

## LEGAL NOTICE OF PUBLIC HEARING

PLEASE TAKE NOTICE that the Town Board of the Town of Poughkeepsie does hereby set the **4<sup>th</sup> day of December, 2024 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 in regard to the following:

“To Consider the Adoption of Chapter 144, Article III, entitled “Public Nuisances””

AND PLEASE ALSO TAKE FURTHER NOTICE that said Proposed Local Law is available in full with Exhibit to preview on our website:

<https://ny-poughkeepsietown.civicplus.com/300/Public-Hearings>

Or in person @ the Town Clerk’s Office, Monday – Friday, 8AM – 4PM.

Felicia Salvatore, Town Clerk  
Town of Poughkeepsie  
November 7, 2024

RESOLUTION 11:6 - # 12 OF 2024

BE IT RESOLVED, that the Town Board of the Town of Poughkeepsie does hereby set the 4<sup>th</sup> day of December, 2024 at 7:00 pm at the Town Hall, Town of Poughkeepsie, One Overocker Road, Poughkeepsie, New York, as and for the time, date and place of a public hearing to consider the adoption of Chapter 144, Article III, entitled "Public Nuisances", and

BE IT FURTHER RESOLVED, that the proposed amendment is attached hereto and incorporated herein and the Town Board does hereby waive a verbatim reading of said amendment and does direct that said amendment be spread across the record as if it, in fact, had been read verbatim; and

BE IT FURTHER RESOLVED, that the Town Board of the Town of Poughkeepsie does hereby determine that the adoption of this local law is an Unlisted Action under SEQRA and that there are no other Involved Agencies as defined in the State Environmental Quality Review Act, and therefore designates itself lead agency for the environmental review of the proposed Local Law;

BE IT FURTHER RESOLVED, that the Town Board accepts the attached Short Environmental Assessment Form Part 1 to commence the SEQRA process; 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 6<sup>th</sup> 2024

Moved: Rebecca Edwards

Seconded: Barbara Laird

Motion passes/ fails: Ayes 6 Nays 0

ES/mem  
t-10/31/2024  
m-11/6/2024

	<del>AYE</del>	NAY	ABSTAIN
<u>PRESENT</u> /ABSENT Councilman Reuter	<input checked="" type="checkbox"/>	___	___
<u>PRESENT</u> /ABSENT Councilwoman Laird	___	___	___
<u>PRESENT</u> /ABSENT Councilwoman Burger	absent	___	___
<u>PRESENT</u> /ABSENT Councilman Cifone	<input checked="" type="checkbox"/>	___	___
<u>PRESENT</u> /ABSENT Councilman Sharpe	<input checked="" type="checkbox"/>	___	___
<u>PRESENT</u> /ABSENT Councilwoman Shershin	<input checked="" type="checkbox"/>	___	___
<u>PRESENT</u> /ABSENT Supervisor Edwards	<input checked="" type="checkbox"/>	___	___

*Local Law Filing*

New York State Department of State  
Division of Corporations, State Records and Uniform Commercial Code  
One Commerce Plaza, 99 Washington Avenue  
Albany, NY 12231-0001  
www.dos.ny.gov

(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 POUGHKEEPSIE**

**LOCAL LAW NO. \_\_ (PROPOSED) OF THE YEAR 2024**

**A LOCAL LAW TO AMEND CHAPTER 144 OF THE CODE OF THE TOWN OF POUGHKEEPSIE ENTITLED “NUISANCES” TO ADD AN ARTICLE ON “PUBLIC NUISANCES”**

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

**SECTION 1. LEGISLATIVE INTENT**

This local law amends Chapter 144 of the Code of the Town of Poughkeepsie, entitled “Nuisances,” to add a new Article III, entitled “Public Nuisances.” The public nuisance provisions will enable the Town to address the problem of repeated criminal activity at locations within the Town.

**SECTION 2. APPLICATION**

This local law shall apply within the Town of Poughkeepsie.

**SECTION 3. SEVERABILITY**

The invalidity of any word, section, clause, paragraph, sentence, part, or provision of this local law shall not affect the validity of any other part of this local law which can be given effect without such part or parts.

**SECTION 4. AMENDMENT TO CHAPTER 144 OF THE TOWN CODE**

***Chapter 144 of the Code of the Town of Poughkeepsie, entitled “Nuisances,” is hereby amended by adding a new Article III as follows:***

**ARTICLE III – PUBLIC NUISANCES**

§ 144-15. Findings: legislative authority.

The Town Board of the Town of Poughkeepsie finds that certain establishments in the Town are being operated in flagrant violation of certain federal, state and local laws, and that these illegal activities constitute a substantial and serious interference with the interest of public safety, quality of life, community environment, commerce, property values, and the public health, safety

and welfare of Town residents. The Town Board also finds that the Town requires additional remedies to address such nuisances. It is therefore the purpose of this local law to provide additional remedies to address these nuisance establishments and to authorize Town officials to impose such remedies, which may be in addition to the use of procedures and remedies available under other laws. The remedies are necessary and reasonable in order to protect the health and safety of the people of the Town and to promote the general welfare.

This public nuisance article, which is being enacted pursuant to the authority of the Town under New York State Municipal Home Rule Law Section 10 and New York State Town Law Sections 130(11) and 130(15), will provide a substantial tool to help the Town's law enforcement officials in their continuing efforts to address criminal activity.

#### § 144-16. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

#### **PREDICATE ARREST**

An arrest by a local, county, or state law enforcement agency for a violation of a predicate offense.

#### **PREDICATE OFFENSE**

A violation of any one of the following: Art. 220 (controlled substance offenses), Art. 222 (cannabis), Art. 230 (prostitution offenses) or Art. 263 (sexual performance by a child) of the New York State Penal Law, as amended, or §§ 65, 65-a, 65-b, 82, 123 or 126 of the New York State Alcoholic Beverage Control Law, as amended, or § 260.20 (unlawful dealing with a child) of the New York State Penal Law, as amended.

#### **PUBLIC NUISANCE**

Any building or structure in the Town of Poughkeepsie wherein at least two predicate offenses have been alleged by the Town of Poughkeepsie Police or other law enforcement officers to have occurred, resulting in at least two predicate arrests for any thereof within any twelve-month period, but not including any case in which each of the predicate offenses has been alleged to have occurred during any single twenty-four-hour period.

#### § 144-17. Prohibition.

It shall be unlawful, and a violation of this chapter, for any person or legal entity to be the owner, lessee or otherwise in control of a building or structure which has become a public nuisance as defined herein.

#### § 144-18. Notice.

Upon the occurrence of any first predicate arrest, it shall be the duty of the Building Inspector to, within 30 days thereafter, provide a written notice as described hereinafter to the owner, lessee or other person or legal entity in control of the building or structure where the predicate offense leading to such arrest has been alleged to have occurred. This notice shall have affixed to it a copy of this chapter, shall identify the date and underlying charge of the first predicate arrest, as well as the name and, if known, the address of the arrestee, and shall declare that if any second predicate

arrest shall occur within 12 months after the first, resulting from a second predicate offense having been alleged by the Town of Poughkeepsie Police or other law enforcement officials to have occurred at the said building or structure, then the town and/or its various appropriate departments shall be empowered to proceed as provided in § 144-19 below. This notice shall be sent by personal delivery, or by certified mail, return receipt requested, to such owner, lessee or other person or legal entity at their last known address. Upon the occurrence of any such second predicate arrest, the town shall be authorized to proceed with its enforcement powers provided herein, without need for further notice, except as required in the event that the town shall take action pursuant to § 144-19B below or except as otherwise provided by law.

§ 144-19. Enforcement.

- A. In the event that any building or structure shall be maintained as a public nuisance as defined herein, then, in addition to any other remedies available to it, the town shall hereby be empowered to institute an action in any court of competent jurisdiction to enjoin further occupancy of the building or structure in question, for a period of up to three years from the date of the second predicate arrest, and shall be further empowered to seek a temporary restraining order and/or preliminary injunction to remove such occupancy and secure the premises therefrom at the earliest possible time.
- B. Additionally, upon completion of notice and hearing as provided at Subsection C hereof, the Town Board shall be empowered to declare a public nuisance to be an immediate and substantial threat to the safety and wellbeing of the inhabitants of the building or structure in question, or of the residents or other occupants of the surrounding vicinity, and to direct that such building or structure be physically boarded up and secured from further occupancy for a period of up to one year from the date of such declaration and to direct that a sign be posted upon all exterior doors of such building or structure, declaring with bold lettering that occupancy thereof is prohibited until further order of the Building Inspector.
- C. In the event that the Town Board shall take action pursuant to Subsection B above, then the notice and hearing shall be undertaken pursuant to the following requirements:
  - (1) The notice shall be in writing and shall be provided not less than 10 days prior to the scheduled conduct of the hearing to the owner, lessee and/or other person or legal entity in control of the building or structure in question by personal delivery or by certified mail, return receipt requested to, such person(s) or legal entities at their last known address(es) and by physical delivery to the front door of the premises in question.
  - (2) The notice shall state the prerogatives of the Town Board under Subsection B hereof and shall direct all persons receiving notice to provide good cause why the Town Board should not proceed with the ordering of any action authorized under Subsection B.
- D. In the event that a court of competent jurisdiction or the Town Board authorizes action by town departments to effectuate its directives pursuant to Subsections A or B above, respectively, and in the event that such actions by town departments are undertaken in accordance therewith, then the town shall be entitled to assess the cost to the town of the

actions and to charge and file a tax lien for that amount against the tax lot(s) upon which said building or structure is situated, for the amount of such cost, to be collected in the same manner as provided for the collection of property taxes in the town, generally.

§ 144-20. Penalties.

- A. In the event of a criminal prosecution of any owner, lessee or other person in control of a building or structure for the violation of §144-17 of this chapter, the penalty shall be a fine of \$1,000 and/or 15 days' imprisonment, and for the purpose of prosecution, the violation of §144-17 hereof shall be deemed to have been committed at the time of the second predicate arrest.
- B. It shall be a misdemeanor, punishable by fine of to \$1,000 and/or imprisonment for not more than six months, for any person to enter upon any building or structure which has been posted and secured pursuant to the provisions of this chapter except upon written permission of the Building Inspector, and it shall be a violation punishable by a fine of up to \$250 and or imprisonment for 15 days for any person to remove or deface any notice posted pursuant to the provisions of this chapter.

**SECTION 5. EFFECTIVE DATE**

This local law shall take effect immediately after it is filed with the Secretary of State as provided in section twenty-seven of the Municipal Home Rule Law.

## *Short Environmental Assessment Form*

### *Part 1 - Project Information*

#### **Instructions for Completing**

**Part 1 – Project Information.** The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

<b>Part 1 – Project and Sponsor Information</b>			
Name of Action or Project: LOCAL LAW TO AMEND CHAPTER 144 OF THE TOWN CODE TO ADD A SECTION ON "PUBLIC NUISANCES"			
Project Location (describe, and attach a location map): Town of Poughkeepsie			
Brief Description of Proposed Action: This local law amends Chapter 144 of the Code of the Town of Poughkeepsie, entitled "Nuisances," to add a new Article III, entitled "Public Nuisances." The public nuisance provisions will enable the Town to address the problem of repeated criminal activity at locations within the Town. No environmental resources are expected to be affected by this change to the code.			
Name of Applicant or Sponsor: Town of Poughkeepsie		Telephone: 845-485-3600 E-Mail:	
Address: 1 Overocker Road			
City/PO: Poughkeepsie		State: NY	Zip Code: 12603
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.			NO <input type="checkbox"/>
			YES <input checked="" type="checkbox"/>
2. Does the proposed action require a permit, approval or funding from any other government Agency? If Yes, list agency(s) name and permit or approval:			NO <input type="checkbox"/>
			YES <input type="checkbox"/>
3. a. Total acreage of the site of the proposed action? _____ acres			
b. Total acreage to be physically disturbed? _____ acres			
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? _____ acres			
4. Check all land uses that occur on, are adjoining or near the proposed action:			
<input type="checkbox"/> Urban <input type="checkbox"/> Rural (non-agriculture) <input type="checkbox"/> Industrial <input type="checkbox"/> Commercial <input type="checkbox"/> Residential (suburban)			
<input type="checkbox"/> Forest <input type="checkbox"/> Agriculture <input type="checkbox"/> Aquatic <input type="checkbox"/> Other(Specify):			
<input type="checkbox"/> Parkland			

5. Is the proposed action, a. A permitted use under the zoning regulations? b. Consistent with the adopted comprehensive plan?	NO	YES	N/A
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?	NO	YES	
	<input type="checkbox"/>	<input type="checkbox"/>	
7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area? If Yes, identify: _____	NO	YES	
	<input type="checkbox"/>	<input type="checkbox"/>	
8. a. Will the proposed action result in a substantial increase in traffic above present levels? b. Are public transportation services available at or near the site of the proposed action? c. Are any pedestrian accommodations or bicycle routes available on or near the site of the proposed action?	NO	YES	
	<input type="checkbox"/>	<input type="checkbox"/>	
	<input type="checkbox"/>	<input type="checkbox"/>	
9. Does the proposed action meet or exceed the state energy code requirements? If the proposed action will exceed requirements, describe design features and technologies: _____ _____	NO	YES	
	<input type="checkbox"/>	<input type="checkbox"/>	
10. Will the proposed action connect to an existing public/private water supply? If No, describe method for providing potable water: _____ _____	NO	YES	
	<input type="checkbox"/>	<input type="checkbox"/>	
11. Will the proposed action connect to existing wastewater utilities? If No, describe method for providing wastewater treatment: _____ _____	NO	YES	
	<input type="checkbox"/>	<input type="checkbox"/>	
12. a. Does the project site contain, or is it substantially contiguous to, a building, archaeological site, or district which is listed on the National or State Register of Historic Places, or that has been determined by the Commissioner of the NYS Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places?  b. Is the project site, or any portion of it, located in or adjacent to an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory?	NO	YES	
	<input type="checkbox"/>	<input type="checkbox"/>	
13. a. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, state or local agency? b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody? If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: _____ _____ _____	NO	YES	
	<input type="checkbox"/>	<input type="checkbox"/>	
	<input type="checkbox"/>	<input type="checkbox"/>	

14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply: <input type="checkbox"/> Shoreline <input type="checkbox"/> Forest <input type="checkbox"/> Agricultural/grasslands <input type="checkbox"/> Early mid-successional <input type="checkbox"/> Wetland <input type="checkbox"/> Urban <input type="checkbox"/> Suburban		
15. Does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered?	NO	YES
	<input type="checkbox"/>	<input type="checkbox"/>
16. Is the project site located in the 100-year flood plan?	NO	YES
	<input type="checkbox"/>	<input type="checkbox"/>
17. Will the proposed action create storm water discharge, either from point or non-point sources? If Yes,	NO	YES
a. Will storm water discharges flow to adjacent properties?	<input type="checkbox"/>	<input type="checkbox"/>
b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)?	<input type="checkbox"/>	<input type="checkbox"/>
If Yes, briefly describe: _____ _____		
18. Does the proposed action include construction or other activities that would result in the impoundment of water or other liquids (e.g., retention pond, waste lagoon, dam)? If Yes, explain the purpose and size of the impoundment:	NO	YES
_____	<input type="checkbox"/>	<input type="checkbox"/>
_____		
19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility? If Yes, describe:	NO	YES
_____	<input type="checkbox"/>	<input type="checkbox"/>
_____		
20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste? If Yes, describe:	NO	YES
_____	<input type="checkbox"/>	<input type="checkbox"/>
_____		
<b>I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE</b>		
Applicant/sponsor/name: <u>Town of Poughkeepsie</u>		Date: <u>10/31/2024</u>
Signature: <u>Gordon &amp; Svenson LLP, by Emily Svenson</u>		Title: <u>Attorney to the Town</u>