

NEW YORK STATE DEPARTMENT OF STATE
41 STATE STREET
ALBANY, NY 12231

12-4-19

Local Law Filing

(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 WAPPINGER

**FILED
STATE RECORDS**

FEB 03 2020

Local Law No.1 of the year 2020

DEPARTMENT OF STATE

A local law entitled "A Local Law for the Purpose of Amending Chapter 240, Zoning, of the Town Code by Adding 'Liquid Propane Storage Facilities' as a New Special Permit Use in the Highway Business (HB) and Airport Industry (AI) Zoning Districts."

Be it enacted by the TOWN BOARD of the

Town of WAPPINGER as follows:

TEXT COMMENCES ON NEXT PAGE

(If additional space is needed, attach pages the same size as this sheet, and number each.)

LOCAL LAW No. 1 OF THE YEAR 2020

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

Section 1: Title

This Local Law shall be known and cited as "Local Law No. 1 of 2020, for the Purpose of Amending Chapter 240, Zoning, of the Town Code by Adding 'Liquid Propane Storage Facilities' as a New Special Permit Use in the Highway Business (HB) and Airport Industry (AI) Zoning Districts."

Section 2: Legislative Intent

The Town Board believes that it is reasonable and appropriate to update and amend Chapter 240, Zoning, of the Town Code with respect to the addition of 'Liquid Propane Storage Facilities' as a new Special Permit Use in the Highway Business and Airport Industry zoning districts. This local law is determined to be an exercise of the police powers of the Town to protect the public health, safety and welfare of its residents.

Section 3: Amendments to the Text of Chapter 240, Zoning

1. Under the heading "Warehouse and Storage" in the Schedule of Use Regulations – Nonresidential Districts referenced in Section 240-37, the following new Special Permit Use shall be added in the Highway Business and Airport Industry zoning districts:

Liquid propane storage facilities (§ 240-81.9)

2. A new Section 240-81.9 shall be added and shall read as follows:

§ 240-81.9. Liquid propane storage facilities.

- A. The minimum lot area for this use shall be 5 acres.
- B. The lot on which the facility is located shall not have direct vehicular access to NYS Route 9.
- C. The minimum setback between the tanks and all side and rear property lines, and between the tanks and any on-site building(s) shall be 75 feet. The minimum front yard setback for the tanks and for any on-site building(s) shall be 100 feet. The minimum distance between tanks shall be 10 feet but the distance must also

comply with the National Fire Protection Association 58 Edition 2014 Code separation requirements.

- D. All tanks shall be located above ground and shall be designed to American Society of Mechanical Engineers standards. The tanks shall be surrounded by bollards which are no more than 6 feet from bollard to bollard.
- E. The construction and operation of the facility shall follow the National Fire Protection Association 58 Edition 2014 Code for Liquefied Petroleum Gas or the current equivalent, as well as all other applicable state and federal requirements. This shall include the installation of all required on-site and remote monitoring and control mechanisms, possibly including but not limited to cameras, sensors, alarms, automatic shutoffs, etc.
- F. All personnel at the site shall have successfully completed a Certified Employee Training Program for the propane industry.
- G. The facility shall be completely enclosed by a 6-foot high security fence with locked gates at all access points.
- H. Site lighting shall conform to the standards in this chapter and may include lower-level overnight security lighting as deemed appropriate by the Planning Board.
- I. There shall be no retail sale of product on the premises.
- J. There shall be no outdoor storage of equipment or materials on the site.
- K. The use shall be screened from adjoining streets and properties to the extent deemed appropriate by the Planning Board with consideration to the need for visibility into the site for security purposes.
- L. The owner of the facility shall be obligated to provide annual training to local emergency services personnel relative to appropriate responses in case of an emergency at the site.

Section 4: Ratification, Readoption and Confirmation

Except as specifically modified by the amendments contained herein, the Code of the Town of Wappinger as adopted and amended from time to time thereafter is otherwise to remain in full force and effect and is otherwise ratified, readopted and confirmed.

Section 5: Numbering for Codification

It is the intention of the Town of Wappinger and it is hereby enacted that the provisions of this Local Law shall be included in the Code of the Town of Wappinger; that the sections and subsections of this Local Law may be re-numbered or re-lettered by the Codifier to accomplish such intention; that the Codifier shall make no substantive changes to this Local Law; that the word "Local Law" shall be changed to "Chapter," "Section" or other appropriate word as required for codification; and that any such rearranging of the numbering and editing shall not affect the validity of this Local Law or the provisions of the Code affected thereby.

Section 6: Separability

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 Wappinger 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 7: Effective Date

This Local Law shall take effect immediately upon filing with the Secretary of State as provided by the Municipal Home Rule Law.

Resolution Adopting Local Law No. 1 Of 2020 Which Would Amend Chapter 240, Zoning, Of The Town Code With Respect To The Addition Of 'Liquid Propane Storage Facilities' As A New Special Permit Use In The Highway Business And Airport Industry Zoning Districts

At a Regular Meeting of the Town Board of the Town of Wappinger, Dutchess County, New York, held at Town Hall, 20 Middlebush Road, Wappingers Falls, New York, on January 13, 2020.

The meeting was called to order by Richard Thurston, Town Supervisor, and upon roll being called, the following was recorded:

✓ Vote Record - Resolution RES-2020-37						
<input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Adopted as Amended <input type="checkbox"/> Defeated <input type="checkbox"/> Tabled <input type="checkbox"/> Withdrawn			Yes/Aye	No/Nay	Abstain	Absent
	Richard Thurston	Voter	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	William H. Beale	Mover	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Angela Bettina	Voter	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	Christopher Phillips	Voter	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Al Casella	Second	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

The following Resolution was introduced by Councilman Beale and seconded by Casella.

WHEREAS, the Town Board is considering the adoption of Local Law No. 1 of 2020 which would amend Chapter 240, Zoning, of the Town Code with respect to the addition of 'Liquid Propane Storage Facilities' as a new Special Permit Use in the Highway Business and Airport Industry zoning districts in connection with the Downey Energy Liquid Propane Facility project (the "Proposed Local Law" or "Proposed Action"); and

WHEREAS, for the purposes of the New York State Environmental Quality Review Act (Article 8 of the Environmental Conservation Law, Part 617 NYCRR, commonly known as "SEQRA") the Proposed Action also includes Special Permit and Site Development Plan Approvals from the Town Planning Board for the Downey Energy Liquid Propane Facility project; and

WHEREAS, a Public Hearing on the Proposed Local Law was duly advertised in the Southern Dutchess News and the Poughkeepsie Journal as required by law; and

WHEREAS, a Public Hearing was held on January 13, 2020 and all parties in attendance were permitted an opportunity to speak on behalf of or in opposition to said Proposed Local Law or any part thereof; and

WHEREAS, in accordance with SEQRA the Town Board has determined that the Proposed Action is a Type I action; and

WHEREAS, after declaring its intent to be the Lead Agency for the purposes of SEQRA and receiving no objections thereto, the Town Planning Board became the Lead Agency for the Proposed Action; and

WHEREAS, the Town Board referred the Proposed Local Law to the Town Planning Board for its advisory opinion; and

WHEREAS, as in accordance with Section 239 of the New York State General Municipal Law, the Town Board referred the Proposed Local Law to the Dutchess County Department of

Planning and Development (DCDPD) for its advisory opinion; and

WHEREAS, in response to said referral the DCDPD responded and stated it is a matter of Local Concern; and

WHEREAS, the Town Board has given due consideration to the comments of the Town Planning Board and the DCDPD; and

WHEREAS, said Local Law has been on the desks of the members of the Town Board of the Town of Wappinger for at least seven (7) days, exclusive of Sunday, prior to the adoption of this resolution.

NOW, THEREFORE, BE IT RESOLVED, AS FOLLOWS:

1. The Town Board hereby adopts and incorporates the recitations and statements set forth above as if fully set forth and resolved herein.
2. The Town Board, after due deliberation, finds that it is in the best interest of the Town to adopt said Local Law, and the Town Board hereby adopts Local Law No. 1 of 2020, a copy of which is attached hereto and made a part of this Resolution; except as specifically modified by the amendments contained therein, the Town Code, as originally adopted and amended from time to time thereafter, is to remain in full force and effect.
3. The Town Clerk is directed to enter said Local Law in the minutes of this meeting into the Local Law book for the Town of Wappinger and to give due notice of the adoption of said Local Law to the Secretary of State of New York.

The foregoing was put to a vote which resulted as follows:

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	William H. Beale, Councilman
SECONDER:	Al Casella, Councilman
AYES:	Richard Thurston, William H. Beale, Christopher Phillips, Al Casella
ABSENT:	Angela Bettina

Dated: Wappingers Falls, New York
1/13/2020

The Resolution is hereby duly declared Adopted.



JOSEPH P. PAOLONI, TOWN CLERK