

RESOLUTION OF INTRODUCTION

_____, seconded by _____,
introduced the following proposed local law, to be known as **Local Law No. 9** of 2021, entitled A
LOCAL LAW OF THE TOWN OF ESOPUS, ULSTER COUNTY, NEW YORK AMENDING
CHAPTER 113, “ABANDONED VEHICLES LAW,” OF THE ESOPUS TOWN CODE.

BE IT ENACTED by the Town Board of the Town of Esopus that Chapter 113 of the Town
Code is created and reads as written in the following section:

Section 1.

CHAPTER 113

ABANDONED VEHICLES LAW

[HISTORY: Adopted by the Town Board of the Town of Esopus 5-28-1981 by L.L. No. 7-
1981; amended in its entirety 1-11-1995 by L.L. No. 2-1995; amended in its entirety 8-19-
2021 by L.L. No 9-2021.]

GENERAL REFERENCES

Junkyards — See Ch. **90**.

Landfills — See Ch. **92**.

Vehicles and traffic — See Ch. **115**.

§ 113-1. Purpose.

The outdoor storage of abandoned, junked, discarded and unlicensed motor vehicles and the sale of motor vehicles upon privately owned properties within the Town of Esopus is dangerous, unsightly and a detriment to the preservation of public health, the protection of property and the safety and welfare of the residents of the Town of Esopus. The outdoor storage of abandoned, junked, discarded and unlicensed motor vehicles and the sale of motor vehicles upon privately owned properties within the Town of Esopus constitutes an attractive nuisance to children and a peril to their safety. Such storage constitutes a threat to the safety and welfare of the residents of the Town of Esopus since the fuel tanks frequently contain gasoline or gasoline fumes and may be subject to explosion in case of fire. Such storage depreciates the value of neighboring properties and is unsightly and discourages the orderly, progressive development of the Town of Esopus. The control of the outdoor storage of abandoned, junked, discarded and unlicensed motor vehicles and the sale of motor vehicles upon privately owned properties within the Town of Esopus is therefore regulated for the preservation of the public health, safety and welfare of the residents of the Town of Esopus.

§ 113-2. Definitions.

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

ABANDONED MOTOR VEHICLES

Any motor vehicle which the owner thereof does not intend to use on the public highways. The intent of the owner of the motor vehicle may be determined by the physical condition of the motor vehicle, any statements as to its abandonment, the length of time since the motor vehicle was last used on the public highway and whether the motor vehicle is licensed or unlicensed and other relevant facts. Any

motor vehicle which is required by state law to be licensed and/or registered, but which has not been licensed and/or registered for more than 12 months, shall be presumed to be an abandoned motor vehicle. With respect to motor vehicles not required to be licensed, or motor vehicles not customarily used on the public highway, the intent of the owner may be determined by the physical condition of the motor vehicle, the length of time since it was last used for the purposes intended, any statements as to its abandonment, and other relevant facts.

DEALER

A person engaged in the business of buying, selling or dealing in motor vehicles, motorcycles or trailers, including mobile home trailers, at retail or wholesale. Any person who sells or offers for sale more than five motor vehicles, motorcycles or trailers in a calendar year or who displays or permits the display of two or more motor vehicles, motorcycles or trailers for sale at any one time or within any one calendar month upon the premises owned or controlled by him, if such vehicles were purchased, acquired or otherwise obtained by such person for the purpose of resale, will be regarded as a dealer.

DISCARDED MOTOR VEHICLES

Any motor vehicle which the owner thereof, as established by surrounding circumstances, does not intend to recover possession thereof or any motor vehicle to which ownership cannot be reasonably determined with due inquiry.

JUNKED MOTOR VEHICLES

Any motor vehicle whether automobile, bus, truck, trailer, tractor or any other vehicle intended for highway use that is unlicensed, old, wrecked, discarded, abandoned or dismantled or partially dismantled, which is no longer intended or in condition for legal use upon the public highway. With respect to any motor vehicle not required to be licensed or a motor vehicle not usually used on public highways, the fact that such motor vehicle has remained unused for more than three months and is not in condition to be moved under its own power shall be presumptive evidence that such motor vehicle is a "junked motor vehicle."

MOTOR VEHICLE

Every motor vehicle designed and intended to be operated, drawn or driven or capable of being driven or operated, drawn or driven upon a public highway by any power other than muscular power. For the purposes of this chapter, "motor vehicles" shall include, but not be limited to, automobiles, trucks, buses, motorcycles, recreational vehicles, and trailers.

RECREATIONAL VEHICLE

A vehicular-type portable structure, without permanent foundation, which can be towed, hauled or driven and is primarily designed as temporary living accommodations for recreational camping and travel use and including, but not limited to, travel trailers, truck campers, camping trailers, motor homes, fifth-wheel trailers, or vans.

OWNER OF MOTOR VEHICLE

A person having property in or title to a motor vehicle. The term includes a person entitled to the use and possession of a vehicle subject to a security interest in another person and also includes any lessee or bailee of a motor vehicle having the use thereof under lease or otherwise.

OWNER OF PRIVATE PROPERTY

Includes the legal owner, contract purchaser, tenant, lessee, occupant, undertenant, receiver or assignee of premises or property located within the Town of Esopus.

PRIVATE PREMISES OR PROPERTY

Includes all parcels of real property situate in the Town of Esopus, whether occupied or vacant, irrespective of size or topography.

UNLICENSED MOTOR VEHICLE

Any motor vehicle required to be, but which has not been licensed or registered with the State of New York for a period of at least 30 days from the expiration of the last valid licensing, with the exception of those motor vehicles in the possession of authorized used car dealers or automobile repair shop for the purpose of sale or repair.

§ 113-3. Outdoor storage on private lands prohibited.

- A. It shall be unlawful for any person, firm or corporation, either as owner, occupant, lessee, agent, tenant or otherwise of any private property within the Town of Esopus, to store or deposit or cause or permit to be stored or deposited an abandoned, junked, discarded or unlicensed motor vehicle or vehicles upon any private land within the corporate limits of the Town of Esopus, unless:
1. Such motor vehicle is stored in a completely enclosed building, provided not more than one motor vehicle is stored within said completely enclosed building per lot or contiguous lots under the same ownership.
 2. Such motor vehicle is under repair, reconstruction, or refurbishing by the owners thereof who must actually be residing upon the premises. Not more than one motor vehicle shall be permitted at any one time on any premises. Such motor vehicle must be so maintained and protected as to not create any safety hazard or nuisance to surrounding property owners and shall not remain on the premises more than twelve months.
 3. Such motor vehicle is temporarily stored on the premises of a dully authorized automobile repair shop in accordance with all applicable regulations.
 4. Such motor vehicle is stored on the premises of an active farm operation within a county adopted State certified agricultural district and is used in connection with farm work. Such motor vehicle must be so maintained and protected as to not create any safety hazard to surrounding property.
 5. The storage or use of such motor vehicle is specifically authorized in accordance with Chapter 123, "Town of Esopus Zoning Law."

§ 113-4. Sale of motor vehicles.

- A. It shall be unlawful for any person, firm or corporation, either as owner, occupant, lessee, agent, tenant or otherwise of any property within the Town of Esopus, to sell more than five motor vehicles in a calendar year and not more than two such motor vehicles at any one time within any calendar month, except as set forth below. A New York State registered dealer, as set forth in the Vehicle and Traffic Law, may sell such motor vehicles as permitted by law, but may only do so at locations designated as a place of business on the New York State dealer's

registration, and provided that the necessary approvals as set forth in this chapter are obtained.

- B. The dealer shall provide, upon twenty-four-hour notice by the Town of Esopus Zoning Officer or Building Inspector, such inventory books and MV-50 forms as requested. The dealer shall display his New York State dealer's registration sign as required by New York State law at each location motor vehicles are located.
- C. Any person selling vehicles contrary to the provision of the Vehicle and Traffic Law shall also constitute a violation of this chapter and shall be deemed an offenses as set forth below.

§ 113-5. Notice of violation.

If the provisions of the foregoing section are violated, the Zoning Enforcement Officer or the Building Inspector shall serve written notice, either personally or by mail, upon the owner, occupant or person having charge of any such private property to comply with the provisions of this chapter. The aforesaid town official may determine ownership of any parcel of land within the Town of Esopus from the then- current tax rolls of the Town of Esopus and may serve written notice upon such owner by mailing such notice by regular mail to the owner of the address listed in the then-current tax rolls. In the event that the aforesaid town official cannot determine the owner or address of the owner of a parcel of land within the Town of Esopus, the aforesaid town official may serve written notice by publishing said written notice in the official newspaper of the Town of Esopus for two consecutive weeks. The notice shall be in substantially the following form:

To the owner, occupant or person having charge of land within the Town of Esopus known as: (insert Tax Map No. or Account No.)

Notice is hereby given that an abandoned, junked, discarded, unlicensed or for-sale motor vehicle(s) has been stored or deposited on the above-described property in the Town of Esopus. This or these vehicles(s) must be removed within 10 days from the date of this notice.

In the event that this notice is served upon you by publication, the vehicle(s) must be removed within 24 days from the first date of publication of this notice.

In case you fail or refuse to comply with this notice on or before the expiration of said 10 days from the date of this notice or before the expiration of said 24 days from the date of this notice, in the event it is served upon you by publication, you are hereby summoned to appear before the Town Justice of the Town of Esopus on to show cause why the Town of Esopus, acting through its duly authorized agents, servants, officers and employees, should not enter upon your land and remove said motor vehicle(s) and cause the same to be destroyed. In the event that the Town Justice of the Town of Esopus orders the aforementioned motor vehicle(s) to be removed and destroyed, the expense incurred by the Town of Esopus will be assessed against the above-described property and shall constitute a lien thereon and be collected as provided by law.

Town of Esopus Zoning Enforcement

Officer/Building

Inspector

§ 113-6. Penalties for offenses.

A violation of this chapter shall be deemed an offense, and all persons, including corporations, found in violation shall be subject to a fine of not more than \$350 or to imprisonment for a term of not more than 15 days, or both.

