

Town of Berkshire
Unregistered Vehicle Local Law

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Section I: Purpose and Intent:

The Town of Berkshire declares its intent to regulate and control the storage or keeping of unregistered motor vehicles in a manner that fully complies with the New York State Property Maintenance Code. This local law is intended to protect the welfare of the citizens by insuring a healthy and safe community and fostering a clean and attractive environment within the town.

This local law is intended to regulate and control unregistered, abandoned, disabled, or otherwise junked vehicles that are stored on public or private property. Benefits of enforcement of this local law include, but are not limited to, prevention of:

- Exposure to dangerous materials including broken glass, fuels, battery acid, anti-freeze, lubricating fluids, or sharp edges and points.
- Contamination of soil, well water, and streams.
- Dangerous attractions to children or domestic animals.
- Breeding grounds for rodents and insects.
- Uncontrolled growth of weeds or brush surrounding stored vehicles.
- Collection points for trash, rubbish, junk and other refuse.
- Obstruction of clear views of oncoming traffic or access to public highways or parking areas.
- Unsightly appearances of property and/or detracting from values of surrounding properties.

Section II: Definitions:

As used in this local law the following terms and phrases shall have the following meanings:

"Farm Operation" – A property that meets the criteria defined in New York State Agriculture and Markets Law section 301(11).

"Enclosed Storage" – A structure that conceals a vehicle from public view and prevents unauthorized access to the motor vehicle by the public. The structure must be built and maintained in accordance with the New York State Uniform Fire Prevention and Building Code.

"Code Enforcement Officer" (CEO) - The person authorized by the Town Board to enforce this local law and other relevant provisions of the New York State Uniform Fire Prevention and Building Code.

"Open Storage" - Storage other than in Enclosed Storage (see above).

"Person" - An individual or any other legal entity.

"Unregistered Vehicle" - Any vehicle which is parked, stored, or abandoned by anyone, owner or otherwise, on lands, public or private, in the Town of Berkshire when the Vehicle:

- Does not display a valid registration sticker authorized by an agency of any State, or
- In the case of vehicles intended for use on public roads, does not have a valid inspection sticker from an inspection station registered under the laws of the State of New York, or
- Is no longer in an operable condition for its intended original use, or
- Is kept or used for the purpose of salvage or resale of parts thereof.

"Vehicle" – Every device in, upon, or by which a person or property is or may be transported or drawn upon a highway, except devices moved by human power or used exclusively upon stationary rails or tracks, including, but not limited to, automobile, bus, trailer, truck, motor home, motorcycle, motor bicycle, mini bicycle, all-terrain vehicle (ATV) or snowmobile.

Section III: Provisions and Requirements:

- (a) Not more than one Unregistered Vehicle in Open Storage is permitted on any parcel of land in the Town of Berkshire, provided that:
 - The vehicle does not present an inherent safety risk or environmental hazard,
 - The vehicle is not located within 10 feet of any adjoining property line or public highway,
 - The storage location is regularly maintained and does not present an unsightly appearance.
- (b) Any property with an unregistered vehicle in open storage must have any additional unregistered vehicles in enclosed storage (see Section II - Definitions)
- (c) No unregistered vehicle may be stored on the premise of any multiple-family dwelling.
- (d) No storage or accumulation of vehicle parts is allowed in open storage.

Section IV: Exclusions

This Local Law does not apply to the following:

- (a) Any New York State licensed dealer in the business of selling new or used motor vehicles,
- (b) A farm operation, but only with respect to vehicles normally not registered or required to be inspected for use on public highways.

Section V: Administration and Enforcement

This local law shall be enforced by the CEO when acting pursuant to his or her special duties and those assigned by Berkshire local law #1 of 2008 (Administration and Enforcement of New York State Uniform Fire Prevention and Building Code). The CEO may inspect properties where unregistered vehicles are in open storage, have the power to issue appearance tickets pursuant to Criminal Procedure Law section 150.20, and investigate complaints filed with respect to alleged violations of this local law.

Section VI: Enforcement Procedure; Appeals, Variance

- (a) If the CEO has reason to believe or discovers a violation of this local law, he or she shall serve a written notice, by personal service or by certified mail, upon the owner of the property where the violation occurred. This notice will provide the name and address of the property owner, the description of the violation, and an explanation of what corrective action is required along with a time period in which the corrective action must occur.

- (b) If there is imminent safety risk to the public or an environmental hazard then immediate action will be necessary as directed by the CEO; otherwise the violation must be resolved within 30 days of receipt of the written notice pursuant to subsection (a) unless the property owner appeals his case or submits a variance.
- (c) No response by the property owner within 30 days of receipt of the written notice is deemed to be an admission that noted vehicle(s) are unregistered vehicles and in violation of this local law, and the CEO will issue an appearance ticket pursuant to Criminal Procedure Law section 150.20 to appear in Town Court.
- (d) Within 30 days of receipt of the written notice, the property owner has options to either remove the vehicle(s) from the property, submit an appeal/protest by providing documentation to the CEO, or request a variance from the Town Board.
- (1) Appeal/protest allows the property owner to contend that the cited vehicle is registered or does not meet the definition of “Unregistered Vehicle” and/or in other ways meet the requirements of Section III. The CEO will investigate the situation and inform the property owner in writing that the appeal has been upheld and the case dropped or the appeal has been rejected, in which case another 10 days is provided to remediate the violation.
- (2) Variances generally are exception requests to the strict interpretation of this local law that the violator must submit to the Town Board and the CEO. An explanation of why a variance should be granted must be clearly documented and demonstrate reasonable cause for the request. The Town Board will review the request for reasonableness and either schedule a public hearing or deny the variance within 92 days. The requester will be notified of the date and time of that hearing or that the variance was denied. A ruling will be made on the request within 31 days of the public hearing. The time within which the Town Board must render its decision may be extended by mutual consent of the property owner and the Town Board. If the variance is not granted, the CEO will notify the requestor that he/she is still in violation but will be granted an additional 10 days to remediate the situation. If granted, the meeting minutes shall record the reason as:
- granting the variance would be keeping with the intent and spirit of this Local Law and is in the best interest of the community; or
 - there are special circumstances involved in the particular case; or
 - denying the variance would result in undue hardship to the applicant, provided that such hardship has not been self imposed.
- (e) Upon conviction and failure to remedy a violation of this local law within the time period imposed by the court, the Town Board may hire or contract the removal of unregistered vehicle(s) at the expense of the property owner. Should the property owner fail to pay the cost of removal, the cost will be added to the Town of Berkshire tax on that property in the following year.

Section VII: Reference

This local law repeals any reference to unregistered vehicles contained in Local Law # 1 of the year 2006 as well as any prior inconsistent local law, ordinance or regulation.

Property Maintenance Code of New York State, Section 302, is reference for this local law. New York State Agriculture and Markets Law, Article 25AA, Section 301, is an additional reference.

Section VIII: Severability/Invalid Segments

Should any section or provision of this local law be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of this local law as a whole or any part thereof other than the part declared to be invalid.

Section IX: Penalties

Any person convicted of violating any provision of this Local Law shall be guilty of a violation, and shall be liable for a fine of not more than one hundred dollar (\$100) for such violation. Any person so convicted as a second offense shall be liable for a fine of not less than one hundred dollars (\$100) and not more than two hundred (\$200), and for a conviction as a third offense shall be liable for fine of not less than two hundred dollars (\$200) and not more than five hundred dollars (\$500).

Section X: Effective Date

This Local Law shall take effect immediately upon filing by the Secretary of State.

Filed by DOS on January 6, 2012