

LOCAL LAW #1 OF 2010
AMENDING LOCAL LAW #2 OF THE TOWN OF CORNING FOR THE YEAR 1995
TO PROVIDE FOR
REGULATING ABANDONED, JUNK AND INOPERATIVE VEHICLES
amended February, 2010

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LOCAL LAW #3 OF 2001
AMENDING LOCAL LAW #2 OF THE TOWN OF CORNING FOR THE YEAR 1995
TO PROVIDE FOR
REGULATING ABANDONED, JUNK AND INOPERATIVE VEHICLES.

SECTION 1. TITLE

This Law shall be known and cited as the "Abandoned, Junk, Inoperative Vehicle and Parts Thereof" Local Law of the Town of Corning.

SECTION 2. PURPOSE AND INTENT

- A. It is the purpose of this Local law to promote the public health, safety, and general welfare to provide rules and regulations in regard to storing, leaving or depositing abandoned, junk, unregistered, inoperative or parts thereof, vehicles on real property, or private premises in the Town of Corning.

- B. The unrestrained accumulation of inoperative vehicles or parts thereof is a hazard to such health, safety, and welfare of the citizens of the Town, necessitating the regulation, restraint and elimination thereof. This Law is enacted in recognition of the fact that even a single inoperable, unregistered junk vehicle, or parts thereof as defined in 3, abandoned or stored on private or public property:
 - 1. Can constitute both a public and private nuisance.
 - 2. Is a source of potential injury to children and others as an attractive nuisance.
 - 3. Is often replete with broken glass, sharp torn metal edges and hurtful acids in batteries, to mention a few of the obvious sources of physical hurt found in junk vehicles.
 - 4. Constitutes blight on the Town landscape.
 - 5. Destroys the aesthetic qualities of the Town and is generally unsightly.
 - 6. Tends to depreciate not only the property on which it is located, but also the property of other persons in the neighborhood and the Town generally.
 - 7. Makes the Town a less safe and pleasant place in which to live and do business.
 - 8. Damages the welfare of the Town as a whole.
 - 9. Tends to result in the uncontrolled growth of grass and weeds.
 - 10. Tends to result in uncontrolled collection of debris.
 - 11. Tends to be a breeding ground for harmful insects, rodents, and similar

creatures.

SECTION 3. DEFINITIONS

Except where specifically defined herein, all words used in this Law shall carry their customary meanings. Words used in the present tense include the future, and the singular includes the plural when used herein. The term "shall" is always mandatory.

ABANDONED, JUNK, UNREGISTERED, INOPERATIVE VEHICLE OR PARTS THEREOF:

- A. Any vehicle weighing five hundred (500) pounds or more and requiring registration by the NYS Department of Motor Vehicles, that is:
1. Unlicensed, old, wrecked, stored, discarded, dismantled or which is not in any condition for legal use upon the public highway.
 2. Being held or used for the purpose of resale of used parts therefrom or for the purpose of reclaiming for use some or all of the materials therein for the purpose of disposing of same.
 3. In such condition as to cost more to repair and place into operating condition than its reasonable market value at that time before such repair.
 4. Damaged (has one or more flat tires, broken windows or damage making it inoperable); missing critical components, such as the engine, wheels, tires and is not in condition to be removed under its own power;
 5. Within public view for at least thirty consecutive days and does not display all of the following: valid license plates, valid inspection sticker and valid registration sticker, if required by law.
 6. And is not an antique or classic motor vehicle, or farm equipment or snow removal equipment as defined in Section 7.

ANTIQUÉ MOTOR VEHICLE - A motor vehicle, but not a reproduction thereof, manufactured more than twenty-five (25) years prior to the current year, which has been maintained in or restored or will be maintained in or restored to a condition which is substantially in conformance with the manufacturer's specifications.

CLASSIC MOTOR VEHICLE - A motor vehicle, but not a reproduction thereof, manufactured more than ten (10) years prior to the current year and which because of discontinued production and limited availability, is considered to be a model or make of significant value to collectors or exhibitors and which has been maintained in or restored to a condition which is substantially in conformity with the manufacturer's specifications and appearance.

ENCLOSED STORAGE - A completely enclosed structure, such as a garage, and such structure shall be constructed of wood, masonry, or metal.

ENFORCEMENT OFFICER - The person appointed by the Town Board, or his designated deputy, to perform the duties herein conferred on the Enforcement Officer.

GARAGE, SERVICE, REPAIR - Any building or premises used for the repairing of motor vehicles or any part thereof.

GASOLINE STATION - A building or lot or part thereof, that is used for the sale and direct delivery of motor fuel, oil and motor vehicle accessories and which may include facilities for lubricating, washing or servicing motor vehicles, but not including painting or major repairs.

OPEN STORAGE - Storage other than a completely enclosed structure, such as a garage and such structure shall be constructed of wood, masonry, or metal.

PERSON - Includes an individual, firm, partnership, association, corporation, company or organization.

REPAIR SETTLEMENT - Determined by whatever means, including, settlement of a claim, arbitration or legal action, that any person other than the owner of a vehicle is liable to pay or will pay for the repair of damage to vehicle resulting from any vehicular accident.

TOWN - Includes all areas within the Town of Corning both publicly and privately owned.

VEHICLE - 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. *(From the NYS Vehicle and Traffic Law, Article 1, Definitions Section 159)*

VEHICLE SALES AREA - A premises, including open areas, other than a street or way, and enclosed showrooms for the display and sale of new or used automobiles, trucks, trailers, motorcycles, and/or recreational vehicles.

WRECKER - Any business operating a vehicle for towing or hauling other motor vehicles.

SECTION 4. REGULATORY PROVISIONS

No abandoned, junk, unregistered, inoperative vehicle or parts thereof, shall be placed, kept, stored or maintained within the Town of Corning in a place where any such item is visible from the traveled way of a highway or town road, or visible to an abutting landowner from that portion of the abutter's land used on a regular basis. Any such vehicle so placed, discarded or abandoned in public view is hereby declared to be a public nuisance.

Abandoned, junk, unregistered, or inoperative vehicles or parts thereof may be kept in an enclosed storage area or in the side or rear yard completely screened by landscaping or fencing. This section does not apply to restored "antique" or "classic" motor vehicles, to "antique" or "classic" motor vehicles with a valid restoration permit, or to farm vehicles or snow removal vehicles described in Section 7.

SECTION 5. ADMINISTRATION AND ENFORCEMENT

A. Notice and Determination of Violation

1. The ENFORCEMENT OFFICER or constable shall give written orders and/or notices, served in any manner calculated to reach the responsible party, including personal service, registered, certified or regular mail to the tax record address of the property owner. Such notice shall direct the person so served, regardless of the ownership of the vehicle, if the property owner or tenant is served, to terminate the open storage of such vehicle in the Town within:

- a) Ten (10) days of personal service.
- b) Thirteen (13) days from mailing where service is by regular, certified or registered mail.

2. The notice shall state that if the person served contends that said vehicle is not inoperable, unregistered or junk vehicle, as herein defined, that he/she shall:

a) Notify the ENFORCEMENT OFFICER or Constable in writing of such contention within:

- 1) Ten (10) days of personal service.
- 2) Thirteen (13) days of the date of mailing where service is by regular, certified or registered mail.

b) The person served or a representative of the person served must provide proof of vehicle registration to a representative of the Town within five (5) days of such notification. Within five (5) days after providing proof of registration, the Town shall inform the person served of its findings, in writing, by personal service or by regular, certified or registered mail.

If findings are that one (1) or more of the vehicles specified in the original notice are being stored by the person served within the original notice, said personal shall terminate open storage of said vehicle within the Town within:

- 1) Five (5) days of personal service of such findings.
- 2) Eight (8) days of mailing where service of such findings is by regular, registered or certified mail.

B. Removal Procedures

1. At the expiration of proper notification period after the service or mailing and posting of such notice, pursuant to Section A., if said vehicle has not been removed, the ENFORCEMENT OFFICER may publish in the official newspaper of the Town a notice that said vehicle is to be removed from the property, with a description of the vehicle and its location on the property, and vehicle identification number of

the vehicle or other numerical identification reference to the Law and to the fact that the location of said vehicle to such premises is a violation of this Law, and a request for proposal to remove said vehicle.

2. At the expiration of ten (10) days after the publication, the ENFORCEMENT OFFICER may contract for the removal of said vehicle. Any expense to the Town in accomplishing such removal may be assessed against the real property from which said vehicle was removed, and the expense so assessed shall constitute a lien and charge on the real property on which it is levied until paid or otherwise satisfied or discharged as other Town charges.

C. Waiver

Where the Town Board finds that due to special circumstances of a particular case, a waiver of certain requirements as stated in Section 4 herein is justified, then a waiver may be granted. No waiver shall be granted, however, unless the Town Board finds, and records in its minutes that:

1. Granting the waiver would be in keeping with the intent and spirit of this Law, and is in the best interest of the community.
 2. There are special circumstances involved in the particular case.
 3. Denying the waiver would result in undue hardship to the applicant, provided that such hardship has not been self-imposed.
 4. The waiver is the minimum necessary to accomplish the purpose.
 5. A special waiver may be granted for a period of time to the owner of Junk Vehicle who intends to use the parts from the Junk Vehicle for an owner operable motorized farm vehicle or an operable vehicle intended for travel on public highways as defined in Article B.
- D. If the person so served institutes a proceeding under Article 8 of the Civil Practice Law and Rules to set aside said determination, removal of said vehicle shall not be required pending a decision on the proceeding. If the court's decision upholds the Town determination, open storage of the vehicle within the Town shall be terminated within five (5) days following service of notice of entry of court order or, if an appeal is taken and a court stay of execution is granted, within five (5) days of the expiration of the stay of execution.

SECTION 6. PERMIT FOR RESTORATION OF VEHICLES

- A. Upon written application, the ENFORCEMENT OFFICER may issue a permit for the restoration of an antique or classic vehicle, as defined by the law. The permit shall be issued for a person not to exceed twelve (12) months and may be extended once only for an additional period of three (3) months upon a satisfactory showing that the vehicle restoration will be completed with the additional three-month extension period. The fee for the permit and extension shall be as set by Town Board resolution.

- B. The application for a restoration permit shall be on forms furnished by the Town and shall state:
1. The names, addresses, and telephone number of the applicant. The applicant shall be the owner of the vehicle.
 2. The name, address and telephone number of the owner or tenant of the Property where the inoperable, unregistered or junk vehicle is stored. If the owner of the vehicle is not the owner or tenant of the property where the vehicle is stored, written permission from the owner or tenant of the property must accompany this application to allow storage of the vehicle during the permit period.
 3. The make, model, year of manufacture, serial number, type (pickup truck, four door sedan, etc.) and color.
 4. The most recent year of registration, state registered in, plate number and registration number.
 5. The expiration date of the most recent state inspection and serial number of the inspection sticker.
 6. What person will make the repairs.
 7. The place where the vehicle is presently stored.
 8. The place where repairs will be made.
 9. Certification that the owner intends to restore said vehicle within twelve (12) months from the date of application.

SECTION 7. FARM VEHICLES OR SNOW REMOVAL VEHICLE

Any vehicle being actively used in agricultural operations or snow removal shall be exempted from the provision of this Law provided that:

- A. The vehicles are being used on private property and are being held for continuing operation on private property and are not being held primary for non-operating purposes.
- B. Such vehicles are stored out of sight of public roads and adjoining properties.
- C. The vehicles, if not in a condition for legal operation on public highways, are in a condition so that they can be operated and so that such operation on the private property will not be unduly dangerous to the operator, or others.

SECTION 8. VOLUNTEER FIRE DEPARTMENTS

This law shall not be construed to prohibit the open storage of a maximum of one (1) junk vehicle for a period of no more than nine (9) months, when such vehicle is the T.Corning Abandoned, Junk and Inoperative Vehicles Law, February 2010

property of the local volunteer Fire Department and is use by said Department for training purposes.

SECTION 9. EXEMPTION FOR MEMBERS OF ARMED FORCES

This Law shall not be construed to prohibit the open storage, not to exceed four (4) years, of a vehicle which is unregistered and is in operable condition and is owned by a member of the armed forces who is serving on active duty.

SECTION 10. AMNESTY PERIOD

- A. No legal action shall be taken against any person with regard to any violation of this Law, which violation exists on the day of the enactment of this Law, provided that such person terminates all violations by him/her, whether by removal, repairs or permit, as herein provided, within the following periods:
 - 1. If on the enactment date of this Law said person is in violation with respect to five (5) or less inoperable, unregistered or junk vehicles, he/she terminates all violations by him/her within thirty (30) days of said enactment date.
 - 2. If on said enactment date said person is in violation with respect to six (6) or more inoperable, unregistered or junk vehicles, he/she terminates violations with respect to at least five (5) vehicles within thirty (30) days of said enactment date.
- B. The sole effect of such an amnesty period shall be to provide immunity from fine punishment; and it shall not be interpreted as making legal for any other purpose the storage of any inoperable, unregistered or junk vehicles or to create any nonconforming use or to create any break in the time with regard to the length of time that the storage of any vehicle has been illegal.

SECTION 11. PENALTIES FOR VIOLATION

- A. Any person, firm or corporation who violates, disobeys, neglects or refuses to comply with or resists enforcement of any provisions of this Law or any conditions imposed by the Planning Board or Zoning Board of Appeals, shall be guilty of an offense and subject to a fine not exceeding one hundred dollars (\$100) or imprisonment for a period not to exceed fifteen (15) days, or both, for conviction of a first offense; for conviction of a second offense, both of which are committed within a period of five (5) years, punishable by a fine of not less than one hundred dollars (\$100) nor more than three hundred and fifty dollars (\$350) or imprisonment for a period not to exceed six (6) months, or both; upon conviction of a third or subsequent offense, all of which were committed within a period of five (5) years, punishable by a fine of not less than three hundred fifty dollars (\$350) nor more than seven hundred dollars (\$700) or imprisonment for a period not to exceed six (6) months, or both. Each week's continued violation shall constitute a separate additional violation.
 - B. In case of any violation or threatened violation of an provision of this Ordinance or conditions imposed by the Planning Board, Zoning Board of Appeals or Code Enforcement Officer, in addition to the other remedies herein
- T.Corning Abandoned, Junk and Inoperative Vehicles Law, February 2010

provided, the Town Board may institute such appropriate action and proceeding to prevent such unlawful action, or to restrain, correct or abate such violation.

SECTION 12. REPEAL OF PRIOR ORDINANCES

Any Local Law, Ordinance, or resolution of the Town in conflict herewith is repealed, except that this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any Local Law, Ordinance or regulation hereby repealed prior to the taking effect of the Local Law.

SECTION . 13. SEVERABILITY

If any clause, sentence, paragraph, section or part of this Local Law shall be adjudged by any Court of competent jurisdiction to be invalid, such judgment shall not be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

SECTION 14. This Local Law shall become effective after filing in the Office of the Secretary of State.

New York State Department of State
Division of Corporations, State Records and Uniform Commercial Code
One Commerce Plaza, 99 Washington Avenue
Albany, NY 12231-0001
www.dos.state.ny.us/corps

Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County City Town Village

(Select one.)

of Corning _____

Local Law No. 1 of the year 2010

A local law Amending Local Law #2 of the Town of Corning for the Year 1995 to Provide for

(Insert Title)

Regulating Abandoned, Junk and Inoperative Vehicles

Be it enacted by the Town Board of the
(Name of Legislative Body)

County City Town Village

(Select one.)

of Corning _____

as follows: