

Opn. No. 97-8

MUNICIPAL HOME RULE LAW § 10(4); VEHICLE AND TRAFFIC LAW §§ 306(b), 401(1), 1640 (6).

A village officer or employee with authority to enforce parking regulations may issue a ticket to a vehicle with an expired inspection sticker but may not do so where the registration has expired. A violation of the registration requirements of the Vehicle and Traffic Law does not occur until the vehicle is being operated upon the public highways of the State without a valid registration.

February 27, 1997

James Breen, Esq. Informal Opinion
Village Attorney No. 97-8
Village of Farmingdale
P. O. Box 220
Farmingdale, NY 11735

Dear Mr. Breen:

You have asked whether a village code enforcement officer or parking meter attendant authorized by local law to issue appearance tickets may issue those tickets to parked motor vehicles with expired inspections or expired registrations.

Under section 10(4) of the Municipal Home Rule Law the legislative body of a local government, including a village, has power to authorize the issuance of appearance tickets by a public servant who by virtue of his or her office or position is authorized to enforce local laws, statutes or rules or regulations relating to a number of subjects, including parking. See also, Vehicle and Traffic Law § 1640(6) which grants to cities and villages broad authority to regulate parking.

We conclude that a village public servant such as a parking meter attendant may issue a ticket to a parked motor vehicle whose inspection sticker has expired. Under section 306(b) of the Vehicle and Traffic Law, no motor vehicle may be operated or parked on a public highway of the State unless a valid certificate of inspection is displayed upon the vehicle.

Any violation of this section that occurs while a motor vehicle is parked on the public highways of this state shall constitute a parking violation. Vehicle and Traffic Law § 306 (b).

Therefore, a local village official authorized to enforce parking regulations may issue a ticket if an inspection sticker has expired.

Regarding your other question, we conclude that a village employee authorized to enforce parking regulations is not authorized to issue a ticket to a vehicle with an expired registration. Under section 401 (1)(a) of the Vehicle and Traffic Law

[n]o motor vehicle shall be operated or driven upon the public highways of this state without first being registered in accordance with the provisions of this article . . .

Therefore, a violation of the registration provision does not occur until the vehicle is being operated or

driven upon the public highways. Under this provision, a ticket cannot be issued to a parked vehicle because of an expired registration.

We conclude that a village officer or employee with authority to enforce parking regulations may issue a ticket to a vehicle with an expired inspection sticker but may not do so because the registration has expired. A violation of the registration requirements of the Vehicle and Traffic Law does not occur until the vehicle is being operated upon the public highways of the State without a valid registration.

The Attorney General renders formal opinions only to officers and departments of State government. This performance is an informal and unofficial expression of the views of this office.

Very truly yours,

JAMES D. COLE
Assistant Attorney General
in Charge of Opinions