Local Law 4 of 2016

LOCAL LAW OF THE COMMON COUNCIL OF THE CITY OF KINGSTON, NEW YORK, ADOPTING THE RULES AND REGULATIONS REGARDING SHOOTING RANGES

Sponsored By: Laws & Rules Committee: Aldermen: Eckert, Scott-Childress, Mills, Brown, Carey

WHEREAS, a request has been made to adopt the rules and regulations regarding shooting ranges annexed hereto.

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

SECTION 1. That the Common Council of the City of Kingston hereby supports the annexed revisions of the City of Kingston regarding shooting ranges.

SECTION 2. That the invalidity of any provision of this Local Law shall not affect the validity of any other provision of this Local Law that can be given effect without such invalid provision.

SECTION 3. This Local Law shall take effect immediately upon filing in the Office of the New York State Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.

Submitted to the Mayor this _____ day of

_____, 2016

_____

Carly Winnie, City Clerk

Approved by the Mayor this _____ day of

_____, 2016

_____

Steven T. Noble, Mayor

Adopted by Council on _____, 2016

LL 4 2016 Shooting Range negative vote

Chapter 223. Firearms

Section 223-1. Statement of Policy

The Common Council declares that it is the public policy of the City of Kingston and the purpose of this chapter to promote the public health and safety and to protect the public by assuring at all times that firearms shall not be discharged within the city limits of said city.

Section 223-2. Definitions

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

City Limits

The geographic boundary lines of the City of Kingston, New York

Firearm

Any rifle, shotgun or other weapon as defined in Section 265.00 of the Penal Law of the State of New York

Section 223-3. Discharge Restricted

No person, other than in self-defense or in the discharge of official duties, shall willfully discharge any species of firearm within the city limits of the City of Kingston, New York.

Section 223-4. Exceptions

a. In an indoor licensed facility designed and constructed as a shooting range, as authorized by applicable provisions of the Code of the City of Kingston, pursuant to a site plan approved by the City of Kingston Planning Board and operated in compliance with the laws and regulations of the New York State Department of Environmental Conservation and the Division of Safety and Health of the New York Department of Labor.

b. Any firearm or non-firearm (i.e. rifle or long gun), using blanks, discharged in any ceremonial function authorized or approved by the Mayor of the City of Kingston

Section 223-5. Penalties for Offenses

Violation of this chapter shall be punishable as follows: a fine of not less than $100.

Shooting Ranges

§ 224-1. Definitions.

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

FIREARM

A handgun, rifle, shotgun or air gun, with the latter three as they are defined in § 265.00 of the New York State Penal Code.

HANDGUN

Any commercially made pistol or revolver.

MACHINE GUN, SUBMACHINE GUN or FULLY AUTOMATIC WEAPON

Unless a context otherwise requires, the terms mean a firearm, mechanism or instrument not requiring that the trigger be pressed for each shot and having a reservoir, belt or other means of storing and carrying ammunition which can be loaded into the firearm, mechanism or instrument and fired therefrom at a rate of five or more shots to the second.

NEGLIGENT DISCHARGE

The unintentional, abrupt discharge of a firearm by the person holding the gun when the sights are not imposed on the desired point of impact of the target.

SHOOTING RANGE

Any indoor place or range for shooting and discharging firearms at a target. Outdoor shooting ranges are prohibited in the City.

§ 224-2. (A)License required.

No person or persons, firm or corporation shall maintain, operate or cause to be maintained or operated any shooting range, shooting gallery or target range as herein defined, unless such person, persons, firm or corporation shall first obtain a license to do so from the Chief of Police.

§ 224-2. (B) Special Permit Required

All shooting ranges shall require a special permit from the Planning Board pursuant to the applicable provisions of the City Code. In the event that a protest is presented to the Planning Board no later than 24 hours before the Planning Board is scheduled to consider the special permit, which protest is signed and acknowledged by the owners of 20% or more of the total of all properties located in districts within 1,000 feet of the subject property and in commercial districts within 500 feet of the subject property, a special permit shall not be approved except by a three-fourths vote of the Planning Board.

§ 224-3. Exempt ranges.

The provisions of this chapter shall not apply to shooting ranges not open to the public which are utilized solely for law enforcement and/or governmental purposes.

§ 224-4. Application.

A.
An application for a shooting range license shall be made by the owner and operator, if other than owner, on forms provided by the Chief of Police and filed with the City Clerk. The application shall be signed and sworn to before a notary public or other official authorized to administer oaths in the City. It shall also require the following information:

(1)
The name, address and date of birth of the applicant and manager, if any; the names and addresses of all persons constituting a firm or partnership; and, if a corporation, its principal place of business, the full name of such corporation, whether it is domestic or foreign, and the full name and address of all officers and directors thereof. Where the owner is not directly involved with the day-to-day operation of said business, the operator must also be included on the application. If a partnership, corporation or other business entity is involved, the application must designate an operator who is involved in the day-to-day operation of the business. All addresses of persons involved shall be home addresses, listing street and number.

(2)
The address of the premises for which a license is sought.

(3)
The type and caliber of arms proposed to be used, along with certified, stamped drawings by a licensed design professional providing a description of the manner and plan for stopping and controlling bullets or other ammunition proposed to be used and ensuring that they be contained. This includes, but is not limited to, the backstop which should include the full width of the room, the sides of the room, ceiling and shooters' booths so as to prevent any interference between or among the persons shooting at different targets. Upon renewal of a shooting range license, the licensee shall submit an inspection report from a licensed design professional certifying that the bullet containment system has been properly maintained, is operating as designed, and is in compliance with the applicable federal, state and local standards.

(4)
Submission of a certified report from a licensed design professional demonstrating that a positive flow ventilation system shall be installed prior to use and that such a system shall be adequate to remove contaminants in the air so as not to endanger the health of users, coaches, spectators or employees. This report shall include, but not be limited to, low-airflow sensors and that the supply and exhaust fans are synchronized. Upon renewal of a shooting range license, the licensee shall submit an inspection report from a licensed design professional certifying that the ventilation system has been properly maintained, is operating as designed, and is in compliance with the applicable federal, state, and local standards.

(5)
Submission of a certified report from a licensed sound engineer that demonstrates that adequate noise baffling or buffering shall be installed to prevent injury to the hearing of unprotected persons outside of the area where firearms are actually being discharged and to prevent disturbance to the neighborhood surrounding the shooting range. Sound readings after the installation of the noise baffling or buffering shall be required as prescribed by the Chief of Police or his or her designee.

(6)
Whether the applicant has ever been convicted of any felony involving violence or intimidation, or the use of firearms or any offense related to the use, control, possession or sale of firearms within 10 years of the date of application.

(7)

Whether the applicant is a person prohibited from possessing firearms as provided by Article 265 of the New York State Penal Law.

(8)
Whether any ammunition or firearms will be sold or leased from the premises and, if so, a copy of any and all permits issued from the Federal Bureau of Alcohol, Tobacco and Firearms.

(9)
Whether the applicant or any officer, manager or employee has previously been involved in the purchase or sale of a shooting range or gallery, including outdoors ranges and galleries, and, if so, the name of the business, its location and the dates of involvement.

(10)
The name, address and date of birth of any and all range masters, firearm instructors and/or range safety officers.

(11)
Provide the hours of operation.

(12)
Submit a proposed, signed safety plan which includes, but is not limited to, sections that contain the operations checklist, identify and demonstrate compliance with all applicable federal, state and local firearms laws, and contain the general, gun-handling and safety rules for the range.

(13)
Applications shall only be accepted where all information requested has been supplied and verified for accuracy. Anyone currently serving a period of suspension or revocation, or who has had an application for a shooting range license denied, is ineligible to apply for a shooting range license during a period of suspension or for a period of one year from the date of revocation or denial. The applicant(s) must also demonstrate to the Chief of Police that he or she has procured all necessary licenses and permits for the business.

(14)
Upon receipt of an application for a shooting range license, and after approval for Zoning Code compliance by the Zoning Enforcement Officer, the Chief of Police shall cause an inspection to be made of the applicant's business premises to determine whether public safety problems exist, and the Chief of Police shall cause an investigation to be made of the background of the owner and operator of the business. Before the issuance of a license, the Chief of Police, and his or her representatives, shall have the right to enter upon such premises during normal business hours for the purpose of making inspections. After a license has been issued, further inspections of the premises, to ensure compliance with the laws, ordinances and rules and regulations relating to shooting range businesses, may be made in areas open to the public or other areas with consent, and the Chief of Police shall have the authority to seek warrants where the same are constitutionally required.

(15)
The Chief of Police shall cause an application to be administratively canceled if an application is not complete, if the applicant fails with respect to the business or business premises, upon receipt of written notice and time to cure, to abate code violations or to pay any outstanding judgments rendered by the Building Safety Division of the Kingston Fire Department or to complete a building permit or zoning application.

(16)
Any changes in any facts or information required on said application occurring after filing thereof shall be reported by the licensee in writing to the Chief of Police within five days of the change.

(17)

The applicant shall place his or her fingerprints on file with the Chief of Police.

(18)
Such applications shall further contain such additional information as the Chief of Police, in his or her discretion, shall deem necessary.

§ 224-5. Additional inspections.

The Fire Chief may cause an inspection of the premises to be made to determine whether the applicant is in compliance with the laws and ordinances which the Kingston Fire Department is charged with enforcing. The Fire Chief, and members of his or her staff, shall have the right to enter upon any premises for which a shooting range license is sought when the business is open for the purpose of making such an inspection of areas open to the public, or other areas with consent, and shall also have the authority to seek warrants where the same are constitutionally required.

§ 224-6. Bonds or insurance.

A.
Each application for a shooting range shall be accompanied by a certificate of liability insurance policy issued by an insurance company authorized to do business in New York State and shall be in full force and effect in the amount of $1,000,000 for bodily injury to any one person; in the amount of $1,000,000 for bodily injury to more than one person which were sustained in the same accident; and in the amount of $1,000,000 for property damage resulting from one accident.

B.
Each liability insurance policy shall contain a clause obligating the insurer to give the City Clerk, by certified mail, at least 10 days' written notification before the cancellation or termination of such insurance by other than the expiration of the original term of the policy. Upon termination of any such policy of insurance or expiration of such policy without renewing it, however caused, the license of the shooting range in connection with which it was furnished shall immediately be suspended, and such suspension shall continue until the required insurance policy has been restored.

§ 224-7. Issuance of shooting range license.

A.
All new applications for a shooting range license, as of the effective date of this chapter, shall be issued or denied within 30 days after a fully completed application has been accepted and an inspection has found the premises to be code compliant.

B.
The owner, operator and employees of any shooting range business shall be of good moral character and shall maintain good order on the business premises at all times.

C.
Except as provided in New York Correction Law, Article 23-A, the Chief of Police reserves the right to deny a shooting range license to any person who has pled guilty to or has been convicted of any crime which is related to the operation of the business.

D.
No shooting range license shall be issued unless the applicant and business have fully complied with the provisions of this chapter and have obtained all necessary licenses and permits for the operation. No shooting range license shall be issued to a premises while charges are pending pursuant to the Code of the City of Kingston against the premises or owner or operator.

E.
No shooting range license shall be issued unless the business premises is in compliance with the Code of the City of Kingston.

F.
No shooting range license shall be issued to any business or applicant against whom judgment has been rendered by the Municipal Code Violations Bureau relating to the business or business premises, which judgment has not been satisfied.

G.
No shooting range license shall be issued for a period of one year after the applicant has been found guilty of operating a business without a shooting range license.

H.
No shooting range license shall be issued unless the applicant can demonstrate compliance with § 40 of the New York State Civil Rights Law.

I.
It shall be the duty of all holders of a shooting range license to notify the Chief of Police of any changes in information supplied on their license applications within 20 days of such changes.

§ 224-8. Fee.

The annual fee for a license to conduct or operate a shooting range shall be $500. Payment of the fee shall be due upon application for the license. There shall be a fee of $50 for replacement of a lost license.

§ 224-9. Expiration of license.

All licenses issued under this chapter for a period exceeding 30 days shall expire December 31 after issuance.

§ 224-10. Proper supervision.

A.
There shall be a certified range master, a firearms instructor or a range safety officer on site and actively in control of the shooting range whenever open to the public or the range is in use.

B.
Range masters, firearm instructors or range safety officers shall have been trained by and have a valid current certification from one of the following organizations:
(1)
Firearms instructors: National Rifle Association (NRA), New York State-Division of Criminal Justice Services (NYS-DCJS), International Association of Law Enforcement Firearms Instructors (IALEFI), Smith & Wesson Academy, SIG Arms Academy, any U.S. federal law enforcement agency (FBI, FLETC, ICE, USSS, ATF, USBP), any U.S. military agency (Army, Navy, Marines, Air Force, Coast Guard, National Guard).

(2)
Range safety officers: National Rifle Association (NRA), International Defensive Pistol Association (IDPA), International Practical Shooting Association (IPSC), United States Practical Shooting Association (USPSA).

(3)

Range master: SIG Arms Academy, Smith & Wesson Academy, Action Target Academy, any U.S. military agency and any federal law enforcement agency.

C.
Range masters, firearm instructors or range safety officers shall also:
(1)
Be a person of good moral character and be at least 21 years of age.

(2)
Not have ever been convicted of any felony involving violence or intimidation, or the use of firearms or any offense related to the use, control, possession or sale of firearms within 10 years of the date of application.

(3)
Not be a person prohibited from possessing firearms as provided by Article 265 of the New York State Penal Law.

D.
There shall be at least one range master, firearms instructor or range safety officer for every five shooters.

E.
Duties of a range master, firearms instructor or range safety officer who is in charge of the range should include, but shall not be limited to, the following:
(1)
Has responsibility for the coordination, organization, direction and supervision of range activities and personnel;

(2)
Conducts firearms training activities;

(3)
Ensures the overall safety and efficient operation of the ranges;

(4)
Coordinates range schedules;

(5)
Enforces range safety rules and regulations;

(6)
Interacts with local, state and federal authorities as needed;

(7)
Assists in the sighting of firearms and the maintaining of proper firing positions;

(8)
Administers written and shooting proficiency tests;

(9)
Maintains complete records on individual shooters for safety and proficiency;

(10)
Inspects, maintains and repairs firearms as needed;

(11)
Maintains inventory of weapons and ammunition;

(12)

Safely stores and issues firearms and ammunition as needed.

§ 224-11. Operation of shooting ranges.

A.
There shall be furnished a railing not less than 2 1/2 feet from the face of the shooting counter and to extend the full width of the shooting unit and so constructed with gate that no one is admitted to the shooting counter but the shooter and attendant, the gate to swing away from the shooter.

B.
No minors under the age of 16 years shall be permitted to handle or discharge any firearms upon the premises unless they qualify for one of the exemptions set forth in § 265.20 of the New York State Penal Law. Persons under the age of 18 years utilizing the shooting range shall be accompanied and supervised by a parent or legal guardian.

C.
The use of handguns shall not be permitted unless the shooter has a valid New York State pistol permit or falls under one of the exemptions set forth in § 265.20 of the New York State Penal Law.

D.
All doors, gates and entrances leading into that part of the premises between the firing point and the backstop shall be securely locked and alarmed, and no person shall be permitted therein at any time persons are engaged in shooting or have access to the firearms used. Attendants and employees may, however, enter said part of the premises between the firing point and the backstop while shooting is not in progress.

E.
No new shooting range shall be located nearer than 1,000 feet from any entrance to any school, church, hospital, other youth recreational facility, or in any location which, in the opinion of the Chief of Police, will result in the annoyance of any nearby resident.

F.
All rented firearms shall be maintained in a safe, operational condition per initial manufacturer's specifications.

G.
A semimonthly test must be made of all firearms rented and a certificate obtained from a New York State licensed gunsmith as to accuracy and operational safety of the guns. Certificates shall be maintained for three years and available for inspection by any member of the Kingston Police Department.

H.
The ammunition used shall be smokeless. No black powder firearms shall be permitted.

I.
Such shooting range, as is licensed under this chapter, shall be open only between the hours of 9:00 a.m. and 11:00 p.m.

J.
The shooting range shall be properly and adequately ventilated at all times.

K.
Attendants shall wear a uniform brassard or other distinguishing mark to identify them as employees of the licensee.

L.

Before being employed, the fingerprints of all range employees shall be placed on file with the Chief of Police.

M.
No gambling, betting or wagering shall be permitted upon the premises, nor shall any licensee violate any law of the State of New York or ordinance of the City of Kingston in the maintenance and operation of the licensed premises.

N.
In the event that any person presents a handgun without a New York State pistol permit, a handgun that is not listed on the individual's New York State pistol permit, or an unlawful weapon as defined in Article 265 of the New York State Penal Law, at any shooting range, it shall be the duty of the licensee, or his or her employee, agent or servant, to immediately report the incident by calling 911.

O.
Premises used for a shooting range or gallery shall be kept in a clean and sanitary condition.

P.
No smoking shall be allowed within the shooting range or gallery.

Q.
No alcoholic beverages shall be possessed or consumed on the premises, and no person under the influence of alcohol, mind-altering drugs, or controlled substances as defined by Article 220 of the New York State Penal Law shall be allowed on the premises.

R.
No licensee, his or her manager, employees, and/or agents shall permit use of a weapon or ammunition whose penetration capabilities exceed the capabilities of the backstop to contain the bullets or particles of bullets as prescribed by the certified design professional in the report submitted in support of the license application.

§ 224-12. Ballistic security.

A professionally designed and commercially fabricated bullet trap and/or backstop shall be installed in all shooting areas which is constructed in a manner approved by the Chief of Police. It shall be constructed of forged steel or other material capable of stopping the flight of any bullet and preventing penetration. Provisions shall be made to stop glancing or stray bullets or particles of bullets at the sides of the target area.

§ 224-13. Presence of bystanders.

Persons not shooting or coaching shooters shall not be permitted within the immediate area of the shooting range or gallery unless a secure and separate viewing area is constructed pursuant to a building permit using plans certified by a licensed design professional.

§ 224-14. Storage and transportation of firearms.

All firearms shall be stored and/or transported in an unloaded condition and in a secured case, holster, cabinet or vault and in compliance with state and local laws.

§ 224-15. Access under continuous control.

Access for entrance to the shooting range shall be under continuous control, monitoring and supervision by the licensee, agents and/or employees. No person shall be allowed to enter the shooting range without authorization and permission of the licensee, authorized agent or employee.

§ 224-16. Premises security.

The parking lot of a shooting range shall be well lit and monitored by a New York State licensed security guard at all times that the range is open.

§ 224-17. Ammunition and weapons prohibited.

A.
No person shall use or permit to be used any armor piercing or other ammunition designed for penetrating metal, or tracers, incendiary, gas or explosive ammunition within any shooting range governed hereunder.

B.
No person shall use or permit to be used any fully automatic weapons within any shooting range governed hereunder.

C.
Pursuant to Article 265 of the New York State Penal Law, only New York State pistol permit holders are permitted to shoot handguns at the shooting range unless the shooter falls under one of the exemptions set forth in § 265.20 of the New York State Penal Law.

§ 224-18. Reporting requirements.

All negligent discharges that cause damage to any article of the range or any injury caused by the discharge of a firearm to any person will be reported immediately to the Kingston Police Department by calling 911.

§ 224-19. Recordkeeping responsibilities.

Every shooting range licensee shall keep a substantially bound book, not less than six inches in either length or width, in which shall be legibly written in ink and in English at the time any individual requests to shoot at the range and shall document the date and time and describe the name, age, residence, general description and signature of the person requesting to shoot, a description of the weapon, including make and serial number of the weapon to be fired, and shall make a photocopy of the person's identification card along with his or hers New York State firearms permit if firing with a handgun, and also, in the case of a minor shooting under one of the exceptions under § 265.20, a photocopy of the supervising adult's, the accompanying parent's or legal guardian's identification. All such record books shall be open to inspection by any member of the Kingston Police Department during hours of operations stated on the license application. No entry in such book shall be erased, obliterated, altered or defaced, and such book shall be maintained for a period of three years from the date of the entry.

§ 224-20. Shooter to provide true name.

An individual who shoots or is supervising a minor at the range shall give to the range employees his or her true name, age and home address, which shall be verified by a New York State driver's license, New York State non-driver's identification card, police identification card or other means of identification approved by the Chief of Police.

§ 224-21. Proper disposal of waste.

All waste material generated at the range will be managed and timely disposed of in accordance with all federal and state hazardous waste regulations.

§ 224-22. Compliance with applicable laws.

The conduct and operation of any shooting range shall be in compliance with any and all federal, state and/or local laws, rules, codes and/or regulations.

§ 224-23. Promulgation of rules and regulations.

The Chief of Police shall, consistent with the express standards, purposes and intent of this chapter, promulgate, adopt and issue such interpretations, procedural rules, regulations and forms as are in the Chief of Police's opinion necessary to effective administration and enforcement of the provisions of this chapter. These interpretations, rules, regulations and forms shall be available to the public at the City Clerk's Office. Such rules, regulations and forms shall be effective upon filing with the City Clerk as a communication to the City Council.

§ 224-24. Transfer of business permit.

A.
Shooting range licenses shall not be transferred. In the event of any change involving the owner or operator of the business, the type of business, the name of the business or the business location, a new shooting range license shall be required. A shooting range license shall not be transferred to any person who holds power of attorney.

B.
A shooting range license shall be deemed null and void when the licensee is not found operating the business for a period of one month and fails to respond in person to the Chief of Police, or his or her designee, after having been sent a seven-day notification letter.

§ 224-25. Denial of license.

A.
The Chief of Police may deny a license or deny the renewal of a license to any applicant who does not comply with the provisions of this chapter or any rule or regulation promulgated under this chapter or who makes a material misrepresentation on the license application. The Chief of Police shall give a written notification to an applicant of the reasons for the denial of a license.

B.
The denial of any application for a license, the denial of a renewal, or the revocation of a license by the chief of police can be appealed to the Mayor of the City of Kingston within ten days of said decision by the Chief of Police. The Mayor will then make a determination on the appeal within thirty days.

C.
When the investigation conducted reveals that the applicant has violated either federal, state or local laws or rules and regulations, the Chief of Police may authorize the issuance of a conditional certificate. The conditional certificate shall state the grounds for the conditional certificate, the conditions under which the applicant shall operate his or her business, be signed by the applicant, and contain a provision which provides that any violation of the conditional certificate, as solely

determined by the City of Kingston, shall be deemed to be grounds for revoking the conditional certificate.

D.
The Chief of Police shall have the power to investigate and inquire into license applicants under this chapter and to require and enforce by subpoena the attendance of witnesses at such investigations.

§ 224-26. Revocation or suspension of license.

A.
The Chief of Police and/or the Chief of the Fire Department shall revoke any license issued hereunder if the licensee has, since the granting of the same:

(1)
Ceased to possess the qualifications required for an applicant for a license as set out herein.

(2)
Been convicted of violating any of the provisions of this chapter.

(3)
Conducted the business in violation of health, sanitary or safety regulations or other ordinances of the City.

(4)
The Chief of Police shall revoke, without a hearing, the license of any person found guilty of five or more violations of this chapter during any period of two years. Nothing herein shall prevent the Chief of Police from revoking a license of any person with fewer than five violations, on written charges and an opportunity for a hearing thereon.

§ 224-27. Additional regulations; penalties for offenses.

A.
Violations of this chapter may be referred to the Building Safety Division of the Kingston Fire Department or the Zoning Enforcement Officer, wherein violators shall be subject to the penalties set forth in the City of Kingston Code.

§ 224-28. Severability.

Should any section, paragraph, sentence, clause or phrase in this chapter be declared unconstitutional or invalid for any reason, the remainder of the chapter shall not be affected thereby and shall remain in full force and effect, and to this end, the provisions of this chapter are declared to be severable.