

LOCAL LAW FILING

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

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

TOWN OF HERKIMER
LOCAL LAW NO. 8 OF 2019
SPECIAL EVENTS LAW OF THE TOWN OF HERKIMER

BE IT ENACTED by the Herkimer Town Board as follows:

§1. Title

This Local Law may be cited as the “Special Events Law of the Town of Herkimer.”

§2. Purpose

The purpose of this law is to secure and protect the beneficial interests which includes the public safety, health, general welfare through structural strength, stability, sanitation, water, food and beverage services, safety of life and property from fire, chemical and other hazards incidental to the congregation of persons at special events with this Town.

Also to address police protection, flow of traffic on public highways, noise, injury to persons and property, both public and private, adjoining the location of such special events, medical and nursing coverage, ambulance and other emergency vehicles and personal, parking, waste and trash disposal, security, communications, insurance and bonds and other demands beyond the capacity of the existing municipal services and facilities of the Town of Herkimer.

§3. Area of Applicability:

This Local Law shall apply to:

- A. Outdoor musical concerts, festivals, fairs, conventions, carnivals or religious gatherings which can expect to have five hundred (500) or more people at one time.
- B. Events which require the use of temporary structures including tents, stages, groups of tents and bleachers, scaffolding, platforms and/or grandstands.
- C. Other outdoor places of public assembly for the gathering together of persons for commercial, civic or social functions or recreation or for food or drink consumption and can expect five hundred (500) or more persons.
- D. Sporting events expecting over three thousand (3,000) people.
- E. Any event using mechanical amusement rides.
- F. EXCEPTION: this Local Law shall not apply to places of personal residence nor to a permanent facility specifically approved and permitted for the proposed activity.

§4. Permit Required:

- A. No person, persons, agent, partnership, association or corporation or any combination thereof shall organize, promote, conduct, operate or cause to be operated a Special Event, as defined, without first obtaining a permit issued by the Town of Herkimer.
- B. Such owner, promoter, agent or individual who desires to sponsor a Special Event must submit a full and complete application to the Codes Enforcement Officer of the Town of Herkimer at least sixty (60) days prior to the scheduled start of the proposed event.
- C. The Town of Herkimer Codes Enforcement Officer will review the application and inform the promoter/agent of any incomplete items within fourteen (14) working days. The Town of Herkimer Codes Enforcement Officer shall either approve or deny the application or may approve with conditions or restrictions within twenty-one (21) working days.
- D. The permit must be on display at the side in a conspicuous location for the duration of the event.

§5. Application Fee:

A non-refundable application fee shall be required for each special event to be set forth in the Annual Fee Schedule established by the Town Board of the Town of Herkimer.

An application fee may be waived for a not-for-profit organization or for an event which is solely sponsored and operated by, or in which the entire proceeds accrue to, an entity which is exempt from Federal Income Tax under section 501(c)(3) of the Internal Revenue Code of 1986.

§6. Duration of Permit

All permits shall be valid for the duration of the single event but in no case will it be valid for more than thirty (30) days from date of issue.

§7. Duration of Permit

The Town may grant an extension of a permit provided the sponsor submits a request for this extension in writing.

§8. Information Required on Application

1. All applications must be written and contain the name, address (both business and residence) of the sponsor or sponsors, partner or partners, group or if a corporation, its name and address and that of the directors, president and officers. An address must not be a post office box but must be an actual residence or business address with a valid telephone number and a responsible person named as a contact.
2. Name and address of the owner of record of the real property upon which this special event is to occur along with his or her notarized permission to allow this event.
3. The names, addresses and telephone numbers of the owners of all neighboring and adjoining real property.
4. The proposed dates, days and hours of the event.
Please note that for events using amplified sound the hours of operation shall not begin before 10:00 AM and not extend after 10:00 PM. The Town may approve adjustments to the operating hours upon individual circumstances upon written request for same to the Codes Enforcement Officer for the Town of Herkimer. Said determination of the Codes Enforcement Officer may be appealable to the Town Board of the Town of Herkimer at a regular meeting of the Board. The

appellant must advise the Town Clerk to add the matter to the agenda for the meeting no later than three (3) business days prior to said meeting.

5. Purpose of the event or function, including the nature of the activities to be carried on, admission fees to be charged, names and addresses of all concessionaires and other persons providing services or facilities either by lease, under contractor other arrangements for this event.
6. A diagram of the map of the proposed event site showing:
 - a. Size of the property
 - b. Location of all buildings on the site and location of the event attraction, audience, and of all new construction stages, etc.
 - c. Locations of hand-washing and toilet facilities, garbage, trash and refuse collection areas.
 - d. Drinking water availability and sites.
 - e. Emergency/medical area.
 - f. Detailed parking diagram showing ingress and exits along with property capacity.
 - g. Location of all service roads, fire lanes, emergency entrances and exits.
7. The following information may also be required:
 - a. A detailed plan showing food and drink preparation, storage, sales and distribution
 - b. A plan to handle trash, garbage and refuse during the event, site clean-up after the event including neighborhood area and adjacent public roads and highways, signs and ads removal.
 - c. Event security and communications plan including crowd control, number of persons to be employed (see special note)
 - d. A plan for fire, medical and other emergency vehicles and personal vehicles (see special note)
 - e. The maximum number of people attending the event either by paid admissions or badge must be set, published, and not exceeded. Admission tickets must be numbered.

§9. Town of Herkimer Requirements

1. An authorization from both the real property owners and the event promoter/sponsor to allow agents of the Town of Herkimer, County of Herkimer and State of New York free access onto the property for inspections to determine compliance with this Local Law.
2. A comprehensive general liability insurance policy showing the Town of Herkimer named as an additional insured with a bodily injury limit and property damage limit of \$1,000,000.00 per occurrence / \$2,000,000.00 aggregate, including products. Further a \$3,000,000.00 commercial umbrella liability contract naming the Town of Herkimer as an additional insured will be required.
 - a. Both insurance contracts must be placed through an insurance carrier admitted to do business in New York State with a thirty (30) day prior notice of cancellation clause.
 - b. If the Town of Herkimer is the sponsor of a Special Event as defined in this local law, the Town of Herkimer shall contact its insurance agent to add the Special Event to the Town's insurance policy.
3. In addition to the insurance coverage provided for in this Section, Applicant shall hold harmless and indemnify the Town of Herkimer and its agents, to the fullest extent permitted under applicable law, but also subject to the limits of applicable federal law and regulation, against all expenses and liabilities reasonably incurred by Applicant in connection with or arising out of any

action, suit or proceeding in which he or she may be involved by reason of his or her having been granted a Permit hereunder, such expenses and liabilities to include, but not be limited to, judgments, court costs and attorneys' fees and the cost of reasonable settlements.

4. Deposit with the Town Clerk, Town of Herkimer, either in cash or an admitted surety company bond approved by the Town Board a sum of \$100,000.00, such amount being a guarantee that all provisions of the permit be met, that all refuse, litter garbage be removed in proper containers and recyclable litter be packaged and handled by qualified persons or carriers, that such cash or bond serve as an indemnity to save and protect the streets, pavements, bridges, road signs and other property of the Town from any and all damages caused as a direct result by this event. Further, it shall be used, if necessary, to restore the grounds of the event to a sanitary condition and pay all charges to repair streets, pavement, bridges or other Town property and/or to reimburse the Town for any expense necessitated by the event.
 - a. This cash or bond may also be used to reimburse the State of New York, Herkimer County agencies and/or the Village of Herkimer for monies spent for overtime, extra time or additional police and/or fire protection necessitated by and assigned to this event or even if these expenses are wholly within their own jurisdiction but deemed necessary for the health and safety of their people because of the event.
 - b. This bond shall be canceled or the cash deposit or its balance returned when the Town Board determines that no damage has occurred and that the Town did not incur additional costs and that all costs of the event have been paid by the sponsor/promoter.
5. A minimum of four (4) paid security/law enforcement officers to monitor crowd control shall be provided for every anticipated one thousand (1,000) persons in attendance and a signed contract with an acceptable security/law enforcement agency shall be provided to the Town. The New York State Police or the Herkimer County Sheriff may reduce or add to this number, as that agency may deem necessary.
6. The Fire Commissioners of the Town of Herkimer shall be consulted to approve fire and life safety plans.
7. The Health Officer of the Town of Herkimer shall be consulted to approve medical, health and emergency plans.

§10. General Guidelines:

1. All regulations of the New York State Department of Health, particularly Chapter I. Title 10 of New York Codes, Rules and Regulations, Section 7.40 of the New York Sanitary Code must be followed.
2. A minimum of ten (10) toilet facilities shall be provided to serve five hundred (500) people with an additional two (2) toilet facilities for each additional two hundred fifty (250) people expected.
Federal ADA require 5 percent of the total number or not less than one toilet facility per cluster to be accessible to guests with disabilities.
3. All tents and temporary structures must be in compliance with Standard Building Codes, Standard Fire Prevention Codes and meet State and Local Codes.
4. All electrical wiring/hook-ups must be in compliance with the National Electric Code as well as State and Local Codes.
5. All rules and regulations established by the New York State Department of Environmental Conservation (NYSDEC) must be strictly adhered to.

§11. Inspection Required: Re-Inspection Fee

Prior to opening of the event, the sponsor shall call the Codes Enforcement Officer for a timely inspection to assure compliance with all permitting conditions.

If a Town Official, Town Codes Enforcement Officer, Town Fire Commissioners or their designee find violations, the sponsor will be notified of corrections required and a re-inspection for these corrections will be made at no cost.

- a. If extra inspections are required due to improper, ignored or inadequate corrections or late changes to the grounds, structures, or other reasons, an additional fee of \$75.00 will be required and the event permit revoked until paid.

§12. Denial of Permit:

A permit shall not be granted by the Codes Enforcement Officer if any of the information set forth in the application is determined to be insufficient to safeguard the safety, health, welfare and well-being of persons or property or if the information does not comply with the requirements of this Local Law.

The determination of the Codes Enforcement Officer may be appealable to the Town Board of the Town of Herkimer at a regular meeting of the Board. The appellant must advise the Town Clerk to add the matter to the agenda for the meeting no later than three (3) business days prior to said meeting.

§13. Non Compliance With Issued Permit

A permit issued hereunder shall be revoked if the Town Board determines that items required to obtain a permit are not adhered to and accomplished within the required time limits, or if any insurance or bonds shall be terminated prior to the completion of the event. Upon revocation, all activities associated with this event shall be immediately terminated.

§14. Waivers

The Town of Herkimer reserves the right to and in its sole discretion may waive, alter, add to, delete, vary, modify or amend any of the requirements set forth above.

Although the Village of Herkimer is completely within the Town of Herkimer, this document may not be binding on any event held totally within the Village of Herkimer limits, under Village of Herkimer control and its laws.

§15. Enforcement and Penalties

1. Any person, persons, partnership, association, corporation, sponsor, landowner, lessee or licensee who violates this Local Law shall be deemed guilty of a misdemeanor and if convicted, shall be subject to a fine not to exceed \$1,000 per person or not to exceed \$3,000 if a corporation or partnership and/or shall be imprisoned for not more than twelve (12) months.
2. The Town Board may also seek civil injunctions to prohibit violations or to compel compliance to this ordinance and nothing provided herein shall be deemed or construed to limit the authority or ability of the Town to seek such action.

§16. No endorsement by Town.

The granting of permission by the Town and/or the use of Town-owned property or facilities by any Person shall in no way be considered an endorsement or any expression of support, of disagreement or of any position or opinion of the Town whatsoever with respect to the activities, policies, opinions, positions, precepts or other aspects of the Person organizing, sponsoring, holding or participating in a Special Event, and no Person associated in any way with such event is authorized to or shall make any public statements or representations concerning the Town concerning same.

§17. Conflict with other laws.

When the requirements or restrictions imposed by this Local Law conflict with the requirements or restrictions imposed by other laws, ordinances, codes, rules or regulations, the greater requirement or restriction, respectively, shall prevail.

§18. Severability

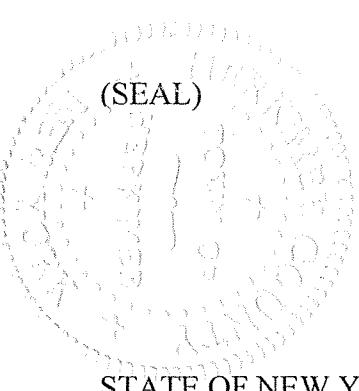
Should any provision of this Local Law be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of this Local Law as a whole or any part thereof other than the part so decided to be unconstitutional or invalid.

§19. Effective Date

This Local Law shall be effective upon its filing with the Secretary of State in accordance with the Municipal Home Rule Law.

1. I hereby certify that the local law annexed hereto, designated as Local Law No. 8 of 2019 of the Town of Herkimer, was duly passed by the Town Board on December 9, 2019 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)



Jennifer DeMetro
Jennifer DeMetro, Town Clerk
Dated: 12/10/2019

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.

Christopher R. Bray
Christopher R. Bray, Esq.
Town Attorney
Town of Herkimer
Dated: 12/10/19