

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 junk 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, antifreeze, 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 detraction from values of surrounding properties.

## **Section II: Definitions:**

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

**“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.

**“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.

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

**“Junk Vehicle”** – Any inoperable vehicle that is:

- in a state of major disassembly, disrepair, or in the process of being stripped or dismantled,
- Is kept or used for the purpose of salvage or resale of parts thereof.

**“Open Storage”** - Storage other than in Enclosed Storage (see above).

**“Property Owner”** – Any person, firm, partnership or corporation or entity owning or having possession of real property in the Town of Berkshire.

**“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.

“**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, motorhome, motorcycle, motor bicycle, mini bicycle, all-terrain vehicle (ATV) or snowmobile.

### **Section III: Provisions and Requirements:**

- a) No property owner shall store, cause or permit to be stored, more than one unregistered motor vehicle in open storage upon any private property in the Town of Berkshire.
- b) Any property with multiple unregistered vehicle must have those in excess of one in enclosed storage (see Section II - Definitions) unless exempted by permit.
- c) No junk vehicles shall be in open storage upon any private property in the Town of Berkshire.
- 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 Code Enforcement Officer (CEO) when acting pursuant to his or her special duties and those assigned by Berkshire local law #1 of 2015 (Administration and Enforcement of New York State Uniform Fire Prevention and Building Code). The CEO:

- may investigate complaints filed with respect to alleged violations of this local law,
- may investigate properties where junk vehicles or more than one unregistered vehicle is not in enclosed storage,
- has the power to act as outlined in Section VI below.

## **Section VI: Enforcement Procedure**

- a) If the CEO has reason to believe or discovers a violation of this local law, he or she shall serve a written warning, by personal service or by certified mail, upon the property owner where the violation occurred. This warning will provide:
- the name and address of the property owner,
  - the address of the property in violation including tax map number,
  - the description of the violation,
  - an explanation of what corrective action is required along with a time period in which the corrective action must occur.
- b) Violations must be resolved within 15 days of receipt of the written warning pursuant to subsection (a) unless the property owner appeals their case. If the violation creates an imminent safety risk to the public or an environmental hazard, then immediate action will be necessary as directed by the CEO.
- c) Within 15 days of receipt of the written notice, the property owner has the following options:
- Register the vehicle(s) with New York State Dept. of Motor Vehicles
  - Remove vehicle(s) from property
  - Place the vehicle(s) in enclosed storage
  - Surrender signed title of the vehicle(s) to the Town and provide authorization to the Town to take possession and remove and discard the vehicle(s)
  - Submit an appeal to the CEO
- d) Filing an appeal allows the property owner to contend that the cited vehicle is registered or does not meet the definition of “Unregistered Vehicle” or “Junk 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.
- e) If no response is made by the property owner within 15 days of receipt, the written notice is believed to be an admission that noted vehicle(s) are unregistered vehicle(s) or junk vehicle(s) 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.
- f) Upon conviction and failure to remedy a violation of this local law within the time period imposed by the court, the CEO is authorized to hire or contract the removal of unregistered vehicle(s) or junk 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 2011 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**

- a) Any person convicted of violating any provision of this Local Law shall, upon conviction thereof, be guilty of a violation pursuant to the Penal Law of the State of New York, punishable by a fine not exceeding two hundred fifty, (\$250.00) dollars or by imprisonment for a term not exceeding 15 days, or by both such fine and imprisonment. Each violation of this law will be deemed a separate offence. Failure to comply with court action will result in the issuance of a warrant for contempt charges from the court.
- b) Failure to comply with the court order and satisfy and remedy the violation of this local law may result in removal of said vehicle(s) by the Town at the expense of the owner as described in section VI, f.

### **Section X: Effective Date**

This Local Law shall take effect immediately upon filing by the Secretary of State.....year 2019