

Local Law 1 – 2016
A local law establishing Property Maintenance Regulations
For the Town of Carrollton
And Repealing Local Law No. 1 of 2010.

Be it enacted by the Town Board of the Town of Carrollton, New York as follows:

Section 1: Short Title

This local law shall be known as the "Property Maintenance Law" of the Town of Carrollton.

Section 2: Purpose

A sanitary and hazard free environment is declared to be of vital importance to the health, welfare, and safety of the inhabitants of the Town of Carrollton. In addition, such an environment is deemed essential to the maintenance of and continued development of the economy of the Town of Carrollton and the general welfare of its citizens. Therefore, recognizing the above and the need of the community for the maintenance of residential and business premises, whether improved or vacant, the Town Board does hereby enact this Local Law.

Section 3: Applicability

All lots located within the Town of Carrollton, whether improved or vacant, shall be maintained in conformity with the provisions of this Local Law.

Section 4: Conflict with other Laws and Regulations

The provisions of this Local Law shall supplement all local laws, ordinances, codes or regulations existing in the Town of Carrollton and the other statutes and regulations of the state and local agencies having jurisdiction applicable thereto. Where a provision of this law is found to be in conflict with any provision of any existing local law, ordinance, code, or regulation, or other statutes and regulations of state and local agencies, the provision or requirement which is more restrictive or which establishes the higher standard shall prevail.

Section 5: Definitions

The words used in this local law shall have the following meaning:

COMMERCIAL ESTABLISHMENT A business use or activity, at a scale greater than a home-based business, involving retail or wholesale marketing of goods and services. Examples of commercial establishments include offices and retail shops.

DWELLING UNIT A building or portion thereof that provides complete housekeeping facilities for one family. Each dwelling unit shall have its own sleeping, cooking and toilet facilities. A dwelling unit is designed for permanent occupancy and shall not be construed to include a hotel, motel or other such use of a transient nature.

DWELLING, SINGLE FAMILY a building that contains one dwelling unit.

DWELLING, TWO FAMILY A building that contains two dwelling units.

DWELLING, MULTIPLE FAMILY A building that contains three or more separate dwelling units.

GARBAGE The animal or vegetable waste resulting from the handling, preparation, cooking and consumption of food, whether from a business or residential premises.

HOME BASED BUSINESS Any land use or activity undertaken for gain within a dwelling unit, or within a structure that is accessory to the dwelling unit and on the same lot, by the resident or residents thereof. A home-based business is an accessory use, and shall be clearly incidental and secondary to the use of the structure as a residence.

INDUSTRIAL ESTABLISHMENT A business use or activity, that involves manufacturing, fabrication, assembly, warehousing, and/or storage.

INFESTATION The presence, within or contiguous to a structure or lot, of insects, rats, rodents, vermin or other pests.

INOPERABLE No longer capable of performing the purpose for which an object is designed.

JUNK The open storage or deposit of any of the following shall constitute junk:

- .. (1) One or more junk vehicles
- (2) One or more junk mobile homes
- (3) One or more inoperable pieces of construction equipment
- (4) One or more discarded or inoperable household appliances including but not limited to washers, dryers, dishwashers, stoves, refrigerators, freezers, and televisions
- (5) One or more discarded or irreparably damaged pieces of furniture, including but not limited to sofas, lounge chairs, mattresses, bed frames, desks, tables, chairs and chests of drawers
- (6) Disassembled vehicle parts or other disassembled machinery, bicycles or appliances
- (7) Parts of machinery, or parts of vehicles, or parts of appliances
- (8) Tires which do not meet New York State requirements for highway use
- (9) Scrap metal, paper, rags, or lumber, except that cordwood being used for household purposes shall not be construed to be "junk"

JUNK MOBILE HOME Any enclosed dwelling built upon a chassis, used or designed to be used for either permanent or temporary living and/or sleeping purposes, including motor homes, truck campers, camping trailers, campers, travel trailers, pop-up trailers, tent trailers and overnight trailers; which meets two out of three of the following conditions for six months or more:

- (1) The electrical service is disconnected / terminated
- (2) It is abandoned as a dwelling unit
- (3) It is no longer habitable for residential occupancy, pursuant to the New York State Building Code

JUNK VEHICLE

- A. Any vehicle intended for travel on the public highways or waterways which is:
 - (1) Unlicensed for a period of excess of six (6) months, or
 - (2) Abandoned, wrecked, discarded, dismantled, or partly dismantled
- B. Any vehicle not required to be licensed or any vehicle not intended for use on public highways or on waterways shall be deemed a junk vehicle if:
 - (1) Such vehicles has remained unused for more than six (6) months, and
 - (2) It is not in usable condition, according to the standards set forth in the owner's manual
- C. Any used parts or waste materials which, taken together, equal in bulk one or more such vehicles.

JUNKYARD The open storage or deposit of any of the following:

- (1) Two or more junk vehicles
- (2) Two or more junk mobile homes
- (3) Two or more inoperable pieces of construction equipment
- (4) Two or more discarded or inoperable household appliances, including but not limited to washers, dryers, dishwashers, stoves, refrigerators, freezers, and televisions
- (5) Two or more discarded or irreparably damaged pieces of furniture, including but not limited to sofas, lounge chairs, mattresses, bed frames, desks, tables, chairs, and chests of drawers
- (6) Any combination of the above or parts of the above that total two or more items
- (7) Disassembled vehicle parts or other disassembled machinery or appliances, or scrap metal, paper, lumber or rags

LITTER Garbage and/or rubbish as herein defined and all other waste material which, if thrown or deposited as herein prohibited, tends to create a danger to public health, safety and welfare.

OPEN STORAGE Storage other than in a completely enclosed structure.

OWNER The person having legal title to a property. For purposes of implementing this local law, the person listed on the current assessment rolls of the Town as the owner of a particular parcel shall be construed to be the owner of that property.

PERSON One or more individuals of either sex, firms, corporations, partnerships, associations, companies or organizations of any kind.

PUBLIC NUISANCE AFFECTING HEALTH A nuisance that is an occupation of or use of property, equipment or structures, either private or public, affecting the health of one (1) or more persons.

RECYCLING CENTER An establishment designed to be a collection point where recyclable materials are sorted and/or temporarily stored prior to delivery to a permanent disposal site or shipment to others for reuse or reprocessing. Recyclable materials include, but are not limited to, metal, cans, glass, plastics, and newspaper, books and other paper products. Oil, batteries, and other hazardous materials shall not be considered to be "recyclable materials" for the purpose of this local law.

RESIDENTIAL PREMISES A building or combination of buildings used solely for personal living purposes of the occupants thereof, whether as owners or tenants thereof and not used for any business purposes, except an allowable home-based business. A residential premises shall be either a single family dwelling, a two family dwelling, or a multiple family dwelling.

RUBBISH Combustible and noncombustible waste materials, except garbage; the term shall include the residue from the burning wood, coal, coke and other combustible materials; papers, rags, cartons, boxes, barrels, wood, excelsior, rubber, leather, tree branches, yard trimmings, leaves, cans, bottles, metals, mineral matter, plastics, glass, crockery, wood furniture and bedding, small quantities of rock, brick, and concrete, dirt, dust, and ashes, dead animals and any and all tangible personal property no longer intended or in condition for ordinary and customary use, and other similar materials.

VEHICLE Any means of transport or conveyance originally intended for travel on the public highways, private property or public or private waterways, which was originally designed and manufactured (1) to be moved or propelled by any power other than muscular power; or (2) to be drawn or towed.

WASTE MATERIAL Waste produced by industrial or manufacturing processes, including but not limited to, food processing waste, boiling house cinders, lumber scraps and shavings, slag, industrial sludge or other chemical wastes and by-products, tires, oils and large amounts of wood, concrete, rocks, brick, sand, and other wastes from building operations.

YARD An unoccupied space, open to the sky, on the same lot with a building or structure.

YARD, FRONT The open space on a lot, which extends across the full width of the lot between the front lot line and the nearest part of a building or structure.

Section 6: Prohibited Acts

- (A) The open storage of junk viewable from any municipal road right-of-way or from any private right-of-way acting as the legal access to a parcel, garbage, litter and/or rubbish, regardless of quantity, except as is otherwise explicitly permitted in this local law, is prohibited. A recycling center with a valid special use permit from the Town of Carrollton is exempt from this provision, if so permitted in the special use permit.
- (B) No person shall throw, cast, deposit or allow to accumulate, any of the following:
 - (1) Any decomposable organic matter, which might create a nuisance or act as a breeding place for flies or bugs or as food rats or vermin; or
 - (2) Any rubbish, garbage or waste materials
 - (3) Any discarded material or thing that is capable of holding water, which might serve as a breeding place for mosquitoes or harbor vermin; or
 - (4) Any combustible matter or material which might create a fire hazard; or
 - (5) Any junk vehicle; or
 - (6) Any junk mobile home; or
 - (7) Any discarded material or thing which tends to produce an unsightly and disagreeable appearance, objectionable to the neighborhood
- (C) No person shall throw, cast, deposit or allow the accumulation of any junk. As defined herein, unless such person has a valid special use permit from the Town of Carrollton for a recycling center.
- (D) No person shall throw or place any papers, trash, garbage, rubbish or junk in any street or street right-of-way, park, creek or creek bank, or any other public lands, except at the time and manner provided for the collection of garbage.
- (E) No person shall allow or permit the continuance of a public nuisance affecting health, as defined herein.
- (F) **Exceptions.** Nothing in this section shall be construed to prohibit the temporary storage of garbage or rubbish awaiting removal, provided that such storage is in receptacles that meet the requirements of this local law; nor shall this section be construed to prohibit the depositing of manure or fertilizers upon private property for the purpose of cultivating or improving the same.

Section 7: Litter

Residential premises and commercial and industrial establishments shall be maintained free of litter; provided however, that this section shall not prohibit the storage of garbage and rubbish for a reasonable period time prior to collection, in receptacles that meet the requirements of this local law.

Section 8: Furniture Used Out-of doors

All furniture that is used out-of-doors shall be suitable for such use, both in terms of the condition of such furniture and the purpose for which the furniture was originally intended or manufactured. Furniture used out-of-doors shall be in good repair and shall not be dilapidated. If upholstered, the springs, stuffing, frame and/or other parts of the interior materials shall not be visible. Furniture used out-of-doors shall not be in such a condition that it either harbors, or has the potential to harbor, insects, fleas, rodents, mold, bacteria, or other nuisances.

Section 9: Infestation and Screening

- (A) Yards, grounds, buildings and structures shall be maintained free of insects, vermin, rodents and other infestations. Methods used for exterminating infestations shall conform to generally accepted practice.
- (B) Where the potential for rodent or other infestations exists, windows and other opening in basements and cellars shall be appropriately screened with wire mesh or other suitable materials.

Section 10: Garbage and Rubbish

(A) General Standards

1. Garbage and rubbish shall be regularly collected and removed from the premises.
2. No person shall place, or cause to be placed, garbage or rubbish out for pick-up prior to twenty-four hours before the scheduled pickup time.
3. Adequate sanitary facilities and methods shall be used for the collection, storage, handling and disposal of garbage and rubbish in accordance with the provision of applicable codes.
4. Nothing in this local law shall prohibit a person from placing garbage and trash out for curbside pick-up in plastic bags or from placing recyclables out for curbside pick-up in containers approved for such use by the Building Officials, provided, however, that the materials are not placed out for pick-up more than twenty-four hours before the scheduled pick-up time.

(B) Commercial and Industrial Establishments and Multiple Family Dwellings

1. No open storage of garbage or rubbish shall be permitted, except in a fully enclosed container(s). Containers shall be made of metal, heavy-duty plastic or similar material as may be approved by the Town of Carrollton's Building Official. Containers shall be sturdy enough to prevent the entrance of raccoons, rats, dogs, and other animals. If a dumpster is used, the lid shall be kept closed except when garbage or rubbish is being placed inside it.
2. The area used for placement of dumpsters or other approved garbage/rubbish containers shall be fenced or otherwise screened from view from public streets.

(C) Single Family and Two Family Residential Premises

1. No garbage or rubbish shall be permitted, except in tightly sealed containers that do not allow the entrance of vermin, raccoons or other animals. Containers shall be made of metal, heavy-duty or similar material as may be approved by the Town of Carrollton's Building Official.

Section 11: Unlicensed Vehicles and Junk Vehicles

- (A)** The open storage of junk vehicles and unlicensed vehicles is prohibited. Junk vehicles or unlicensed vehicles may be stored in legal, fully enclosed structures.

(B) Exceptions

- (1) Unlicensed vehicles in operating condition may be stored outdoors, for up to six (6) months, by or for the owner, if both of the following conditions apply:
 - (a) The vehicle is not stored in front yard, and
 - (b) The vehicle is for the personal use of the occupant, or of an immediate family member of the occupant, of the premises on which the vehicle is stored.
- (2) The resident of the property has a valid storage permit for the unlicensed vehicle.
- (3) The resident of the property has a valid restoration permit for the vehicle.
- (4) An automobile dealer licensed by New York State, and who is conducting business in accordance with the regulations of the Town of Carrollton zoning law, if any is permitted to have unlicensed vehicles for sale on the lot where the business is conducted. All vehicles shall be in condition for use on the public highways.

(5) An automobile repair shop licensed by New York State, and who is conducting business in accordance with the regulations of the Town of Carrollton zoning law, if any may have disassembled vehicles awaiting repair. These vehicles shall be repaired and be in condition for use on the public highways within 90 days of the date on which they were first brought to the site.

(6) Any Town of Carrollton impound lot is exempt from these regulations.

(C) Unlicensed Vehicle Storage Permits

(1) The open storage of unlicensed vehicles for longer than six months is prohibited, unless the occupant of the premises obtains an Unlicensed Storage Permit from the Town of Carrollton. The occupant of the premises shall apply to the Code Enforcement Officer for a permit to store such vehicle. The Code Enforcement Officer may grant such a permit, for a period not to exceed one year, if the applicant shows that the owner of the unlicensed vehicle is a resident of the property and that at least one of the following situations applies to the owner of the unlicensed vehicle:

- (a) A full time student who is attending a school, college or university
- (b) A member of the United State Armed Forces
- (c) Suffering from an injury or illness requiring hospitalization or confinement to a bed

(2) A valid permit to allow the storage of an unlicensed vehicle shall require that the vehicle not be stored in the front yard, as defined herein, and shall have a term for the permit. Upon expiration of the permit, the vehicle shall be licensed or removed, or the owner may apply for an extension of the permit.

(D) Restoration Permits

(1) A person may apply to the Code Enforcement Officer for a restoration permit. The restoration permit will allow the open storage and repair of one junk or unlicensed vehicle. The repairs shall be for the purpose of restoring the vehicle to a condition such that it may legally be operated on public highways.

(2) The Code Enforcement Officer may issue that restoration permit only if all the following conditions are met:

- (a) The vehicle is for the personal use of the occupant of the property on which the vehicle will be located and the vehicle is not being restored for commercial purposes.
- (b) Vehicle is in an enclosed structure during periods of restoration and is not stored in the front yard the remainder of the time.

(c) Noise and other nuisances associated with the restoration shall be limited to between the hours of 7:30 a.m. through 9:00 p.m.

(3) The Restoration Permit shall be valid for a period of six months. The applicant may apply for an extension of the permit, for up to an additional six months. The Code Enforcement Officer may issue an extension, provided that sustained and continuous progress in restoring or repairing the vehicle is being made.

(E) Pre-existing junk vehicles and unlicensed vehicles. All junk and unlicensed vehicles existing at the effective date of this local law shall be brought into compliance with this section within (30) days from the date of notification by the enforcement official.

Section 12: Duties of Owners and Occupants

(A) An occupant or tenant of the premises shall be responsible for compliance with this law, as if he/she were an owner.

(B) Owners of premises shall be responsible for compliance with the provisions of this law and shall remain responsible therefore regardless of the facts that this law may also place certain responsibilities on tenants or occupants and regardless of any agreements between owners and tenants or occupants as to which party shall assume such responsibility.

(C) Whenever any person or persons shall be in actual possession of or have charge, care or control of any property within the Town as executor, administrator, trustee, guardian, operator or agent, such person shall be deemed and taken to be the owner or owners of said property within the true, intent and meaning of this Law and shall be bound to comply with the provision of this law to the same extent as the owner of record. Notice to any such person or order or decision of the Code Enforcement Officer shall be deemed and taken to be a good and sufficient notice, as if such person or persons were actually the owner(s) of record of such property. In instances where an occupant is responsible or shares responsibility with the owner for the existence of one or more violations of this law, such occupant shall be deemed and taken to be an owner within the true intent and meaning of this law.

Section 13: Administration and Enforcement

(A) Enforcement Official

The Code Enforcement Officer is hereby designated to be the Town enforcement official, who is charged with the administration and enforcement of this local law. The Town Board may designate other officials or employees to help in the enforcement of the provisions of this law.

Notwithstanding any language to the contrary, this local law may be enforced by the Code Enforcement Officer of the Town of Carrollton, a constable of the Town of Carrollton, or by a peace/ police officer or deputy sheriff within the jurisdiction of the Town of Carrollton.

(B) Complaints

- (1) The Enforcement Official or any person either residing or owning real property within 1000 feet of the parcel where an alleged violation occurs may file a complaint with the enforcement official that a violation of this law may have taken place or is allegedly taking place. All complaints shall be in writing and shall specify the property on which the alleged violation has occurred.
- (2) The enforcement official shall record and investigate any such complaint.
- (3) The enforcement official may also investigate any alleged violation that he or she has reason to believe has occurred or is occurring.

(C) Inspection

- (1) Whenever a complaint has been filed, or whenever it shall appear that the provisions of this local law are being violated, the Enforcement official, except in cases where the alleged violation is in plain view and/or where no entry is necessary, shall obtain approval from an owner, lessee, agent, tenant, or other person with authority, to make an inspection of the property.
- (2) Following the inspection of the property, the enforcement official shall file a written report, which details the findings of his/her inspection, with the Town Clerk and with the Town Board of Trustees. If the inspection was the result of a complaint, a copy of the report shall be sent to the person who filed the complaint.
- (3) A search warrant may be obtained from the local court pursuant to NYS Criminal Procedure Law 690.

(D) Notice of Violation

- (1) If the enforcement official finds that a violation of this local law exists on the property, he/she shall prepare a written Notice of Violation which shall contain the following information:
 - (a) The name of the owner or occupant to whom the Notice shall be addressed
 - (b) The location of the premises involved in the violation
 - (c) A statement describing the condition of the premises at the time of the inspection, and showing in which way the premises is in violation of this local law
 - (d) A demand that the violation be remedied to: comply with this local law within 15 days of the date of the Notice of Violation

- (e) A statement that a failure to comply with the demand may result in prosecution
- (2) The Notice of Violation shall be served by personal service or by certified mail, return receipt requested, addressed to the last known address of the property owner or occupant. The failure or refusal of the addressee to pick up or accept such certified mailing shall not constitute a defense to any enforcement action brought pursuant to this Local Law.
- (3) **Extension.** Upon application of the owner or occupant showing reasonable cause, the enforcement official may grant an extension of up to thirty days for the owner or occupant to comply with the demands of the Notice of Violation.

(E) Enforcement

- (1) The enforcement officer is hereby authorized, pursuant to Criminal Procedure Law Section 150.20, to issue an appearance ticket to any person whom the enforcement office has reason to believe has violated this law, and shall cause such person to appear before the court of competent jurisdiction.
- (2) Upon a finding by the Town Court, or other court of competent jurisdiction that any violation of the Uniform Fire and Prevention Code, any Property Maintenance Code of the State of New York or Town of Carrollton dealing with junk, rubbish, garbage, weeds, grass and/or objectionable vegetation constitutes a Nuisance as defined by this Local Law, the Court shall order that the nuisance be abated.
- (3) Upon any such finding of a Nuisance and Order to Abate such Nuisance, the owner of such property shall have ten days to abate such nuisance. Upon failure to comply by the owner, the Town of Carrollton shall have the authority to abate the Nuisance by use of its own employees and equipment or by contracting with others to do so.
- (4) All such expenses of the Town including, but not limited to money actually paid out by the Town, the wages and fringe benefits of Town employees and the reasonable reimbursement for the cost of Town equipment utilized in abating the nuisance, as well as any administrative expenses involved in abating the nuisance or enforcing this Local Law, shall be a lien and charge on the real property on which it is levied until paid or otherwise satisfied or discharged and shall be collected in the same manner and at the same time as other Town charges, taxes and assessments.
- (5) A statement of all such expenses of the Town as set forth above shall be filed with the Town Clerk who shall within 20 days after receipt thereof, mail to the record owner of the property to the address as set forth on the tax rolls for the Town of Carrollton, a copy of such expenses with a notice that unless such

expenses are reimbursed to the Town of Carrollton within 30 days, they will be assessed as a tax lien against the property during the next fiscal year and may be enforced or foreclosed in the manner provided by law.

- (6) The lien imposed by this Local Law shall have priority over all other liens and encumbrances except for the lien of taxes and assessments and shall be enforceable against any subsequent owner of the property to the same effect as any unpaid tax or town charge against the property.

(F) Penalties

A person convicted of a violation of this local law shall be guilty of a misdemeanor offense punishable by the following:

1. **FIRST OFFENSE:** A person convicted of a violation of this local law shall be guilty of a misdemeanor offense punishable by a fine of not less than \$75.00 and not exceeding \$300.00 or imprisonment for a period of not less than fifteen (15) days and not exceeding one hundred eighty (180) days or both for conviction of a first offense;
2. **SECOND OFFENSE:** A second offense conviction of this local law shall be a person convicted of a violation of this local law on two separate occasions, of which both acts were cited within a period of one (1) year; a person convicted of a violation of this local law shall be guilty of a misdemeanor offense punishable by a fine of not less than \$150.00 and not exceeding \$500.00 or imprisonment for a period of not less than fifteen (15) days and not exceeding two hundred forty (240) days or both for a conviction of a second offense;
3. **THIRD AND SUBSEQUENT OFFENSE:** A third and subsequent offense conviction of this local law shall be a person convicted of a violation of this local law on three separate occasions, of which each of the acts were cited within a period of three (3) years; a person convicted of a violation of this local law shall be guilty of a misdemeanor offense punishable by a fine of not less than \$300.00 and not exceeding \$1,000.00 or imprisonment for a period of not less than fifteen (15) days and not exceeding three hundred sixty five (365) days or both for a conviction of a third offense;
4. Each consecutive three (3) day (or part thereof) period of violation shall constitute a separate additional violation;
5. In addition to the penalty set forth in this section or any other section of this local law and any other remedy available to the Town, the Town may maintain an action or proceeding in the name of the Town in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of this article and, in addition to the criminal penalties imposed by the court, may maintain an action to recover civil penalties and costs related to the forced removal of any substance violating this local law.

Section 14: Fees

The Town of Carrollton may set reasonable fees to cover the, cost of issuing any permits required by this local law.

Section 15: Severability

Each separate provision of this local law shall be deemed independent of all other provisions therein, and if any provision shall be deemed or declared invalid, all other provisions hereof shall remain valid and enforceable.

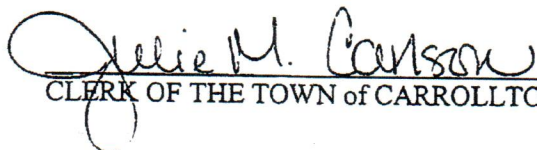
Section 16: Effective Date

This local law shall take effect immediately upon filing with the New York State Department of State.

CERTIFICATION

I hereby certify that the local law annexed hereto, designated as local Law No. 1 of 2016 of the Town of Carrollton was duly passed by the Town Board on MAY 11TH, 2016 in accordance with the applicable provisions of law.

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1 above.


CLERK OF THE TOWN of CARROLLTON

DATE: 05-11-2016