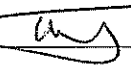


Legal Counsel Approval 

R.L 09-008

Intro. No. 009-006

Perm. No. \_\_\_\_\_



IN  
**THE COUNCIL OF THE CITY OF BINGHAMTON**  
STATE OF NEW YORK

Dated: March 2, 2009

Sponsored by Councilmember(s): Weslar, Rennia, Collins, Gerchman, Massey, Kramer

Introduced by Committee(s) on: Planning and Community Development

**ORDINANCE**  
*entitled*

AN ORDINANCE TO EXPAND THE PLANNING  
COMMISSION'S REVIEW OF COMMERCIAL AND  
RESIDENTIAL DEVELOPMENT

WHEREAS, the Code of the City of Binghamton Chapter 410, *Zoning*, provides for the Planning Commission to review and approve certain commercial and residential development in the City of Binghamton; and

WHEREAS, City Council wishes to amend certain sections of Chapter 410 to expand the types of projects which require Planning Commission review and approval.

NOW, THEREFORE, the Council of the City of Binghamton, duly convened in regular session, does hereby ordain as follow:

Section 1. That § 410-5, *Terms defined*; § 410-27, *Schedule I: Land Uses in Residential Zoning Districts*; § 410-29, *Special Conditions for certain land uses on residential districts*; § 410-36, *Applicability*; and § 410-39, *Procedure* are amended and restated in part as set forth in Exhibit A: Ordinance to Expand the Planning Commission's Review of Commercial and Residential Development annexed hereto and made a part hereof.

Section 2. That this ordinance shall take effect immediately.

## EXHIBIT A

### ORDINANCE TO EXPAND THE PLANNING COMMISSION'S REVIEW OF COMMERCIAL AND RESIDENTIAL DEVELOPMENT

#### § 410-5. Terms defined.

BEDROOM -- Any room in a dwelling that is to be used for sleeping.

#### § 410-27. Schedule I: Land Uses in Residential Zoning Districts.

The following uses are permitted in residential zoning districts:

##### A. R-1 Residential Single-Unit Dwelling District.

\*\*\*

- (3) Permitted with Planning Commission approval (special use permit and Series A site plan).

(a) Principal uses:

Conversion of Dwelling Unit to More than Four Bedrooms  
Construction of a Structure with Dwelling Units with more than Four Bedrooms  
Dwelling, manufactured home  
Place of worship  
Private school: primary and secondary  
Public buildings, including elementary and secondary schools  
Townhouses with two units

##### B. R-2 Residential One- and Two-Unit Dwelling District.

\*\*\*

- (3) Permitted with Planning Commission approval (special use permit and Series A site plan).

(a) Principal uses:

Conversion of Dwelling Unit to More than Four Bedrooms  
Construction of a Structure with Dwelling Units with more than Four Bedrooms  
Place of worship  
Private school: primary and secondary  
Public buildings, including elementary and secondary schools  
Townhouse with four or fewer dwelling units

C. R-3 Residential Multi-Unit Dwelling District.

\*\*\*

- (3) Permitted with Planning Commission approval (special use permit and Series A site plan).

(a) Principal uses:

Adult residential care facility--five or more beds  
Conversion of Dwelling Unit to More than Four Bedrooms  
Construction of a Structure with Dwelling Units with more than Four Bedrooms  
Bed-and-breakfast inn  
Boardinghouse

\*\*\*

**§ 410-29. Special Conditions for certain land uses on residential districts.**

\* \* \*

**G-1. Conversion or Construction of Dwelling Units to more than Four Bedrooms.**

(1) Intent. The intent of this section is to establish standards for the conversion of existing dwelling units to increase the number of bedrooms per dwelling unit and the construction of dwelling units containing more than four bedrooms. These standards are intended to reduce the overcrowding of dwelling units and buildings and overly dense development of neighborhoods and to ensure satisfactory amenities as conversions or construction takes place.

(2) Standard for Creating More than Four Bedrooms per dwelling unit.

Conversion of existing buildings or construction of new buildings to create more than four bedrooms per dwelling unit presents issues surrounding overcrowding, parking, open space and neighborhood character. Dwelling unit that do not meet the standards established in this section may be permitted only after a Series A Site Plan/Special Use Permit review pursuant to Article 8 of the Zoning Ordinance.

- (a) Minimum unit size. The dwelling unit, after conversion or construction, must meet all applicable specifications of the New York State Uniform Fire Prevention and Building Code, including minimum unit size.
- (b) Minimum building size. No dwelling unit conversion or construction shall be permitted in a dwelling unit with less than 1,500 square feet of gross floor area.
- (c) Minimum lot area requirements. No bedroom maybe added to a dwelling unit, if the property does not comply with the lot area requirements of the district in which the property is located.
- (d) Parking regulations. No dwelling unit conversion shall be permitted unless the dwelling shall, following such conversion, comply with all off-street parking required Article X of the Zoning Ordinance.

(3) Notwithstanding anything herein to the contrary, the Building Inspector may waive the requirements for a Series A Site Plan review for the temporary use of dining room, den, or living room as a bedroom as may be medically necessary and prescribed by an attending physician.

**§ 410-36. Applicability.**

- A. Series A Site Plan approval from the Planning Commission pursuant to § 410-39 of this Article VIII is required for all new construction, for all commercial uses, for all special permitted uses, for all principal permitted and accessory uses, for all changes of use, and as required by § 410-27 or § 410-29 of this Chapter. No building permit shall be issued by the Building Inspector for any use which requires site plan approval except upon authorization of and in conformity with plans approved by the Planning Commission.
- B. Exceptions. Notwithstanding Subsection A of this section, no Series A Site Plan approval is required for: (i) single- and two-family dwellings and accessory uses thereto, except as may be required by § 410-27 or § 410-29 of this Chapter; or (ii) any change of use from one principal permitted or accessory use to another principal permitted or accessory use, including changes of use within a permitted multiple use, e.g., a shopping center, and where no exterior alterations or additions are proposed, provided the Planning Department and Building Inspector determine that the proposed change of use will not have any significant impact on:
1. Traffic volume,
  2. Site access,
  3. On-site and off-site parking,
  4. Internal circulation,
  5. Neighborhood noise levels,
  6. Green space (The proposed project will not have create a need for additional landscaping, screening or buffering),
  7. Drainage,
  8. Character of the neighborhood, or
  9. Lighting.

The list of items to be considered above is inclusive, but is not exclusive, and the Planning Department and Building Inspector may consider any environmental or development issues that would have a significant impact on the parcel and/or the surrounding area.

- C. A special use permit and/or Series A site plan review which has been authorized for a specific land use is not transferable and does not apply to any other land use.

**§ 410-39. Procedure.**

\* \* \*

- D. Public hearing and public notices.

(1) Public hearing. The Planning Commission shall hold a public hearing on the Series A Site Plan review application within 45 days from the date a complete application is received by the Planning Department and the Planning Commission completes the required State Environmental

Quality Review. The Planning Commission may, but is not required to, waive a public hearing for accessory uses.

M. Violation of the above procedure or any provision, requirement or condition of site plan approval shall be cause to deny or revoke a certificate of occupancy and shall be considered an offense and punishable by a fine of \$250 for the first offense and \$500 for any subsequent offense. Each day shall constitute a separate violation until the violation is corrected. In addition, the Building Inspector may require the violation to be corrected. This section will be enforced by the Building Inspector and subject to the jurisdiction of the City Court of the City of Binghamton or the Broome County Supreme Court, as applicable.