

*City of Kingston, NY  
Monday, April 19, 2021*

## Chapter 277. Hotels, Motels, Inns, Rooming Houses and Boardinghouses

[HISTORY: Adopted by the Common Council of the City of Kingston 12-7-2010 by L.L. No. 9-2010, approved 12-16-2010. Amendments noted where applicable.]

### **GENERAL REFERENCES**

Zoning — See Ch. **405**.

## Article I. Licensing

### § 277-1. License required.

It shall be unlawful, without obtaining a license from the City Clerk, for any person, firm or corporation, either as owner, tenant or agent, to run, operate or maintain in the City of Kingston, a hotel, motel, inn, boardinghouse, lodging house, rooming house, association, club or any building used in the business of renting rooms or furnishing meals with accommodations for more boarders than allowed in a single-family dwelling as set forth in Chapter **405**, Zoning, of the City of Kingston.

### § 277-2. Application for license; petition for relief from license.

- A. All applications for licenses or renewals thereof shall be made in writing, in duplicate, containing the information called for, on forms furnished by the Building Inspector/Code Enforcement Officer, and shall be sworn to by the applicant or his or its duly authorized agent or representative. Notwithstanding the foregoing, the applicant is specifically required to represent on the application the maximum occupancy limits of each room or dwelling unit offered for public occupancy.
- B. Petition for relief from license. Any person or corporation, either as owner, tenant or agent seeking to operate or maintain a facility listed under Chapter **277** or Chapter **405** within the City may submit a petition to the City of Kingston requesting relief from the requirement to gain a license before allowing occupancy of said facility. Such petition shall be subject to approval by the City of Kingston, and no occupancy shall be allowed without a license unless approval of the City of Kingston has been previously obtained.
  - (1) The City of Kingston, in making a determination to grant relief to a person or corporation acting as owner, tenant or agent, may consider in reaching a decision on such request any item that the City of Kingston deems appropriate including, but not limited to the following, whether the occupant is a victim of displacement of his/her primary residence due to fire,

flood or other catastrophe; whether the occupancy will be temporary in nature; whether the occupant is acting in the capacity of property manager of the facility; whether the occupant is an immediate family member of the owner, tenant or agent in control of the facility, etc. The City of Kingston may also consider such other terms and conditions as the City deems appropriate.

- C. Applications under this section are required for all facilities in existence at or prior to the adoption of this chapter by the City of Kingston, as well as all facilities that arise any time thereafter.

### § 277-3. Inspection; keeping of register required.

No license shall be issued or renewed except after the application has been investigated and the premises inspected by the Building Inspector/Code Enforcement Officer and except where the applicant keeps and maintains, and agrees during the term of the license to keep and maintain in the entrance hall, lobby or reception room, a bound register with pages numbered consecutively, in which shall be plainly written in the English language:

- A. The name of each guest spending the night or taking a room.
- B. The permanent residence of said guest.
- C. The hour of the day, month and year at which such guest arrived and departed from the premises in question and the number of the room assigned to each guest.

### § 277-4. Term of license.

No license shall be issued or renewed for a longer period than one year, and all licenses shall expire on December 31 of each year. All applications, properly filled out, must be filed at least 30 days before the applicant intends to commence operations.

### § 277-5. Sanitary requirements.

No license shall be issued except where the applicant has satisfied the Building Inspector/Code Enforcement Office, after inspection by him, that toilet and sewerage facilities are adequate and proper for taking care of the number of guests for which the applicant proposes to take out a license, and that an adequate supply of potable and wholesome drinking water is at all times available, and hot water for bathing and dishwashing; also that the building is structurally safe and properly protected from fire, and that the rooms are adequate as to size and ventilation.

### § 277-6. Revocation of license.

- A. Any and all licenses or renewals thereof issued hereunder may be revoked by resolution of the City of Kingston upon proof being made to its satisfaction that any of the terms and conditions under which such license is issued have been violated, or that any statements made in the application are false. In case of revocation, no license fee will be returned. Before the City of

Kingston revokes any such license, it will be required to give the licensee five days notice of a hearing, which notice may be service by mail on the licensee at the address designated on the application upon which the license or renewal was issued. Where a license has once been revoked, no further license for the same premises shall be issued until the owner or owners of said premises satisfy the City of Kingston that the cause of the revocation of said license has been removed and that said premises in the future can and will be operated in compliance therewith.

- B. Any and all licenses or renewals thereof may also be revoked by the City of Kingston upon proof being made to its satisfaction that the owner, manager and/or agent of the hotel, motel, inn, boardinghouse has, with or without actual knowledge or intent, permitted the occupancy of any building, room or part thereof by the same guest, customer, invitee, or permittee for more than 30 consecutive days or 90 days total in any individual calendar year, whichever comes first, under the same revocation proceedings as set forth previously in this section.

## § 277-7. Display of license.

All licenses issued hereunder must be permanently displayed under glass over the desk or table where the register is kept.

## § 277-8. Penalties for offenses.

- A. Every violation of this chapter shall be punished by a fine of \$200 for each offense. Each day that the premises are operated in violation of this chapter constitutes a separate and distinct offense, requiring the payment of a separate, additional fine.
- B. In addition, to the penalty above provided, the City of Kingston also ordains that a violation of this chapter shall constitute disorderly conduct and that the person violating the same shall be a disorderly person.

## § 277-9. Further enforcement procedure.

The City of Kingston may also enforce obedience to this chapter and restrain violations thereof by injunction and may proceed against all violators hereof by any and every other means or method provided by law, although not herein specifically referred to.

## § 277-10. Legislative authority.

This chapter is enacted by authority of (§ 20, Subdivision 5 of the Municipal Home Rule Law) and any other law referenced herein as authority herefor.

## § 277-11. Definitions.

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

**BED-AND-BREAKFAST**

A residential establishment where rooms are rented to transient nonpermanent guests, on a short-term basis, with breakfast being the only meal served to said guests.

**BOARDINGHOUSE**

A private dwelling in which at least three rooms are offered for rent and table board is furnished only to roomers and in which no transients are accommodated. A rooming house or a furnished room house shall be deemed a "boardinghouse."

**HOTEL or MOTEL**

A building which has transient living and sleeping accommodations for rent for five or more persons and which is open for year-round occupancy; a "hotel" or "motel" shall include similar establishments designated as auto courts, tourist cabins, etc.

**INN**

A building which has transient living and sleeping accommodations for rent for at least five or more persons but no more than 10 persons.

**TRANSIENT LIVING**

A guest or customer of a hotel or motel the nature of which the term of stay is limited to no more than 30 consecutive days or 90 total days in any individual calendar year.

## Article II. Crime Property

### § 277-12. Specified crime property prohibited.

- A. It is unlawful for any hotel, motel, inn or boardinghouse to be employed or used as a specified crime property within the City of Kingston. If such a building is found to be used or employed in violation of this section, it is subject to closure for a period up to one year.
- B. It is unlawful for any person to employ, use, maintain or allow the employment, use or maintenance of hotels, motels, inns or boardinghouses under their ownership and/or control as specified crime property. If a person found in violation of this subsection, he or she is subject to civil penalties of up to \$500 per day for each day the property has been so employed, used or maintained.
- C. It is unlawful for any person to use or occupy any structure determined to be specified crime property after service of notice has been made pursuant to § 277-15.
- D. The provisions of Subsection **C** may be waived in the City of Kingston in the event that the Chief of Police or a court of competent jurisdiction determines that exigent circumstances are such that the use or occupancy of the structure prior to a full court hearing is mandated.
- E. An occupant who fails to voluntarily cease the use or occupancy of a structure as required by Subsection **C** may be removed only pursuant to a court order after notice and an opportunity to be heard by the court having jurisdiction of an action brought pursuant to this chapter.

### § 277-13. Definitions.

As used in this chapter, the following terms have the meaning given them in this section:

#### **CHIEF OF POLICE**

As used in this chapter, includes any person designated by the City of Kingston Chief of Police as his or her delegate in the enforcement of this chapter.

#### **OWNER**

Any person, agent, firm, corporation, association or partnership, including:

A. A mortgagee in possession in whom is vested:

- (1) All or part of the legal title to property; or
- (2) All or part of the beneficial ownership and a right to present use and enjoyment of the premises; or
- (3) An occupant of that structure.

#### **PERSON**

Any natural person, association, partnership or corporation capable of owning or using property in the City of Kingston.

#### **SPECIFIED CRIME PROPERTY**

Any kind of hotel, motel, inn, boardinghouse or unit(s) thereof where activity involving the unauthorized delivery or manufacture of a controlled substance as defined in the Public Health Law, gambling as defined in the Penal Law or prostitution as defined in the Penal Law has occurred or is occurring.

### **§ 277-14. Procedure for closing of structures.**

- A. When the Chief of Police believes that a structure has been or is being used or maintained in violation of § 277-13, the Chief of Police may commence proceedings to cause the closure of the structure as well as the imposition of civil penalties against any or all of its owners. Except in cases brought pursuant to § 277-17, in the event that the Chief of Police wishes to commence proceedings:
- (1) The Chief of Police shall notify the owner(s) of record, in writing, that the structure has been determined to be specified crime property. The notice shall contain the following information:
    - (a) The street address and a legal description sufficient for identification of the premises on which the structure is located;
    - (b) A statement of the Chief of Police has found the structure to be in violation of this chapter with a concise description of the conditions leading to his or her findings;
  - (2) A copy of the notice shall be served on the owner and/or his or her agent, if known, at least 10 days prior to the commencement of any judicial action by the City. Service shall be made either personally or by mailing a copy of the notice by registered or certified mail, postage prepaid, return receipt requested, to each person at his or her address as it appears on the last assessment roll as well as on the last instrument of conveyance as

recorded in the County where the structure is located and as may be otherwise known to the Chief of Police. If no address appears or is known to the Chief of Police, then a copy shall be mailed first class, postage prepaid, addressed to such person at the address of the structure believed to be specified crime property.

- (3) A copy of the notice shall be served on the occupant of the structure if that person is different than the owner and shall occur not less than five days prior to the commencement of any judicial proceeding and be made either personally or by mailing a copy of the notice by first class mail, postage prepaid, to them at the structure. Furthermore, a copy of the notice may be posted at the property if 10 days has elapsed from the service or mailing of the notice to the owner(s) and no contact has been received by the City from them during that period of time.
- (4) The failure of any person or owner to receive actual notice of the determination by the Chief of Police shall not invalidate or otherwise affect the proceedings under this chapter.

B. Concurrent with the notification procedures set forth above, the Chief of Police shall send a copy of the notice to the Common Council as well as any other documentation which he or she believes supports the closure of the structure and the imposition of civil penalties. The Common Council may then authorize the City's Corporation Counsel to commence civil proceedings in a court of competent jurisdiction seeking the closure of the structure as well as the imposition of civil penalties against any or all owners thereof and any such other relief as may be deemed appropriate. Nothing contained in this subsection shall be construed to limit the ability of the Council prior to the institution of judicial proceedings to enter into agreements with an owner willing to voluntarily abate the condition(s) giving rise to the violation.

## § 277-15. Commencement of actions; burdens of proof; defenses; mitigation of civil penalty.

- A. Except in a proceeding under § 277-17 if, after the commencement but prior to the trial of an action brought by the City pursuant to this chapter, an owner specifically stipulates with the City that he or she will pursue a course of action as the parties agree will necessarily abate the conditions giving rise to the violation(s), the City shall agree to stay proceedings for a period of not less than 10 nor more than 60 days. The owner or the City will thereafter petition the court for such additional like periods of time as may be necessary to complete the action(s) contemplated by the stipulation. However, in the event that the City reasonably believes the owner is not diligently pursuing the action(s) contemplated by the stipulation, it may then apply to the court for a release from the stay seeking some relief as is deemed appropriate.
- B. In an action seeking the closure of a structure as specified crime property, the City shall have the initial burden of proof to show by a preponderance of the evidence that the structure is a specified crime property.
- C. In an action seeking civil penalties from an owner, the City shall have the initial burden of proof to show by a preponderance of the evidence that the owner had knowledge of activities or conditions at the structure constituting a violation of this chapter.
- D. In any action brought to enforce the terms of § 277-13, evidence of a structure's general reputation and the reputation of persons residing in or frequenting it shall be admissible as

competent.

- E. Except in an action brought pursuant to § **277-17B**, it is a defense to an action seeking the closure of a structure that the owner of a structure at the time in question could not, in the exercise of reasonable care or diligence, determine that the structure was being used or maintained as a specified crime property.
- F. In establishing the amount of any civil penalty requested, the court may consider any of the following factors, as they may be appropriate, and shall cite those found applicable:
  - (1) The actions taken by the owner(s) to mitigate or correct the problem at the structure;
  - (2) The financial condition of the owner(s);
  - (3) Whether the problem at the structure was repeated or continuous;
  - (4) The magnitude or gravity of the problem;
  - (5) The economic or financial benefit accruing or likely to accrue to the owner(s) as a result of the conditions at the structure;
  - (6) The cooperativeness of the owner(s) with the City;
  - (7) The cost to the City of investigating and correcting or attempting to correct the condition;
  - (8) Any other factors deemed by the court to be relevant.

## § 277-16. Closure during pendency of action; emergency closure.

- A. In the event that it is determined that the structure is an immediate threat to the public safety and welfare, the City may apply to the court for such interim relief that is deemed by the Common Council and the Corporation Counsel to be appropriate. In such an event, the notification procedures set forth in § **277-15A** and the limitation of § 227-16A need not be complied with.
- B. In the event that the Chief of Police determines that a structure is or has been used as the locale for the manufacture of controlled substances that involve the use of toxic, flammable or explosive substances as defined in 49 CFR 172 (1988) and/or processes that, in the opinion of the Police Department or the Fire Department personnel, present a continuing threat to the public's safety or welfare, the City may obtain an order from the court preventing that structure's use or occupancy for a period of 60 days.
  - (1) No person shall enter the structure during the first 20 days of this sixty-day period without first obtaining the prior written approval of the City or an order of the court. After the expiration of this twenty-day period, the owner may enter the structure to clean and decontaminate it in accordance with guidelines established by the Health Department.
  - (2) After cleaning and/or decontaminating the structure, the owner shall attest in writing on a form to be provided by the City and sent to the Chief of the Fire Department that the

structure has been cleaned and/or decontaminated in accordance with the guidelines, at which time the structure may be reused or reoccupied, provided that it is not otherwise subject to the provisions of this chapter.

- (3) In the event that the owner fails to comply with the provisions of the subsection (above), the City may seek an order preventing the use or occupancy of the structure for such further time as, under the circumstances, it deems appropriate, unless the owner shows to the satisfaction of the court that the structure no longer presents a continuing threat to the public's safety or welfare from the toxic, flammable or explosive substances and/or processes.

## § 277-17. Enforcement of closure order; costs; civil penalty.

- A. In the event that a court finds that a structure constitutes specified crime property as defined in this chapter, the court may order that it be closed for any period of up to one year and that the owner(s) pay to the City a civil penalty of up to \$500 per day the owner had knowledge of activities or conditions at the structure constituting a violation of this chapter.
- B. The court may also authorize the City to physically secure the structure against use or occupancy in the event that the owner(s) fail to do so within the time specified by the court. In the event that the City is authorized to secure the property, all costs reasonably incurred by the City to effect a closure shall be made an assessment lien upon the property. As used in this subsection, "costs" means those costs actually incurred by the City for the physical securing of the structure, as well as tenant relocation costs given pursuant to Subsection **B(3)** of this section.
  - (1) The City department(s) effecting the closure shall prepare a statement of costs, and the City shall thereafter submit that statement to the court for its review. If no objection to the statement is made within 30 days, a certified copy of the statement, including legal description of the property shall be forwarded to the City Assessor, who thereafter shall enter the same in the City's lien docket.
  - (2) Liens imposed by this chapter shall be collected in all respects as provided for water and sewer liens and shall bear interest at the rate of 9% per year from 10 days after the entry in the lien docket.
  - (3) A tenant defined by the Real Property Tax Law is entitled to his or her reasonable relocation costs as those are determined by the City, if without actual notice the tenant moved in the structure after either:
    - (a) An owner or agent received notice of the Chief of Police's determination pursuant to § 277-15A; or
    - (b) An owner or agent received notice of an action brought pursuant to § 277-19.
  - (4) Any person who is assessed the costs of closure and/or a civil penalty by the court shall be personally liable for the payment thereof to the City.

## § 277-18. Relief from closure order.



Owners of a structure determined to be specified crime property may obtain relief from the court's judgement if:

- A. They appear and pay all costs associated with the proceedings under this chapter;
- B. They file a bond in such a place and form as the court may by order direct in an amount not less than the tax-assessed value of the structure; and keep said bond in force for a period not less than one year or such period as the court directs;
- C. They enter into a stipulation with the City that they will immediately abate the conditions giving rise to the specified crime property and prevent the same from being established or maintained thereafter. The stipulation will then be made part of the court's file. In the event that the owner violates the terms of the stipulation, the City may thereafter apply to the court for an order awarding up to the entire amount of the aforementioned bond to the City as a penalty as well as other relief including closure for any additional period of up to one year, that is deemed by the court as appropriate.

## § 277-19. Attorney fees.

In any action seeking the closure of the structure pursuant to this chapter, the court may, in its discretion, award attorney's fees to the prevailing party.