

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. 1 of the year 2019

Section 1: Definitions:

1.1 Town of Herkimer Water Commission: The Water Commission for the Town of Herkimer is the Town Board of the Town of Herkimer. The Water Commission governs all water districts of the Town of Herkimer and may be referred to as the Water Board this document.

1.2 Town of Herkimer Water Commissioner: The Water Commissioner of the Town of Herkimer is the Supervisor of the Town of Herkimer and may be referred to as the Commissioner in this document.

1.3 Town of Herkimer Water Superintendent: The Town of Herkimer Water Superintendent is an appointment by the Town of Herkimer Board of Water Commissioners and may be referred to as the Superintendent in this document. This appointment is for two calendar years.

1.4 Town of Herkimer Water Clerk: The Town of Herkimer Water Clerk is an appointment by the Town of Herkimer Board of water Commissioners and may be referred to as the Water Clerk in this document. This appointment is for one calendar year.

1.5 Commercial User: Commercial User refers to users that require a meter size of one inch or greater, and/or owners of a multi-dwelling building, and/or the user or tenant is a commercial entity

1.6 Residential User: Residential User refers to users that have a meter size that is less than one inch and does not meet any of the commercial user criteria outlined at 1.5.

Section 2: Application for Water Services:

2.1 Town of Herkimer Water Districts do not undertake (and are not required by law) to furnish and supply water to any customers or consumers, within said districts, except to owners and occupants of property lying along or fronting on roads and highways, that have been duly accepted and opened as public streets, by the Town Board of the Town of Herkimer, New York.

2.2 Written request for water service and payment for service hook-up must be made to the Water Clerk of the Town of Herkimer by the property owner or his/hers authorized agent.

Section 3: Liability for Water Service:

3.1 All bills, whether for use of water or repairs to water service, are a charge against the owner of the premises of property where water is used, and said bills will be rendered to the owner or occupant of said premises.

3.2 All bills for the use of water become due and payable and are a lien on the premises where the water is used as soon as charged on the books of each individual water district. The burden is on the owner and consumer to keep track of all unpaid water bills. Failure to receive bills for said water service or repairs, does not relieve the owner and/or consumer from liability to pay.

3.3 That the owner of the property where water Service is rendered will, on their Town and County tax bill, be levied after a minimum of three (3) unpaid billing periods to include a 10% penalty in addition to the 20% penalty added to the water bill after each individual billing period due date. Lien is by resolution of the Town Board. Water customers have 30 days to pay on their water accounts before a penalty is imposed. The Town of Herkimer Water Clerk will notify both the owner and tenant if the account is being considered for lien.

3.4 All water district customers pay their water bills to the Town of Herkimer Water Clerk at the Town of Herkimer Offices located at 114 North Prospect Street, Herkimer, New York.

Section 4: Service Location:

4.1 The Town of Herkimer Water Superintendent reserves the right to designate the location of the water service pipe and appurtenances for the property to be served, and the location for its meters. Upon receipt of written request made by the property owner or his/her authorized agent, the Town of Herkimer Water Commissioner will designate the same.

Section 5: Service Connection Work:

The placing of the service pipe from the curb box to the premises and appurtenance supplying water to premises shall be done to the satisfaction and approval of the Town of Herkimer Water Superintendent.

Section 6: Service Pipes and Fixtures:

6.1 All service pipes and appurtenances shall be subject to the approval of and installed under the supervision of the Town of Herkimer Water Superintendent.

6.2 The water service extending from the curb box to the consumer's property is installed at the expense of and owned and maintained by the property owner and shall consist of $\frac{3}{4}$ inch Type K copper pipe from the curb stop to the house with a fitting that will accommodate the water meter installed in the cellar and No. 6 neoprene insulated copper wire from the curb stop to the cellar connected to the copper wire at the curb stop with a connector and the connection insulated with rubber tape, the service to be tested for leaks in the presence of the Water Superintendent of the Town of Herkimer before being back filled.

6.3 It is necessary to obtain permission from the Water Superintendent, prior to doing an excavating in the streets and other public places within the water district limits, and to do so conduct the work as to conform with all Town of Herkimer and Water District regulations.

Section 7: Tapping of Water Main:

7.1 All connections with street mains will be supplied by and made by the water district or its duly authorized agent and cost thereof will be the responsibility of the property owner.

Section 8: Size of Water Services:

8.1 The minimum size copper water pipe serving less than three families shall be at least $\frac{3}{4}$ inches.

8.2 The minimum size copper water pipe serving three families or more shall be at least 1 inch.

Section 9: Curb Stops and Boxes:

9.1 All curb stops and boxes must be preserved by the owner in such a way that they are visible, and in accessible condition, at all times so that work can be easily performed on them.

Section 10: Meters

10.1 Installation of Meters:

10.1.1 Residential Users: Meters will be furnished to Residential Users by the Town of Herkimer Water District and installed by the Town of Herkimer Water District. Said meters remain the property of the Town of Herkimer Water District and the Town of Herkimer Water District reserves the right to remove the same at any time upon discontinuance of water service. Fee for new meter installation for a Residential User shall be set by the Town Board in its Annual Fee Schedule.

10.1.2 Commercial Users: Meters are to be purchased by the Commercial User and installed by the Town of Herkimer Water District or by private contractor. All installation costs are the responsibility for the land owner. Fee for new meter installation for commercial meters performed by the Town of Herkimer Water District shall be set by the Town Board in its Annual Fee Schedule. All meters and installation of such must meet specifications of the Town of Herkimer Water District.

10.2 The property owner will be held liable for all water bills rendered:

10.2.1 From the Time of setting the meter to and including 48 hours (excepting Sundays and Holidays), following receipt at the office of the Water Clerk, or written notice to discontinue such serves, and

10.2.2 As indicated by the meter or estimated by the Water Superintendent or designee from the best available information including, but not limited to, the bill from the last quarter; should the meter be found to incorrectly register the actual consumption.

10.3 Premises and consumers will be supplied with water only through meters and the expense of setting the meters shall be paid for by the owners of the premises. Fees for new meter installation and inspection shall be set by the Town Board in its Annual Fee Schedule.

10.4: Abuse or Fraud:

10.4.1 The Water Commission reserves the right to discontinue its water service to Residential Users and remove its meter at any time, if it should be found necessary to do so for protection against abuse or fraud. Where service has been discontinued the fee for reconnection to the Residential User shall be set by the Town Board in its Annual Fee Schedule.

10.4.2 The Water Commission reserves the right to discontinue its water service to Commercial Users at any time, if it should be found necessary to do so for protection against abuse or fraud. Where service has been discontinued the fee for reconnection to the Commercial User shall be set by the Town Board in its Annual Fee Schedule.

10.5: Damage to Water Meter

10.5.1 The Water Commission will hold the Residential User responsible for any damage to any meter through which he or his premises are served resulting from freezing, hot water, steam or fire in any event of loss by theft. Said Residential User shall also be responsible for any damage to any meter, through which he or his premises are served, caused by his/her negligence or that of his/her tenants or his/her agents or by his/her own failure to properly secure and protect said meters. Failure to pay for such damage shall be sufficient cause for refusal of further water service and removal of the meter. When meter is damaged beyond repair, the Residential User will be required to pay the cost of a new meter as set by the Town Board in its Annual Fee Schedule. Charges for repairs to meters will be actual repair costs.

10.5.2 The Water Commission will hold the Commercial User responsible for any damage to any commercial meter through which the premises are served resulting from freezing, hot water, steam or fire in any event of loss by theft. Said Commercial User shall also be responsible for any damage to any meter, through which the premises are served, caused by Commercial User negligence or that of Commercial User's tenants or Commercial User's agents or by Commercial User's own failure to properly secure and protect said meters. Failure to pay for such damage shall be sufficient cause for refusal of further water service. When meter is damaged beyond repair, the Commercial User will be required to pay the cost of a new meter that meets the specifications of the Town of Herkimer Water District. Charges for repairs to meters by the Town of Herkimer Water District will be actual repair costs.

10.6 Meters will be sealed by the Town of Herkimer Water District and the breaking of meter seals without authority by the Town of Herkimer Water District will be cause for discontinuance of water services and removal of the meter.

10.7 Upon request of the Residential User, a water meter may be removed for testing upon payment of \$100.00 at the office of the Water Clerk. If, upon testing, the meter is found to over register, the said deposit will be returned, a new meter set without charge and should the meter be found to register correctly or under register, the deposit will be retained by the Town of Herkimer Water District to cover the cost of testing, the water service bill be adjusted accordingly by the Water Superintendent.

10.8: Service discontinuance

10.8.1 Whenever any Residential User having a regular service desires to be permanently or temporarily discontinued (except for repairs); his/her water service bill will be discontinued and his/her water meter removed upon signed written notice to the Water Clerk of the Town of Herkimer, and signed by the customer. Reinstallation fee for Residential Users shall be set by the Town Board in its Annual Fee Schedule.

10.8.2 Whenever any Commercial User having a regular service desires to be permanently or temporarily discontinued (except for repairs); the water service bill will be discontinued upon signed written notice to the Water Clerk of the Town of Herkimer, and signed by the commercial customer. Water service reconnection fee for a Commercial User shall be set by the Town Board in its Annual Fee Schedule.

Section 11: Billing

11.1 The Town of Herkimer Water Districts will endeavor to read its meters at regular intervals of three months, so that all charges and quantities will be figured on a quarterly basis unless otherwise stated.

11.2 In the event of inability to read meters, the bill may be estimated by the Water Superintendent or designee from the best available information including, but not limited to, the bill from the last quarter.

11.3 All bills are due when rendered and payment is required within thirty (30) days from the date of said bill. A 20% penalty will be due in addition to the current water amount due after the due date of each individual billing period. When no payment has been made on at least (3) billing periods, the Town of Herkimer Water Clerk, by resolution of the Town Board of the Town of Herkimer, will calculate the total for those unpaid billing periods, add an additional 20% penalty on that total, and turn the information over to Herkimer county to be included, as a lien, on the Town and County tax bill that comes in January.

11.4 The Town Board is hereby authorized to terminate water service to any user of said service who has not paid all lawful charges within 60 days from the date due.

11.4.1 Notices. Water users who have failed or neglected to pay for charges incurred in the provision of water shall be served with a notice prior to termination of the service containing the following: (a) address of the premises; (b) a statement of the amount due for water service provided; (c) a statement that the service may be terminated on a specific date; (d) a statement that the costs of provision of water will be assessed against the land or improvements on the particular tax parcel which has benefited from the water service.

11.4.2 Service of Notice of Termination. The above notice shall be served by mailing said notice by first class mail to the owner of the property, at his or her address. Service shall be deemed complete upon such mailing.

11.4.3 Reconnection Charge. If water service is restored to a parcel after being disconnected pursuant to the terms of the local law, all unpaid charges, together with any interest and penalties must be paid before service is restored. In addition thereto, a reconnection charge of

\$100.00 shall be imposed for all single or double residential structures. Any and all other users shall pay a reconnection charge equal to one-sixth of the total of the bills of the just prior six months of full service.

11.4.4 The Town Board reserves the right, from time to time, and based upon extenuating circumstances as presented by the Commercial User or Residential User, to adjust fees, charges and enter into special contracts to allow for extended payback options. Such action is at the sole discretion of the Town Board. Such action shall not constitute a waiver of any other and further provision contained herein. As such action is at the sole discretion of the Town Board, such action, if permitted, shall not have precedential effect and shall not be interpreted as a guarantee to the same or similar situation another (or the same) Commercial User or Residential User may present to the Town Board.

11.5 Remittances mailed will be considered as received at the time and date of postmark.

11.6 Failure to receive water service bill does not excuse payment and the customer shall be liable for the entire amount including all penalties.

11.7 No charge for water service shall be less than the minimum rate per quarter, according to the size of the meter in use. The minimum rate is set by local law.

Section 12: Service Interference:

12.1 The consumer's equipment and the operation thereof must be such as not to interfere with the service of other consumers. In case of service interference or interruption, the consumer must take immediate steps to correct the situation or suffer discontinuance of service until normal conditions are restored.

12.2 No application for resumption of water service will be granted by the Town of Herkimer Water Commission until the Water Superintendent has inspected the premises and is satisfied the situation has been corrected.

12.3 Pursuant to the rules and regulations of the New York State Department of Health, there shall be no cross connection between the water of the Town of Herkimer District System and any private water supply. Should the Town discover any such cross connection, the Town of Herkimer District Water will be shut off immediately and the meter removed. All rules and regulations of the New York State Department of Health shall be complied with.

Section 13: Access to Premises:

13.1 The owner and/or consumer expressly authorizes and empowers the Town of Herkimer Water District, its employees and agents, to enter the premises at all reasonable times for the purposes of inspecting meters and fixtures and appliance served thereby, for reading meters and performing any other necessary acts in connection with the water service supplied by the town of Herkimer Water District.

Section 14: Leaks:

14. 1 When leaks occur in water service pipes or appurtenances at any point beyond the curb box, they must be immediately repaired by the owner or occupant, at the owner and/or occupant's expense. When leaks occur between the main and the curb box, upon notice, said repairs will be done by the Town of Herkimer Water District at the expense of the Water District. It shall be the duty of the customer to notify the Town of Herkimer Water District of any such leak.

Section 15: Hydrants:

15.1 Fire hydrants are for use of the fire department only and for fire purposes only. Upon written application made at the office of the Town of Herkimer Town Clerk, permission may be granted to use a fire hydrant to obtain water, under the supervision of a representative of the Town of Herkimer Water District. A deposit may be requested with the application, in an amount equal to the estimated cost of the service rendered. Bills for such water service may be rendered according to the regular schedule plus the service charge to cover the cost of supervision.

Section 16: Fire Services:

16. 1 Private fire services connections are subject to the same regulation as those governing domestic water services, excepting that no water shall be drawn from said connections for any purpose other than for extinguishing fires. The Town of Herkimer Water District will make an annual charge for fire service payable in advance based as follows:

4 inch diameter pipe\$200.00

6 inch diameter pipe.....\$400.00

Section 17: Repairs to Distribution System:

17.1 The Town of Herkimer Water district reserves the right to shut off and/or restrict the supply of water as follows:

17.1.1 Without notice whenever it may be found necessary in cases of emergency; and

17. 1.2 In such case, it shall not be liable under any circumstances for the deficiency or failure of the supply of water or for any cause whatsoever, even though no notice is given.

17.1.3 – In such case, it shall not be liable under any circumstances for the oversupply of water, or surge in water pressure, or for any cause whatsoever, even though no notice is given.

Section 18: Back Flow Protection

18.1 For both Residential Users and Commercial Users, for any new construction and for any installation of a new water service or any replacement of a water service or if any repairs are made to a water service, the Residential User or Commercial User at his or her expense must install a backflow preventer for back flow protection.

Section 19: Changes in Rules and Rates:

19.1 The Town of Herkimer Water District Commission reserves the right to change the rules and regulations for the use of water from time to time, or make special rates or contracts. All rates are set and changed pursuant to local laws passed by the Town Board.

Section 20: Applicability:

20.1 The rules and regulations established by this local law shall apply to all water districts established in the Town of Herkimer.

Section 21: Effective Date:

21.1 These rules and regulations take effect immediately.

1. I hereby certify that the local law annexed hereto, designated as Local Law No. 1 of 2019 of the Town of Herkimer, was duly passed by the Town Board on January 7, 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)

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.

Jennifer M. DeMetro
Jennifer M. DeMetro, Town Clerk
Dated: 3/18/2019

Christopher R. Bray
Christopher R. Bray, Esq.
Town Attorney
Town of Herkimer
Dated: 3/18/2019