which are not readily visible from the public right-of-way and are compatible in material, location and design with the historic character of the property.
- (11) One time extension if a valid Certificate of Appropriateness, issued within the previous twelve (12) months, for a period of no more than six (6) months, provided the parameters of the project have not changed from those approved in the original Certificate of Appropriateness.
- C. If it is determined by Planning Staff or the Chair of the Commission that a proposed project seeking an Administrative Certificate of Appropriateness is likely to have a significant impact on the historic character of the structure or the historic district, Staff shall be authorized to forward the application to the Commission for full review at the next available meeting.
- D. Denial of an Administrative Certificate of Appropriateness application shall result in the application being forwarded to the Commission for full review at the next available meeting.

§ 18-79. Criteria for Approval of a Certificate of Appropriateness [Amended 4-21-10 by Ord. No. 19-2010]

- A. In passing upon an application for a Certificate of Appropriateness, the Commission shall not consider changes to interior spaces, unless they are open to the public. The Commission's decision shall be based on the following principles:
 - (1) Properties which contribute to the character of the historic district shall be retained, with their historic features altered as little as possible;
 - (2) Any alteration of existing properties shall be compatible with their historic character, as well as with the surrounding district; and
 - (3) New construction shall be compatible with the area in which it is located.
- B. In applying the principle of compatibility, the Commission shall consider the following factors:
 - (1) The general design, character and appropriateness to the property of the proposed alteration or new construction;

- (2) The scale of proposed alteration or new construction in relation to the property itself, surrounding properties, and the historic character of the area;
- (3) Texture, materials, and color and their relation to similar features of other properties in the immediate vicinity;
- (4) Visual compatibility with surrounding properties, including proportion of the property's front facade, proportion and arrangement of windows and other openings within the facade, roof shape, and the rhythm of spacing of properties on streets, including setback; and
- (5) The importance of historic, architectural or other features to the significance of the property.

§ 18-80. Certificate of Appropriateness Application Procedure [Amended 4-21-10 by Ord. No. 19-2010; Amended 4-17-2013 by Ord. No. 29-2013]

- A. Prior to the commencement of any work requiring Certificate of Appropriateness, the owner shall file an application for such a certificate with the City. The application shall contain:
 - (1) Name, address and telephone number of applicant;
 - (2) Location and photographs of property;
 - (3) Elevation drawings of proposed changes, if available;
 - (4) Perspective drawings, including relationship to adjacent properties, if available;
 - (5) Samples of color or materials to be used;
 - (6) Where the proposal includes signs or lettering, a scale drawings showing the type of lettering to be used, all dimensions and colors, a description of materials to be used, method of illumination, and a plan showing the sign's location on the property; and
 - (7) Any other information which may be deemed necessary in order to visualize the proposed work

§ 18-81. Hardship Criteria for Alterations or New Construction Affecting Landmarks or Properties within Historic Districts [Amended 4-21-10 by Ord. No. 19-2010]

An applicant whose application for a Certificate of Appropriateness for a proposed alteration or new construction has been denied may apply for relief on the ground of hardship. In order to prove the existence of hardship, the applicant shall establish that the denial imposes an undue economic burden or that the property is incapable of earning a reasonable return, regardless of whether that return represents the most profitable return possible, as set forth in Sect 12 of this ordinance.

§ 18-82. Determination of Historic Significance for Demolition [Amended 4-21-10 by Ord. No. 19-2010]

No person shall carry out demolition of a structure more than forty (40) years old without first obtaining a negative Determination of Historic Significance from the Commission. This section shall not apply to those buildings and structures which have been determined to be a danger to the health, safety or welfare of the public in that they have been determined to have sustained damage and to be beyond repair in accordance with Chapter 203, Unsafe Buildings, of the Code of the City of Binghamton.

§ 18-83. Criteria for Determination of Historical Significance for Demolition [Amended 4-21-10 by Ord. No. 19-2010]

- A. The Commission's Determination of Historic Significance shall be based on the following considerations which are based on the United States Secretary of the Interior Standards for Historic Preservation:
 - (1) If the structure is an outstanding example of a structure or memorial representative of its era, either past or present; or
 - (2) If the structure is one of the few remaining examples of a past architectural style or combinations of styles; or
 - (3) If the structure is associated with a historical person or event of significance to the City, region, state or nation.

§ 18-84.1. Procedure for Determination of Historical Significance for Demolition [Amended 4-21-10 by Ord. No. 19-2010]

- A. Prior to demolition of any building more than forty (40) years old, the owner shall file an application for a Determination of Historic Significance with the Commission. The application shall contain:
 - (1) Name, address and telephone number of applicant;
 - (2) Location and interior and exterior photographs of the building;
 - (3) History of the building, if known;
 - (4) Photographs of surrounding properties;
 - (5) Proposed future use of the site;
 - (6) Reason for requesting Determination of Historic Significance
- B. Deterioration caused by deliberate neglect of maintenance or repairs by owner shall not be considered valid grounds for a negative Determination of Historic Significance or for the approval of a demolition permit application.
- C. No demolition permit shall be issued for such a building until a negative Determination of Historic Significance has been issued by the Commission. The Determination of Significance required by this act shall be in addition to and not in lieu of any demolition permit that may be required by another ordinance of the City of Binghamton.
- D. The Commission shall issue a Determination of Historic Significance within forty-five (45) days from initial Commission review of the completed application, unless an extension of this deadline is agreed upon by both the Commission and the applicant. The Commission may hold a hearing on the application at which time an opportunity will be provided for proponents and opponents of the application to present their views.
- E. All decisions of the Commission shall be in writing. A copy shall be sent to the applicant by registered mail and a copy filed with the City Clerk's Office for public inspection. The Commission's decision shall state the reasons for positive or negative Determination of Historic Significance.

§ 18-84.2. Hardship Criteria for Demolition [Amended 4-21-10 by Ord. No. 19-2010]

- A. An applicant whose proposed demolition has been denied due to a positive Determination of Historic Significance may apply for relief on the ground of hardship. In order to prove the existence of hardship, the applicant shall establish that:
 - (1) The property is incapable of earning a reasonable return, regardless of whether that return represents the most profitable return possible;
 - (2) The property cannot be adapted for any other use, whether by the current owner or by a purchaser, which would result in a reasonable return; and
 - (3) Efforts to find a purchaser interested in acquiring the property and preserving it have failed.

§ 18-84.3. Hardship Application Procedure [Amended 4-21-10 by Ord. No. 19-2010]

- A. After receiving written notification from the Commission of the denial of a Certificate of Appropriateness or the denial of demolition permit due to a positive Determination of Historic Significance, an applicant may commence the hardship process. No building permit or demolition permit shall be issued unless the Commission makes a finding that a hardship exists.
- B. The owner may be required to submit any of the following information by affidavit to the Commission for evaluation and recommendation.
 - (1) For all property:

- (a) The assessed value of the land and improvements thereon according to the last two (2) assessments; the current fair market value of the property as determined by at least two (2) independent appraisals;
 - (b) Real estate taxes for the previous two (2) years;
 - (c) Any listing of the property for sale or rent, price asked, and offers received, if any;
 - (d) Any consideration by the owner as to profitable adaptive uses for the property;
 - (e) An estimate of rehabilitation and/or construction cost to restore the structure to active use;
 - (f) Exceptions: when a property owner is financially unable to meet the requirements set forth in the subsection, the Commission may waive some or all of the requirements and/or request substitute information that a property owner may obtain without incurring any costs.
- (2) In addition to subsection 1 above, owners of income-producing property shall submit the following:
- (a) Annual gross income from the property for the previous two (2) years;
 - (b) Itemized operating and maintenance expenses for the previous two (2) years, including proof that adequate and competent management procedures were followed;
 - (c) Annual cash flow, if any, for the previous two (2) years;
 - (d) Proof that efforts have been made by the owner to obtain a reasonable return on investment based on previous service.

- C. An applicant may request a waiver of one or more of the submittal requirements based on the specific nature of the case.
- D. The Commission shall issue a decision on the hardship application within forty-five (45) days from initial Commission review of the completed application. The Commission may hold a hearing on the application at which time an opportunity will be provided for proponents and opponents of the application to present their views.
- E. The applicant shall consult in good faith with the Commission, local preservation groups and interested parties in a diligent effort to seek an alternative that will result in preservation of the property.
- F. All decisions of the Commission shall be in writing. A copy shall be sent to the applicant by registered mail and a copy filed with the City Clerk's Office for public inspection. The Commission's decision shall state the reasons for granting or denying the hardship application. If the application is granted, the Commission shall approve only such work as is necessary to alleviate the hardship.

§ 18-85.4. Enforcement [Amended 4-21-10 by Ord. No. 19-2010]

All work performed pursuant to a Certificate of Appropriateness issued under this ordinance shall conform to any requirements included therein. It shall be the duty of the City Staff to inspect periodically any such work to assure compliance. In the event work is found that is not being performed in accordance with the Certificate of Appropriateness, or upon notification of such fact by the Commission, the Building Code Enforcement Officer shall issue a stop work order and all work shall immediately cease. No further work shall be undertaken on the project as long as a stop work order is in effect.

§ 18-85.5. Maintenance and Repair Required [Amended 4-21-10 by Ord. No. 19-2010]

Nothing in this ordinance shall be construed to prevent the ordinary maintenance and repair of any exterior architectural feature of a landmark or property within a historic district, which does not involve a change in design, material, color or outward appearance.

- A. No owner or person with an interest in real property designated as a landmark or included within a locally designated historic district shall permit the property to fall into a serious state of disrepair so as to result in the deterioration of any exterior architectural feature which would, in the judgment of the Commission, produce a detrimental effect upon the character of the historic district as a whole or the life and character of the property itself.
- B. Examples of deterioration include, but are not limited to:
 - (1) Deterioration of exterior walls or other vertical supports.
 - (2) Deterioration of roofs or other horizontal members.
 - (3) Deterioration of exterior chimneys.
 - (4) Deterioration or crumbling of exterior stucco or mortar.
 - (5) Ineffective waterproofing of exterior walls, roofs or foundations, including broken windows or doors.
 - (6) Defective or insufficient weather protection for exterior wall coverings, including lack of paint, or weathering due to lack of paint or other protective covering.
 - (7) Deterioration of any feature so as to create a hazardous condition, which could lead to the claim that demolition, is necessary for the public safety.
- C. Vacant properties shall be maintained in accordance with the City of Binghamton vacant property ordinance (§265-14).

§ 18-85.6. Violations [Amended 4-21-10 by Ord. No. 19-2010]

- A. Failure to comply with any of the provisions of this ordinance shall be deemed a violation and the violator shall be liable to a fine of not less than one hundred (\$100) dollars nor more than five hundred (\$500) dollars or to imprisonment not exceeding fifteen (15) days, or to both such fine and imprisonment together with the cost of any clean-up, removal, or other remedial action, to be recovered by the City in a civil action for each day the violation continues.
- B. Any person or entity of any kind who demolishes, alters, constructs, or permits a designated property to fall into a serious state of disrepair in violation of this ordinance shall be required to restore the property and its site to its appearance prior to the violation. Any action to enforce this subsection shall be brought by the City Attorney. This civil remedy shall be in addition to and not in lieu of any criminal prosecution and penalty.
- C. Any person or entity of any kind who demolishes a designated property or a property located within the boundaries of a historic district without a Certificate of Appropriateness for demolition, in addition to any fine or imprisonment, may have one of the following penalties imposed by the Courts as recommended by the Commission by a majority vote. These penalties shall be in addition to and not in lieu of any criminal prosecution and penalty.
 - (1) For a Noncontributing Property, prohibition or restriction of building permits for new construction on the site and permits involving work in the public right-of-way for not more than seven (7) years, but not less than thirty (30) days. A Noncontributing Property is considered to be any property located within the boundaries of a designed historic district which does not contribute to the overall historic character of the historic district, as determined by the Commission based upon the United States Secretary of the Interior Standards for Historic Preservation.

- (2) For Contributing Property or Historic Landmark, prohibition or restriction of building permits for new construction on the site and permits involving work in the public right-of-way for not more than seven (7) years, but not less than two (2) years. A Contributing Property is considered to be any property located within the boundaries of a designed historic district which contributes to the overall historic character of the historic district, as determined by the Commission based upon the United States Secretary of the Interior Standards for Historic Preservation. A Historic Landmark property is a property which has been designed for its individual merits.

D. The following factors shall be considered in imposing any penalty or remedy.

- (1) Whether than structure, site, or Historic Landmark is one of the last remaining examples of its kind in the neighborhood, city, or region.
- (2) Whether there exists sufficient documentation, plan, or other data so as to make reconstruction feasible.
- (3) The age of the original structure, site, or Historic Landmark and all subsequent additions and modifications.
- (4) The physical condition of the structure, site, or Historic Landmark immediately prior to its total or partial demolition.
- (5) The amount of demolition sustained by the structure, site, or Historic Landmark.
- (6) Whether or not, had total or partial demolition occurred, the structure, site, or Historic Landmark could have been put into a reasonable economic use either prior to or after rehabilitation.
- (7) Whether the structure, site, or Historic Landmark was eligible for inclusion on the National Register of Historic Places immediately prior to its total or partial demolition.
- (8) Whether the structure, site, or Historic Landmark is included on the National Register of Historic Places.
- (9) Whether the responsible party has a legal or equitable interest in the structure, site, or Historic Landmark.

§ 18-85.7. Appeals [Amended 4-21-10 by Ord. No. 19-2010]

Any person aggrieved by a decision of the Commission may, within 15 days of the decision, file a written application with the City Council for review of the decision. Reviews shall be conducted based on the same record that was before the Commission and using the same criteria.

§ 18-85.8. Continuation of previous designations [Added 11-3-1980 by Ord. No. 243-80; Amended 4-21-10 by Ord. No. 19-2010]

Any designation of a landmark or historic structure made by the Commission on Architecture and Urban Design pursuant to Article VI of this chapter shall remain in full force and effect.

ARTICLE XIII, Downtown Task Force [Adopted 1-18-1982 by Ord. No. 4-82 (Ch. 2, Div. 14, §§ 2-163.42 through 2-163-45, of the 1970 Code); Amended 3-17-10 by Local Law 1-2010]

§ 18-85. Reserved

§ 18-86. Reserved

§ 18-87. Reserved

§ 18-88. Reserved

ARTICLE XIV, Community Development Advisory Committee [Adopted 8-15-1988 by Ord. No. 103-88 (Ch. 2, Div. 15, §§ 2-163.56 through 2-163.66, of the 1970 Code)]

§ 18-89. Creation; purpose.

There is hereby created and established a Community Development Advisory Committee for community development, hereinafter referred to as CDAC, to make recommendations to the Mayor and the Council of the City of Binghamton regarding the planning, development, monitoring, coordination and evaluation of a comprehensive community development program pursuant to and in accordance with HUD regulations, and in accordance with the interests and needs of the residents of the City of Binghamton.

§ 18-90. Composition; appointment of members. [Amended 4-16-07 by Ord. No. 12B-2007]

- A. The CDAC shall be composed of 11 members, each of whom shall have one vote. The members of the CDAC shall be appointed as follows, effective January 1, 2008:
 - (1) One member appointed by each of the seven City Council members. Council members may seek recommendations of prospective appointees from their active neighborhood citizen groups. The appointee need not be from such Council member's district.
 - (2) One member appointed by a majority of City Council members.
 - (3) Three members appointed by the Mayor of the City of Binghamton.
- B. Two City Council members, one being the majority leader and the other being the minority leader, shall serve as ex-officio members of the CDAC without voting power. The Mayor of the City of Binghamton shall serve as an ex-officio member of the CDAC without voting power.

§ 18-91. Term of office of members. [Amended 4-16-07 by Ord. No. 12B-2007]

The term of office for each CDAC member shall be for two years as follows:

- A. The members appointed by the Councilmen of the even-numbered Councilmanic districts shall expire on the even-numbered years.
- B. The members appointed by the Councilmen of the odd-numbered Councilmanic districts shall expire on the odd-numbered years
- C. For 2008 only, City Council will randomly select three Councilmanic district appointees to expire in one year. Thereafter, all appointments will be for two years.
- D. The terms of the majority and minority leaders shall correspond to their term of office as majority and minority leaders.
- E. The members appointed by the Mayor of the City of Binghamton shall serve for an initial term of two and three years. Two members shall be appointed for two years and one member shall be appointed for a one-year term. Two members' terms will expire at the end of even-numbered years and one members' term will expire on odd-numbered years after the term of the initial appointment expires.

§ 18-92. Vacancies and terminations.

The following procedures shall be followed regarding vacancies and terminations of CDAC members:

- A. Vacancies. In the event a vacancy occurs in the membership of the CDAC for any reason, the appointing power shall expeditiously appoint another person to fill said vacancy for the unexpired term in conformance with § 18-90 of this article.
- B. Termination. If a member of CDAC misses three consecutive regular or special meetings, or 50% of the meetings in a six-month period, he or she may be removed from the membership upon recommendation by the CDAC to the City Council.

§ 18-93. Duties; meetings; quorum; rules and regulations. [Amended 4-16-07 by Ord. No. 12B-2007; Amended 12-7-2012 by Ord. No. 11-49]

The CDAC shall constitute the official citizen participation structure for the community development block grant program in the City of Binghamton. The following shall govern the activities of the CDAC:

- A. The CDAC shall recommend plans and proposals to the Mayor and City Council for review, amendment and approval. Such plans and proposals must be approved by at least seven members of the CDAC at a regular or special meeting. In addition, the CDAC will respond to specific requests of the Mayor and City Council for comment on issues that do not require City Council approval.
- B. The CDAC shall react to plans and proposals presented to it by the Director of Planning, Housing and Community Development, and make recommendations to the Mayor and City Council with respect to acceptance or rejection of such plans.
- C. The CDAC may make recommendations to the Mayor in connection with the implementation of the City's community development programs as approved by Council of the City of Binghamton. CDAC members would provide input to the Mayor and City Council relative to the responsibility of the grantee for ensuring that each activity to be carried out with CDBG funds is eligible and benefits low- and moderate-income families or aids in the prevention or elimination of slums or blight or meets other community development needs, having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community where other financial resources are not available to meet such needs.
- D. The CDAC shall meet at least once per month, namely, the second Wednesday of each month. Said meetings will be open to the public.
- E. A three-day written notice must be sent to each CDAC member before any CDAC meeting is held indicating the time, place and agenda of the meeting.
- F. More than 50% of the appointed members of the CDAC shall constitute a quorum which must be present to conduct an official CDAC meeting.
- G. The CDAC shall have authority to devise additional rules of order and operating procedures which are not inconsistent with this article or Robert's Rules of Order as revised.
- H. Special meetings may be called by the Chairperson and/or a majority of the CDAC.

§ 18-94. Officers.

The CDAC shall elect by a majority of the membership the following officers: Chairperson, Vice-Chairperson and Secretary. The election of officers shall occur at the first meeting in January.

- A. Chairperson.
 - (1) Duties.
 - (a) The Chairperson shall preside over meetings of the CDAC.
 - (b) The Chairperson shall prepare the agenda for the CDAC meeting in consultation with the Director of Planning, Housing and Community Development; however, the Director of Planning, Housing and Community Development shall not have a veto power over items placed on the agenda, nor shall the Chairperson have a veto power to exclude agenda items requested by the Director of Planning, Housing and Community Development.
 - (c) The Chairperson shall have the authority to call special meetings of the CDAC at his or her discretion.

- (d) The Chairperson shall have the authority to modify meeting dates when regularly scheduled meeting dates conflict with national or religious holidays or other events which would prevent a quorum of members from attending such meeting.
 - (e) The Chairperson will serve as the official spokesperson of the CDAC.
 - (2) Term of office. The term of office shall be one year.
 - (3) Qualifications. The person nominated to serve as Chairperson must have been a CDAC member for at least one year.
- B. Vice-Chairperson. The Vice-Chairperson shall preside in the absence of the Chairperson and shall have all the powers and duties of the Chairperson during his or her absence. Upon the arrival of the Chairperson the Vice-Chairperson shall vacate the chair. The Vice-Chairperson shall, however, have the power of the chair when the Chairperson wishes to enter into discussion.
- C. Secretary.
 - (1) Duties.
 - (a) The Secretary shall be the keeper of all minutes (not to be construed as the recorder of minutes).
 - (b) The Secretary shall review the minutes as recorded by the Planning, Housing and Community Development staff and shall be the sole judge as to the accuracy of said minutes, prior to the approval by the CDAC.
 - (c) The Secretary shall certify all minutes of each regular and special meeting of the CDAC, prior to their approval by the CDAC.

§ 18-95. Citizen input.

In order to encourage citizen participation, particularly from low- and moderate-income households, the following procedures will be adhered to:

- A. Provide citizens with at least 10 days' prior notice of public hearings to be held by the CDAC. All public hearings shall be advertised at a minimum in the Press and Sun-Bulletin. Notices of public hearings shall not be published in the "Legal Notice" section of the paper, but in a more conspicuous section of the paper such as the "Community" section. The staff of the CDAC shall keep a record of the notice(s) of publication. The City Clerk's office and the City Council shall also receive notices of all CDAC regular meetings and public hearings.
- B. The CDAC and staff will identify how the information needs of non-English-speaking residents or citizens with disabilities (such as deafness) will be accommodated at public hearings and meetings. If more than 5% of the citizens at a public hearing or meeting are anticipated to have such a language or disability barrier, the CDAC and staff shall determine before proceeding with the hearing or meeting how their needs will be addressed.
- C. Public hearings or meeting locations shall be accessible to the handicapped, have adequate audiovisual and seating arrangements and be in locations convenient for citizen access.
- D. Any documents relating to meetings or public hearings shall be made available to the general public by the staff of the CDAC at least 10 days prior to the meeting/hearing.
- E. The CDAC shall respond to written requests for information or complaints in writing within 15 days from receipt of the request. If a response cannot be given in 15 days, a written response indicating that the information request/complaint is being formulated shall be sent in to the affected party(ies).

- F. The CDAC shall provide technical assistance, through itself or staff, to groups or individuals requesting assistance that relate to the goals and objectives of the CDBG program. The specific type and level of assistance will moreover be dependent upon the resources of the CDAC and staff.
- G. The aforementioned procedures shall not supersede any other federal regulation governing the CDBG program.

§ 18-96. Responsibilities of City to CDAC.

The following shall be the responsibilities of the City to the CDAC:

- A. It is the responsibility of the City Council, the Mayor and the Director of Planning, Housing and Community Development to transmit to the CDAC proposals made by other public and private bodies regarding use of CDBG funds, and responses to CDAC's request for information.
- B. The Planning, Housing and Community Development Department of the City will be responsible for providing staff liaison with City Council and other necessary and appropriate support to the CDAC.

§ 18-97. Responsibilities of CDAC.

The following shall be the responsibilities of the CDAC:

- A. The CDAC is responsible for the coordination of all citizen input regarding the community development block grant program and for submitting recommendations to the Planning, Housing and Community Development Department and City Council.
- B. The CDAC will be responsible for achieving the following specific objectives:
 - (1) To identify the needs and define the problems presented by the community.
 - (2) To formulate a set of objectives addressing these needs and problems.
 - (3) To assign priorities to the accomplishment of these objectives according to their degree of importance and potential benefits.
 - (4) To develop strategies suggesting how these objectives may be achieved.
 - (5) To evaluate program proposals and those solutions most appropriate for development.

§ 18-98. Authority of City.

The Act provides that no part of its citizen participation requirement shall be construed to restrict the responsibility and authority of the City for the development of its community development block grant application and the execution of its community development programs. Accordingly, the citizen participation requirements of the Act or this article do not include concurrence by any person or group involved in the citizen participation process in making final determinations concerning the findings and content of the City's application or program. The sole responsibility and authority to make such final determinations rests exclusively with the Mayor and City Council.

§ 18-99. Compensation for Board members. [Added 1-21-1997 by Ord. No. 2-97; Amended 12-21-11 by Ord. No. 11-52; Amended 12-19-12 by Ord. No. 12-79]

Each Board member of the CDAC shall be paid an annual stipend of \$400.00. Payment of this amount shall be calculated in accordance with the percentage of meetings each member has attended throughout the year. Each member will need to satisfy an attendance record of at least 75% to receive the full stipend. An attendance record of 50-74% shall result in the receipt of 50% of the stipend. An attendance record of less than 50% will result in the denial of the stipend. Stipend payments shall be made no later than December 31 of each year.

ARTICLE XV, Police/Community Relations Advisory Board [Adopted 2-5-1990 (Ch. 2, § 2-53, of the 1970 Code); Amended 3-17-10 by Local Law 1-2010]

§ 18-100. Reserved

§ 18-101. Reserved

§ 18-102. Reserved

ARTICLE XVI, Municipal Youth Bureau [Adopted 9-5-2006 by Res. No. 06-104]

§ 18-103. Findings.

- A. The City of Binghamton desires to establish a Youth Bureau pursuant to Article 19(a) of the Executive Law and General Municipal Law § 95, starting January 1, 2007.
- B. Funding for a City of Binghamton Youth Bureau in the amount of \$25,000 is intended to be included in the 2007 budget, subject to a commitment of matching funds from New York State.
- C. The City Council recognizes a need for the creation of an instrument to coordinate youth development and youth violence prevention programming; and to facilitate continued state funding for youth programs in the City.

§ 18-104. Purpose.

A Youth Bureau would be established to:

- A. Assist the youth development, youth education, youth recreation and youth special programs institutions and agencies in identifying and meeting unmet needs of youth.
- B. Assist in effecting coordination between and among youth servicing agencies to avoid duplication of services and foster collaboration.
- C. Coordinate the creation of a Youth Development Comprehensive Plan thereby maximizing the availability of services and funding.
- D. Establish a planning and implementation process that identifies the connections between youth interests, critical academic and developmental outcomes and community improvement activities and outcomes.

§ 18-105. Establishment.

The Council hereby establishes a Youth Bureau pursuant to Article 19(a) of the Executive Law and General Municipal Law § 95, subject to inclusion of \$25,000 in the 2007 budget and a commitment of matching funds from New York State; and hereby authorizes the Mayor to take such action as may be necessary and appropriate to create the Youth Bureau, to hire a Director consistent with the attached job description, and to obtain matching funds from New York State.

ARTICLE XVII, City of Binghamton Waterfront Consistency Review Law [Adopted 12-5-2005 by Perm. L.L. 05-6]

§ 18-106. Title

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

§ 18-107. Authority and purpose.

- A. This local law is adopted under the authority of the Municipal Home Rule Law and the Waterfront Revitalization of Coastal Areas and Inland Waterways Act of the State of New York (Article 42 of the Executive Law).

- B. The purpose of this local law is to provide a framework for agencies of the City of Binghamton to consider the policies and purposes contained in the Local Waterfront Revitalization Program when reviewing applications for actions or direct agency actions located in the waterfront area; and to assure that such actions and direct actions are consistent with the said policies and purposes.
- C. It is the intention of the City of Binghamton that the preservation, enhancement, and utilization of the natural and manmade resources of the unique waterfront area of the City take place in a coordinated and comprehensive manner to ensure a proper balance between natural resources and the need to accommodate population growth and economic development. Accordingly, this local law is intended to achieve such a balance, permitting the beneficial use of waterfront resources while preventing: loss of living estuarine resources and wildlife; diminution of open space areas or public access to the waterfront; losses due to flooding and erosion; impairment of scenic resources; or permanent adverse changes to ecological systems.
- D. The substantive provision of this local law shall only apply while there is in existence a Local Waterfront Revitalization Program which has been adopted in accordance with Article 42 of the Executive Law of the State of New York.

§ 18-108. Definitions.

- A. “Actions” mean either Type I or unlisted actions as defined in SEQRA regulations (6 N.Y.C.R.R. 617.2) which are undertaken by an agency and which include:
 - (1) Projects or physical activities, such as construction or other activities that may affect the environment by changing the use, appearance or condition of any natural resource or structure, that:
 - (a) Are directly undertaken by an agency; or
 - (b) Involve funding by an agency; or
 - (c) Require one or more new or modified approvals from an agency or agencies.
 - (2) Agency planning and policy making activities that may affect the environment and commit the agency to a definite course of future decisions;
 - (3) Adoption of agency rules, regulations and procedures, including local laws, codes, ordinances, executive orders and resolutions that may affect the environment; an
 - (4) Any combinations of the above.
- B. “Agency” means any board, agency, department, office other body, or officer of the City of Binghamton.
- C. “Consistent” means that the action will fully comply with the LWRP policy standards and conditions and, whenever practicable, will advance one or more of them.
- D. “Direct Actions” means actions planned and proposed for implementation by an agency, such as, but not limited to, a capital project, rule making, procedure making and policy making.
- E. “Local Waterfront Revitalization Program (LWRP)” means the Local Waterfront Revitalization Program of the City of Binghamton, approved by the Secretary of State pursuant to the Waterfront Revitalization of Coastal Areas and Inlands Waterways Act (Executive Law, Article 42), a copy of which is on file in the Office of the Clerk of the City of Binghamton.
- F. “Waterfront Advisory Committee” or “Committee” means the Waterfront Advisory Committee of the City of Binghamton, as created by Local Law 05-6 of the City of Binghamton.

- G. "Waterfront Assessment Form (WAF)" means the form used by an agency to assist it in determining the consistency of an action with the LWRP.
- H. "Waterfront Area" means the Waterfront Revitalization Area delineated in the City's LWRP.

§ 18-109. Waterfront Advisory Committee. [Amended 3-19-2007 by Perm. Ord. 07-11]

- A. The Committee is authorized to review and make recommendations to appropriate agencies regarding the consistency of proposed actions with the policies and purposes of the LWRP.
- B. The River Trails Initiative will appoint not less than five or more than seven of its members to serve as a Waterfront Advisory Committee. In the event the River Trails Initiative fails to appoint the required members or otherwise fails to fulfill its obligations hereunder, then the Planning Commission will serve as the Waterfront Advisory Committee until further action by City Council. The Chairman of the Planning Commission will have authority to determine whether the River Trails Initiative is fulfilling its obligations hereunder.

§ 18-110. Review of actions.

- A. Whenever a proposed action is to be located in the City's waterfront area, an agency shall, prior to approving, funding or undertaking the action, make a determination that is consistent with the LWRP policy standards and conditions set forth in § 18-112 herein.
- B. Whenever an agency receives an application for approval or funding of an action, or as early as possible in the agency's formulation of a direct action, to be located in the waterfront area, the applicant, or in the case of a direct action, the agency, shall prepare a Waterfront Assessment Form (WAF) to assist with the consistency review of the proposed action.
- C. The agency shall refer a copy of the completed WAF to the Committee within ten (10) days of its submission, and prior to making its determination, shall consider the recommendation of the Committee with reference to the consistency of the proposed action.
- D. After referral from an agency, the Committee shall consider whether the proposed action is consistent with the LWRP policy standards and conditions set forth in § 18-110(K) herein. The Committee shall require the applicant to submit all completed applications, WAFs and any other information deemed to be necessary to its consistency recommendation.
- E. The Committee shall render its written recommendation to the agency within thirty (30) days following referral of the WAF form the agency, unless extended by mutual agreement of the Committee and the applicant, or in the case of the direct action, the agency. The recommendation shall indicate whether, in the opinion of the Committee, the proposed action is consistent with, or inconsistent with, one or more of the LWRP policy standards and shall elaborate in writing the basis for its opinion.
- F. The Committee shall, along with its consistency recommendation, make any suggestions to the agency concerning modification of the proposed action to make it consistent with LWRP policy standards and conditions or to greater advance them.
- G. In the event that the Committee's recommendation is not forthcoming within the specified time, the referring agency shall make its decision without the benefit of the Committee's recommendation.
- H. If the agency and the Committee concur in the consistency of the proposed action, the agency may proceed with the action. In the event that the agency, after reviewing the written recommendation of

the Committee, finds that it disagrees with the consistency recommendation of the Committee, the agency shall, within fifteen (15) days, prepare a written finding detailing its position and transmit it to the Committee. The Committee and the agency shall meet to resolve their differences within fifteen (15) days of the Committee's receipt of the agency's finding.

- I. If the Committee and the agency cannot reach a mutually agreeable determination of the consistency, the matter will be referred to the City Council for a finding of consistency. The agency shall take no action until the City Council has made a determination and finding of consistency with the LWRP.
- J. The provisions of § 18-110(C) shall not apply to the Zoning Board of Appeals. Instead, where the Zoning Board of Appeals is the agency, the Zoning Board of Appeals shall consider the written consistency recommendation of the Committee when reviewing and considering an application for a variance.
- K. Actions to be undertaken within the waterfront area shall be evaluated for consistency in accordance with the following LWRP policy standards and conditions, which are derived from and further explained and described in §18-108 of the City of the Binghamton LWRP, a copy of which is on file in the City's Department of Planning, Housing and Community Development and available for inspection during normal business hours. In the case of direct actions, the agency shall also consult with Section 3 ("Waterfront Revitalization Policies") and Section 4 ("Proposed Projects") of the LWRP in making their consistency determination. The action shall be consistent with the polices to:
 - (1) Foster a pattern of development in the riverfront area that enhances community character, preserves open space, makes efficient use of infrastructure, makes beneficial use of a coastal location, and minimizes adverse effects of development.
 - (2) Protect water-dependent uses and promote siting of new water-dependent uses in suitable locations.
 - (3) Promote sustainable use of fish and wildlife resources.
 - (4) Protect and restore ecological resources, including significant fish and wildlife habitats, wetlands, and rare ecological communities.
 - (5) Protect and improve water resources.
 - (6) Minimize loss of life, structures, and natural resources from flooding and erosion.
 - (7) Protect and improve air quality.
 - (8) Promote appropriate use and development of energy and mineral resources.
 - (9) Minimize environmental degradation from solid waste and hazardous substances and wastes.
 - (10) Improve public access to and use of public lands and waters.
 - (11) Enhance visual quality and protect outstanding scenic resources.
 - (12) Preserve historic resources located in the waterfront area.
- L. If the agency determines that the action would not be consistent with one or more of the LWRP policy standards and conditions, such action shall not be undertaken unless the agency makes a written finding with respect to the proposed action that:
 - (1) No reasonable alternatives exist which would permit the action to be undertaken in a manner which will not substantially hinder the achievement of such LWRP policy standards and conditions
 - (2) The action would be undertaken in a manner which will minimize all adverse effects on such LWRP policy standards and conditions;
 - (3) The action will advance one or more of the other LWRP policy standards and conditions; and
 - (4) The action will result in an overriding City, regional or state-wide public benefit.

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

- M. Each agency shall maintain a file for each action made the subject of a consistency determination, including any recommendations received from the Committee. Such files shall be made available for public inspection upon request.

§ 18-111. Enforcement.

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

§ 18-112. Violations.

- A. A person who violates any of the provisions of, or who fails to comply with any conditions imposed by, this chapter shall have committed a violation, punishable by a fine not exceeding five hundred (500) dollars for a conviction of a first offense and punishable by a fine of one thousand (1,000) dollars for a conviction of a second or subsequent offense. For the purpose of conferring jurisdiction upon courts and judicial officers, each week of continuing violation shall constitute a separate violation.
- B. The City Attorney is authorized and directed to institute any and all actions and proceedings necessary to enforce this local law. Any civil penalty shall be in addition to and not in lieu of any criminal prosecution and penalty.

§ 18-113. Severability.

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

§ 18-114. Effective Date.

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

ARTICLE XVIII, Public Art Advisory Board [Adopted 3-5-2014 by Perm. L.L. 14-1]

§ 18-115. Creation

The City Council of the City of Binghamton hereby creates an advisory board that shall be known as the Public Art Advisory Board (hereinafter referred to as "the Advisory Board"). The Advisory Board is formed to make recommendations concerning the selection, acquisition, and display of public art.

§ 18-116. Purpose and duties.

The purpose and duties of the Advisory Board shall be as follows:

- A. To create and oversee a public art program to enrich the visual and aesthetic environment of public spaces within the City of Binghamton.
- B. To initiate and develop proposals, to receive recommendations and to solicit contributions for additions to the existing collection of art in public places.
- C. To develop criteria and guidelines for the selection, acquisition, exhibition and display of new works of art, either temporary (on loan) or permanent. The criteria and guidelines shall relate to, but are not limited to, economic feasibility, maintenance, security and aesthetics. Acquisition of art includes either the purchase of art by the City or the acceptance of a donation of art to the City.
- D. To review all proposals for the exhibition and display of public art in the City's public spaces, in public buildings, and public facilities and infrastructure, including appropriate locations.
- E. To advise the Mayor and Common Council about the selection of acquisitions and donations of public art that meet the selection criteria and guidelines and to determine whether to accept unsolicited donations of art and where they may be located.
- F. Notwithstanding any other provision herein to the contrary, final approval and acceptance of any and all public art resides with the Mayor (daily operations) and Common Council (grants/gifts and through the legislative process).

§ 18-117. Private Properties.

If requested by the owner, the Advisory Board will work with the owners of privately owned outdoor public space and semipublic interior spaces, including assistance obtaining grants, gifts, or other funding opportunities. The Advisory Board will have no oversight or input on privately owned property without written consent of the owner.

§ 18-118. Historic Properties.

Any public art proposed to be located on the exterior of any designated historic property, either individually designated Local Landmark Properties, or properties located in a designated Local Historic District, shall be subject to review and approval by the Commission on Architecture and Urban Design (CAUD) as set forth in the Article XII above. The Advisory Board will have no oversight or input on such proposed public art unless requested in writing by CAUD.

§ 18-119. Membership. [Amended on 2-12-16 by Ord. No. 16-07]

The Advisory Board shall consist of five (5) voting members, all of whom shall be appointed by the Mayor and shall be residents or work in the City of Binghamton. In selecting the members, the Mayor will attempt to recruit members from the community from the field of design, visual arts, architecture, or landscape architecture. The Advisory Board shall also have three (3) non-voting ex-officio members: a representative from the Broome County Council of Arts, a representative from the Gorgeous Washington Street Association, and a representative from the Downtown Binghamton Business Association.

§ 18-120. Terms of office; vacancies.

- A. The five (5) voting members shall be appointed for terms of three (3) years, except that the terms of the first Advisory Board members shall be for such lesser periods of time as to provide appropriate staggered rotation and continuity.
- B. Vacancies on the Advisory Board shall be filled in the same manner as the original appointment, except that a vacancy occurring other than by expiration of term of office shall be filled only for the remainder of the unexpired term.

§ 18-121. Officers.

The Advisory Board shall have a Chairperson, a Vice Chairperson and a Secretary, who shall be elected by and from among the voting members of the Advisory Board once yearly.

§ 18-122. Compensation of members.

The voting members of the Advisory Board shall receive no compensation for their services.

§ 18-123. Meetings. [Amended on 2-12-16 by Ord. No. 16-07]

- A. A quorum for the transaction of business shall consist of three (3) voting members of the Advisory Board.
- B. The Advisory Board shall meet at least quarterly.
- C. The Advisory Board shall adopt rules and procedures for its meetings.
- D. The Advisory Board meetings will be open to the public and minutes will be kept and published as required by the New York State Public Officers Law, Article 7, Open Meetings Law.