

LEGAL NOTICE OF PUBLIC HEARING

PLEASE TAKE NOTICE that the Town Board, Town of Poughkeepsie does hereby set **October 16, 2024 at 7:00pm** as the time date and place of a public hearing to afford all interested parties an opportunity to be heard and seek public comment, in regard to the following:

“To Consider Amendments to Town Code Chapter 192, entitled “Vehicles, Abandoned””

AND PLEASE ALSO TAKE FURTHER NOTICE that said proposed local law is available in full with Exhibit to preview on our website:

<https://ny-poughkeepsietown.civicplus.com/300/Public-Hearings>

Or in person @ the Town Clerk’s Office, Monday – Friday, 8AM – 4PM.

Felicia Salvatore, Town Clerk
Town of Poughkeepsie
September 19, 2024

RESOLUTION 9:18- #9 OF 2024

BE IT RESOLVED, that the Town Board of the Town of Poughkeepsie does hereby set the 16th day of October, 2024 at 7:00 p.m. at the Town Hall, Town of Poughkeepsie, One Overocker Road, Poughkeepsie, NY as and for the time, date and place of a public hearing to consider amendments, to Town Code Chapter 192, entitled "Vehicles, Abandoned", a copy of the proposed amendment is attached hereto and incorporated herein and the Town Board does hereby waive a verbatim reading of said amendment and does direct that said amendment be spread across the record as if they, in fact, had been read verbatim; and

BE IT FURTHER RESOLVED, that the Town Board of the Town of Poughkeepsie does determine that adopting this local law is part of the ongoing administration of the Town involving no major reordering of priorities, and is a Type II Action requiring no environmental review; and

BE IT FURTHER RESOLVED, that said amendments, if adopted, will take effect immediately upon filing with the Secretary of State.

Dated: September 18, 2024

Moved: Bill Reuter

Seconded: Barbara Laird

Motion passes/ fails: Ayes 7 Nays 0

ES/mem

t-8/29/2024

m-9/18/2024

<u>PRESENT</u> /ABSENT	Councilman Reuter
<u>PRESENT</u> /ABSENT	Councilwoman Laird
<u>PRESENT</u> /ABSENT	Councilwoman Burger
<u>PRESENT</u> /ABSENT	Councilman Cifone
<u>PRESENT</u> /ABSENT	Councilman Sharpe
<u>PRESENT</u> /ABSENT	Councilwoman Shershin
<u>PRESENT</u> /ABSENT	Supervisor Edwards

AYE NAY ABSTAIN

<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

(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.

**TOWN OF POUGHKEEPSIE
LOCAL LAW NO. __ (PROPOSED) OF THE YEAR 2024**

**A LOCAL LAW TO AMEND CHAPTER 192 OF THE CODE OF THE TOWN OF
POUGHKEEPSIE KNOWN AS “VEHICLES, ABANDONED”.**

BE IT ENACTED by the Town Board of the Town of Poughkeepsie as follows:

§ 192-1. Findings and intent. This Chapter is enacted in recognition of the fact that the Outdoor Storage of Abandoned Motor Vehicles, Junk Cars, Machinery, whether working or nonworking, and Appliances on Private Property can constitute both a public and private nuisance, and it is hereby declared that such Outdoor Storage within the Town is a matter affecting the public interest. Such Outdoor Storage constitutes a nuisance, an unsightly condition and a source of vexation and annoyance not only to the owners and occupants of adjoining lands but also to the general public. Said Abandoned Motor Vehicles, Junk Cars, Machinery, whether working or nonworking, and Appliances are a source of potential hurt to children and others who may find them an attractive nuisance. They may be replete with broken glass, sharp, torn, metal edges and points, gasoline remaining in tanks of a highly explosive and combustible nature and hurtful acid in batteries. Their existence destroys the aesthetic qualities of the Town and tends to depreciate not only the property of other Persons in the neighborhood but the Town generally. The preservation of peace and good order, the safeguarding of the health, safety and general welfare and the protection of Private Property compel the Town Board to legislate upon said subject matter. §

192-2. Definitions. For the purpose of this Chapter, the following terms, phrases, words and their derivations shall have the meanings set forth herein:

ABANDONED MOTOR VEHICLE — Any vehicle deemed abandoned under § 1224 of the vehicle and traffic law if left unattended under any of the following conditions:

- (a) With no number plates affixed thereto, for more than six hours on any highway or other public place;
- (b) For more than twenty-four hours on any highway or other public place, except where a portion of a highway or public place on which parking is legally permitted;

- (c) For more than forty-eight hours, after the parking of such vehicle shall have become illegal, if left on a portion of a highway or public place on which parking is legally permitted;
- (d) For more than ninety-six hours on property of another if left without permission of the Owner.

ANTIQUÉ OR CLASSIC AUTOMOBILE — A motor vehicle owned and operated as an exhibition piece or collector's item, not used for daily transportation and manufactured more than 25 years prior to the current calendar year.

APPLIANCE — Any stove, range, washing machine, dryer, freezer, refrigerator, food or drink cooler, hot-water heater, air conditioner, water softener, television, radio, antenna or other household or commercial device or equipment abandoned, junked, discarded, wholly or partially dismantled, no longer intended or in condition for ordinary use for the purpose for which it was designed originally.

ENFORCEMENT OFFICER — The Zoning Administrator of the Town, the Chief of Police of the Town or his or her agent, and any other person designated by resolution of the Town Board as enforcement officer.

JUNK CAR — Any motor vehicle in such condition or state of repair which renders the vehicle incapable of being driven or operated upon the public highway in its condition immediately without extensive repairs; any motor vehicle which has been abandoned or junked.

MACHINERY — Machines, mechanical devices, engines, motors, power plants, appliances, laborsaving devices, tools, lawn mowers, garden equipment, miscellaneous equipment or any part thereof.

MOTOR VEHICLE — Any automobile, bus, truck, tractor, trailer, mobile home or any other contraption propelled or drawn by power other than human muscular power, originally intended or generally used for travel on public highways.

OUTDOOR STORAGE — The placing, maintaining or keeping in a place other than a permanent structure having a roof and fully enclosed sides.[Amended 9-16-2015 by L.L. No. 17-2015]

OWNER — The person having legal title to property; the person shown as the owner of real property on the current assessment rolls of the Town.

PERSON — Any natural person, male or female; any association, partnership, firm or corporation, trust, estate, foundation or fund, charitable or otherwise; any municipality or municipal corporation; or any other unit or entity.

PRIVATE PROPERTY — Any real estate or part thereof, yard or driveway, other than that used as a public place, road, street or highway, situated in the Town.

TOWN — The Town of Poughkeepsie.

§ 192-3. Placement in Outdoor Storage prohibited. It shall be unlawful for any Person, as Owner, occupant, lessee, agent or in any capacity, to store, deposit, place, maintain or cause or permit to be stored, deposited, placed or maintained in Outdoor Storage any Abandoned Motor Vehicle , Junk Car, Machinery, whether working or nonworking, or Appliance, as defined herein, upon any public or Private Property within the Town.

§ 192-4. Placement on property of others prohibited. Any Person who shall willfully and intentionally place any Abandoned Motor Vehicle , Junk Car, Machinery, whether working or nonworking, or Appliance, as defined herein, upon any property not owned, leased or lawfully occupied by said Person shall be deemed to have violated this Chapter and shall be subject to all the penalties herein provided.

§ 192-5. Removal from property of another.

- A. When an Abandoned Motor Vehicle , Junk Car, Machinery, whether working or nonworking, or Appliance comes in the temporary possession or custody of a Person in this Town who is not the Owner of the Abandoned Motor Vehicle , Junk Car, Machinery, whether working or nonworking, or Appliance, as defined herein, said Person shall immediately notify the Police Department of the location of the same.
- B. Upon receipt of such notification, the Chief of Police may authorize a towing service or junk or scrap dealer to remove and take possession of said Abandoned Motor Vehicle , Junk Car, Machinery, whether working or nonworking, or Appliance .
- C. In the case of an Abandoned Motor Vehicle having a wholesale value in excess of \$1,250, the towing service may be directed to bring said the towed vehicle to the impound yard or to safely keep the towed vehicle and its contents and maintain a record of the tow until the vehicle is claimed by the Owner or any other Person legally entitled to possession thereof or until it is disposed of as provided in this Chapter. The cost of the tow and storage shall be a lien against the vehicle, and said vehicle shall not be released until this lien is satisfied and any and all legal and lawful fines are paid.
- D. Abandoned Motor Vehicles having a wholesale value of less than \$1,250, ownership immediately vests in the Town and shall be disposed of in accordance with § 1224 of the Vehicle and Traffic Law.
- E. Junk Cars, Machinery, whether working or nonworking, Appliances having a wholesale value of \$ 100 or less shall be disposed of by the Town and the cost for such removal and disposal shall be assessed upon the Owner of the same if such can be ascertained after reasonable search; otherwise it shall become a charge upon the Town.

§ 192-6. Notice to property Owner; service; contents.

- A. If conditions existing on a property violate the provisions of this Chapter, the Enforcement Officer shall serve or cause to be served a written notice, either personally or by U.S. First-Class Mail, upon the property Owner and, if the Owner does not reside upon the premises, upon the lessee and/or occupant of said premises if the identity of the same can be ascertained with reasonable diligence.
- B. Said notice shall contain substantially the following:

- (1) the name of the Owner, lessee or occupant of the premises;
- (2) the address or location of the premises;
- (3) the identification of the premises as the same appears on the current assessment roll of the Town;
- (4) a statement of the condition of the premises as found on the inspection;
- (5) a demand that the Abandoned Motor Vehicle , Junk Car, Machinery, whether working or nonworking, or Appliance be removed from the premises on or before 30 calendar days after the service or mailing of the notice;
- (6) a statement that if the Person receiving said notice is not the Owner of the Abandoned Motor Vehicle, Junk Car, Machinery, whether working or nonworking, or Appliance and certification is made of such fact to the Zoning Administrator and a release signed giving the Enforcement Officer full permission and authority, as much as may be legally given, to enter upon the premises and remove the same, then such Person will be thereby relieved from further compliance with any of the other provisions of the notice; and
- (7) a statement that failure or refusal to comply with the provisions of this Chapter and the notice given pursuant thereto within the time specified will constitute a violation of this Chapter and each succeeding day that the violation continues shall constitute a separate and distinct violation.

C. A notice mailed to a property Owner under this section shall be mailed to his or her last known address as shown on the latest completed assessment roll of the Town as follows:

- (1) If there is more than one Owner, personal service on or a U.S. First-Class mailing of the notice to any one of such Owners shall be deemed to be service upon all, or
- (2) In the case of a premises upon which there is more than one lessee and/or occupant (i.e., shopping center, apartment project, etc.), personal service on or a U.S. First-Class mailing of the notice to the Owner and a posting of a copy of the same on the vehicle or Appliance shall be deemed sufficient and proper service within the requirements of this Chapter, or
- (3) In the case of a corporation or other legal entity, a U.S. First-Class mailing to the headquarters or main office, as shown on the latest completed assessment roll of the Town, shall be deemed sufficient and proper service within the requirements of this Chapter.

§192-7 Written demand to property owner; payment to Town; notice and opportunity to be heard.

- A. In addition to the remedies set forth in § 192-5, the Town Board of the Town of Poughkeepsie, upon recommendation from the Zoning Enforcement Officer or Chief of Police or upon its own motion, is hereby empowered to forward a written demand, by certified mail, to the Owner of real property in the Town of Poughkeepsie upon which an Abandoned Motor Vehicle or vehicles or a Junk Car or cars, or Machinery, whether working or nonworking, or an Appliance or Appliances are located to remove the same within 30 days. In the event that said Owner fails to comply within 30 days, the Town

Board of the Town of Poughkeepsie may authorize the hiring of an individual or partnership or corporation to remove said items and dispose of the same.

- B. Upon receipt of the bill for said services, the Town Board shall forward a copy of the same to the property Owner by certified mail and demand payment for said services. If said payment is not received within 30 days, the Owner shall be liable to the Town of Poughkeepsie for the actual cost to the Town of Poughkeepsie for removal plus a sum equal to 10% of such actual cost for inspection and other costs in connection therewith. The Town may recover said costs and 10% sum by charging such sums against the real property which is the subject of the violation(s), by adding that charge to, and making it a part of, the next annual real property tax assessment roll of the Town. Such charges shall be levied and collected at the same time and in the same manner as Town-assessed taxes and shall be paid to the Receiver of Taxes.
- C. Prior to charging such assessments, the Owners of the real property shall be provided written notice by the Town Board or a designee thereof to their last known address of record, by certified mail, return receipt requested, of an opportunity to be heard and to object, before the Town Board, to the proposed real property assessment, at a date to be designated in the notice, which shall be no less than 30 days after its mailing.
- D. The provisions of this section are additional powers granted to the above-listed inspectors of the Town of Poughkeepsie and in no way diminish or replace the penal provisions of § 192-18, which sets forth judicially imposed penalties for violation of this section.

§ 192-8. Inspection; report. Whenever it appears that the provisions of this Chapter have been violated, the Enforcement Officer shall make an inspection of the property and shall prepare a written report of the conditions found.

§ 192-9. Temporary permits. The Zoning Administrator may issue a temporary permit for a maximum of 90 days temporarily relieving a property Owner from the requirements of § 192-8 of this Chapter if, in his or her opinion, immediate enforcement of the requirements of § 192-8 would cause undue hardship on that Person. To receive said special permit, the Person seeking relief must apply in writing to the Zoning Administrator within five days of the service or mailing of the notice specified in § 192-6, stating the reasons for requesting said special permit. The decision of the Zoning Administrator will be final, and should said special permit be denied, all other provisions of the notice specified in § 192-6 must be complied with within 30 calendar days of the date of the written denial.

§ 192-10. Abandonment on public highways.

It shall be unlawful for any Person or his or her agent or employee to leave or suffer or permit to be left any Motor Vehicle, as defined herein, or other property upon any public highway, including but not limited to public parking areas, beyond the period such vehicle or property may lawfully be left parked, standing or left thereon or upon such place or in such position thereon as shall unlawfully obstruct or impede vehicular or pedestrian traffic or in such position as shall prohibit or prevent the use of a private driveway by the Owner of said driveway or the lessee of the property upon which said driveway is located or constitute a condition dangerous to such traffic, public welfare, safety or convenience.

§ 192-11. Obstruction of traffic.

In the event that any Motor Vehicle or property left in violation of § 192-10 shall unlawfully obstruct or impede traffic, prevent or preclude the use of a private driveway by the Owner of said driveway or the lessee of the property upon which the driveway is located or remain on a public highway, street, lane, sidewalk or other municipal property for a continuous period exceeding 12 hours beyond the lawful period of permitting continuous use of any such location, such Motor Vehicle or property shall be disposed of as an abandoned vehicle as it is defined in this Chapter and in accordance with § 1224 of the Vehicle and Traffic Law, and the Motor Vehicle or property may be removed and stored in the manner set forth in § 192-13 of this Chapter.

§ 192-12. Abandonment during public emergencies.

When any Motor Vehicle or property is parked, left or abandoned on any public highway within the Town during a snowstorm, hurricane, flood, fire or other public emergency, said Motor Vehicle or property may be removed and stored in the interest of public welfare, safety or convenience in the manner set forth in § 192-13 of this Chapter.

§ 192-13. Towing and storage of abandoned motor vehicles; charges.

When a Motor Vehicle has been abandoned as defined by Vehicle and Traffic Law § 1224, impounded as defined by Vehicle and Traffic Law § 424, or seized pursuant to Vehicle and Traffic Law § 511-b, the Chief of the Town Police Department or any police officer may, in the interest of public safety, welfare or convenience and at the expense of the Owner, remove or cause the same to be removed to the Town yard or yards, or elsewhere as he or she may deem advisable, and provide notice in accordance with § 192-13. Any charges incurred in the moving and storage thereof shall become liens against the Motor Vehicle and must be satisfied before the Motor Vehicle may be released to the Owner or other interested Person. Charges are payable to the Town of Poughkeepsie and fees shall be set by the Town Board in accordance with the fee schedule.

§ 192-14. Notice to owner of impounded motor vehicle.

Notices shall be sent by the Town Police Department to the last known Owner, or other interested Person or agent, and the Commissioner of Motor Vehicles where required regarding the recovery and potential sale of vehicles seized pursuant to § 192-13, if left unclaimed as follows:

- A. When a Motor Vehicle with a wholesale value exceeding \$1,250 has been abandoned as defined under Vehicle and Traffic Law § 1224, notices shall be made in accordance with § 1224 of the Vehicle and Traffic Law.
- B. When a Motor Vehicle has been impounded as defined by Vehicle and Traffic Law § 424, notices shall be made in accordance with § 424 of the Vehicle and Traffic Law.
- C. When a Motor Vehicle has been seized as a result of the crime of aggravated unlicensed operation of a Motor Vehicle in the first or second degree, notices shall be made in accordance with § 511-b of the Vehicle and Traffic Law.

- D. The Chief of Police shall require in such notice the date, time, and place for the potential sale of the Motor Vehicle, and that said Motor Vehicle or property be claimed and taken from the storage location within 30 days after the mailing of such notice and that all charges for removal and storage be paid upon the claiming and taking thereof from storage, as well as any and all lawful fines and all costs incurred by the Town of Poughkeepsie for said removal, storage and notification.

§ 192-15. Sale of unclaimed vehicles.

Any Motor Vehicle removed as provided in this Chapter by the Chief of Police or any police officer not claimed and taken by its Owner or other interested Person or agent within 30 days after the notice of removal provided for in § 192-14 shall be disposed of as follows:

- A. Abandoned vehicles as defined herein and pursuant to § 1224 of the Vehicle and Traffic Law with a wholesale value exceeding \$1,250 left unclaimed shall be disposed of according to § 1224 of the Vehicle and Traffic Law.
- B. Impounded vehicles as defined by § 424 of the Vehicle and Traffic Law left unclaimed, or the Owner is unable to be ascertained, shall be disposed of as an abandoned vehicle pursuant to § 1224 of the Vehicle and Traffic Law.
- C. Vehicles seized as a result of the crime of aggravated unlicensed operation of a Motor Vehicle in the first or second degree as defined by § 511-b of the Vehicle and Traffic Law left unclaimed shall be forfeited to the Town Police Department pursuant to § 511-b of the Vehicle and Traffic Law.

§ 192-16. Time and place of sale of unclaimed vehicles.

A sale conducted under the provisions of this Chapter shall be held at the time and place specified in the notice of sale or on any alternate date or time or place of which oral or written notice is given or announced at the time and place set for the sale.

§ 192-17. Proceeds of Sale of unclaimed vehicles.

- A. The proceeds of any sale conducted under the provisions of this Chapter shall be transmitted by the Chief of Police to the chief fiscal officer of the Town, together with a statement identifying the property sold and the sum received for each article or lot of articles sold, together with a statement of the costs and expense to be paid or incurred in the removal, storage and sale of such articles or lots of articles sold.
- B. Such proceeds shall be deposited in a special trust account by the chief fiscal officer. The chief fiscal officer shall pay all such costs and expenses out of the proceeds of such sale.
- C. In the event that no lawful Owner or entitled claimant shall have claimed the remainder of the proceeds of sale, without interest, within six months after date of sale, such remainder of proceeds shall be paid into the general fund of the Town, and there shall be no further obligation to the Owner or any other Person on the part of the Town.
- D. The lawful Owner of the property sold or other claimant shall be entitled to receive such net remainder of the sale price only after he or she has furnished satisfactory proof of ownership or

entitlement to the Town prior to transmission of the net sale proceeds to said general fund. Any payment by the Town made for expenses of storage, sale, etc., or of any net remainder of moneys realized on such sale to an Owner or Person apparently entitled thereto shall be a good and absolute defense in favor of the Town and its officers and employees against any other Person claiming ownership or entitlement to such payment.

§ 192-18. Penalties for offenses; appearance tickets.

A. Any Person who shall violate this Chapter or any of the provisions hereof or who shall fail or refuse to comply with the provisions of any written notice herein provided for or who shall refuse to remove any Abandoned Motor Vehicle , Junk Car, Machinery, whether working or nonworking, or Appliance as directed by this Chapter or who shall resist or obstruct the duly authorized officer, agent or employees of the Town in the removal or disposition thereof shall, upon conviction, be subject to a fine not to exceed \$1,000 or a jail sentence of not more than 15 days, or both, for each violation, and each 24 hours during which said violation shall continue shall constitute a separate and distinct violation within the meaning of this Chapter.

B. In addition to any other remedies set forth herein authorizing the Town to enforce the provisions of this Chapter, establishing penalties, and setting forth additional remedies, the Person charged with the responsibility to enforce the provisions of this Chapter may impose a civil fine or agree to a civil fine not to exceed \$1,000 per day for each day of the violation. If said civil fine is imposed, then the alleged violator may appeal to the Town Board within 30 days of the imposition of the civil fine.

C. Appearance tickets.

(1) The Enforcement Officer, provided that he or she is an employee of the Town of Poughkeepsie, is authorized to issue appearance tickets, as defined in § 150.10 of the Criminal Procedure Law of the State of New York, for violations of this Chapter. Such appearance tickets shall be returnable within 30 days in the Town Justice Court for any violation of any provision of the Code of the Town of Poughkeepsie under their respective jurisdictions.

(2) The form of the appearance ticket issued by the Enforcement Officer of the Town of Poughkeepsie pursuant to this § 192-18C shall be governed by the Criminal Procedure Law and the Uniform Justice Court Act of the State of New York. The content of such appearance ticket and the method of prosecution thereunder shall at all times be subject to the Criminal Procedure Law and the Uniform Justice Court Act of the State of New York.

§ 192-19. Exceptions.

Excepted from this Chapter and exempted from its requirements are:

A. Motor vehicles stored in duly licensed and operating junkyards.

B. Motor vehicles kept and stored by commercial establishments on their own property for the purpose of removing parts therefrom for use in vehicles used in their regular course of business.

C. Motor vehicles kept and stored by duly licensed and operating vehicle repair shops and garages, upon the premises where said business is conducted, and which are currently being repaired for the purpose of placing the same back into legal operation upon the public highways.

D. An Antique or Classic Automobile, provided that in the opinion of the Zoning Administrator such automobile is stored and kept under conditions not constituting a public nuisance or an attractive nuisance.

E. Any Motor Vehicle owned by a Person currently on active duty in any of the Armed Forces of the United States or the State of New York, provided that said Motor Vehicle is kept and stored on property owned by said Person or their spouse, or immediate family and such storage does not constitute, in the opinion of the Zoning Administrator, a public or attractive nuisance.

F. Any Motor Vehicle owned or operated by a member of the family occupying said premises, who is a full-time occupant of the premises and who is attending school on a full-time basis, provided that said exemption shall be limited to the period from September 1 through May 30 or for the length of the school term, whichever is shorter, and further provided that this exemption shall not apply to any recreational vehicle, pickup truck or commercial vehicle. The exemption under this section will only be granted upon application by the Owner of said vehicle with proof of ownership, proof of prior registration and proof of attendance at school.