

## LEGAL NOTICE OF PUBLIC HEARING

PLEASE TAKE NOTICE, by Local Law 10 of 2020, the Town Board of the Town of Poughkeepsie (“Town Board”) enacted a 90-day 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 for such uses, 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, subject to certain exceptions and subject to extension; and

PLEASE TAKE FURTHER NOTICE, the Town Board has commenced a comprehensive review of the Town of Poughkeepsie Zoning Code as relates to Motor Vehicle Service Facilities which include gasoline filling stations or sell gasoline and is currently working with the Board’s consultants to consider possible amendments to the Zoning Code; and

PLEASE TAKE FURTHER NOTICE, it is the Town Board’s desire to complete its review of the Zoning Code, and the subsequent development, consideration, and ultimate adoption of any proposed amendments in a deliberate and appropriate manner; and

PLEASE TAKE FURTHER NOTICE, that the 90- day moratorium is set to expire on or about March 7, 2021, and it is anticipated that the Town Board will need additional time to complete this process, and accordingly the Town Board desires to extend the current moratorium for an additional 90- day period; and

SO PLEASE TAKE NOTICE, that the Town Board of the Town of Poughkeepsie does hereby set the 3<sup>rd</sup> day of March, 2021 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 renewing the Temporary Town-Wide Moratorium as described therein for an additional period of 90 days (subject to one final extension) by this Town Board

Proposed Local Law amendments are available for review on our Town Website at [www.townofpoughkeepsie.com](http://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 only be accessible to the public through the media platform called Zoom in order to proceed with Town business and safely maintain social distancing requirements.

Members of the community can access the Town Board meeting through Zoom information below.

<https://zoom.us/j/97430391731?pwd=WENobjZUSHM1WIZnbIRUVXILRGMxZz09>

Via the Zoom website or application (“app”): Meeting ID 974 3039 1731  
Password: 253008

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.

Felicia Salvatore, Town Clerk  
Town of Poughkeepsie  
February 18, 2021

**RESOLUTION 2:17 - #3 OF 2021**

WHEREAS, by Local Law 10 of 2020, the Town Board of the Town of Poughkeepsie (“Town Board”) enacted a 90-day 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 for such uses, 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, subject to certain exceptions and subject to extension; and

WHEREAS, the Town Board has commenced a comprehensive review of the Town of Poughkeepsie Zoning Code as relates to Motor Vehicle Service Facilities which include gasoline filling stations or sell gasoline and is currently working with the Board’s consultants to consider possible amendments to the Zoning Code; and

WHEREAS, it is the Town Board’s desire to complete its review of the Zoning Code, and the subsequent development, consideration, and ultimate adoption of any proposed amendments in a deliberate and appropriate manner; and

WHEREAS, the 90-day moratorium is set to expire on or about March 7, 2021, and it is anticipated that the Town Board will need additional time to complete this process, and accordingly the Town Board desires to extend the current moratorium for an additional 90-day period; and

WHEREAS, the Town Board determines that the extension of the moratorium 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 3<sup>rd</sup> day of March, 2021 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 renewing the Temporary Town-Wide Moratorium as described therein for an additional period of 90 days (subject to one final 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: February 17<sup>th</sup>, 2021

Moved: Michael Cifone

Seconded: Jeffrey Renihan

Motion passes/ fails: Ayes 6 Nays 0

JEN/mem  
t-2/17/2021  
m-2/17/2021

\* 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>Absent</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 2021**

A LOCAL LAW ENTITLED LOCAL LAW NO. \_\_\_\_ OF THE YEAR 2021, TO EXTEND THE 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 2021 entitled “Local Law No. \_\_\_\_ of 2021, to Extend the 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. By Local Law 10 of 2020, the Town Board of the Town of Poughkeepsie (“Town Board”) enacted a 90-day 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, subject to certain exceptions and subject to extension. Local Law 10 of 2020 was filed with the State of New York Department of State on and went into effect on December 7, 2020. It was the intention of the Town Board of the Town of Poughkeepsie in enacting Local Law 10 of 2020 to temporarily suspend the development of gasoline filling 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 filling station or sell gasoline for a period of ninety (90) days from its effective date. Provision was made in the local law to allow for extension of the ninety (90) day moratorium if necessary.

B. In accordance with the intent and purpose of Local Law 10 of 2020, the Town Board has commenced a comprehensive review of the Town of Poughkeepsie Zoning Code as relates to Motor Vehicle Service Facilities which include gasoline filling stations or sell gasoline and is currently working with the Board’s consultants to consider possible amendments to the Zoning Code.

C. It is the Town Board’s desire to complete its review of the Zoning Code, and the subsequent development, consideration, and ultimate adoption of any proposed amendments in a deliberate and appropriate manner. The 90-day moratorium is set to expire on or about March 7, 2021, and it is anticipated that the Town Board will need

additional time to complete this process, and accordingly the Town Board desires to extend the current moratorium for an additional 90-day period.

D. The Town Board determines that the extension of the moratorium is a Type II Action under the New York State Environmental Quality Review Act (“SEQRA”) and not subject to environmental review pursuant to 6 NYCRR §617.5 (c)(36).

**Section 3: MORATORIUM – EXTENDED TERM**

A. Local Law 10 of 2020 imposing a 90-day 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, shall be extended through June 5, 2021, which date is ninety days after the date on which the original moratorium was set to expire.

**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 filing 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 filing 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 filing 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: SUPERSESION 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 of 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 and effect through June 5, 2021, which date is ninety (90) days after the date on which the original moratorium was set to expire. This local law is subject to review and renewal by the Town Board of the Town of Poughkeepsie for an additional ninety (90) day extension by this Town Board.

**Section 12: EFFECTIVE DATE.**

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