

**TOWN OF KEARNY
HUDSON COUNTY, NEW JERSEY
ORDINANCE AMENDING SECTION 7-15.1 OF THE TOWN CODE REGARDING
PARKING OF COMMERCIAL VEHICLES**

**BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE TOWN OF
KEARNY that:**

1. Section 7-15.1a of the Town Code is amended to read in its entirety as follows:

A. No commercial vehicle shall park on any street in the Town of Kearny
between the hours of 8:30pm and 6:00am prevailing time.

2. Section 7-15.1 of the Town Code is amended to add the following subsection (e):

For purposes of this Section 7-15.1 a vehicle shall be deemed a “commercial vehicle” if it has any one or more of the following characteristics:

- A. It is or was designed or used for the transportation of persons for hire including, but not limited to, services such as Lyft or Uber;
- B. It is or was designed or was used for compensation or profit;
- C. It is or was designed or used for the transportation of property, materials, cargo, equipment or tools;
- D. It has more than 4 wheels;
- E. It weighs more than 5 tons;
- F. It is in excess of 9.5 feet high;
- G. It is more than 18 feet long;
- H. It is more than 7 feet wide;
- I. It has tool, cargo or equipment racks or cages in the interior or on the exterior of the vehicle;

- J. It contains commercial or business lettering, advertising or graphics;
- K. It is registered as commercial, omnibus, limousine, livery, taxi, farmer, commuter van, or school vehicle; or
- L. It has characteristics typical of commuter vans, food vending trucks, limousines, recreational vehicles, motor drawn vehicles, omnibuses, panel vans, pole trailers, road tractors, school buses, semi-trailers, taxicabs, tow trucks, trucks, or truck tractors.

3. Section 7-15.1 of the Town Code is Amended to Add New Subsection (f): Parking of Commercial Vehicles in all Neighborhoods/Zones

Except as provided in Section 4 of this Ordinance, no person shall park or leave standing a commercial vehicle upon any street, public land, avenue, road, or other public thoroughfare in the Town..

4. Section 7-15.1 of the Town Code is Amended to Add a New Subsection (g): Exceptions to Prohibition of Commercial Vehicles

- A. The prohibition as to commercial vehicles parking in areas provided for in Section 3 shall not apply to commercial vehicles that are in the process of rendering services to premises within said neighborhoods.
- B. A property that is the subject of a variance for business purposes or a pre-existing, non-conforming business use shall not be deemed to be in a residential zone.
- C. Moving trucks, utilized under a written agreement, and containers hired by residents for disposal of debris, may be parked for up to a continuous 72-hour time period.
- D. The prohibition as to commercial vehicles parking in areas provided for in Section 4 shall not apply to commercial vehicles, where the vehicle owner has obtained a valid residential parking permit from the Parking Utility pursuant to Section 7-15.1(h)

E. No provision in this Ordinance shall obviate the requirement of obtaining a parking permit from the Parking Utility.

**5. Section 7:15-1 of the Town Code is Amended to Add a New Subsection (h):
Obtaining a Residential Parking Permit**

A. The owner of a vehicle falling within the definition of commercial vehicle set forth in Section 2, may obtain a residential parking permit from the Parking Utility, created by Ordinance Number 2023 _____ and the parking permit program created by Ordinance Number 2023 _____ provided the owner meets the criteria for a residential parking permit established by Town ordinances.

B. At a minimum, no commercial vehicle will qualify for a residential permit unless:

1. The vehicle is also used for personal use and is not used solely for a business or commercial purpose, and the vehicle owner certifies to this fact, in which event the vehicle will qualify for a commercial/residential hybrid permit described in Section 7-40.5 (8);
2. The vehicle does not contain any visible cargo or equipment racks or cages used for business purposes on the exterior of the vehicle; tool storage units of the type recessed into the body of a pick-up truck bed may be permissible
3. The Vehicle does not contain any commercial or business letter, advertising or graphics;
4. The vehicle is not registered as a school vehicle which has a capacity of more than 8 people; a commercial vehicle; an omnibus; a limousine, livery, or taxi; a farmer vehicle, or a commuter van;

5. The vehicle does not weigh more than 12,000 lbs.;
6. The vehicle does not have more than 4 wheels; and
7. With respect to a passenger van, the van does not contain more than three rows of seats, including the front seats, and does not have a capacity for more than 8 people.

C. In the event an applicant owning or leasing a commercial vehicle is denied a residential parking permit, the applicant may appeal the administrative decision to the Town Administrator or a designee of the Town Administrator, such as the Supervisor of the Parking Utility. Said appeal shall be in writing and shall be considered solely on written submissions unless the Town Administrator or his designee requests oral testimony or argument.

D. After having obtained a residential parking permit for a commercial vehicle pursuant to this Section, no person shall do any of the following without first having returned their residential parking permit to the Police:

1. Change, modify or alter their permitted vehicle so that it no longer would qualify for a residential parking permit under this Section; or
2. Use their permitted vehicle, or allow the use of their permitted vehicle, for the transportation of persons for hire, for compensation or profit, or for the transportation of property, materials, cargo, equipment or for any other commercial or business-related purpose.

E. A residential parking permit issued for a commercial vehicle may be revoked for any violation of this Section. An administrative decision to revoke a residential parking permit may be appealed to the Town Administrator or his designee pursuant to the same procedures set forth in Section 6.C. Provided an appeal is filed within seven (7) business days of the revocation, the revocation will be considered stayed pending the conclusion of the appeal to the Town Administrator or his designee.

F. The determination of whether a commercial vehicle qualifies for a residential parking permit, or whether a residential parking permit should be revoked, shall be within the exclusive discretion of the Parking Utility, based on the criteria set forth in this Ordinance and any Parking Utility Rules and Regulations.

6. Section 7-15.1 of the Town Code is Amended to Add a New Subsection (i) to Read as Follows:

- A. The Parking Utility is hereby authorized to adopt rules and regulations to:
1. Effectuate the purposes of this Ordinance;
 2. add or delete streets, areas, or parts thereof, designated for commercial parking;
 3. modify the criteria for determining whether a vehicle is a commercial vehicle under this Ordinance; and
 4. modify the criteria on which determinations are made concerning whether a commercial vehicle qualifies for a residential permit.
- B. Parking Utility rules and regulations shall be enforceable pursuant to this Ordinance provided:
1. They have been duly adopted by resolution of the Mayor and Council;
 2. They have been submitted to the Township Administrator, and there has been no objection from the Township Administrator within 45 days of submission; and
 3. They are consistent with the purposes and parameters of this Ordinance.

7. Section 7-15.1 of the Town Code is Amended to Add a New Subsection (j) to Read as Follows:

- A. No person shall falsely represent himself, herself, or their vehicle as eligible for a residential parking permit;

B. No person shall furnish false information on an application for a residential parking permit; and

C. No person shall fabricate, copy, duplicate, reproduce, modify or alter a parking permit, or allow another person to fabricate, copy, duplicate, reproduce, modify or alter a parking permit.

D. The owners or lessees of a vehicle having a fabricated, copied, duplicated, reproduced, modified or altered parking permit displayed shall be in violation of this Ordinance.

8. Section 7-15.1 of the Town code is Amended to add a New Subsection (k) to Read as Follows:

The Utility Parking Enforcement Officers shall have and exercise the power and perform the duties associated with the management, operation and enforcement of this Ordinance. The Kearny Police Department shall also enforce the provisions of this Ordinance.

9. Section 7-15.1 of the Town Code is Amended to add a New Subsection (l) to Read as Follows:

A. Owners of commercial vehicles parked in violation of this Ordinance shall be subject to a fine of not less than \$115.00, nor more than \$500.00 for each violation.

B. Any person violating Section 5.D of this Ordinance shall be subject to a fine of no less than \$250.00, nor more than \$500.00 for each violation.

C. Any person who violates Section 7.A or 7.B of this Ordinance shall be subject to a fine of no less than \$250.00, nor more than \$500.00 for each violation.

D. Any person who violates Section 7.C or 7.D of this Ordinance shall be subject to a fine of no less than \$250.00, nor more than \$1,000.00 for each such violation. A mandatory court appearance is required for an alleged violation of Section 7.C or 7.D.

Section 10: Severability

If any part or parts of this Ordinance are for any reason held to be invalid, such holding shall not affect the validity of the remaining portions of this Ordinance.

Section 11: Repealer

All ordinances or parts of ordinances inconsistent with this Ordinance are hereby repealed as to the inconsistency thereof.

Section 13: Effective Date:

This Ordinance shall take effect immediately upon passage and publication as required by law.

Introduced:

Published:

Adopted: