

Town of Berkshire

PROPERTY MAINTENANCE

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PROPERTY MAINTENANCE

SECTION I. Purpose and Intent

Be it enacted by the Town Board of Berkshire to declare the intent of this local law as follows:

- to provide basic and uniform property and maintenance standards for the Town of Berkshire as set forth by Property Maintenance Code and State Building Codes of New York State,
- to promote the general health, safety, and welfare for its residents,
- to protect the value of real property in the town and promote and perpetuate the attractive appearance of neighborhoods in the community.

In addition, the Town hereby finds that the outdoor storage, accumulation, deposit or placement of solid waste, or improper handling of unregistered motor vehicles upon private property may:

- create a significant fire hazard,
- endanger the environment and groundwater,
- lead to infestation by insects, vermin, or rodents,
- lead to depreciated property values, and
- lead to a deteriorating and blighting effect upon the neighborhood and community, causing a public nuisance.

SECTION II. Definitions

As used in this law, the following terms shall have the meanings indicated. All other terms used in this law shall have their common and ordinary meaning.

ACCESSORY STRUCTURE - Secondary structures such as detached garages, tool or storage sheds, screen houses, patios, gazebos, fences, walls, etc.

AGRICULTURAL OPERATIONS - Per Agriculture and Markets Law Section 301(11) "...the land and on-farm buildings, equipment, and practices which contribute to the production, preparation and marketing of crops, livestock, and livestock products as a commercial enterprise".

CODE ENFORCEMENT OFFICER (CEO) - Person employed by the Town of Berkshire and given the legal authority to assure local laws are adhered to by property owners, residents and contractors.

GROUNDS - Areas on a lot that do not include structures including lawns, planting areas, driveways, sidewalks, etc.

INFESTATION - The presence of insects, rodents, vermin or other pests.

OUTDOOR FURNACE - Any external heating device, equipment or apparatus which is located outdoors for the primary purpose of combustion of fuel to produce heat or energy that provides heat for interior spaces.

OUTSIDE STORAGE - Placement and/or harboring of said materials or items on any exterior yard areas for longer than 10 days. This shall also include materials covered by tarps and tarp-like covers.

SOLID WASTE - Everyday garbage or trash generated by households, businesses, institutions and public spaces within the Town of Berkshire. Solid waste includes items such as food scraps, packaging, paper plastics, glass, metals, yard waste and other discarded materials, including furniture and appliances that are typically collected by refuse services for landfilling or recycling; hazardous materials generated by the same, including batteries, used motor oil, and other fluids; and items such as tires that require special handling and disposal to prevent environmental contamination.

UNDEVELOPED LAND - Property on which no certificate of occupancy has been issued and no legitimate nonconforming structures exist.

UNOCCUPIED HAZARD - Any building or part thereof which remains unoccupied for a period of more than one year, with either doors, windows or other openings broken, removed, boarded or sealed up.

UNREGISTERED VEHICLES - Any vehicle, including but not limited to automobile, bus, boat, trailer, truck, motor home, motorcycle, camper, ATV, 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, and does not display a valid registration sticker by any authorized agency of any State or does not have a valid inspection sticker or is no longer in condition for its intended original use.

UNSAFE STRUCTURE - Structure that is found to be dangerous to the life, health, property or safety of the public or occupants and are not providing sufficient safeguards to protect and/or warn others in case of fire or that the structure is so damaged, decayed, dilapidated, or unsafe with faulty construction or unstable conditions that could results in partial or complete collapse.

SECTION III. Provisions and Requirements

A. Minimum standards; higher standard to prevail.

1. This local law establishes certain minimum standards for the initial and continued occupancy and use of all structures or land and does not replace or modify standards otherwise established for the construction, repair, alteration or use of the structure, the premises or the equipment or facilities contained therein, as are required by Building Codes of New York.
2. In any case where a provision is found to be in conflict with any applicable code, regulation or Laws of the Town of Berkshire, the provision that establishes the higher standard, as determined by the Code Enforcement Officer (CEO), shall prevail.

B. Responsibilities of owner, occupant, agent or operator.

1. The owner, occupant, agent, and operator in control of the building, structure, lot or parcel of land shall be jointly and severally responsible for the maintenance of the premises in a clean, safe and sanitary condition according to the provisions of this law.
2. The owner of the building, structure, lot or parcel of land shall be an accessory responsible party, in addition to the occupant, agent or operator in control of the building, structure, lot or parcel of land to maintain the premises in a clean, safe and sanitary condition.

C. Exterior standards.

The exterior condition of structures and all surrounding grounds shall be maintained so as to reflect a level of maintenance in keeping with the standards of the community and shall not constitute blight for adjoining property owners or lead to the progressive deterioration of the neighborhood. Such maintenance shall include, without limitation, the following:

1. Structures
 - a. All occupied properties shall have approved address or fire numbers placed in a position to be plainly legible and visible from the street or road fronting the property. These numbers shall be Arabic numerals or alphabet letters and should meet the state minimum of four (4) inches high.
 - b. All exposed exterior surfaces of a building, accessory building, or structure shall be kept in a good state of repair and shall be kept free of broken or cracked glass, loose or crumbling stones or bricks, loose shutters, faulty railings, loose shingles, excessive peeling paint or other

conditions reflective of deterioration or inadequate maintenance. Foundations, porches, decks, steps, stairs, walls and fences shall be in good condition and structurally sound.

- c. Exterior walls, including doors and windows and the areas around doors, windows, chimneys and other parts of the building, shall be so maintained as to keep water from entering the building.
 - d. Balconies, porches, landings, stairs and fire escapes shall be provided with banisters/railings properly designed, installed and maintained to minimize the hazard of falling and unsightly appearance. Every floor, exterior wall, roof or porch shall be maintained in a manner so as to prevent the collapse of the same or injury to the occupants of the building or to the public. Any awnings or marquees and accompanying structural members shall be maintained in a good state of repair.
 - e. All vacant buildings and structures shall be continuously sealed and kept secure against unauthorized entry. Vacant buildings that are not sealed and kept secured may be declared as an unsafe structure or an unoccupied hazard. Owners of such buildings shall perform such acts as may be required to ensure that the building and its adjoining yards remain safe and secure and do not present a hazard to adjoining property or to the public and that such property does not become infested with vermin or rodents. Materials and methods with which such buildings are sealed must meet the approval of the CEO as to design and building material. All unsafe buildings shall be subject to condemnation in accordance with the laws of New York State and this town in which case a notice will be placed in a conspicuous place in or about the structure affected.
 - f. Any fire hazards must be avoided and any means of egress cannot be blocked and must always be maintained in a safe and solid condition. Chimneys, flues and their supports shall be installed and maintained so as to be structurally safe, durable, smoke tight, noncombustible and capable of withstanding the action of flue gases without softening, cracking, corroding or spalling. Should a fire occur, an inspection by the CEO/Fire Marshall is mandatory after corrective actions have been taken and before the heating element is used.
 - g. Fuel-burning or heat-producing equipment shall be installed or maintained so that the emission or discharge into the atmosphere of smoke, dust particles, odors or other products of combustion will not create a nuisance or be detrimental to health, comfort, safety or property of any person. Where a NYSDEC burning permit is required, a copy shall be filed with the CEO. All new installations must be permitted and/or inspected/approved by the CEO/Fire Marshall prior to use.
2. Open areas and grounds usage
- a. It shall be unlawful for any person to throw, spill, place, deposit, or leave any litter, waste products, food, etc. upon any street, highway, alley, sidewalk, park, public property or stream.
 - b. Yards and vacant lots shall be kept clean and free of physical hazards and rodent infestation. Property owners shall not allow accumulations of brush, shrubs, weeds, grass, stumps, roots, solid wastes or other excessive and/or noxious growths which could cause or enhance an unhealthy, dangerous or obnoxious condition or create a fire hazard on their property or on any adjacent or neighboring property. Lawns shall be kept cut and not to exceed 10 inches in height.

- c. Trees, brush, shrubs and hedges shall be trimmed regularly during the growing season and any dead or dying trees removed so as to avoid an unsightly appearance or obstruct sidewalks and roadways or create a safety hazard.
- d. Piles of materials such as dirt, sand and similar materials shall be used or removed within 60 days of receiving said materials. Grounds shall also be maintained in a manner that will prevent dust or other particles from being blown about the neighborhood.
- e. Owners of undeveloped lots must not accumulate any solid waste and should maintain empty property in a safe and healthy manner.
- f. No outside storage or accumulation of solid waste shall be permitted at any time. Waste shall be kept inside the building or buildings on the premises or in an acceptable enclosure and shall be regularly collected and removed from the premises.
- g. No person shall accumulate or cause to accumulate solid waste on their property that depreciates their own or other surrounding properties and that negatively impacts public health or endangers the aquifer.
- h. Public spaces such as sidewalks, steps, walks, driveways, parking spaces and similar paved or surfaced areas shall be maintained by property owners to afford safe passage during normal use under all weather conditions; Leaves, snow or ice shall not be allowed to remain on these surfaces. Any holes or other hazards that may exist shall be filled and necessary repairs or replacement carried out. Branches and shrubs shall be trimmed to allow pedestrians unobstructed passage on public sidewalks. Parked vehicles should not block sidewalks or protrude onto driving lanes on either side of public roads.
- i. Accessory structures shall be well kept and operative. Fences or barriers shall be maintained for function and safety.
- j. Open wells, cesspools, cisterns, open holes or temporary excavations shall be securely closed or barricaded from access so as to protect the general public from injury.
- k. No storage in front or side yards of materials, goods or supplies (such as furniture intended for interior use only). Materials may be stored in a rear yard, provided that the area used for storage is shielded from neighboring properties by a fence or hedge and provides protection from the elements and/or rodents, and that the method and manner of storage complies with the other provisions hereof.
- l. Surface or subsurface water shall be appropriately drained to protect buildings and structures and to prevent the development of stagnant ponds. Gutters, culverts, catch basins, drain inlets, storm sewers or other satisfactory drainage systems shall be utilized where necessary, and maintained.
- m. Any casualty damage (fire, weather, neglect) to property, grounds or structures must be repaired or cleaned up within 6 months from the time of the incident so that said property has no physical signs of damage thereafter. Upon completion of any repairs, the property owner shall contact that CEO to arrange for a safety inspection.
- n. Swimming pools shall be maintained in a clean and sanitary condition and in good repair. Enclosures must always be maintained to restrict access and protect against potential drownings.

- o. Per NYS Law, no more than one unregistered vehicle or accumulation thereof may be stored in a dwelling's driveway or yard, unless in covered storage. This subsection shall be enforced by the Town CEO utilizing the Local Law for Unregistered Vehicles. This includes junked, abandoned or discarded motor vehicles or accumulation of vehicle parts.
- p. No person shall discard or abandon a refrigerator or freezer on any exterior or outdoor property.
- q. Containers for disposal of solid waste should be kept in good condition and stored in the least conspicuous spaces as possible and kept sanitary and free of litter during the collection, storage, and handling of solid waste in accordance with the provisions of the applicable codes. Commercial or residential dumpsters, or similar large receptacles, that are in continual use, need to be in good condition, watertight, and have lids closed when not disposing of solid waste, and if possible, shielded from public view by screening or a fence. The owner of any site or building from which solid wastes are collected shall provide refuse containers sufficient in number to hold all collectible wastes which may accumulate, and the owner shall be responsible for the maintenance of the property. Containers should be removed from the road side as soon as possible once collected.
- r. Abhorrent odors caused by any undisposed solid waste, including animal waste or septic leakage, is unacceptable.
- s. Outdoor furnaces can only burn fuels recommended by the manufacturer or as would be used inside the home such as non-treated wood, home heating oil, coal, propane, or natural gas. Furnaces that are outside, should never be used as a waste incinerator and never burn trash, plastics, paper products, rubber, household garbage, leaves, pressure treated wood, etc.
- t. Open burning, including burning in a barrel or fireplace, is prohibited except on-site burning of small limbs and branches, cooking or small campfires, ceremonial bonfires, fires for control of invasive plant and animal disease and prescribed burns. In NYS there is a burn ban from March 16 until May 14.
- u. Split wood, used for heating, should be stacked neatly and situated in such a way to avoid rodent infestation.
- v. All signs must be kept in an operative condition. Any sign that deteriorates shall be repaired or removed.

SECTION IV. Exclusions

- A. Agricultural operations are exempt from many provisions of this local law, as per the New York State Department of Agriculture and Markets regulations. However, residential properties on farms, including farmhouses and their surrounding grounds, must still comply with this law. For any questions or clarifications regarding the application of this law to agricultural properties, please consult the local CEO.
- B. The CEO may offer one special extension per person/per incident of up to 180 days to violators of this local law under certain hardship or extenuating circumstances.
- C. If a violation is discovered during winter months, the CEO can allow an extension if the winter weather prevents the correction of a violation.

- D. The CEO may also grant an extension or exception for cases of disability or financial hardship. Violators requesting an extension for financial hardship shall be required to provide financial documentation.

SECTION V. Administration and Enforcement

- A. This Berkshire Town Board assigns the Code Enforcement Officer (CEO) to administer this local law to keep the town clean, healthy and safe.
- B. The Town Board and the Town Justice will act as necessary when orders are filed by the CEO. Should a person fail to comply with this law, the Town Board can remediate the situation having the Town or a contractor do the work necessary to remove the reported situation. See Section IX. Penalties.

SECTION VI. Enforcement Procedures

- A. Whenever it shall appear that the provisions of this law are being violated, the CEO shall inspect the premises and prepare a detailed report of findings. Should the suspected or reported violation not be in clear view, an inspection shall be done after securing approval from the owner, agent, tenant or other person with authority. Should the CEO encounter resistance or threats while enforcing this local law, they are authorized to request assistance from local law enforcement for their protection and to facilitate the enforcement process.
- B. The CEO shall serve or cause to be served, written notice, by personal service or certified mail, upon the owner, agent, tenant, or person of authority at the last known address of the person or entity specifying the alleged violation and provide a reasonable time of not less than five (5) business days for compliance or appeal.
- C. Said notice shall contain substantially the following: The name of the owner, lessee, agent, tenant or person of authority of the premises; the identification of the premise in violation as is on the assessment roll of the Town; a statement of the condition of the premises as found from the inspection; a demand (detailed violation) to maintain premises as specified in requirements of Section III and how to become compliant and a timeframe for which to complete work. A statement should also be included stating what will happen should person not comply.
- D. Whenever a notice has been served and owner, occupant, agent or operator has neglected or failed to comply with the requirements in the time permitted, the CEO will notify the Town Board and the Town Justice and serve an appearance ticket to the violator, which requires an appearance in Town Court.
- E. If the CEO determines that a condition poses an immediate threat to life, health, or safety, they may issue a notice to address the hazard without prior notice. This may include orders to vacate, board up, fence off, or demolish. The order takes effect immediately upon being served or posted on the premises and must be complied with at once or as directed. Related expenses will be recovered as outlined in this law.
- F. Emergency actions:
 - a. Nothing shall prohibit the Town from entering onto private property to remove any structure, solid waste, motor vehicle or appliances, etc. whenever an imminent threat to the life or safety of persons exists. Municipal authority pursuant to this section may only be exercised where there is a dire necessity to protect life and safety. Any municipal action taken pursuant to this section must be reasonably calculated to alleviate or prevent the crisis condition and must be limited to those actions necessary to eliminate the emergency situation.

- b. A property owner shall be given notice and an opportunity to be heard prior to any corrective actions and assessment of costs and expenses incurred pursuant to this section being placed on the property's tax bill.

G. Appeals and Variances:

A person may apply for a variance, once the notice is served, by filing a written request to the Town Board explaining their purpose and a plan to conform to The Town of Berkshire maintenance standards. No further action will be taken until the Town Board reviews the case and sends a reply. Thereafter, the CEO will ensure compliance as agreed upon. The CEO may also allow exceptions based on known conditions including weather, hardships or other extenuating circumstances.

SECTION VII. Reference Material

- A. The main official reference material for this local law is the Property Maintenance Code of New York State. Nothing contained in this local law shall prevent the Town from seeking judicial or equitable relief to abate violations of this code.
- B. This local law is replacing the Disposal of Solid Waste Law #2 of 2001 and Display of Property Address Numbers law of 1992.

SECTION VIII. Severability/Invalid Segments

If any clause, sentence, subdivision, paragraph, section or part of this law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not effect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, subdivision, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

SECTION IX. Penalties

- A. Every person convicted of violating this law shall, for the first conviction thereof, be punished by a fine of not more than Five Hundred (\$500.00) Dollars or by imprisonment for not more than fifteen (15) days, or both. For the second conviction or violation within eighteen months thereafter, such person shall be punished by a fine of not more than Seven Hundred and Fifty (\$750.00) Dollars or by imprisonment for not more than thirty (30) days or both.
- B. If person convicted fails to comply with a violation notice, take corrective action, or appear in Town Court, the Town Board may, by resolution, authorize the correction of the violation through the town or a contracted private entity. A certified letter will be issued notifying the property owner of the scheduled corrective action, including the removal of solid waste, with costs billed to the owner. If payment is not received within thirty (30) days, the expense shall be assessed as a lien on the property and added to the owner's Town of Berkshire real property tax, to be collected in the same manner and time as other town charges or tax bills.

SECTION X. Effective Date

This Local Law shall take effect upon filing with the State of New York.