

RESOLUTION OF INTRODUCTION

_____, seconded by _____,
introduced the following proposed local law, to be known as **Local Law No. 10** of 2021, entitled
**A LOCAL LAW OF THE TOWN OF ESOPUS, ULSTER COUNTY, NEW YORK
REPEALING CHAPTER 96, “LAWN MAINTENANCE” AND REPLACING WITH
CHAPTER 96, “PROPERTY MAINTENANCE LAW,” OF THE ESOPUS TOWN CODE.**

BE IT ENACTED by the Town Board of the Town of Esopus that Chapter 96 of the
Town Code is repealed and replaced and reads as written in the following section:

Section 1.

CHAPTER 96

PROPERTY MAINTENANCE LAW

§ 96-1. Title.

This chapter shall be known as the “Property Maintenance Law of the Town of Esopus.”

§ 96-2. Legislative intent.

The purpose of this chapter is to provide for a sanitary and hazard-free environment for the citizens of the Town of Esopus. This type of environment is declared to be of vital importance to the health, safety, and welfare of the citizens of the Town of Esopus. It is also the intent of this chapter to provide minimum standards for the maintenance of all property to be enforced by the Town in its effort to prevent the gradual encroachment of blight, deterioration, unsightliness and property devaluation within its borders, and to ensure that all premises within the Town are maintained in a manner consistent with their use and which protect the health, safety, and welfare of the general public. Such enforcement is deemed essential to the maintenance and continued development of the diverse economy of the Town of Esopus. Therefore, recognizing the above and the need of the community for an effective and well-regulated procedure for the maintenance of all property, public or private and whether improved or vacant, the Town Board does hereby enact this chapter.

§ 96-3. Applicability and exemptions.

- A. Compliance required. Except where specifically exempted, all residential, commercial, industrial, and public property located within the Town of Esopus, whether improved or vacant, shall be maintained in conformity with the provisions of this chapter.
- B. Agricultural operations. Except were otherwise indicated, the requirements of this law shall apply to Agricultural Operations, as defined herein, and which are conducted within a state-certified agricultural district.

§ 96-4. Compliance with Building Code.

Any alterations to buildings, structures or appurtenances thereto which may be caused directly or indirectly by the enforcement of this chapter shall be done in accordance with Chapter 56, “Building Construction” of the Town of Esopus Code, and all other applicable sections of the Town of Esopus Code, and the New York State Uniform Fire Prevention and Building Code.

§ 96-5. Conflict with other laws.

Where a provision of this chapter is found to be in conflict with any provision of an existing Town of Esopus law, ordinance, or regulation, or regulations of the State of New York or any of its agencies or authorities, the provisions or requirements which are more restrictive or which establishes the higher standard shall prevail, unless exempted by New York State.

§ 96-6. Abandoned, junked, discarded and unlicensed motor vehicles. Except where stated otherwise herein, the outdoor storage of abandoned, junked, discarded and unlicensed motor vehicles shall be regulated by Chapter 113, “Abandoned Vehicles” of the Town of Esopus Code.

§ 96-7. Effect on existing remedies

Nothing in this chapter shall be deemed to abolish or impair existing remedies of the Town of Esopus or its officers or agencies relating to the repair, removal or demolition of any buildings which are deemed to be dangerous or unsafe to the public from any cause whatsoever, in accordance with **Chapter 59, “Unsafe Building Demolition Law”** of the Town of Esopus Code.

§ 96-8. Responsibilities of occupants.

Unless specifically exempted herein, all owners, operators, and tenants of property in the Town of Esopus shall be responsible for compliance with the provisions of this chapter.

§ 96-9. Lot maintenance.

No person owning, leasing, renting, occupying, being in possession of or having charge of any property in the Town, including vacant lots, shall maintain or allow to be maintained on such property, any of the following conditions, unless otherwise exempted:

- A. Junk, trash, litter, discarded boxes, discarded lumber, salvaged materials, construction and demolition debris, crates, pallets, broken or discarded furniture, household equipment, furnishings, or other similar materials in any front yard, side yard, rear yard, or vacant lot, excepting when placed in appropriate trash receptacles for regular removal. This prohibition shall not include salvaged material, crates, pallets and other similar material not considered junk, trash, litter or similar debris, and which is directly associated with a legally operating business. Said materials associated with a legally operating business may be allowed to be stored outside provided they are adequately screened from public rights-of-ways and adjoining property and the operation is in compliance with all applicable regulations and approvals.

- B. The storage of abandoned, wrecked or unregistered boats (for those requiring registration) or other watercraft.
- C. The use of a bus, uninhabited manufactured home, truck trailer, horse trailer, semi-trailer, tank truck, or similar vehicle units for storage, unless specifically authorized in accordance with Chapter 123, "Town of Esopus Zoning Law."
- D. Attractive nuisance affecting the health of Town of Esopus residents or visitors, including, but not limited to, the storage of abandoned, broken or neglected equipment, machinery, refrigerators and freezers, or leaving exposed open excavated areas, including, but not limited to wells or shafts.
- E. No shopping baskets, carts, or wagons shall be left unattended or standing in open areas. For commercial businesses, baskets, carts, or wagons shall be collected at the close of business each day by the owner or operator of the associated establishments and removed to the interior of the building or buildings, or to a designated storage area which does not hinder pedestrian or vehicular movement.
- F. Any accumulation of grass, weeds or undergrowth which exceeds an average height of 10 inches, except for that which is kept in a neat and orderly manner for human consumption, or any accumulation of dead organic matter, offal, rat harborages, stagnant water, combustible materials and similar materials, or conditions which would constitute a fire, health, or safety hazard. However, this shall not apply to trees, cultivated flowers, gardens, or agricultural uses.
- G. Any vegetative overgrowth that adversely affects neighboring properties, sidewalks or public rights-of-ways.

§ 96-10. Lot maintenance on agricultural operations within state-certified agricultural districts.

Lot maintenance on agricultural operations within state-certified agricultural districts shall be regulated as follows.

- A. Agricultural operations within state-certified agricultural districts are strongly encouraged to maintain areas of their property visible from public rights-of-ways free of junk, trash, litter, discarded boxes, discarded lumber, salvaged materials, construction and demolition debris, crates, pallets, broken or discarded furniture, household equipment, furnishings, or other similar materials, excepting when placed in appropriate trash receptacles for regular removal.
- B. Salvaged material, equipment, crates, pallets and other similar material not considered junk, trash, litter or similar debris, which is associated with the agricultural operation within state-certified agricultural districts, may remain visible from public rights-of-ways. The Town of Esopus strongly encourages such material to be stored and maintained in a manner that does not negatively detract from the Town's desired community character of well-maintained properties.
- C. Attractive nuisances affecting the health of Town of Esopus residents or visitors, including, but not limited to the storage of abandoned, broken or neglected equipment, machinery,

refrigerators and freezers, and leaving exposed open excavated areas, including, but not limited to wells or shafts, shall be prohibited.

- D. The use of a semi-trailer, tank truck, bus, truck trailer, horse trailer or similar vehicle units for storage of materials associated with an agricultural operation within a state-certified agricultural district is permitted. The Town of Esopus strongly encourages vehicle units used for said storage to be located in such a manner as to minimize their visibility from public rights-of-ways. Alternatively, it is strongly encouraged for such vehicle units to be located adjacent to or nearby existing structures, equipment or other vehicle units to consolidate, limit their overall visibility and contribute towards the Town's desired community character of well-maintained properties.
- E. No vehicle unit or equipment of any kind shall be stored in a manner that endangers motorists, bicyclists or pedestrians or that may otherwise threaten public health and safety.
- F. Any unused semi-trailer, tank truck, bus, truck trailer, horse trailer, or similar vehicle units stored on property of an active agricultural operation within a state-certified agricultural district are strongly encouraged to be located in areas and/or screened to limit their visibility from public rights-of-ways to assist the Town in preserving and enhancing the desired community character of well-maintained properties.

§ 96-11 Buildings and structure maintenance.

The following requirements shall apply to all properties and uses within the Town of Esopus.

- A. Exterior walls, roofs, and other parts of buildings shall be free from loose, unsecured and improperly secured objects and materials. Such objects or materials shall be removed, repaired, or replaced.
- B. The owner of vacated buildings shall take such steps and perform such acts as may be required from time to time to ensure that all buildings and its adjoining yards remain safe and secure and do not present a hazard to adjoining property or to the public. All openings shall be securely fastened to prevent trespassing or animal or vermin entry or harborage.
- C. All lighting systems shall be maintained in a fully operable, clean, and safe condition.
- D. All swimming pools shall be maintained and operated in a clean, safe, and sanitary manner. Swimming pool recirculation and disinfection equipment shall be operated to maintain water quality.
- E. All decorative pools, fountains, architectural garden features, and similar items shall be maintained free of litter and operated as intended. Should these devices be abandoned or should they deteriorate because of lack of adequate maintenance, the owner shall either repair, remove, or replace these items within five days of written notice.

§ 96-12. Drainage

The following requirements shall apply to all properties and uses within the Town of Esopus.

- A. Surface and subsurface water shall be appropriately drained to protect property, including buildings and structures and to prevent the development of standing water.
- B. No roof, foundation, or sump pump drainage shall be discharged directly onto adjacent property, across or onto a sidewalk, town, county or state road, or any public right-of-way or in a manner that creates a nuisance to the owners or occupants of adjacent premises or to the public or creates a structural, safety, or health hazard by reason of construction, maintenance, or manner of discharge.
- C. Any drainage or discharge which creates a nuisance to the owners or occupants of adjacent premises or to the public or a structural, safety, or health hazard by reason of construction, maintenance, or manner of discharge, shall be immediately abated by the owner of the drained area.
- D. For the purposes of this section, a nuisance includes, but is not limited to, the discharge or drainage of water that results in the accumulation of standing or freezing water or which causes the erosion of soils on any public property, right-of-way or neighboring private property.

§ 96-13. Trash disposal and receptacles.

The following requirement shall apply to all properties and uses within the Town of Esopus.

- A. Adequate sanitary facilities and methods shall be used for the collection, storage, handling, and disposal of garbage and refuse.
- B. Dumpsters and similar large receptacles shall be screened from public streets, rights-of-way, and areas where pedestrians frequently travel. Said screening shall consist of a solid row of evergreens, or solid fencing to hide the dumpster/receptacle from public view.
- C. Shopping centers, supermarkets, and similar businesses shall provide appropriate sanitary litter receptacles for public use. Receptacles shall be of sufficient numbers and size to accommodate small items of patron's trash and be appropriately emptied at regular intervals.

§ 96-14. Notice of violation.

All written notices under this section shall be served by posting a copy of such violation notice upon the front portion of the property or upon the main structure and by mailing a copy of such notice by certified mail, return receipt requested, to the last known address of the property owner as it appears on the current assessment records of the Town.

§ 96-15. Public hearing; removal by Town; assessment of expense.

Upon the failure of an owner, operator or person in control with notice to correct a condition complained of within 30-days of the date the notice was posted and mailed, the Town Board shall hold a public hearing.

- A. The public hearing shall be held upon notice posted conspicuously on the affected property and forwarded to the last known address of the property owner, as it appears on the current assessment records of the Town, by certified mail, return receipt requested. Posting and service of such notice shall not be less than 10 days prior to the date of the public hearing. The public hearing shall be held within 30-days of the posting and service of such notice.
- B. The Town Board, after a public hearing as provided for herein, may cause the correction of the violation, upon the failure of such owner, operator, or person in control to comply with any requirements and/or conditions of the Town Board. Said correction of the violation may be performed by the Town of Esopus or by its designee, or agent, including a private contractor. The Town Board shall ascertain the cost of the proceeding and the costs of removal and assess such expense, plus a fee for administration and overhead of 25% against the record owner of the property. Thereupon, said charges shall become and be a lien upon the property on which the removal was performed and shall be added to and become and form a part of the taxes next to be assessed and levied upon such lot or land and shall bear interest at the same rate as taxes and shall be collected and enforced by the same officer and in the same manner as taxes levied against such property.
- C. The correction of the violation by the Town in accordance with this chapter shall not operate to excuse such owner, operator or person in control from properly maintaining the premises as required by this chapter, and such owner, operator or person in control shall, notwithstanding such action, be subject to any other penalties as provided for herein.

§ 96-16. Penalties for offenses.

- A. A violation of this chapter or regulation is hereby declared to be an offence, punishable by a fine not exceeding \$350 or imprisonment for a period not to exceed 15 days, or both.
- B. Each 24 hours during which a violation shall continue constitutes a separate and distinct violation within the meaning of this chapter. However, for the purpose of conferring jurisdiction upon courts and judicial officers, violations of this chapter or regulations shall be deemed violations, and for such purpose only, all provisions of law relating to violations shall apply to such offenses.

§ 96-17. Severability.

If any provision, paragraph, word, section or article of this chapter is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, sections and articles shall not be affected and shall continue in full force and effect.

§ 96-18. Conflicts.

All other chapters, ordinances or local laws and any parts thereof which are inconsistent or conflict with any part of this chapter are hereby repealed to the extent of any inconsistency or conflict.

§ 96-19. Definitions.

A. Word usage. Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

B. As used in this chapter, the following terms shall have the meanings indicated:

AGRICULTURAL OPERATIONS

Lands primarily used for Agricultural Uses, as defined herein and which may or may not be conducted within a state certified agricultural district. Agricultural lands need not be in active use and maybe considered such if left to lay fallow as part of regular crop rotation or any prevailing market circumstances.

AGRICULTURAL USES

The practice of cultivating soil, producing crops, and raising livestock and other animals or insects and/or the preparation and marketing of the resulting products in compliance with State regulations. Uses shall be either traditional in the Hudson Valley or those recognized as agricultural in nature by the State of New York Agriculture and Markets Laws.

BOAT

A vessel capable of carrying one or more people and intended for use on the water. For the purposes of this chapter, “boat” shall include a canoe, rowboat, kayak, paddle board, motor boat, Jet Ski, wave runner and other similar watercraft.

BUILDING

Any structure which is permanently affixed to the land, has one or more floors and a roof and is intended for the shelter, housing or enclosure of persons, animals or equipment or goods.

JUNK

Discarded, broken, or disabled material including, but not limited to, furniture, appliances, toys, or other items that are not in functioning condition.

LITTER

Discarded waste materials, including but not limited to, paper wrappings, packaging materials, discarded or used bottles, and discarded or used cans.

MOTOR VEHICLE

All vehicles propelled or drawn by power other than muscular power, including automobiles, all-terrain vehicles, motorboats, recreational vehicles, and towing and travel trailers.

OWNER

Any person owning property, as shown on the real property records of Ulster County or on the last assessment role for taxes; and shall also mean any lessee, tenant or other person having control or possession of the property.

PROPERTY

A lot, plot, or parcel of land, including any structures thereon.

STRUCTURE

A static construction of building materials, including buildings, mobile homes, stadia, platforms, towers, sheds, storage bins, antennas and other receivers, swimming pools and the like.

TRASH

Waste food products and other household garbage.

VERMIN

Various small animals, such as rats, that may be destructive or injurious to health and/or property.

YARD

A space unoccupied by structures on the same lot with a building or structure.