

**RESOLUTION OF INTRODUCTION**

Supervisor Shannon Harris, seconded by Councilperson Jared Geuss, introduced the following proposed local law, to be known as Local Law No. 9 of 2020, entitled A LOCAL LAW OF THE TOWN OF ESOPUS, ULSTER COUNTY, NEW YORK AMENDING VARIOUS PROVISIONS OF CHAPTER 123 “ZONING” OF THE ESOPUS TOWN CODE AS FOLLOWS: AMENDING SECTION 123-10, SCHEDULE OF PERMITTED USES PROVIDING FOR REGULATION OF BUS SHELTERS; AMENDING SECTION 123-15, PROHIBITED AND RESTRICTED USES PROVIDING FOR REGULATION OF BUS SHELTERS; AND AMENDING SECTION 123-61 TO ADD A NEW DEFINITION FOR BUS SHELTER.

BE IT ENACTED by the Town Board of the Town of Esopus that the Town Code is amended to read as follows:

Section 1. Chapter 123, titled “Zoning,” Article IV, §123-10, titled “Schedule of District Use Regulations,” is hereby amended to add “Bus Shelter” to the “Schedule of Permitted Uses” as a use permitted upon issuance of License by the Town Board in accordance with § 123-15 of the Town Code.

Districts												
Use	RF-1	RF-2	R-40	R-12	NC	BC	GC	LI	HI	W	WR	Supplementary Regulations
<u>Bus Shelter</u>	T	T	T	T	T	T	T	T	T	T	T	

Section 2. Section 123-15 of the Town of Esopus Town Code is amended to add a new subsection “C” reading as follows:

C. Bus Shelters.

(1) Applicability and required approvals.

- (a) Bus shelters, as defined in § 123-61 of this chapter, shall be permitted only by a license issued by the Town Board.
- (b) Bus shelters may be permitted only at bus stops designated by Ulster County Area Transit or when associated with multi-family housing, senior housing, or similar uses that serve a large number of tenants or customers and who would benefit from a sheltered location to await rides.
- (c) In addition to the Town Board license, bus shelters proposed within a public right-of-way shall be subject to following additional approvals.
  - [1] Subject to approval from the Town of Esopus Highway Department when proposed within a Town of Esopus maintained right-of-way.
  - [2] Ulster County Department of Public works when proposed within a Ulster County maintained right-of-way.
  - [3] New York State Department of Transportation when proposed within a state maintained right-of-way.

(2) Setbacks.

- (a) Bus shelters approved in accordance with this section shall be exempt from the yard setback requirements of this chapter.
- (b) Where a curb is present, there shall be a minimum of four feet of clearance from the face of the curb to any portion of the bus shelter or the bus shelter shall be placed at the back of the existing sidewalk.
- (c) Where no curb is present, the front of the bus shelter shall be at least 10 feet from the edge of the pavement of the adjacent road.
- (d) Additional setbacks may be required depending upon existing conditions.

(3) Bus shelter standards. Bus shelters shall comply with the following standards.

- (a) Proposed bus shelters shall comply with the following dimensions unless otherwise required by site conditions and/or county or state organizations or agencies having jurisdiction.
  - [1] Height: 8 feet.
  - [2] Width: 4.5 feet.
  - [3] Length: 8.5 feet.
- (b) The bus shelter shall comply with all applicable American with Disabilities Act (ADA) requirements.
- (c) A minimum of five feet of pedestrian passby, including clearance between poles, hydrants, and other obstacles shall be maintained on the adjacent sidewalk.

- (d) The bus shelter shall be fully transparent, with the exception of the roof.
- (e) No advertising signage shall be allowed on any bus shelter, with the exception of bus schedules and related information, including public safety information.
- (f) Sitting benches are encourage, provided they do not inhibit accessibility or compromise safety.
- (g) Lighting of the bus shelter and the boarding area shall be optional. When a bus shelter is proposed to be illuminated, only the minimum amount of light shall be permitted to ensure the safety of passengers.
- (h) Bus shelters shall be maintained in good repair and owners, agents or operators of bus shelters shall be responsible for the cleaning, repairing or replacement of any part thereof.
- (i) The Esopus Town Board, and the appropriate involved organization or agency, including, but not limited to Ulster County Area Transit, Ulster County Highway Department, and the New York State Department of Transportation, shall retain the right to require specific design elements for bus shelters that are under their jurisdiction.

(5) Review and Application procedures.

- (a) Town Board License. No bus shelter shall be constructed without a license from the Esopus Town Board and a building permit from the Building Department. When a proposed bus shelter is associated with a project requiring one or more approvals from the Planning Board, the Planning Board shall forward the necessary application materials to the Town Board for consideration of the license.
- (b) An application for a license from the Town Board shall include, at a minimum, the following information.
  - [1] Plans of the proposed bus shelter, landing pad and all related elements, including the location, dimensions and a rendering or photographic example of the proposed shelter.
  - [2] Identification of adjacent pavement width and right-of-way.
  - [3] Identification of above ground and underground utilities.
  - [4] Identification of all proposed utility connections.
  - [5] Identification of all easements to be continued, created, relocated or abandoned and written approval from the owner of land on which the bus shelter is proposed.
  - [6] If the proposed bus shelter is located on private road, the applicant must have written documentation from the owner or their representatives where the bus shelter is proposed to be located, approving the erection and maintenance of said bus shelter.
  - [7] Identification of any existing traffic signs or any obstructions to sight clearance within 15 feet of the proposed bus shelter.
  - [8] Additional information as may be requested by the Town Board.

(6) Pre-existing, non-conforming bus shelters.

- (a) Bus shelters existing at the time of the effective date of this section and which do not comply with the requirements of this section shall be considered pre-existing, non-conforming structures.
- (b) The Town of Esopus finds that non-conforming bus shelters may present a danger to the residents and visitors of the Town of Esopus and the traveling public and further may be adversely impacting the aesthetics of the Town. The Town of Esopus further finds that bringing non-conforming bus shelters into compliance or removing non-conforming bus shelters is critically important to protecting public health, safety and welfare and the aesthetics of the Town.
- (c) Pre-existing, non-conforming bus shelters shall comply with the following requirements.
  - [1] The owner, agent, or operator of said bus shelter and the property owner on which the bus shelter is located shall be notified by the Town of Esopus Building Department that said shelter shall be required to come into compliance with the requirements of this section within [90-days] of receipt of the letter. The written notice shall be served by posting a copy of such notice upon the bus shelter and mailing a copy of such notice by certified mail, return receipt requested, to the owner, agent or operator of said bus shelter and the property owner on which the bus shelter is located.
  - [2] If said bus shelter is not brought into compliance with this section within the [90-day] timeframe, both the owner, agent, or operator of the bus shelter and the property owner on which the bus shelter is located shall be in violation of this section and the requirements of § 123-10(C)(7) shall apply.

(7) Notice of Violation and Enforcement.

- (A) Notice of violation. All written notices under this section shall be served by posting a copy of such violation notice upon the bus shelter in violation of this section and mailing a copy of such notice by certified mail, return receipt requested, to the owner, agent or operator of said bus shelter and the property owner on which the bus shelter is located.
- (B) Public hearing; removal by Town; assessment of expense. Upon the failure of an owner, operator or person in control of the bus shelter and/or the property owner on which the bus shelter is located, to correct the condition complained of within 30-days of the date the notice was posted and mailed, the Town Board shall schedule a public hearing.
  - [1] The public hearing shall be held upon notice posted conspicuously on the affected property and forwarded to the owner, operator or person in control of the bus shelter and the property owner on which the bus shelter is located, 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.

[2] The Town Board, after a public hearing as required herein, may cause the removal of the bus shelter from any premises within the Town of Esopus, upon the failure of the owner, operator or person in control of the bus shelter or the property owner on which the bus shelter is located, to comply with the order. Said removal may be performed by the Town of Esopus, 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 changes 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 and assessed against such property.

Section 3. Section 123-61 of Chapter 123 of the Esopus Town Code is amended to

add a new definition reading as follows:

BUS SHELTER

A small roofed structure no larger than [38.25 square feet] in area, located near a street and designed primarily for the protection and convenience of bus passengers.

Section 4. If any section of this local law shall be held unconstitutional, invalid, or ineffective, in whole or in part, such determination shall not be deemed to affect, impair, or invalidate the remainder of this local law.

Section 5. This local law shall take effect ten (10) days following publication and posting in accordance with Town Code Section 123-50(D) and filing of the local law with the Secretary of State in accord with Article 3 of the Municipal Home Rule Law.

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law and Part 617 of Title 6 of the Official Compilation of Codes, Rules, and Regulations of New York (State Environmental Quality Review Act) ("SEQRA"), the Town Board, as lead agency has classified this Action as a Type I Action as defined under 6 NYCRR §617.4(b)(2); and

WHEREAS, pursuant to General Municipal Law §239-m and Esopus Town Code §123-51, the matter must be referred to the Ulster County Planning Board and to the Town of Esopus Planning Board for review and recommendation.

Supervisor Harris advised the Town Board that, pursuant to (a) Municipal Home Rule Law of the State of New York, it will be necessary to hold a public hearing upon this law; and (b) Town Code Section 123-51(A) and (B), it will be necessary to refer this Zoning Code amendment to the Town of Esopus Planning Board and the Ulster County Planning Board. She offered the following resolution which was **seconded by Councilperson Jared Geuss**, who moved its adoption:

WHEREAS, on **September 15, 2020, Supervisor Shannon Harris has introduced** this local law for the Town of Esopus, to be known as “Town of **Esopus Local Law No 9** of the Year 2020, entitled A LOCAL LAW OF THE TOWN OF ESOPUS, ULSTER COUNTY, NEW YORK AMENDING VARIOUS PROVISIONS OF CHAPTER 123 “ZONING” OF THE ESOPUS TOWN CODE AS FOLLOWS: AMENDING SECTION 123-10, SCHEDULE OF PERMITTED USES PROVIDING FOR REGULATION OF BUS SHELTERS; AMENDING SECTION 123-15, PROHIBITED AND RESTRICTED USES PROVIDING FOR REGULATION OF BUS SHELTERS; AND AMENDING SECTION 123-61 TO ADD A NEW DEFINITION FOR BUS SHELTER.”

RESOLVED, that a public hearing be held in relation to the proposed changes as set forth in the form of notice, hereinafter provided, at which hearing parties of interest and citizens shall have an opportunity to be heard, to be held at the Town Hall, 1 Town Hall Way, Ulster Park, New York, on **October 20, 2020, at 7:00 o’clock p.m.**, Prevailing Time, **(Immediately following Public Hearing on Local Laws 5 – 8)** and that notice of said meeting shall be published in the official newspaper of general circulation in the Town of Esopus, by the Town Clerk, at least ten (10) days before such hearing and that notice shall be in the following form:

## NOTICE OF PUBLIC HEARING

TAKE NOTICE, that the Town Board of the Town of Esopus will hold a public hearing at the Town Hall, 1 Town Hall Way, Ulster Park, New York on **October 20, 2020 at 7:00 o'clock, p.m.**, (Immediately following Public Hearing on Local Laws 5 - 8), on **Local Law No 9** of the Year 2020, entitled A LOCAL LAW OF THE TOWN OF ESOPUS, ULSTER COUNTY, NEW YORK AMENDING VARIOUS PROVISIONS OF CHAPTER 123 "ZONING" OF THE ESOPUS TOWN CODE AS FOLLOWS: AMENDING SECTION 123-10, SCHEDULE OF PERMITTED USES PROVIDING FOR REGULATION OF BUS SHELTERS; AMENDING SECTION 123-15, PROHIBITED AND RESTRICTED USES PROVIDING FOR REGULATION OF BUS SHELTERS; AND AMENDING SECTION 123-61 TO ADD A NEW DEFINITION FOR BUS SHELTER.

TAKE FURTHER NOTICE, that copies of the aforesaid proposed local law will be available for examination at the office of the Clerk of the Town of Esopus, at the Town Hall, 1 Town Hall Way, Ulster Park, New York between the hours of 9:00 a.m. and 4:00 p.m. by appointment and online at the Town of Esopus Website: <https://www.esopus.com/> on all business days between the date of this notice and the date of the public hearing.

TAKE FURTHER NOTICE, that all persons interested and citizens shall have an opportunity to see and hear the meeting live and provide comments.

PLEASE TAKE FURTHER NOTICE THAT, given the global COVID-19 pandemic, and in accordance with the provisions of the Governor's Executive Order 202.1, the Public Hearing meeting will be open to the public, but with very limited space and with special requirements (masks, social distancing, sign in and temperatures taken) for public attendance. The Town Board meeting, inclusive of this public hearing, will be accessible to the public through the media platform called Zoom. Members of the community can access the Town Board meeting through Zoom by going directly to the Zoom website ([www.zoom.us](http://www.zoom.us)) or application ("app") at the meeting start time, 7:00pm, and selecting JOIN A MEETING link then entering the Meeting ID# 829 9643 5946 and Password: 172320. Through Zoom members of the community will be able to participate in the Town Board meeting via computer. Members of the community may submit comments prior to 4:00pm on October 20th in the form of a voicemail message by calling (845) 328-0483, and by submitting written comments electronically to [outreach@esopus.com](mailto:outreach@esopus.com). The meeting will be broadcast live on Public Access TV Channel 23 and Facebook. Please check the meeting Agenda posted on the website for further instructions to access the virtual meeting and for updated information.

DATED:           Ulster Park, New York  
                    September 15, 2020  
                    HOLLY A. NETTER

TOWN CLERK,RMC

The foregoing resolution was voted upon with all councilmen voting as follows:

<b>Councilperson Evelyn Clarke</b>	<b>AYE</b>
<b>Councilperson Jared Geuss</b>	<b>AYE</b>
<b>Councilperson Kathie Quick</b>	<b>AYE</b>
<b>Councilperson Chris Farrell</b>	<b>AYE</b>
<b>Supervisor Shannon Harris</b>	<b>AYE</b>

DATED: Ulster Park, New York  
September 15, 2020  
HOLLY A. NETTER  
TOWN CLERK,RMC