

MANUFACTURED HOUSING

Town of Berkshire Local Law # 1 of 2013

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SECTION I: Purpose and Intent

The purpose of this Local Law is to promote the health, safety and general welfare of the community, including the protection and preservation of the character of the Town of Berkshire by establishing specific requirements and regulations governing the installation, occupancy, and removal of manufactured homes (previously referred to as mobile homes). This Local Law is subject to all related New York State laws and regulations.

SECTION II: Definitions

“Certified Installer” – Individual that is certified per the New York State Executive Law that was enacted to implement the provision of the Federal Manufactured Housing Improvement Act of 2000. The certification is to ensure that manufactured homes are installed and serviced in a professional manner to ensuring the safety and welfare of the user.

“Factory Manufactured Home” – (Previously referred to as “modular housing.”) A housing unit, constructed off site, prefabricated in sections consisting of more than one segment, transported to the building site then fastened together and placed and anchored on a perimeter foundation to become a fixed part of the real estate.

“Manufactured Home” - A manufactured home is a structure which is designed to be transported on its own wheels or those of another vehicle, which is used, designed to be used and capable of being used as a detached residence and which is intended to be occupied as permanent living quarter containing plumbing and electrical connections for attachment to outside systems. This definition of a manufactured home includes single or double wide and all additions which are added hereto or additions made subsequent to installation.

“Motor Home or Travel Trailer” – A leisure home that is on wheels and is either under its own power or towed behind another vehicle. Use of these vehicles is not intended to be permanent living quarters and is typically for recreational purposes.

SECTION III: Provisions and Requirements

- A. No person, being the owner or occupant of any land within the Town of Berkshire, shall use or allow the use of such land for the installation of a manufactured home unless the following conditions are met:
1. A building permit is required prior to any work being performed, including site preparation, toward replacement or installation of a manufactured home.
 2. Along with the building permit application, two (2) sets of plans must be submitted that outline the lot preparation and how the home will be situated.
 3. Site preparation must meet the standards set by the Town of Berkshire Building Permit Ordinance including, but not limited to, excavation, driveways, address number, potable water, septic, lot size, fuel storage and set-backs.
 4. Homes--including manufactured/factory manufactured home stand, foundation, and lot--must comply to all construction and safety standards as set forth by the New York State

Uniform Fire Prevention and Building Code and must be installed or removed by a New York State Certified Installer.

5. If in a flood plain, lot and buildings usage must conform to Flood Damage Prevention Local Law.
6. A certificate of occupancy or compliance must be obtained prior to living in/occupying the home.

B. Other requirements

1. The gross floor area of the manufactured home, not including garage or accessory building, shall not be less than 900 square feet.
2. For installations that do not have perimeter foundations from ground to home, skirting that encloses the underside of the manufactured or factory manufactured home must be securely fastened to the home which extends from the home to the ground level around the entire perimeter of the home within 30 days of installation. The skirting shall be constructed of sturdy wood, plastic, masonry, or metal material capable of withstanding extreme weather conditions over extended periods of time.
3. Homes shall have an entry or landing that provides a safe entrance or exit that is a minimum width of door served and at least 36" in direction of travel with a solid foundation, steps and railings.
4. Any accessory buildings and garages require a separate building permit if square footage is greater than 144'.
5. A manufactured home may not be used as a storage shed, garage, or shelter for any animal or any purpose except for human living quarters.
6. Only one manufactured home shall be allowed on a manufactured home site or single lot.
7. A travel trailer or motor home when used for temporary living quarters must apply for a variance.
8. No manufactured home or travel trailer shall be parked or allowed to remain upon any street, highway, or other public place, except for emergency stopping or parking when caused by mechanical failure, in which case shall be permitted upon the shoulder or other public place for a period of not more than 72 hours, subject, however, to any prohibition imposed by other regulations or laws.
9. Homes must be equipped with appropriate smoke and carbon monoxide detectors.
10. Once a manufactured home is no longer occupied, it will be considered abandoned and must be removed from the site within 90 days. Removal may involve demolition. Demolition requires a building permit be issued by the Town Clerk. The manufactured home may also be transported off the site. A fine will be issued by the Code Enforcement Officer (CEO) for non-compliance with this Local Law unless a variance has been applied for and approved. This section does not apply to residents who live in their manufactured homes three or more months per year who may leave for a season and return later in the year.

SECTION IV: EXCLUSIONS

Exclusions to the provisions outlined in this Local Law include:

- The business of manufactured home sales, except when the units are used as living quarters.
- A manufactured home located on a construction project, survey project, or other similar project if it is used solely as a field or work tool house in connection with such project, provided that such manufactured home is removed from such site within 30 days after the completion of such project.

SECTION V: ADMINISTRATION AND ENFORCEMENT

- A. The Town Board hereby appoints the Code Enforcement Officer (CEO) to enforce this local law pursuant to Berkshire Local Law #1 of 2008 - Administration and Enforcement of New York State Uniform Fire Prevention and Building Code. The CEO's duties shall include the inspection of Manufactured Homes and sites as well as investigations of complaints filed with respect to violations of this local law.
- B. Administration/Application Process:
1. A Building Permit application shall be prepared on a form supplied by the Town Clerk and shall include all required data filed in four (4) copies with the Town Clerk. The Town Clerk shall transmit three (3) copies of the application and the attachments to the CEO.
 2. The CEO shall review the application for compliance with the minimum requirements of this Local Law. Incomplete applications shall be returned to the applicant indicating that additional information or material is required. If the application is deemed to be complete, the CEO shall review the design of the manufactured home installation and shall issue or reject the permit within ten (10) business days. If approved, the Building Permit is effective from the day of issuance to and including one year from the date of issue.
 3. The Permit shall not be transferable or assignable.
 4. Fees for permits are available in the Town Fee Schedule from the Town Clerk and are established by the Town Board.

SECTION VI: ENFORCEMENT PROCEDURES, APPEALS, VARIANCES

- A. In case of any violation or threatened violation of any of the provisions of this local law, in addition to other remedies herein provided, the Town may institute any appropriate action or proceedings to prevent such unlawful installation, occupancy, or removal of a manufactured or factory manufactured home.
- B. The CEO will attempt to gain voluntary compliance with this local law if there is a violation noted or reported. The CEO is hereby granted administrative authority and responsibility to terminate any violation of this local law by posting a Stop Work Order on the premises wherein the violation has occurred. The Stop Work Order shall serve notice to the owner, installer,

builder, developer, agent and/or any other individual or business on the premises that all such action specified on the Stop Work Order must be terminated immediately. If all provisions of this local law together with other conditions specified by the CEO are met, the Town Board or CEO may authorize the termination of the Stop Work Order.

- C. Within 30 days of issuance of the Stop Work Order, the operator has the following three options available:
1. Remediation: Remediation must include a written notification to the CEO of planned actions or actions taken to bring the situation into compliance with this local law.
 2. Appeal: Appeal/protest allows the operator to contend that the cited condition does not violate 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.
 3. Request Variance: Variances 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 62 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 violator 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:
 - a. 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
 - b. there are special circumstances involved in the particular case; or
 - c. denying the variance would result in undue hardship to the applicant, provided that such hardship has not been self-imposed.
- D. No written response or remedial action by the violator within 30 days of issuance of the Stop Work Order, or within 10 days after an appeal or variance is denied, is deemed to be an admission that they are in violation of this local law, and the CEO will present the violator with an appearance ticket pursuant to Criminal Procedure Law section 150.20 to appear in Town Court.
- 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 remediation at the expense of the property owner. Should the property owner fail to pay the costs, the cost will be added to the Town of Berkshire tax on that property in the following year.

SECTION VII: REFERENCE MATERIAL

This local law repeals any reference to Mobile Homes contained in Local Law #6 of the year 2001 as well as any prior inconsistent local law, ordinance or regulation.

Refer to New York State Uniform Code, New York State Municipal Regulation of Manufactured Homes, and New York State Title 19 (NYCRR) Part 1210 Manufactured Home Regulations.

SECTION VIII: SEVERABILITY/INVALID SEGMENT

Should any section or provision of this Local Law contained herein or as amended hereafter be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the Local Law as a whole or any part thereof other than the part so declared to be invalid.

SECTION IX: PENALTIES

- A. Any person, firm or corporation which violates, disobeys, neglects or refuses to comply with, or which resists the enforcement of any of the provisions of this local law shall be guilty of an offense, and upon conviction thereof, shall be subject to a fine of not more than \$250, up to 15 days' imprisonment, or both.
- B. Each week a violation is continued shall be deemed a separate offense.
- C. The penalties provided herein shall be cumulative and shall be in addition to any other penalties provided by law.

SECTION X: EFFECTIVE DATE

This local law shall take effect upon acknowledgement by the Secretary of State of the State of New York that said Local Law has been correctly filed with said office. Upon receipt, that letter shall be attached as an appendix to this local law.



STATE OF NEW YORK
DEPARTMENT OF STATE
ONE COMMERCE PLAZA
99 WASHINGTON AVENUE
ALBANY, NY 12231-0001

ANDREW M. CUOMO
GOVERNOR

CESAR A. PERALES
SECRETARY OF STATE

July 10, 2013

Constance M Liddington
Town Clerk
12421 Rte 38
Berkshire NY 13736

RE: Town of Berkshire, Local Law 1 2013, filed on July 9, 2013

Dear Sir/Madam:

The above referenced material was filed by this office as indicated. Additional local law filing forms can be obtained from our website, www.dos.ny.gov.

Sincerely,
State Records and Law Bureau
(518) 474-2755