

LOCAL LAW FILING

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Division of Corporations, State Records  
and Uniform Commercial Code  
One Commerce Plaza, 99 Washington  
Street, Albany, NY 12231.

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(Use this form to file a local law with the Secretary of State)

TOWN OF HERKIMER  
LOCAL LAW NO. 1 OF 2024  
VEHICLE AND TRAFFIC LAW OF THE TOWN OF HERKIMER  
PARKING ORDINANCE

BE IT ENACTED by the Herkimer Town Board as follows:

**SECTION 1: PURPOSE**

The purpose of this Local Law is to protect the public health, safety, comfort, convenience and welfare of the residents of the Town of Herkimer by prohibiting parking and standing of vehicles in certain defined roads or highways because such parking and standing will obstruct or interfere with the use of such highway, and/or obstruct or interfere with the clearing or removal snow and/or ice from such highway or which obstructs or interferes with any operation of the Town Highway Department during a public emergency. This law will rescind and replace Local Law No. 1 of 2000, a local law Prohibiting Parking on Certain Roads in the Town of Herkimer

**SECTION 2: TITLE**

The title of this Law shall be "VEHICLE AND TRAFFIC LAW OF THE TOWN OF HERKIMER – PARKING ORDINANCE."

**SECTION 3: APPLICABILITY OF ORDINANCE**

The provisions of this ordinance shall apply except when it is necessary to stop a vehicle to avoid conflict with other traffic or in compliance with the directions of a police officer (or other duly authorized individual) or official traffic control device.

**SECTION 4: MANNER OF PARKING**

Wherever a space shall be marked off on the surface of a street or public parking lot for the parking of an individual vehicle, every vehicle there parked shall be parked within the lines bounding such space.

**SECTION 5: PARKING BETWEEN CURBS AND SIDEWALKS RESTRICTED**

No person shall park any vehicle between the curb and sidewalk on any street in the Town of Herkimer.

**SECTION 6: PARKING PROHIBITED IN GENERAL AREAS**

No person shall park any vehicle in the following areas:

- A. On any street in such a manner as to block any public or private drive, sidewalk or crosswalk.
- B. In any manner which blocks or obstructs the flow of traffic on any street.
- C. On any street for the purpose of advertising a vehicle for sale or for displaying advertising.
- D. On any street for the purpose of storing commercial vehicles without special application and approval of the Highway Superintendent and in no event for a period of time longer in duration than fourteen (14) calendar days.

**SECTION 7: NO PARKING OR STANDING AT ANY TIME**

The parking or standing of vehicles is hereby prohibited at all times in locations determined by the Town Board. Such locations shall contain signs indicating such parking prohibition.

- A. **MAIN ROAD:** Parking and standing shall be prohibited on both sides of the road from the intersection with New York State Route 5 at the westerly end of Main Road to Edgar Street.
- B. **PINE GROVE ROAD:** Parking and standing shall be prohibited on both sides of the road from the southerly end of Pine Grove Road, at its intersection with Main Road to the intersection of said Pine Grove Road with Gros Boulevard.

**SECTION 8: RESTRICTED PARKING DURING CERTAIN HOURS**

No motor vehicle or other vehicle of any kind shall be allowed or permitted to park in the Town of Herkimer for more than two (2) hours between the hours of 7:00 AM and 5:00 PM, Monday through Friday of each week, on the following streets:

- A. West Street
- B. Palisades
- C. East Street
- D. Edgar Street
- E. Grace Avenue
- F. Downey Avenue

G. Clayton Avenue

H. Carney Avenue

#### **SECTION 9: ALL NIGHT PARKING PROHIBITED ON CERTAIN STREETS**

There shall be no all-night parking, from 9:00 PM to 5:00 AM, of any motor vehicles upon the following streets or in the following designated areas:

- A. In the Parking Area overlooking the West Canada Creek and located along New York State Highway 28
- B. In the Town Park for the Town of Herkimer located at 160 Pine Grove Road
- C. Seasonally on all roadways within the Town of Herkimer as set forth below under Section 10

#### **SECTION 10: REMOVAL OF STALLED VEHICLES; IMPOUNDMENT; DEPOSIT OF SNOW AND ICE**

A. Between November 1 and March 31 of the following year, no person shall park a motor vehicle on any Town highway between the hours of 3:00 AM and 5:00 AM, and no person operating a motor vehicle on a Town highway on which there is a covering of snow, sleet or ice shall allow such vehicle to become stalled, wholly or partly, because the drive wheels thereof are not equipped with effective tire chains or snow tires. No person operating a motor vehicle on Town highways on which there is a covering of snow, sleet or ice or on which there is a parking prohibition in effect shall park or allow such vehicle to become stalled because the motor fuel supply is exhausted or the battery has become inoperative.

B. Whenever a vehicle becomes stalled for any reason, whether or not in violation of this section, the person operating such vehicle shall take immediate action to have the vehicle towed or pushed off the roadway. No person shall abandon or leave this vehicle in the roadway of a Town highway (regardless of whether he indicates, by raising the hood or otherwise, that the vehicle is stalled) except for the purpose of securing assistance during the actual time necessary to go to a nearby telephone or to a nearby garage, gasoline station or other place of assistance and return without delay.

C. Removal, impounding and return of vehicles.

- (1) Members of any local law enforcement department, the Town Code Enforcement Officer, and Town Highway Superintendent are hereby authorized to remove or have removed a vehicle from a street to the nearest garage or other place of safety, including another place on a street, or to a garage designated or maintained by the Town Board or otherwise maintained by this Town when the vehicle is stalled on a

Town highway and the person who was operating such vehicle does not appear to be removing it in accordance with the provisions of this section.

- (2) Whenever an officer removes or has removed a vehicle from the street, as authorized in this section, and the officer knows or is able to ascertain from the registration records in the vehicle the name and address of the owner thereof, such officer shall immediately give notice, in writing, to such owner of the fact of such removal and the reasons therefor and the place to which such vehicle has been removed. In the event any such vehicle is stored in a public garage, a copy of such notice shall be given to the proprietor of such garage.
- (3) Whenever an officer removes or has removed a vehicle from a street under this section and does not know and is not able to ascertain the name of the owner or for any other reason is unable to give notice to the owner as hereinbefore provided and in the event that the vehicle is not returned to the owner within a period of three days, then and in that event, the officer shall immediately send or cause to be sent a written report of such removal by mail to the state department whose duty it is to register motor vehicles and shall file a copy of such notice with the proprietor of any public garage in which the vehicle may be stored. Such notice shall include a complete description of the vehicle, the date, time and place from which removed, the reasons for such removal and the name of the garage or place where the vehicle is stored.
- (4) No person shall recover any vehicle removed in accordance with this section except as provided herein. Before the owner or person in charge of such vehicle shall be allowed to recover it from the place where it has been placed or impounded, he shall present to a member of the local law enforcement agency responsible for having such vehicle impounded evidence of his identity and right to possession of the vehicle, shall sign a receipt for its return, shall pay the costs of removal and shall pay any cost of storage accrued. Until paid, these charges constitute a lien on the vehicle which may be enforced in the same manner as a garage keeper's lien.
- (5) It shall be the duty of the local law enforcement agency to keep a record of each vehicle removed in accordance with this section. The record shall include a description of the vehicle, its license number, the date and time of its removal, where it was removed from, its location, the name and address of its owner and last operator, if known, its final disposition and the violation involved.
- (6) This section shall be supplemental to any other provisions of law granting police officers authority to remove vehicles.

D. No person, partnership, corporation, joint-stock company or syndicate shall deposit, or cause to be deposited, any snow and ice on or against a fire hydrant or on any way which has been

cleared or plowed of snow or ice, it being expressly provided that until such snow clearance or plowing of the roadway, property owners may deposit accumulations of snow and ice from their sidewalks at curblines, incident to the cleaning of sidewalks. Nothing herein contained shall permit any commercial establishment or person or persons to gather accumulations of snow or ice from parking grounds or parking areas owned by them and/or in their control and to deposit the same in the public streets at any time.

#### **SECTION 11: PENALTIES FOR OFFENSES**

Penalties for offenses. Every person convicted of a violation of any provision of this section which is not a violation of any provision of the Vehicle and Traffic Law of the State of New York shall, for a first conviction thereof, be punished by a fine of \$25; for a second such conviction within 18 months thereafter, such person shall be punished by a fine of \$50; upon a third or subsequent conviction within 18 months after the first conviction, such person shall be punished by a fine of \$150.

#### **SECTION 12: SPECIAL PROVISIONS FOR FIRE LANES; PENALTIES FOR OFFENSES**

A. No person shall stop, stand or park a vehicle in any designated fire lane except when necessary to avoid conflict with other traffic or pedestrians or in compliance with the directions of a police officer or other duly authorized individual.

B. The local law enforcement officials are authorized and directed to remove any vehicle parked, abandoned or found unattended in a designated fire lane where it constitutes an obstruction to traffic or any place where stopping, standing or parking is prohibited under this section.

C. The violation of this section, adopted pursuant to §§ 1660 and 1660-a of the Vehicle and Traffic Law of the State of New York, shall constitute a traffic infraction within the meaning of § 1800 of the Vehicle and Traffic Law of the State of New York.

D. Every person convicted of a traffic infraction for a violation of any of the above provisions of this section, adopted pursuant to §§ 1660 and 1660-a of the Vehicle and Traffic Law of the State of New York, shall, for the first conviction thereof, be punishable by fine not to exceed \$50; and for a second or a subsequent conviction shall be punishable by a fine not to exceed \$100. These fines may be recovered by the Town of Southeast in a civil action.

E. Any expenses incurred for the enforcement of this section, such as painting, posting, etc., will be borne by the property owner and not the Town of Herkimer.

#### **SECTION 13: REPEALER**

This Local Law shall supersede all prior Local Laws, Ordinances, Rules and Regulations relative to the

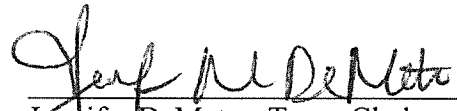
parking of motor vehicles within the Town of Herkimer, and they shall be, upon the effective date of this Local Law, null and void.

**SECTION 14: EFFECTIVE DATE**

This Local Law shall be effective immediately upon filing with the Secretary of State.

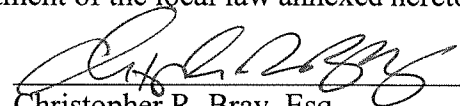
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1. I hereby certify that the local law annexed hereto, designated as Local Law No. 1 of 2024 of the Town of Herkimer, was duly passed by the Town Board on February 19, 2024 in accordance with the applicable provisions of law.
  2. I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1 above.

(SEAL)

  
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Jennifer DeMetro, Town Clerk  
Dated: 2/19/2024

STATE OF NEW YORK  
COUNTY OF HERKIMER

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

  
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Christopher R. Bray, Esq.  
Town Attorney  
Town of Herkimer  
Dated: 2/19/2024