

**CHARTER**  
**Of the**  
**COUNTY LEGISLATURE**  
**Of the**  
**COUNTY OF**  
**HERKIMER**

LOCAL LAW NO. 1

OF

1966

Adopted August 17, 1966

A LOCAL LAW IN RELATION TO THE ADOPTION OF A COUNTY CHARTER FOR THE COUNTY OF HERKIMER, STATE OF NEW YORK, IN ACCORDANCE WITH THE PROVISIONS OF ARTICLE 4 OF THE MUNICIPAL HOME RULE LAW, OTHERWISE REFERRED TO AS THE COUNTY CHARTER LAW OF THE STATE OF NEW YORK.

BE IT ENACTED by the Board of Supervisors of the County of Herkimer as follows:

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## ARTICLE I

### HERKIMER COUNTY AND ITS CHARTER

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#### Section 100. Title and purpose

This charter and all amendments hereto shall constitute the form of government of the County of Herkimer and shall be known and cited as the “Herkimer County Charter”.

The prime purpose of this charter is to carry out the mandate of the Supreme Court of the fifth Judicial District of the State of New York which ordered the County of Herkimer to provide a method of apportionment of its elective governing body in conformity with the “one person, one vote” concept of recent federal court decisions and in compliance with the equal protection clauses of the fourteenth amendment of the United States Constitution and Article 1, Section 1 and 11 of the New York State Constitution. In order to accomplish this, the County of Herkimer has been divided into districts and Sections 205 and 206 of Article II of this charter are concerned chiefly with this subject.

Since the Municipal Home Rule Law relating to the adoption of County Law relating to the adoption of County Charters requires that a charter meet certain specified requirements, and certain general, special and local laws now in effect and presently applicable to the County of Herkimer without change of substance. It is the intent of this charter that, with the exception of a properly apportioned governing body, the form of government of Herkimer County shall continue as presently constituted.

#### Section 101. County a municipal corporation; powers

The County of Herkimer shall continue to be a municipal corporation exercising such powers and discharging such duties as may be imposed or conferred upon it by the charter, administrative code, or by applicable law.

#### Section 102. Charter effect on state laws.

Within the limits prescribed in Article 4 of the Municipal Home Rule Law of the State of New York, wherever and whenever any state law, general, special or local in effect, is inconsistent with this charter such law shall be deemed to the extent of such inconsistency to be superseded by this charter insofar as the County of Herkimer and its government are affected.

Section 103. Charter effect on local laws and resolutions

Except to the extent inconsistent with this charter, all existing laws and resolutions heretofore adopted by the Board of Supervisors of the County of Herkimer shall continue in force until amended, superseded, or repealed as provided herein.

**ARTICLE II**

**LEGISLATIVE BRANCH**

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Section 200. County Legislature; status and title

The legislative branch of the government of Herkimer County shall consist of an elective governing body which shall be known as the County Legislature. Its members shall be known as County Legislators and shall be elected one from each of the districts into which Herkimer County shall be divided as more particularly hereinafter set forth.

The County Legislature, under this local law, when lawfully convened shall take place of the prior Herkimer County Board of Supervisors which shall be hereby abolished and superseded and that the County Legislature, as charged, shall constitute the legislative, appropriating, policy determining and governing body of the county.

The County Legislature shall have and exercise all the functions, powers and duties that were possessed by and shall be subject to the same rules and procedures as applied to the prior Herkimer County Board of Supervisors. It is not the intention of this charter to abolish, supersede, curtail or in any way effect any powers or rights heretofore conferred upon or delegated to the prior Herkimer County Board of Supervisors unless a contrary intention is clearly manifested from the express provisions of this charter.

Whenever the term “county board,” “board of supervisors,” “county governing board,” “elective governing body of the county” is referred to in any law it shall be deemed to mean and refer to the County Legislature.

Section 201. County Legislators; qualifications; term

All County Legislators shall be electors of Herkimer County and shall have been residents continuously in the county for at least one year preceding their election, and all County Legislators shall reside in the district from which they seek election at the time of their designation for office and shall continue to be residents of Herkimer County and of the district within the county which they represent for the entire term of their office. Members of the County Legislature shall be nominated at the primary election held in the same manner as the other county officers are nominated pursuant to the provisions of the election law.

The County Legislature shall be in charge of the qualifications of its members and for that purpose shall have the power to subpoena witnesses, take testimony, and require production of records. Decisions made by the County Legislature in the exercise of powers granted by this section shall be subject to review by the courts.

Except as provided in this section or as otherwise provided by law, the term of the members of the county legislature shall be for two years, and shall begin on the first day of January next following their election. Said elections for the county legislators shall be conducted at general elections in each odd-numbered year, except that the first election of members to such county legislature established pursuant to and upon the enactment and adoption of this charter shall be conducted in the general election of nineteen hundred sixty-seven and all county legislators elected in such general election of nineteen hundred sixty-seven shall serve for a two-year term.

Section 202. Organization; officer; committees

The county legislature, members of which are elected in nineteen hundred sixty-seven and every second year thereafter, shall meet on the first Monday in January at 2 o'clock p.m., except when the first Monday, shall be on January 1<sup>st</sup>, in which event it shall be the following Tuesday, and every second year thereafter for the purpose of organization and for the transaction of such other business as may come before it; thereafter said county legislature shall hold meetings on the days designated in the rules of the prior Herkimer County Board of Supervisors, which shall apply as hereinabove provided, and at such other times as the county legislature may fix by resolution duly adopted by vote of a majority thereof or authorized by its rules.

At the organization of said county legislature in the month of January, in the year nineteen hundred sixty-eight and every second year thereafter, a permanent chairman shall be elected who shall serve until the next chairman shall be elected who shall serve until the next organizational meeting. In case of his death, removal, resignation, or retirement from the said county legislature, a successor shall be elected for the unexpired term. In case of failure to elect a permanent chairman on any day herein provided, said county legislature shall adjourn from day to day, Sunday and holidays, expected, until the said chairman shall be elected. In the event the chairman is not elected within thirty days after the first of the year, the applicable County Law shall apply.

The chairman shall have and may cast the vote to which he is entitled as a member of the county legislature.

At the organization of the county legislature in the month of January in nineteen hundred sixty-eight and each second year thereafter, the county legislature shall elect a clerk, and such other employees as it may deem necessary, which officers and employees of the county legislature may be removed and their successors appointed at the pleasure of said county legislature. Said clerk and other employees of the county legislature as are appointed by it shall hold office until their successors are appointed. The clerk shall give a bond in such amount and with such sureties as the county legislature shall approve. All officers elected and appointments made by the county legislature shall be viva voce upon call of the roll of members and all other questions shall be determined in a similar manner.

The said county legislature shall have the power to enact local laws or rules fixing dates and time of its sessions; governing the conduct of the members at such sessions and the manner of transacting business thereat; fixing and prescribing penalties for its members to attend the stated or adjourned meetings of said county legislature or of any committee thereof and the manner of enforcing or collecting the same, and fixing the time when the form in which reports shall be made to said county legislature by an officer of said county. The county legislature may, in its discretion, publish its proceedings or a synopsis thereof in a daily paper having a general circulation throughout the County of Herkimer.

Such standing committees as are now prescribed by the rules of the Herkimer County Board of Supervisors or any local law adopted by said Board of Supervisors or any local law adopted by said Board of Supervisors or which may hereafter be prescribed or adopted by the county legislature shall be appointed by the permanent chairman of the county legislature within twenty days after his election, such appointment to be in writing and filed with the clerk of the county legislature, who shall give immediate notice thereof to the members of said county legislature by mail. Such committees shall continue in office until their successors have been appointed, but nothing herein contained shall be construed to allow any member of said county legislature whose term shall have expired, or who shall have resigned or have been removed from office, to continue to serve upon any committee after he shall have ceased to be a member of said county legislature.

#### Section 203. Compensation of legislators, chairman, clerk, employees of legislature

The county legislature shall have the power to fix the compensation of its members and the chairman of said county legislature which compensation shall be stated annual salary; all of the salaries to be paid in equal bi-weekly installments in each month by the County Treasurer of the County of Herkimer, in the manner as other county salaries are paid. However, the present County Board of Supervisors may fix the initial compensation of the county legislators prior to the election of such legislators. The salary of each county legislator fixed and paid during the fiscal year shall not exceed the salary as specified in the notice of public hearing on the tentative budget prepared for such fiscal year.

Expenses actually incurred by any county legislator under the authority or direction of the county legislature may be allowed and paid in like manner as other county charges; but no claims for expenses shall be audited or allowed which are not fully itemized and verified or certified by affidavit of the claimant in the manner prescribed by law.

The clerk, and other employees of the county legislature, shall each receive a stated annual salary, to be fixed by said county legislature in the same manner as other county salaries are paid, and shall cease and terminate immediately upon the death, resignation, or removal of such officer.

#### Section 204. Vacancies

A vacancy in the county legislature shall be filled by appointment by the chairman of the county legislature within thirty days of such vacancy, and the appointee shall serve until the next general election, held not less than three months after such vacancy occurs, at which election such vacancy shall be filled for the unexpired term. Any person appointed to fill a vacancy shall be a member of the same political party as the person who vacated the office. Any successor who shall be so appointed or elected shall possess all the qualifications required of members of the county legislature as set forth in this charter.

Any vacancy in any committee of the county legislature shall be filled by appointment by the permanent chairman of said county legislature.

**NOTE: Section 205 and Section 206 repealed by Local Law No. 3 for 1992 and replaced with new Section 205 and Section 206 as follows:**

#### Section 205 – Districts

For the purpose of electing county legislators, Herkimer County shall be divided into legislative districts. The number of districts and the geographic boundaries of each district shall be determined by a local law adopted by the Herkimer County Legislature, subject to a permissive referendum. After the local law for this purpose is adopted, the Herkimer County Legislature shall cause maps of said legislative districts to be prepared, and said maps shall be filed in the Office of the Clerk of the Legislature and the Office of the Herkimer County Board of Elections.

#### Section 206 – Change in Districts

Within three months after the publication of the results of each regular federal census, the County Legislature shall appoint a commission to evaluate the then existing county legislative districts for equity in representation in relation to population.

The commission shall consist of the members of the County Board of Elections, Chairman of the County Legislature and one person selected by the members of the majority political party represented on the County Legislature, and one person selected by the members of the minority political party or parties represented on the County Legislature. The Commission



shall study the then current legislative districts and the population within each district, and shall within three months after appointment by the Legislature, make recommendations, if necessary, in the form of a proposed local law to make changes in number of legislative districts and/or boundaries of legislative districts. The commission shall base its recommendations on the “one-man, one – vote” concept set forth in state and federal court decisions and on equal protection clauses of the United States and New York State constitutions.

The County Legislature may, in its discretion, after a public hearing, and within two months after the submissions of recommendations by the commission, revise the proposals. Within three months after the submission of the recommendations by the commission, the County Legislature shall commence proceedings to adopt as a local law the recommendations submitted by the commission, unless said recommendations have been revised by the Legislature. If the legislature has revised the recommendations, the revised recommendations shall be proposed as a local law. The local law shall be subject to a permissive referendum as provided for in Municipal Home Rule Law of the State of New York.

If the local law as submitted is defeated in such referendum, the commission shall be reactivated to study and prepare a new local law for submission to the County Legislature. The County Legislature shall enact that new local law, or its revision of said proposed local law, within three months of said referendum vote. This new local law will be subject to a permissive referendum.

The proceedings now going forward following the publication of the results of the 1990 federal census shall be governed, to the extent possible, by the provisions of this amendment to the Charter of the County Legislature of the County of Herkimer.

#### Section 207. Powers and duties of legislature.

Except as otherwise provided in this charter, the County Legislature shall have and exercise all the powers and duties now conferred on the Herkimer County Board of Supervisors and now or hereafter generally conferred on said County Board of Supervisors and on boards of supervisors or other governing bodies of counties in the State of New York by applicable law, and all powers necessarily incidental thereto, and shall for the purposes of general laws conferring powers upon boards of supervisors be deemed a board of supervisors.

The County Legislature shall be the policy determining body of the county and shall be vested with all the powers now conferred on the present County Board of Supervisors. The County Legislature shall have, but not by way of limitation, the following powers and duties:

- a. To make appropriations, levy taxes, incur indebtedness, and adopt the budget.
- b. To adopt all necessary rules and regulations for its conduct and procedure.
- c. To equalize real property taxes consistent with standards prescribed by state laws and on the basis of information supplied by the New York State Board of Equalization and the county committee on equalization.

- d. To exercise all powers of local legislation in relation to enacting, amending or rescinding local laws, legalizing acts, ordinances or resolutions.
- e. By local law to adopt, amend and repeal an administration code which shall set forth the details of administration of the county government consistent with the provisions of this charter and may contain revisions, simplifications, consolidations, codifications, and restatements of special laws, local laws, resolutions, rules and regulations consistent with this charter or amendments thereto.
- f. To investigate the official conducts and the accounts, receipts, disbursements, bills, and affairs of any county or town office or officer and of any special or public district or officer of a special or public district which includes any of the territory of the county, and for these purposes obtain professional and technical advice, appoint temporary advisory boards of citizens, subpoena witnesses, administer oaths and require the production of books, papers and other evidence; and in case any person fails or refuses to obey any such subpoena, he shall be guilty of a misdemeanor.
- g. To establish schedule of compensation for officers and employees paid from county funds, except members of the judiciary, which shall provide uniform compensation for like service. Such schedule of compensation may establish a minimum and maximum for any class, and an increase in compensation within the limits provided for by any class, may be granted at any time by the department upon the basis of efficiency and seniority records, which shall be required to be kept.
- h. To place any or all officers of the county who may be compensated in whole or in part by fees on a salary basis approved by the committee on compensation and to require all fees paid to county agencies and officers to be accounted for and paid into the county treasury.
- i. To fix the amount of bonds of officers and employees paid from county funds.
- j. To legalize and validate any act had and taken in connection with a lawful municipal purpose or for a lawful municipal object or purpose by the governing board or other body, officer, or agency of a municipality wholly within the county, in the manner provided by section 227 of the County Law.
- k. To determine and make provisions for any matter of county government not otherwise provided for, including but not restricted to any necessary matter involved in the transition to this charter form of government.

Section 208. Filing and publication of local laws; judicial notice

The filing and publication of local laws shall be as provided by section 27 of the Municipal Home Rule Law, and the courts shall take judicial notice of all local laws and of rules and regulations adopted pursuant thereto. Within ten (10) days after the adoption of a local law by the county legislature, the clerk of the county legislature, shall cause a copy of an abstract of

the local law to be published in the official newspapers of the county. Publication of the local law as part of the proceedings of the county legislature shall constitute compliance with this section.

### **ARTICLE III**

#### **APPLICATION OF CHARTER WHEN AND HOW OPERATIVE AND EFFECTIVE**

##### Section

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Section 300. Adoption of charter; when effective.

This charter shall, upon approval by referendum in the manner provided by law, become effective as of January 1, 1968, and the right of the Herkimer County Board of Supervisors to fix the initial compensation of such new county legislature prior to their election, and shall become effective immediately upon the adoption of the charter referendum.

Section 301. Charter legislature; transitional powers.

The members of the county legislature elected in 1967 may convene prior to January 1, 1978, to make necessary preparations for the operation of Herkimer County government under this charter, except that such legislators shall not have any governing powers prior to January 1, 1968.

To permit the implementation of the provisions of this charter the county legislature may, after January 1, 1968, make any and all adjustments in the budget for the fiscal year 1968 except that no adjustment shall change the real property tax rate for the fiscal year of 1968 as fixed by the Board of Supervisors of 1967.

Section 302. Existing laws continued.

Except as otherwise provided in this charter, all existing state, county, local and other laws or enactments including special acts having the force of law shall continue in force until lawfully amended, modified, superseded, or repealed.

Section 303. Continuation of authority.

The performance of functions pursuant to the provisions of this charter shall be deemed and held to constitute a continuation of all rights, powers, duties and obligations attached to such functions. Any proceeding or other business undertaken or commenced prior to the effective date of this charter may be conducted and completed by the county officer or administrative unit responsible therefore under the charter of the administrative code.

Section 304. Charter clarification.

If any provision of this charter is not clear or requires elaboration in its application to the county, the county legislature may interpret such provisions in a local law not inconsistent with the provisions of the Municipal Home Rule Law.

Section 305. Amendment of charter.

This charter may be amended in the manner provided by the Municipal Home Rule Law.

Any proposed amendment which would have the effect of transferring a function or duty of the county, or of a city, town, village, district or other unit of local government wholly contained in the county, shall not become operative unless it is approved by mandatory referendum as required by the Municipal Home Rule Law.

Any amendment which would create or abolish an elective county office, change the power or method of removing an elective county officer during his term of office, abolish, curtail or transfer to another county officer or agency any power of an elected county officer or change the form or composition of the county legislature shall be subject to a permissive referendum.

Section 306. Separability.

If any provision of this charter shall be adjusted by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the particular provision directly involved in the controversy.

Section 307. Charter to be liberally construed.

This charter shall be liberally construed to achieve its objectives and purposes.

Sec. 2. This charter shall be submitted to the electors of Herkimer County at the next general election occurring November 8, 1966. If this charter receives the majorities required for its adoption, such charter shall become the Herkimer County CHARTER and shall become operative as prescribed therein, subject to any and all conditions prescribed therein.