

LOCAL LAW NO. ____ OF 2021

**A LOCAL LAW ESTABLISHING A FLOATING OVERLAY ZONE
TO ALLOW VEHICLE FUELING STATIONS**

SECTION I

Be it enacted that Chapter 210 of the Town of Poughkeepsie Town Code is amended by adding the following Section 210-42:

§ 210-42. VEHICLE FUELING STATION (VFS) FLOATING OVERLAY DISTRICT

A. Purpose and Intent: The Town Board recognizes vehicle fueling stations are a necessity for the continued economic function of the Town. However, responsible legislation is necessary to properly integrate such stations into the local community and the Town's land use patterns and to regulate station development and preserve and advance the public health, safety and welfare. Vehicle fueling stations, referred to previously in this Zoning Law as "Gasoline Filling Stations," have previously been regulated only in connection with a larger group of automobile-related uses. The Town Board seeks to include in the Zoning Code regulations specific to vehicle fueling stations, which will govern the location, design and use of current and future vehicle fueling stations. The regulations are intended to ensure that vehicle fueling stations continue to operate in the Town without unduly impacting community character and local transportation network, particularly in residential neighborhoods, as well as in a manner that is protective of the general health and safety of the Town. These regulations will encourage the most appropriate siting and use of current and future vehicle fueling station sites, create sufficient buffers from residential areas, and improve the aesthetic environment of the Town.

B. Siting Criteria

(1) No premises may be used as a Vehicle Fueling Station except in conformance with this article.

(2) There is hereby established a Vehicle Fueling Station Floating Overlay (VFS) District, which may be mapped by a legislative action of the Town Board in accordance with Article XIV (Amendments) of this Chapter only on parcels which meet all of the following criteria:

- (a) The lot possesses a minimum lot area of 30,000 square feet, unless the underlying district regulations require a larger lot area.
- (b) The lot located along major commercial thoroughfares possesses a minimum street frontage of 200 feet, unless the underlying district regulations require a larger road frontage.
- (c) The Vehicle Fueling Station facility must be located at least 500 feet from any property developed for residential use which is located in a residential district. For the purposes of this Section, "facility" shall include any structures on any property including a Vehicle Fueling Station. The required distance shall be measured from

the property line of the property developed for residential use which is located in a residential district to the closest point of any structures or improvements on the Vehicle Fueling Station property.

- (d) The Vehicle Fueling Station facility must be located at least 500 feet from another Vehicle Fueling Station, including any pre-existing Motor Vehicle Service Facilities containing a Gasoline Filling Station approved prior to the effective date of this Section of the Zoning Code.
- (3) No Petition to map a lot in the VFS District shall be entertained, heard, acted upon, or granted unless such land shall lie in one or more of the following Business and Commercial Districts in the Town:
- (a) Neighborhood Highway Business (B-NH).
 - (b) Highway Business (B-H).
 - (c) Shopping Center Business (B-SC).
 - (d) Light Industrial (I-L).
 - (e) Heavy Industrial (I-H).
 - (f) Red Oaks Mill Neighborhood Services Center (ROMNSC)

C. VFS District Regulations

- (1) Permitted Uses. Any parcel utilized as a Vehicle Fueling Station shall be prohibited from conducting any use and/or operation except:
- (a) The storage and retail sale of automotive fuel, kerosene, and propane.
 - (b) Electric Vehicle Charging Stations.
 - (c) The retail sale of automotive accessory items.
 - (d) The retail sale of over-the-counter consumer merchandise.
 - (e) Secondary permitted principal uses to accompany a Vehicle Fueling Station are limited to the following: use as a car wash, quick-stop maintenance or convenience store selling goods and food for off-site consumption, but not including repair services or facilities. If a secondary permitted principal use as a car wash is involved, the restrictions of Zoning Law Section 210-90(F) shall also apply.
- (2) Non-permitted Uses. Further, in addition to other nonpermitted uses, the following activities shall be strictly prohibited on any parcel containing a Vehicle Fueling Station:

- (a) The sale, lease, storage or display of new or used vehicles. However, the outdoor storage of a vehicle awaiting minor repairs is permissible in designated areas for a period of not more than 24 hours.
- (b) Outdoor storage and/or display of new and/or used automobiles, boats, automobile parts or other merchandise except for small sample displays of automotive accessory items.
- (c) Any outdoor use involving fire, sparks or a high level of heat, or any use involving fuel from portable fuel tanks, with the exception of the storing and sale of propane.
- (d) Junkyards and/or parts scavenging.
- (e) Outdoor storage and/or display of vending machines, except those located directly adjacent to the walls of the principal building. A total number of four vending machines shall be permitted per site. This restriction shall not apply to air dispensers.

(3) Area and Bulk Regulations

- (a) Lot coverage. The maximum lot coverage shall be that applicable in the underlying district.
- (b) Fuel dispensers. The number of permitted fuel dispensers shall be determined on the basis of the requirements of 1,500 square feet of lot area per dispenser subject to a maximum of 16 dispensers per station. A multiple dispenser stanchion shall be counted according to the number of dispensers; for example, a double stanchion shall be counted as two dispensers.
- (c) Height. No building, structure, dispenser or other equipment except approved signs shall exceed 18 feet in height as measured from the average finished grade abutting said building, structure, or equipment.
- (d) Depth. The lot shall have a depth of not less than 100 feet.

(4) Yards and Setbacks. No Vehicle Fueling station shall be erected or operated except in compliance with the following requirements:

- (a) All buildings and structures except fuel dispensers shall have the minimum yards and setbacks as those required in the underlying district.
- (b) Location of fuel dispensers. All fuel dispensers and islands shall be located at least 25 feet from any street property line and at least 25 feet from any side line or rear property line.

- (5) Off-street Parking. The provisions of Section 210-92 of this Chapter shall apply to off-street parking in the VFS District.
- (6) Amenities and Design. No Site Plan approval or building permit shall be issued for a Vehicle Fueling Station without compliance with the following requirements:
 - (a) Fences. A six-foot-high stockade fence, as measured from ground level and woven in a neutral inconspicuous color, shall be erected and maintained along business and residential property lines, but no fence shall be erected closer than 15 feet from any street property line.
 - (b) Landscaping. A five-foot buffer strip shall be provided to protect any adjoining businesses or property developed for residential use which is located in a residential district near the site. Such strip shall contain evergreens not less than seven feet high and planted not more than seven feet apart and maintained in good condition, provided that such planting shall not be closer than 15 feet from the property line abutting a street.
 - (c) Walls. In lieu of the above-mentioned fence and landscaping requirements, the owner may install a wall of good quality and design on all such abutting property lines other than street lines or, in the alternative, may install such fences and landscaping along a portion of such abutting property lines and install such a wall along the remaining portions of such property lines. A detailed plan of such substitution of walls for fences and landscaping shall be shown on the site plan upon an original application.
 - (d) Distance between fuel dispensers. The maximum distance between two dispensers on an island shall be 10 feet.
 - (e) Intrusion into required area. No building or structure, fuel dispenser, dispenser island, service island, sign, pole or parking area shall be located within a required front, side or rear yard.
 - (f) Exterior lighting. The provisions of Article VII of this Chapter, Section 210-81 (Lighting) shall apply to any proposed Vehicle Fueling Station.
 - (g) Underground Storage of Fuel. All bulk petroleum products or similar substances shall be stored underground, and all applicable rules governing the storage of underground petroleum tanks shall apply.

D. Review of Petitions for Mapping in the VFS District; Site Plan Approval Required

A Petition for inclusion of new premises in the VFS District shall be submitted in accordance with Article XIV of this Chapter. No Petition for the inclusion of any land in the VFS District shall be entertained, heard, or acted upon unless such application shall be accompanied by a sketch plan submitted to the Town Board with such application and including such details as the Town Board may require.

Upon the Town Board applying the VFS District to a particular parcel in their legislative discretion and in consideration of the requirements set forth herein, Site Plan Approval by the Planning Board, along with any other permits and approvals required under the Town Code or by any other law or regulation, is required prior to any building permits being issued to operate a Vehicle Fueling Station. The Planning Board shall prescribe such additional requirements and standards as are provided for in Article XIII of this Chapter (Procedures and Standards for Site Plan Approval).

E. Principal Permitted Uses.

Only the permitted use(s) established in subsection 210-42(C)(1) above may operate at one time on any site mapped in the VFS District. In the event that the owner of a lot improved with a Vehicle Fueling Station seeks to change the principal use from a Vehicle Fueling Station to another use permitted in the underlying district, site plan approval shall be required in accordance with the provisions of Article XIII of this Chapter.

F. Discontinuance of Vehicle Fueling Stations

Upon the discontinuance of a Vehicle Fueling Station in the VFS District, the permitted uses on the lot shall be limited to the uses permitted in the underlying zoning district. A discontinued Vehicle Fueling Station, Gasoline Filling Stations and/or Motor Vehicle Service Facility containing a Gasoline Filling Station use on any lot in the Town (whether existing prior to the enactment of this VFS District or in accordance with the provisions of this Section) shall not be resumed or reestablished without approval from the Town Board, and any subsequent use of the Lot shall conform to the use regulations of the underlying district. A Vehicle Fueling Station, Gasoline Filling Stations and/or Motor Vehicle Service Facility containing a Gasoline Filling Station shall be deemed to have been discontinued if: (1) there is a cessation of the use of the Vehicle Fueling Station, Gasoline Filing Station, and/or Motor Vehicle Service Facility containing a Gasoline Filling Station by the owner or operator for a period of six (6) consecutive months; (2) the removal of fuel dispensers from the premises and their continuous absence from the premises for a period of thirty (30) consecutive days unless the owner has obtained a waiver of this condition upon written application to the Town Board; (3) the owner or operator does not obtain a building permit within 1 year of the Town Board granting approval for inclusion of the lot in the VFS District, or such longer period as the Town Board may by resolution determine; or (4) the owner or operator does not complete construction of the Vehicle Fueling Station within the time permitted under the site plan approval issued by the Planning Board. Additionally, and for purposes of this section, the completion of construction shall be the date on which a certificate of occupancy is issued by the Town of Poughkeepsie.

G. Gasoline Filling Stations Existing Prior to the Creation of the VFS District

- (1) All existing Gasoline Filling Stations outside of the VFS District, which shall be deemed to include any Motor Vehicle Service Facility containing a Gasoline Filling Station, existing as of the effective date of this Section shall be permitted to continue as nonconforming uses.
- (2) The provisions of Article X (Nonconforming Buildings and Uses) of this Chapter shall apply to any proposed expansion or extension of a nonconforming Gasoline Filling Station outside of the VFS District, except that any modernization of the existing machinery on

the property improved with a nonconforming Gasoline Filling Station outside of the VFS District, shall not constitute an expansion or extension of the nonconforming use, but shall require Site Plan review by the Planning Board.

- (3) If an existing Gasoline Filling Stations has been discontinued (as said term is defined in subsection F above), such land shall thereafter be used only for a conforming use.

H. Signs.

In addition to the requirements set forth in Article IX, Sections 210-117 through 210-123.2 and Section 210-130 of this Zoning Law, the following are additional requirements on any sign erected or maintained in any Vehicle Fueling Station in the VFS District:

- (1) The price/grade signs must at all times accurately reflect the actual price of automotive fuel and kerosene being offered for sale.
- (2) Signs bearing the corporate insignia and/or brand name of the gasoline sold and/or type of services available on site (i.e., full-service and/or self-service), shall be the only signs permitted on the canopy.
- (3) Signs affixed to or incorporated into the canopy shall not face residentially zoned and developed properties.

SECTION II

Be it further enacted that:

Section 210-9 of the Town Zoning Code, entitled Definitions, shall be amended as follows (additional language in bold, deletions in ~~strikethroughs~~):

VEHICLE FUELING STATION

Any establishment in which the sale or storage of automotive fuel is the principal activity and/or constitutes a substantial or significant portion of the goods offered and/or services rendered.

ELECTRIC VEHICLE CHARGING STATION

A public or private parking space that is served by electric vehicle supply equipment that has as its primary purpose the transfer of electric energy (by conductive or inductive means) to a battery in an electric vehicle.

MOTOR VEHICLE SERVICE FACILITY

A facility which for its principal use sells, at retail, ~~fuel or other~~ products and services for vehicle operation and maintenance, including ~~a gasoline filling station~~, a car wash, or a quick-stop maintenance, and which may include but is not limited to as a secondary use a convenience store selling goods and food for off-site consumption, but not including repair services or facilities. **The sale of fuel shall not be permitted, and a Motor Vehicle Service Facility shall not include a Vehicle Fueling Station as defined in Section 210-42 of this Chapter.**

SECTION III

Section 210-92 of the Town Zoning Code, entitled Off-street Parking, shall be amended as follows (additional language in bold):

Minimum off-street parking requirements are as follows (the most restrictive requirements shall apply):

(1) Specific zones.

Zone	Required Spaces
All residential districts	2 per dwelling unit
All center and hamlet districts	4 for each 2,000 square feet of building area for a nonresidential use; 1.5 for each residential unit.
Vehicle Fueling Station	4 for each 1,000 square feet of building area
B-H and B-NH	4 for each 1,000 square feet of building area
B-N	4 for each 1,000 square feet of building area
B-SC	4.5 for each 1,000 square feet of gross leasable floor area
O-R	2.5 for each 1,000 square feet of building area
I-H	1.5 for each 1,000 square feet of building area
I-L	1.5 for each 1,000 square feet of building area
Q	Subject to ZBA determination

SECTION IV

Section 210-90 of the Town Zoning Code, entitled Motor vehicle service facilities, subsection B is hereby deleted in its entirety and the remaining subsections of 210-90 shall be renumbered accordingly.

SECTION V

Renumbered Section 210-90 subsection E (formerly subsection F) shall be amended as follows (additional language in bold, deletions in ~~strikethroughs~~):

E. A fence or wall adequate for year-round screening of the **facility** ~~service station~~ shall be installed along any residential property line or property used for residential use and shall be of a design, height, location and material approved by the Planning Board. Special emphasis shall be placed on the use of acoustical and opaque materials as needed to achieve significant sound and light reduction, as determined by the Planning Board.

SECTION VI

Renumbered Section 210-90 subsection F(10) (formerly subsection G(10) shall be amended as follows (additional language in bold, deletions in ~~strikethroughs~~):

(10) Parking and stacking space. One parking space shall be provided for every three employees. In addition, off-street stacking spaces shall be provided for waiting vehicles in accordance with the requirements set forth below. Each single stacking space shall be 20 feet in length and 10 feet in width. Where a vehicle washing facility use is combined with a ~~gasoline filling station~~ **Vehicle Fueling Station** use, fueling positions shall not be included as off-street stacking space. Stacking space requirements shall be as follows:

- (a) Conveyor, tunnel or rollover-type car wash: eight stacking spaces per wash bay.
- (b) Wand-type coin-operated self-service car wash, five bays or fewer: five spaces per wash bay.
- (c) Wand-type coin-operated self-service car wash, six to nine bays: four spaces per wash bay.
- (d) Wand-type coin-operated self-service car wash, 10 or more bays: three spaces per wash bay.

SECTION VII: SEVERABILITY

A. If a court of competent jurisdiction finds any provision(s) of this law invalid, in whole or in part, the effect of such decision shall be limited to those provisions which are expressly stated in the decision to be invalid, and all other provisions of the law shall continue to be separately and fully effective.

B. If a court of competent jurisdiction finds the application of any provision of this law to any building, other structure or tract of land to be invalid, in whole or in part, the effect of such decisions shall be limited to the person, property or situation involved in the controversy, and the application of any such provision to any other person, property or situation shall not be affected.

C. The provisions of this local law are separable and if any provision, clause, sentence, subsection, word or part thereof is held illegal, invalid or unconstitutional, or inapplicable to any person or circumstance, such illegality, invalidity, or unconstitutionality, or inapplicability, shall not affect or impair any of the remaining provisions, clauses, sentences, subsections, words, or parts of this local law or their application to other persons or circumstances. It is hereby declared to be the legislative intent of the Town Board of the Town of Poughkeepsie that this local law would have been adopted if such illegal, invalid or unconstitutional provision, clause, sentence, subsection, word or part had not been included therein, and if such person or circumstance to which the local law or part thereof is held inapplicable had been specifically exempt therefrom.

SECTION VIII: Effective Date

This local law shall take effect immediately upon filing in the office of the New York State Secretary of State in accordance with section 27 of the Municipal Home Rule Law.