

LEGAL NOTICE OF PUBLIC HEARING

PLEASE TAKE NOTICE, the Town of Poughkeepsie Zoning Code, Chapter 210, allows for the approval of Motor Vehicle Service Facilities which, as defined by Town Code §210-9, include gasoline filling stations, in the Salt Point Center District §§210-26C(7) and 210-90, Rochdale Road Hamlet District §§210-28C(4) and 210-90, Red Oaks Mill Neighborhood Services Center District §§210-29C(5) and 210-90, Neighborhood Highway Business District §§210-34C(9) and 210-90, Highway Business District §§210-35C(8) and 210-90, Shopping Center Business District §§210-36C(6) and 210-90, Light Industrial District §§210-39C(7) and 210-90, and Heavy Industrial District §§210-40C(10) and 210-90, and

PLEASE TAKE FURTHER NOTICE, it appears to this Town Board that the Town of Poughkeepsie may have or be approaching an oversaturation and proliferation of Motor Vehicle Service Facilities which include gasoline filling stations or sell gasoline, and

PLEASE TAKE FURTHER NOTICE,, such an oversaturation and proliferation could result in significant adverse traffic, noise, light, groundwater, air and visual impacts, as well as adverse changes in the character of adjacent and nearby residential neighborhoods, which potential impacts and changes need to be better understood, and

PLEASE TAKE FURTHER NOTICE, to enable the Town Board to analyze the potential for those impacts and changes, and their severity, and to determine whether legislative action is required, it is necessary to preserve the status quo as to the approval and development of Motor Vehicle Service Facilities which include gasoline filling stations or sell gasoline, and

PLEASE TAKE FURTHER NOTICE, the Town Board hereby determines that it is in the best interest of the citizens and property owners of the Town of Poughkeepsie to impose a Temporary Moratorium on the acceptance and processing of applications for, the consideration and approval by the Town Planning Board of site plans and special use permits for Motor Vehicle Service Facilities which include gasoline filling stations or sell gasoline, the issuance of building permits therefore, and the consideration, approval and issuance by the Zoning Board of Appeals of variances and interpretations relating to Motor Vehicle Service Facilities which include gasoline filling stations or sell gasoline, for a period of 90 days, subject to certain exceptions and subject to extension; and

SO PLEASE TAKE NOTICE, that the Town Board of the Town of Poughkeepsie does hereby set the 2nd day of December, 2020 at 7:00 p.m. at the Town Hall, Town of Poughkeepsie, One Overocker Road, Poughkeepsie, NY, as the time, date and place of a public hearing at which all parties in interest and any citizens may be heard as to whether or not the Town Board of the Town of Poughkeepsie should adopt the proposed Local Law annexed hereto imposing a Temporary Town-Wide Moratorium as described therein for a period of 90 days (subject to extension) by this Town Board

Proposed Local Law amendments are available for review on our Town Website at www.townofpoughkeepsie.com, in the Public Hearings Section as well as in the Town Clerk's Office with in the business hours of Mon-Fri 8:00 AM -4:00 PM.

-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 any public hearings if held, will also be accessible to the public

**SPECIAL TOWN BOARD MEETING
RESOLUTION 11:13 - #1 OF 2020**

WHEREAS, the Town of Poughkeepsie Zoning Code, Chapter 210, allows for the approval of Motor Vehicle Service Facilities which, as defined by Town Code §210-9, include gasoline filling stations, in the Salt Point Center District §§210-26C(7) and 210-90, Rochdale Road Hamlet District §§210-28C(4) and 210-90, Red Oaks Mill Neighborhood Services Center District §§210-29C(5) and 210-90, Neighborhood Highway Business District §§210-34C(9) and 210-90, Highway Business District §§210-35C(8) and 210-90, Shopping Center Business District §§210-36C(6) and 210-90, Light Industrial District §§210-39C(7) and 210-90, and Heavy Industrial District §§210-40C(10) and 210-90, and

WHEREAS, it appears to this Town Board that the Town of Poughkeepsie may have or be approaching an oversaturation and proliferation of Motor Vehicle Service Facilities which include gasoline filling stations or sell gasoline, and

WHEREAS, such an oversaturation and proliferation could result in significant adverse traffic, noise, light, groundwater, air and visual impacts, as well as adverse changes in the character of adjacent and nearby residential neighborhoods, which potential impacts and changes need to be better understood, and

WHEREAS, to enable the Town Board to analyze the potential for those impacts and changes, and their severity, and to determine whether legislative action is required, it is necessary to preserve the status quo as to the approval and development of Motor Vehicle Service Facilities which include gasoline filling stations or sell gasoline, and

WHEREAS, the Town Board hereby determines that it is in the best interest of the citizens and property owners of the Town of Poughkeepsie to impose a Temporary

Moratorium on the acceptance and processing of applications for, the consideration and approval by the Town Planning Board of site plans and special use permits for Motor Vehicle Service Facilities which include gasoline filling stations or sell gasoline, the issuance of building permits therefore, and the consideration, approval and issuance by the Zoning Board of Appeals of variances and interpretations relating to Motor Vehicle Service Facilities which include gasoline filling stations or sell gasoline, for a period of 90 days, subject to certain exceptions and subject to extension; and

WHEREAS, the Town Board determines that the proposed action is a Type II Action not subject to environmental review pursuant to 6 NYCRR §617.5 (c)(36), now therefore

BE IT RESOLVED, that the recitations above set forth are incorporated in this resolution as if fully set forth and adopted herein; and

BE IT FURTHER RESOLVED, that the Town Board of the Town of Poughkeepsie does hereby set the 2nd day of December, 2020 at 7:00 p.m. at the Town Hall, Town of Poughkeepsie, One Overocker Road, Poughkeepsie, NY, as the time, date and place of a public hearing at which all parties in interest and citizens may be heard as to whether or not the Town Board of the Town of Poughkeepsie should adopt the proposed Local Law annexed hereto imposing a Temporary Town-Wide Moratorium as described therein for a period of 90 days (subject to extension) by this Town Board, and

BE IT FURTHER RESOLVED, that the Town Board of the Town of Poughkeepsie does hereby waive the verbatim reading of said proposed Local Law and does hereby direct the Town Clerk to spread the proposed local law across the record as if it had been read aloud; and

BE IT FURTHER RESOLVED, the Town Board of the Town of Poughkeepsie does hereby direct the Town Clerk to refer a copy of this resolution, the annexed proposed local law, and the Notice of Public Hearing to the municipal clerk of each abutting municipality not less than ten (10) days prior to said public hearing and to refer a copy of this resolution, the annexed proposed local law, and the Notice of Public Hearing to the Dutchess County Department of Planning and Economic Development for advisory review in accordance with §239-m of the General Municipal Law, and to distribute a copy of this resolution, the annexed proposed local law and the Notice of Public Hearing to the Town of Poughkeepsie Planning Board for its review and recommendation pursuant to Town Code §210-154; and

BE IT FURTHER RESOLVED, that the Town Clerk is hereby directed to post a Notice of Public Hearing in the Town's official newspaper, the Poughkeepsie Journal, and on the bulletin board maintained by the Town Clerk in the Town Hall not less than ten (10) days prior to said public hearing.

Dated: November 13, 2020

Moved: Jay Baisley

Seconded: Michael Cifone

Motion passes/ fails: Ayes 7 Nays 0

JEN/mem
t-11/12/2020
m-11/13/2020

* Via Zoom

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

LOCAL LAW NO. ____ OF 2020

A LOCAL LAW ENTITLED LOCAL LAW NO. ____ OF THE YEAR 2020, IMPOSING A TEMPORARY TOWN-WIDE MORATORIUM ON DEVELOPMENT OF MOTOR VEHICLE SERVICE FACILITIES THAT INCLUDE A GASOLINE FILLING STATION OR SELL GASOLINE IN THE TOWN OF POUGHKEEPSIE.

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

Section 1: TITLE.

This Local Law shall be known and cited as Town of Poughkeepsie Local Law No. ____ of 2020 entitled “Local Law No. ____ of 2020, Imposing a Temporary Town-Wide Moratorium on development of Motor Vehicle Service Facilities that include a gasoline filling station or sell gasoline in the Town of Poughkeepsie.”

Section 2: PURPOSE AND INTENT

A. It is the intention of the Town Board of the Town of Poughkeepsie in enacting this local law to temporarily suspend the development of gasoline filing stations in the Town of Poughkeepsie by the imposition of a temporary moratorium on the issuance of building permits and approvals for Motor Vehicle Service Facilities that include a gasoline filing station or sell gasoline for a period of ninety (90) days from the effective date of this local law. Provision is made in the local law to allow for extension of the ninety (90) day moratorium if necessary.

B. Currently, the Town of Poughkeepsie Zoning Code does not contain a definition of a gasoline filling station, or specific use, area or bulk regulations for such use. Instead, gasoline filling stations are regulated in a general category of “Motor Vehicle Service Facilities.” This definition covers numerous use types, which do not necessarily present the same potential impacts upon the community, particularly when located in or near residential neighborhoods. Recently, there has been a proliferation of gasoline filing stations in the Town. The Town Board is concerned that there may be a potential oversaturation of these uses, particularly near or in residential neighborhoods. The Town Board is desirous of understanding whether the existing Town Zoning Code sufficiently regulates gasoline filling stations, or whether amendments to the Town Zoning Code are necessary to ensure that gasoline filling stations operate in the Town without unduly impacting community character, the local transportation network or the general health and safety of the Town.

C. The purpose of this temporary moratorium is to preserve the status quo of gasoline filing station development in the Town so that the Town Board may review and examine its existing Zoning Code insofar as it regulates gasoline filling stations. The Town Board shall also use this time to explore amendments to the current regulation of gasoline filling stations, if deemed beneficial to facilitating the aforementioned goals of avoiding undue impacts upon community character, the Town’s transportation network

and/or the general health and safety of the community. It is deemed necessary to enact this temporary moratorium in order to permit the Town adequate time in which to consider and draft suitable legislation for this purpose.

D. During the period of this temporary moratorium, the Town Board intends to suspend land use regulations in the Town Code which conflict with the effect and intent of this local law. Further, the Town Board specifically intends to supersede the default approval provisions of Town Law § 276 (8) and other provisions of the Town Law that conflict with the intent and operation of this local law.

Section 3: LEGISLATIVE FINDINGS OF FACT

A. The Town Board hereby finds that, pending the completion of the necessary studies, meetings, hearings, environmental review and other actions necessary and incident to proper consideration and adoption of any revisions and amendments to the land use regulations of the Town related to the regulation of gasoline filling stations, reasonable measures must be taken to maintain the status quo with reference to development of gasoline filling stations for a temporary period so the Town Board may consider whether updates to the Zoning Code are necessary.

B. The Town Board finds that the protection of the public interest and welfare is necessary to prevent premature and inappropriate land use and development that would be inconsistent with the Town Plan, or the orderly and appropriate development in the community.

Section 4: SCOPE OF CONTROLS.

A. During the effective period of this local law, the Town Board, the Planning Board, the Zoning Board of Appeals, Director of Municipal Development, Building Inspectors and the Zoning Administrator shall not permit, accept, process, interpret, deliberate upon, decide or approve any application for a Motor Vehicle Service Facility that includes a gasoline filling station or sells gasoline, except as set forth in Sections 5 and 6 below.

Section 5: EXCEPTIONS.

A. The foregoing restrictions on Motor Vehicle Service Facilities that include a gasoline filling station or sells gasoline shall not apply to the following:

1. The consideration of applications for permits for Motor Vehicle Service Facilities that do not include a gasoline filling station component or the sale of gasoline.
2. Departmental review and signature, and Planning Board Chairman signature, of plans that have already received conditional approval by the Planning Board.

3. The issuance of building permits for Motor Vehicle Service Facilities that have received current and valid final site plan approval.

Section 6: HARDSHIP.

A. Should any owner of property affected by this local law suffer any unique and unnecessary hardship in the way of carrying out the strict letter of this local law, then the owner of said property may apply to the Town Board of the Town of Poughkeepsie in writing for a waiver from strict compliance with this local law upon submission of proof of such unnecessary hardship. For the purpose of this local law, unique and unnecessary hardship shall not be a mere delay in being permitted to make an application or waiting for a decision on the application for a special permit, site plan, subdivision, variance or other permit during the period of the moratorium imposed by this local law.

B. Procedure.

1. Upon submission of a written application to the Town Clerk by the property owner seeking a waiver from this local law, the Town Board shall, within thirty (30) days of receipt of said application, schedule a public hearing on said application upon five (5) days notice published in the official newspaper of the Town. Notice of said public hearing by regular mail, shall be provided to abutting property owners at the address shown on the tax rolls.

2. At said public hearing, the property owner and any other parties wishing to present evidence with regard to the application shall have an opportunity to be heard, and the Town Board shall, within fifteen (15) days of the close of said public hearing or at the next regularly scheduled Town Board meeting (whichever is later), render its decision either granting or denying the application for variation from the strict requirements of this local law.

3. If the Town Board determines that a property owner will suffer an unnecessary hardship if this local law is strictly applied to a particular property, then the Town Board shall waive the application of this local law to the minimum extent necessary to provide the property owner relief from strict compliance with this local law.

Section 7: PENALTIES FOR OFFENSES.

Any person, firm, entity or corporation that shall construct, erect, enlarge or alter any building or structure, in violation of the provisions of this local law or shall otherwise violate any of the provisions of this local law shall be guilty of a violation and subject to a fine of not less than \$200.00 nor more than \$1,000.00. Each day that the violation continues shall be a separate offense.

Section 8: CONFLICTING LAWS SUPERSEDED.

All local laws, ordinances, or parts of local laws and ordinances, of the Town of Poughkeepsie that are in conflict with the provisions of this local law are hereby suspended to the extent necessary to give this local law full force and effect during the effective period of the moratorium.

Section 9: SUPERSESSION OF THE TOWN LAW

This local law is hereby adopted pursuant to Municipal Home Rules Law §10 (1)(i) and §10 (1)(ii)(a)(14) and Statute of Local Governments §10 (6) of the State of New York. It is the intent of the Town Board, pursuant to Municipal Home Rules Law §10 (1)(ii)(d)(3), to supersede all provisions of the New York State Town Law, including, but not limited to, Town Law 276 (8), and/or those provisions relating to time limits in connection with zoning and planning determinations, as well as to vest any authority to approve a variance form this local Law solely in the Town Board

Section 10: 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 11: TERM.

This local law shall remain in force for a period of ninety (90) days from its effective date. This local law is subject to review and renewal by the Town Board of the

Town of Poughkeepsie for two (2) additional ninety (90) day extensions by this Town Board.

Section 12: EFFECTIVE DATE.

This local law shall take effect upon its adoption and filing with the Secretary of State.