

LEGAL NOTICE OF PUBLIC HEARING

PLEASE TAKE NOTICE that the Town Board, Town of Poughkeepsie does hereby set **Wednesday, June 2nd, 2021 at 7:00 p.m.** as the time, date and place of a public hearing to afford all interested parties an opportunity to be heard and to seek public comment in regard to the following:

A local law in regard to Gasoline filling stations and facilities that sell gasoline, hereinafter referred to as “vehicle fueling stations” and proposed amendments to the Zoning Law Chapter 210 by adding Section 210-42, entitled Vehicle Fueling Station (VFS) Floating Overlay District, as well as making other related amendment to Chapter 210 with the goal of allowing vehicle fueling stations to continue to operate in the Town without unduly impacting community character and local transportation networks, particularly in residential neighborhoods, as well as in a manner that is protective of the general health and safety of the town.

Given the global COVID-19 pandemic, Town Hall is open to the public, but with very limited space and with special requirements (masks, social distancing, and sign-in) for public attendance. However, the Town Board meeting, inclusive of this public hearing, will also be accessible to the public through the media platform called Zoom in order to proceed with Town business while safely maintaining social distancing requirements.

Members of the community can access the Town Board meeting through Zoom by entering the

Meeting ID: 955 6367 3233

Password: 133376; or by following this link:

<https://zoom.us/j/95563673233?pwd=LzZSMjY2U3NNeUREbVlkYTlpNW8vZz09>

Through Zoom members of the community will be able to participate in the Town Board meeting via computer or phone audio. Members of the community can also simply call into the meeting using the following phone number: 1-929-205-6099 and the meeting ID and meeting password above. The meeting is also broadcast live on Cablevision Channel 22 and Verizon Fios Channel 38.

AND PLEASE ALSO TAKE FURTHER NOTICE that said proposed amendments are available in full with Exhibit to preview on our website @ www.townofpoughkeepsie.com - Look for the public hearing page, or contact the Town Clerk.

Likewise, if you wish to provide comments, but cannot attend in person or via the webinar-based Zoom meeting, please provide written comments to fsalvatore@townofpoughkeepsie-ny.gov by Tuesday, June 2nd, 2021 for distribution to members of the Town Board in advance of the meeting.

Felicia Salvatore, Town Clerk
Town of Poughkeepsie
May 7th, 2021

RESOLUTION 5:5 - # 5 of 2021

WHEREAS, the Town Board of the Town of Poughkeepsie has been undergoing a comprehensive review of the Town's Zoning Law as it relates to Motor Vehicle Service Facilities, as currently defined by the Zoning Law, which include gasoline filling stations or other facilities that sell gasoline; and

WHEREAS, the Town Board recognizes that gasoline filling stations and facilities that sell gasoline, hereinafter referred to as "vehicle fueling stations," are a necessity for the continued economic function of the Town, but that 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; and

WHEREAS, the Town Board has worked with the Director of Municipal Development and consultants to formulate draft amendments to the Zoning Law with the goal of allowing vehicle fueling stations to continue to operate in the Town without unduly impacting community character and local transportation networks, particularly in residential neighborhoods, as well as in a manner that is protective of the general health and safety of the Town; and

WHEREAS, the Town Board is considering amendments to Chapter 210 of the Zoning Law by adding Section 210-42, entitled Vehicle Fueling Station (VFS) Floating Overlay District, as well as make other related amendments to Chapter 210; and

WHEREAS, the proposed amendments are attached hereto and incorporated herein and the Town Board ~~does~~ hereby waive a verbatim reading of said amendments and does direct that said amendments be spread across the record as if they, in fact, had been read verbatim; and

WHEREAS, the action to amend the Zoning Law is a Type I Action under the New York State Environmental Quality Review Act; and

WHEREAS, the Town Board has determined that the proposed amendment must be referred to the Dutchess County Department of Planning and Economic Development pursuant to Section 210-155 and to the Town Planning Board for review and recommendation pursuant to Section 210-154; and

WHEREAS, the addition of Section 210-42 to the Zoning Law requires a public hearing pursuant to Section 210-156.

NOW, THEREFORE BE IT RESOLVED THAT:

1. The Town Board hereby states that because this action is legislative in nature and only the Town Board can consider and adopt changes to the Town Code, and the Town Board is the only involved agency, the Town Board hereby declares that it is the Lead Agency for purposes of coordinating the environmental review of this matter pursuant to Article 8 of the Environmental Conservation Law.
2. The Town Board hereby sets a public hearing on the proposed Zoning Amendment attached hereto for June 2, 2021 at 7:00 PM, or as soon thereafter as the matter may come to be heard, in Town Hall, One Overocker Road, Poughkeepsie, New York.
3. The Town Board refers this matter to the Dutchess County Department of Planning and Economic Development for a recommendation pursuant to GML 239-m.
4. The Town Board refers this matter to the Planning Board for an advisory report pursuant to Town Code Sections 210-154.
5. The Town Board directs the Town Clerk to provide for public notice of said hearing per Town Code § 210-156 and the General Municipal Law.

Dated: May 5th 2021

Moved: Stephan Krakower

Seconded: William Carlos

Motion passes/ fails: Ayes 6 Nays 0

JEN/mem
t-4/28/2021
m-5/5/2021

** via zoom*

		AYE	NAY	ABSTAIN
<u>PRESENT/ABSENT</u>	Councilman Renihan	<u>✓</u>	___	___
<i>* PRESENT/ABSENT</i>	Councilman Carlos	<u>✓</u>	___	___
<u>PRESENT/ABSENT</u>	Councilwoman Lopez	<u>Absent</u>	___	___
<u>PRESENT/ABSENT</u>	Councilman Cifone	<u>✓</u>	___	___
<i>* PRESENT/ABSENT</i>	Councilman Krakower	<u>✓</u>	___	___
<u>PRESENT/ABSENT</u>	Councilwoman Shershin	<u>✓</u>	___	___
<u>PRESENT/ABSENT</u>	Supervisor Baisley	<u>✓</u>	___	___

**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 employed 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 or improvements 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) A secondary use as a car wash, quick-stop maintenance or convenience store selling goods and food for off-site consumption, but not including repair services of facilities. If a secondary use as a car wash is involved, the restrictions of Zoning Law Section 210-90(G) 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) Gas pumps. The number of permitted gas-dispensing pumps/nozzles shall be determined on the basis of the requirements of 1,500 square feet of lot area per pump subject to a maximum of 16 pumps per station. A multiple pump stanchion shall be counted according to the number of pumps; for example, a double stanchion shall be counted as two pumps.
- (c) Height. No building, structure, pump 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 pumps shall have the minimum yards and setbacks as those required in the underlying district.
- (b) Location of fuel pumps. All fuel pumps 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 residential neighborhoods 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. In such case, the approval of such substitution shall be subject to the approval of the Building Inspector.
 - (d) Distance between fuel pumps. The maximum distance between two pumps on an island shall be 10 feet.
 - (e) Intrusion into required area. No building or structure, fuel pump, pump 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.

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 site plan in conformity with Article XIII of this Chapter and submitted to the Town Board with such application.

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, 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 one principal use 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 either: (1) there is a vacancy 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; or (2) the removal of pumps 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.

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 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: 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 VII: 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.