

Local Law 7 of 2022

A Local Law amending Chapter 132, Vehicles and Traffic, of the Code of the Town of Rochester

Section 1.

Subsection **§ 132-1, Purpose**, shall be amended as follows

§ 132-1, Purpose

The purpose of this chapter is to provide regulations regarding parking on certain roads in the Town of Rochester, and further providing for parking regulations for snow and other emergencies. *The violation of any section of this chapter or of a rule or regulation outlined herein shall constitute a traffic infraction within the meaning of § 1800 of the Vehicle and Traffic Law of the State of New York.*

Section 2.

Subsection **§ 132-2, No Parking Zones**, shall be amended as follows

§ 132-2, No Parking Zones

C. Notice of Violation (Summons),

1. *The foregoing Vehicle and Traffic Laws may be enforced by any authorized police officer, peace officer, or Town constable as defined by the laws of the State of New York. In addition, any parking enforcement officer duly appointed by the Town Board of the Town of Rochester may enforce the foregoing vehicle and traffic regulations related to parking infractions.*
2. *The notice of violation (summons or ticket) shall be in such form as may be prescribed by the Town Board and shall at a minimum contain the license plate number, the state of registration, the date of expiration, a description of the vehicle, and a general statement of the violation alleged, including a reference to the applicable provision of the Town Code.*
3. *Where the plate number or the expiration date are missing or not shown or where the registration sticker of a vehicle is covered, faded, defaced or mutilated so that it is unreadable, the information may be omitted from the notice of violation, provided that such condition is so described and inserted on the notice of violation, and other information is provided that reasonably identifies the vehicle, including the vehicle identification number (VIN).*

4. The notice of violation shall also contain information advising the defendant of the manner and time in which a plea with respect to the violation alleged in the said notice may be entered and information warning that failure to plead in the manner and time provided shall be deemed an admission of liability and that a default judgment or fine assessment may be rendered.

D. Service of notice of violation.

Service of the notice of violation may be made as follows:

1. Personally on the operator or owner of a vehicle. In such case, the name of the person served shall at all times also be inserted in the notice of violation.
2. If the operator or owner is not present, the notice of violation shall be served on the owner or operator of the vehicle by affixing the notice to the vehicle in a conspicuous place. Service of the notice of violation as herein provided shall have the same force and effect as if personally served. Placing the notice of violation under the windshield wiper shall at all times be acceptable as a "conspicuous place."

E. Operator as agent for service. The operator of a vehicle who is not the owner thereof but who uses or operated such vehicle with the permission of the owner, express or implied, shall at all times be deemed to be the agent of such owner to receive the notice of violation.

F. "Owner" or "Operator" shall be defined as any person, corporation, partnership, firm, agency, association, entity, lessor or organization who at the time of the issuance of a notice of violation:

1. Is the beneficial or equitable owner of such vehicle;
2. Has the title to such vehicle;
3. Is the registrant or co-registrant of such vehicle which is registered with the Department of Motor Vehicles of this state or any other state, territory, district, province, nation or other jurisdiction;
4. Who uses or operates such vehicle individually, or in his/her vehicle renting and/or leasing business;
5. Is an owner of such vehicle as otherwise defined by the Vehicle and Traffic Law of New York State; or
6. Is the owner of property in front of which or immediately adjacent to where the vehicle is parked at the time of the violation, and either allows or had knowledge of the parking of the vehicle in the location(s) that constitutes the violation(s).

G. Methods of Pleading and Payment of Fines

1. **Entry of Plea.** A plea shall be entered 10 days after service of the notice of violation.
 - a. A plea may be entered in person or by representative at Town of Rochester Town Court.
 - b. Mailed pleas; completion of plea form. Pleas by mail entered by the defendant shall be made by:
 - (1) Entering his or her name and address and phone number in the space provided on the back of the notice of violation (plea form);
 - (2) Signing the plea form where indicated; and
 - (3) Mailing the notice of violation with the plea form completed, appropriate form of mail, to the mailing address stated on the notice of violation, along with payment in full of the fine included, if plead guilty.
 - c. Pleas of guilty; payment. Pleas of guilty shall be accompanied by a check or money order for the payment in full of the fines listed, and payable to the Town of Rochester Court.
 - d. Pleas requesting court appearance.
 - (1) A defendant pleading not guilty or guilty with an explanation must appear in court on the day and at the time indicated on the violation form.
 - (2) The court shall have the right at all times to set a new or alternate date(s), time(s) and place for a hearing, different from that stated in the notice of violation.
 - e. Failure to appear in court. Failure by the defendant to appear on the date designated or any subsequent adjourned date shall be deemed, for all purposes, an admission of liability, and a judgment sustaining the charges and setting a fine may be entered by the court without further notice.

2. Amount of Fines

Any person, firm or corporation who or which shall violate any of these provisions of this article shall be guilty of an offense which shall be punishable by a fine as set forth below, or by a term of imprisonment not exceeding 15 days, or both. Each day's continued violation shall constitute a separate additional offense for which separate and additional fines may be imposed, without the necessity for the issuance of new and separate notices of violation. It shall be sufficient for the purposes of the additional offenses that the vehicle or owner was ticketed, and the violation not corrected within 24 hours.

a. Fines shall be set as defined in Table I below:

Table I

Action	Fine
Stopping, standing or parking where prohibited unless otherwise specifically enumerated in this schedule (first offense)	\$50
Stopping, standing or parking, where prohibited unless otherwise specifically enumerated in this schedule (second offense within 18 months)	\$100
Stopping, standing or parking where prohibited unless otherwise specifically enumerated in this schedule (third offense within 18 months)	\$150
Stopping, standing or parking in front of a fire hydrant at any time during the year	\$100 (first offense); \$200 (second offense); \$300 (third offense)
Illegally parking in a handicapped space at any time during the year	\$150
Three or more violations within an eighteen-month period shall also result in suspension of vehicle registration	

- b. Fines following a court hearing. The court shall have the authority to assess additional separate fines for each day the violation continued after the notice of violation is served.
- c. Upon any finding of liability for a parking violation after a court hearing, the court shall levy a mandatory twenty-dollar surcharge in addition to any other fine or penalty otherwise permitted or required by this article.
- d. Upon a showing of good cause, made by the defendant under oath or affirmation, after a plea of not guilty or guilty with an explanation, any fine may be reduced by the court. "Good cause" shall be determined at the discretion of the court.

3. Penalties for Offenses; Remedies

Additional penalties. Additional penalties may be assessed against the defendant by the court for failure to timely plea or appear pursuant to these rules, or having appeared for a hearing, failing to make timely payment assessed thereat. The additional penalties shall be assessed according to the following schedule:

- a. Upon failure to plea, appear in court, or pay the fine more than 30 days after the date of the summons, an additional penalty in the amount of \$10.
- b. Upon failure to plea, appear in court, or pay the fine more than 45 days but less than 76 days after the date of the summons, an additional penalty of \$30.
- c. Upon failure to plea, appear in court, or pay the fine more than 75 days after the date of the summons, an additional penalty of \$50.

4. **Abatement of penalties.** Upon showing of good cause, made by the defendant under oath or on affirmation, any additional penalty assessed against such defendant may be abated in whole or in part, at the discretion of the court.

H. **Towing.** The Town reserves the right at all times, and at any time, to have any vehicle parked in violation of local or state law be towed, with all costs associated with towing and storage to be paid by the vehicle owner and/or operator.

I. The Town shall also have all other remedies as are provided by law to restrain, correct, or abate any violation of this article.

Section 3. Severability

If any part or provision of this local law is judged invalid by any court of competent jurisdiction, such judgment shall be confined in application to the part or provision directly on which judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Law or the application thereof to other persons or circumstances. The Town hereby declares that it would have enacted the remainder of this Law even without such part or provision or application.

Section 4. Effective Date

This local law shall become effective immediately upon the filing in the office of the New York Secretary of State pursuant to Section 27 of the Municipal Home Rule Law.