

LOCAL LAW 2 OF 2024 OF THE COMMON COUNCIL OF THE CITY OF KINGSTON, NEW YORK, AMENDING SECTION 277 – HOTELS, MOTELS, BED AND BREAKFASTS, BOARDING HOUSES AND OTHER TRANSIENT LODGING OF THE CODE OF THE CITY OF KINGSTON

Sponsored By: Laws & Rules Committee: Alderman:
Hirsch, Scott-Childress, Pasti, Mickens,
Dennison

WHEREAS, Section 277 of the Code of the City of Kingston addresses hotels, motels, bed and breakfasts, boarding houses and other transient lodging; and

WHEREAS, request has been made to amend Section 277 of the Code of the City of Kingston; and

WHEREAS, the amendment of Section 277 of the Code is in the best interests of the City of Kingston.

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 authorizes the amendment of Section 277 to read as attached hereto.

SECTION 2. If any provisions of this local law are held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, the remaining provisions of the local law shall remain in effect.

SECTION 3. This local law shall take effect upon filing with the Secretary of State.

Submitted to the Mayor this ____ day of _____, 2024

Approved by the Mayor this ____ day of _____, 2024

Elisa Tinti, City Clerk

Steven T. Noble, Mayor

Adopted by Council on _____, 2024

THE CITY OF KINGSTON COMMON COUNCIL

**LAWS & RULES
COMMITTEE REPORT**

DEPARTMENT: _____

DATE: 1/23/24

Description:

A RESOLUTION TO ADOPT AMMENDMENTS
TO CHAPTER 277 OF THE CITY OF KINGSTON
ADMINISTRATIVE CODE. SEE ATTACHED.

Signature _____

Motion by RSC

Seconded by BD

Action Required: _____





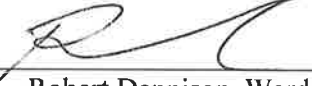
SEQRA Decision:
Type I Action _____
Type II Action _____
Unlisted Action _____

Negative Declaration of Environmental Significance: _____

Conditioned Negative Declaration: _____

Seek Lead Agency Status: _____

Positive Declaration of Environmental Significance: _____

<u>Committee Vote</u>	<u>YES</u>	<u>NO</u>
 Michele Hirsch, Chairman, Ward 9	✓	
 Reynolds Scott Childress, Ward 3	✓	
 Sara Pasti, Ward 1	✓	
 Teryl Mickens, Ward 5	✓	
 Robert Dennison, Ward 6	✓	

Chapter 277

Hotels, Motels, Bed-and-Breakfasts, Boardinghouses, and other Transient Lodging

[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, Bed-and-Breakfast, Boardinghouse, or any building used in the business of renting out to transient uses.

§ 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 owner 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. ~~over~~
- 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 Clerk requesting relief from the requirement to gain a license before allowing occupancy of said facility except that any operator of a short-term rental as defined by Chapter 405 that has received a valid operating permit from the Building Inspector/Code Enforcement Officer shall be exempt from the license requirement set forth in this Chapter. 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.
- C. Applications under this section are required for all facilities in existence at or prior to the adoption/amendment of this chapter by the City of Kingston, as well as all facilities that arise any time thereafter. **[Amended 7-13-2021 by Res. No. 140-2021, approved 7-15-2021]**
- (1) Presentation of proof of payment of occupancy taxes pursuant to Ulster County Code § 312-7 shall be presumptive evidence that a facility has been in existence prior to the effective date of this subsection. ~~upon payment of the applicable fee and after completion of an inspection by the Building Department to determine compliance with state building codes.~~
- (2) There shall be a fee for the initial issuance of a license and for the renewal of a license in an amount as set forth in the fee schedule to be established by resolution of the Common Council of this City.

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, owner or operator occupied 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. A rooming house or a furnished room house shall be deemed a "boardinghouse." A boardinghouse may function as both transient and transitional housing, subject to approval by the Zoning Board of Appeals and/or Planning Board.

HOTELS, MOTELS, AND OTHER TRANSIENT LODGING

A building or portion of it which is regularly used and kept open for lodging of transient guests on an overnight basis. For purposes of this Chapter, the term "hotel" or "motel" includes short-term rentals, an apartment hotel, motor court or inn, "tourist cabins," boardinghouse or club, or similar hotel- or motel-type of accommodations by whatever name designated, whether or not meals are served."

[Amended 3-2-2021, approved 3-3-2021]

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.

§ 277-14 Procedure for closing of noncompliant structures.

- A. When the Chief of Police believes that a structure has been or is being used or maintained in violation of this Chapter, , the City of Kingston. 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.
- B. In cases brought pursuant to § 277-17, the Chief of Police may commence proceedings to cause the closure of the structure in Kingston City Court:
- (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. Thereafter, City's Corporation Counsel may 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 may 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

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.