

**Local Law No. _____ of 2018, a Local Law relating to
Unlicensed, Inoperable and Junk Vehicles and Repealing
Article V of the Refuse Disposal Ordinance of the Town of Catlin (79-65)**

**BE IT ENACTED BY THE TOWN BOARD OF THE TOWN OF CATLIN AS
FOLLOWS:**

SECTION 1. TITLE

This local law shall be known as the Unlicensed, Inoperable and Junk Vehicle Storage Law of 2018, and is adopted pursuant to the authority granted the Town in Section 10 of the Municipal Home Rule Law and in Section 130 of the Town Law and all other applicable laws.

§ 2. FINDINGS AND PURPOSE

Local governments have authority to enact and amend local laws promoting the health, safety or general welfare of the community, including the protection and preservation of the property of the Town and of its inhabitants; and relating to the protection and enhancement of the Town's physical and visual environment. Pursuant to these police powers, the Town is authorized to regulate unlicensed, inoperable and junk vehicles, to remove them, and to impose the cost of the vehicle's impoundment on the vehicle's owner or on the owner of the property where the vehicle is stored. 1987 Ops Atty Gen No. 87-39; 1990 Ops Atty Gen No. 90-5; 2002 Ops Atty Gen No. 2002-2.

The outdoor storage of unlicensed, inoperable and junk vehicles, or the parts therefrom, within the Town of Catlin is a hazard to the preservation of the public health, welfare and safety in that it constitutes a health, fire and safety hazard and is an attractive nuisance to children, which is a peril to their safety. The outdoor storage of such vehicles constitutes a blight on the Town's landscape, and they are generally unsightly, and their existence tends to depreciate the value of property in the neighborhood and the Town generally.

Therefore, the regulation of the accumulation and storage of unlicensed, inoperable and junk vehicles, and the parts therefrom, within the Town of Catlin, is hereby declared to be in the public interest and necessary to promote the health, safety or general welfare of the community, including the protection and preservation of the Town and of its inhabitants; and to protect and enhance the Town's physical and visual environment. Within all areas of the Town, the Town Board finds and declares that the outdoor accumulation and storage of junk vehicles, and the parts therefrom, is a public nuisance and an imminent danger to the health, safety and welfare of the community.

The purpose of this law is, through the regulation of unlicensed, inoperable and junk vehicles, and the parts therefrom, to promote a clean, wholesome, and attractive environment; protect the community from potential hazards to property and persons; protect water resources; preserve the aesthetic qualities of the Town; prevent depreciation of the property on which an unlicensed, inoperable or junk vehicle, or the parts therefrom, are located and the property of other persons in the neighborhood and the community; and to further the goals of the comprehensive plan.

§ 3. REPEALER.

Article V of the Refuse Disposal Ordinance of the Town of Catlin (79-65) is hereby repealed.

§ 4. DEFINITIONS.

For the purposes of this Local Law, the language set forth herein shall be interpreted by reference to the words and meanings as defined below. Any term used in this Local Law which is not defined below shall carry its customary meaning unless the text otherwise dictates. For the purposes of this Local Law, the singular includes the plural; the plural includes the singular; the masculine includes the feminine; the present tense includes the future. The words "shall" and "will" mean the action is mandatory; the words "may" and "should" mean the action is elective.

ABANDONED VEHICLE shall have the same meaning as in section 1224 of the Vehicle and Traffic Law, and, in accordance Department of Motor Vehicles Regulations (18 NYCRR) § 18.1, shall include vehicles abandoned on private property.

APPROVED shall mean acceptable to the ENFORCEMENT OFFICIAL.

EASEMENT shall mean that portion of land or property reserved for present or future use by a person or agency other than the legal fee OWNER(s) of the property. The EASEMENT shall be permitted to be for use under, on or above a said lot or lots.

ENFORCEMENT OFFICIAL shall mean the Code Enforcement Officer of the Town of Catlin, or any duly authorized representative.

INOPERABLE MOTOR VEHICLE shall mean a vehicle which cannot be driven upon the public streets for reason including but not limited to being unlicensed, wrecked, abandoned, in a state of disrepair, or incapable of being moved under its own power.

JUNK VEHICLE shall mean a vehicle in a state of major disassembly or disrepair, or in the process of being stripped or dismantled.

MOTOR VEHICLE shall mean every vehicle originally intended for use upon a public highway which is propelled by any power other than muscular power.

OCCUPANCY shall mean the purpose for which a building or portion thereof is utilized or occupied.

OPERATOR shall mean any PERSON who has charge, care or control of a structure or PREMISES which is let or offered for OCCUPANCY.

OWNER shall mean any person, agent, OPERATOR, firm or corporation having legal or equitable interest in the property; or recorded in the official records of the state, county or municipality as holding title to the property; or otherwise having control of the property,

including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property in court.

PERSON shall mean an individual, corporation, partnership or any other group acting as a unit.

PREMISES shall mean a lot, plot or parcel of land, EASEMENT or PUBLIC WAY, including any structures thereon.

PUBLIC WAY shall mean any street, alley or similar parcel of land essentially unobstructed from the ground to the sky, which is deeded, dedicated or otherwise permanently appropriated to the public for public use.

STRUCTURE shall mean that which is built or constructed or a portion thereof.

TENANT shall mean a person, corporation, partnership or group, whether or not the legal OWNER of record, occupying a building or portion thereof as a unit.

UNLICENSED VEHICLE shall mean a MOTOR VEHICLE without either current license plates or a registration sticker affixed to it which indicates the plate number, the vehicle identification number and the expiration date of the registration.

VEHICLE shall mean every device in, upon, or by which any 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.

§ 5. PUBLIC NUISANCE.

Junk vehicles as defined in § 4 of this Local Law are hereby declared a public nuisance and an imminent danger to the health, safety and welfare of the community.

§ 6. REGULATION.

A. Storage of Unlicensed Vehicles in R1 Residential Districts. It shall be unlawful for any person, as owner, occupant, lessee, agent, tenant, trespasser or otherwise of or on any property within the Town of Catlin, to store or deposit or cause to be stored or deposited an unlicensed vehicle or vehicles, or parts therefrom, in R1 Residential Districts in the Town of Catlin.

(1). Nothing herein shall restrict the storage or depositing of one unlicensed vehicle in areas other than R1 Residential Districts in the Town of Catlin.

B. Storage of Inoperable and Junk Vehicles. It shall be unlawful for any person, as owner, occupant, lessee, agent, tenant, trespasser or otherwise of or on any property within the Town of Catlin, to store or deposit or cause to be stored or deposited an inoperable or junk vehicle or vehicles, or parts therefrom, in the Town of Catlin, except a vehicle of any type undergoing major overhaul, including body work, performed inside a STRUCTURE (generally a garage) or similarly enclosed area designed and APPROVED for such purposes by the ENFORCEMENT OFFICER.

(1). Nothing herein shall restrict the storage or depositing of vehicles for business use otherwise in compliance with applicable zoning or licensing requirements, such as used or new car dealers, repair garages, salvage yards, and similar establishments.

(2). Nothing herein shall restrict the storage or depositing of race cars or demolition derby cars capable of moving under their own power inside a STRUCTURE (generally a garage) or similarly enclosed area designed and APPROVED for such purposes by the ENFORCEMENT OFFICER or on a trailer with current license plates and a current registration.

(3). Nothing herein shall restrict the storage or depositing of vehicles used by farm operations for agricultural purposes in an amount and type consistent with the needs and scope of the farm operation.

C. An unlicensed, inoperable or junk vehicle or vehicles, or parts therefrom, stored or deposited or parked in violation of this Local Law in the Town of Catlin shall be removed or caused to be removed by the vehicle owner, property owner, occupant, lessee, agent, tenant or other person occupying, managing or controlling such vehicle or property.

§ 7. ENFORCEMENT.

This Local Law shall be enforced by the Code Enforcement Officer of the Town of Catlin, who, pursuant to Municipal Home Rule Law § 10(4)(a), shall be authorized to issue and serve upon the violator an appearance ticket.

§ 8. RIGHT TO ENTER TO INSPECT.

A. During regular business hours or in an emergency at any hour whatsoever, the Code Enforcement Officer or any duly authorized Town representative, upon the showing of proper credentials and in the discharge of his duties, may enter upon any premises where a motor vehicle is stored. If access to such property is refused, the Code Enforcement Officer may apply for a search warrant in the Catlin Town Court alleging that an offense was committed within the court's jurisdiction, and a warrant shall be issued upon a showing that there are reasonable grounds to believe that an unlicensed, inoperable or junk vehicle, or parts therefrom, are stored or deposited on the property or that the owner of the property or the owner of the vehicle is in violation of this Local Law.

B. The Code Enforcement Officer or any duly authorized Town representative may enter the premises without a search warrant in the case of an emergency which requires immediate action to abate a direct hazard or imminent danger to the health, safety, morals or welfare of the occupants of a structure or the public.

§ 9. VIOLATIONS.

A. Notice of violation. Whenever the Code Enforcement Officer determines that there has been a violation of this Law, he shall serve written notice upon the property owner, occupant or person having charge of such premises upon which any vehicle is illegally stored or deposited

and upon the vehicle's owner, if such party can be determined. Such notice shall specify the alleged violation, shall provide a reasonable time for compliance and shall advise the party of his right to appeal.

B. Notice shall be served, either personally or by registered mail, to the property owner at his last known address, as shown upon the latest assessment roll, and to the vehicle's owner at his last known address, as shown upon the latest records of the New York State Department of Motor Vehicles. If, after due diligence, an address for either party cannot be determined or if either party cannot be served in the above stated manner, then the Code Enforcement Officer shall cause a copy of such notice to be posted on the property or on the motor vehicle, or both.

C. Right of appeal. Any person affected by a notice of violation issued in connection with the enforcement of any provision of this Law may request and shall be granted a hearing before the Town Board if such person shall file with said Board a written request for a hearing, setting forth the following: a brief statement of the grounds for the appeal, the name and address of a party upon whom orders may be served and the reasons why such notice of violation should be modified or withdrawn. This request must be filed within 10 days after the service of the notice of violation, and compliance with such notice shall not be required while the hearing is pending.

D. Failure to abate violations. In case the property owner, agent, operator, vehicle owner or occupant cannot be found within the time limit set for the abatement of said violations or if such owner, agent, operator, vehicle owner or occupant shall fail, neglect or refuse to abate such violations, the Code Enforcement Officer shall issue an appearance ticket directing the owner, agent, operator, vehicle owner or occupant to appear in the Catlin Town Court for any violation of this Law, and the Town Attorney shall be advised of all facts in the case and may institute appropriate action in court to compel compliance.

§ 10. PENALTIES.

A. Any person who violates or refuses to comply with any provision of this Law shall be guilty of a petty offense punishable by the court as follows:

(1). For a first violation, a fine of not less than twenty-five dollars nor more than fifty dollars.

(2). For any subsequent violation, a fine of not less than fifty dollars nor more than two hundred fifty dollars.

B. Every such person shall be deemed guilty of a separate violation for each week such violation, disobedience, omission, neglect or refusal occurs or continues unabated after the time limit set for the abatement of the violation.

§ 11. SUMMARY ABATEMENT.

A. In cases in which the Code Enforcement Officer determines that immediate action to abate a direct hazard or imminent danger to the health, safety, morals or welfare of the occupants of a structure or the community is required, he shall promptly cause the removal of the motor vehicle, vehicles or parts presenting such hazard or danger as a public nuisance, and the expense incurred

by the Town shall be assessed against the property upon which such vehicle, vehicles or parts were found, which assessment shall constitute a lien and charge on such property and be collected as provided by law for the collection of delinquent taxes.

B. The removal of any nuisance by the Town's agents shall not operate to excuse such owner, agent, operator, vehicle owner or occupant from properly maintaining the premises as required by this Law. Such owner, agent, operator, vehicle owner or occupant shall, in addition to the remedies provided herein, be subject to any other penalties provided for by this Law.

§ 12. REMOVAL AT OWNER'S REQUEST; COSTS TO BECOME LIEN.

The Code Enforcement Officer or his or her representative or any duly authorized Town representative is hereby authorized to remove any unlicensed, inoperable or junk motor vehicle or the parts thereof at the request of the property owner on whose property said vehicle or parts are stored or deposited. The cost of such removal shall be borne by the property owner making such request and shall be payable to the Town of Catlin. In the event of nonpayment, the cost may be assessed against the property upon which such vehicle or parts were found, which assessment shall constitute a lien and charge on such property and be collected as provided by law for the collection of delinquent taxes.

§ 13. SEVERABILITY.

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

§ 14. EFFECTIVE DATE.

This local law shall become effective thirty (30) days after it is filed in the Office of the Secretary of State.