

Town of Berkshire
Unregistered Vehicle Local Law

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Section I: Purpose and Intent:

By adoption of this local law, 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 Chapter 3 of the Property Maintenance Code of New York State. The 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 township.

This local law on unregistered, abandoned, disabled, or otherwise junked vehicles that are stored on public or private property prevents the following:

- 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 that may cause harm to themselves or others.
- Breeding grounds for rodents and insects.
- Uncontrolled growth of weeds or brush surrounding stored vehicles.
- Collection points for trash.
- Obstruction of clear views of oncoming traffic or easy access to public roads or parking areas.
- Unightly appearances of property on which they reside, which tend to detract from values of surrounding properties and the town in general.

Section II: Definitions:

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

"**Agri-business**" – A property that meets the criteria defined in Article 25AA of the New York State Department of Agriculture and Markets Law. (See Appendix B)

"**Enclosed Storage**" – A suitable structure that conceals vehicles from public view and prevents unauthorized access to the motor vehicle by the public. The structure must be in accordance with the Uniform Code of the State of New York.

"**Enforcement Officer**" - The Town Board hereby appoints the Code Enforcement Officer (CEO) as the enforcement officer for this law.

"**Open Storage**" - Storage other than in enclosed storage (see above).

"**Person**" - An individual, joint venture, partnership, association, corporation, or any other legal entity.

"**Unregistered Vehicle**" - Any vehicle including but not limited to automobile, bus, trailer, truck, tractor, motor home, motorcycle, motor bicycle, mini bicycle, or snowmobile which is left abandoned, permitted to be located, or deposited by anyone, owner or otherwise, on lands, public or private in the Town of Berkshire in the following condition:

- 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 condition for its intended original use or is being held or used for the purpose of resale of parts thereof.

Vehicle - Any wheeled or tracked vehicle propelled or drawn by power other than muscular power.

Section III: Provisions and Requirements:

- (a) Any resident may have one unregistered vehicle in open storage, providing the following conditions are met:
- 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 road,
 - The storage location is regularly maintained and does not present an unsightly appearance.
- (b) Any residence with an unregistered vehicle in open storage must house all additional unregistered vehicles in enclosed storage (see Section II - Definitions)
- (c) No unregistered vehicle as defined in Section II may be stored on the premise of any multiple dwelling (i.e apartment building).
- (d) No 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 car dealership in the business of selling new or used motor vehicles,
- (b) Agri-businesses operations, but only vehicles normally not registered for use on public roads are excluded.

Section V: Administration and Enforcement

The Town Board hereby appoints the Code Enforcement Officer to enforce this 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 private residences storing unregistered motor vehicles and investigations of complaints filed with respect to violations of this local law.

Section VI: Enforcement Procedure

- Appeals and Variances
 - Penalties
- (a) Upon discovering a violation of this local law, the CEO shall serve a written notification, by personal service or by certified mail, upon the owner of the property where the violation occurred. This notice will provide the name, address, description of the violation, an explanation of what corrective action is required, and the time frame in which the corrective action must occur.

- (b) If the property owner contends that the cited vehicle is registered or does not meet the definition of “Unregistered Vehicle” and/or in other ways meets the requirements of Section III, the property owner must notify the CEO in writing within 10 days to request a re-evaluation.
- (c) The property owner may also request a variance by submitting a written request to the Town Board and the CEO within 10 days that explains why an exception should be granted. The Town Board and CEO will rule on the request within a month. If not granted, the CEO will be notified and will send written notification to the property owner. 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.
- (d) After a lapse of 30 days with no remedial action, the CEO will present the violator with an appearance ticket to appear in Town Court.
- (e) Should the property owner fail to remedy the violation, additional notifications and appearance tickets will be issued, and will be considered separate violations which are subject to additional fees and fines. The appearance ticket will be issued immediately, without benefit of the 30 day waiting period in these situations.
- (f) Penalties for violation of this local law if convicted include fines and fees as set forth in Section IX, Appendix A. In addition, upon conviction and failure to remedy a violation of this local law, 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 Material

This local law supersedes regulatory guidelines on unregistered vehicles contained in Local Law # 1 of 2006. The following documents contain reference material applicable to this local law:

- **Property Maintenance Code of New York State**, section 302, Exterior Property Areas

Section VIII: Severability/Invalid Segments

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 declared to be invalid.

Section IX: Appendices

- A) **Penalties:** Upon conviction, penalties will be determined by the court, and may include fines greater than \$100 and/or imprisonment up to 30 days.

- B) **Article 25AA, Section 301 of New York State Agriculture and Markets Law:** See complete definition of agribusiness under Section 301 at the web link below.

<http://public.leginfo.state.ny.us/menueff.cgi?COMMONQUERY=LAWS>

Public Hearing held in January 2010