

**TOWN OF NORTH HEMPSTEAD
LOCAL LAW NO. OF 2016**

**A LOCAL LAW AMENDING CHAPTER 70 OF THE TOWN CODE
ENTITLED "ZONING"**

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

Section 1. Legislative Intent.

The Board finds that it is in the best interest of the Town of North Hempstead to make amendments to Chapter 70 of the Town Code entitled "Zoning" in order to set new size limits and restrictions concerning food preparation for convenience stores located within gasoline service stations.

Section 2.

Section 70-203. P of the Town Code is hereby amended as follows:

Article XXII. General Provisions

§ 70-203. Public health, safety and general welfare.

[Amended 7-26-1966; 12-3-1985 by L.L. No. 12-1985; 3-25-1986 by L.L. No. 3-1986]

P. No permits for the construction or alteration of gasoline service stations shall be issued without first obtaining approval from the Town Board after a public hearing.

[Added 9-12-1989 by L.L. No. 7-1989; amended 11-15-2005 by L.L. No. 13-2005]

(1) No self-service gasoline service station shall be permitted without first obtaining approval from the Town Board after a public hearing, and shall be subject to the following conditions:

(a) The permittee shall provide an air compressor capable of inflating automobile tires for the use of motorists and shall do so at no charge to the user thereof.

(b) A gasoline service station granted a permit shall provide at least one full-service pumping station between the hours of 7:00 a.m. and 7:00 p.m., prevailing time.

(c) A gasoline service station granted a permit shall be subject to such other lawful conditions as may be imposed by the Town Board, which conditions shall be embodied in a covenant signed by the applicant and recorded at the expense of the applicant in the office of the Clerk of the County of Nassau. Such conditions shall include, unless exempted by the Town Board, the following:

[1] That the service island be covered by a canopy or similar structure to protect the patrons of the service station from the elements.

[2] That all fire-suppression and fire-prevention devices shall be installed in accordance with the requirements of, and subject to the approval of, the Nassau County Fire Marshal. Such systems shall, to the extent most practicable and functionable, be enclosed within the canopy or similar aesthetically acceptable structure.

[3] That there shall be no overnight storage of motor vehicles or trailers on the premises.

[4] That all lighting shall be directed so as to illuminate only the site and shall not cause any annoyance or interference by substantial transgression of illumination on adjoining properties.

[5] That the operator of the station shall provide appropriate automobile window cleaning devices for use by patrons at no charge.

[6] That the operator of the station shall have available for sale to customers motor oil, transmission fluids and windshield cleaning solvents.

[7] That the operator of the station shall provide full service, and gasoline at self-service price, to all automobiles with handicapped license plates, between the hours of 7:00 a.m. and 7:00 p.m., prevailing time.

[8] That such facility shall conform to all zoning requirements except as the Board of Zoning and Appeals may, in its discretion, vary or modify.

(2) The Town Board, after a public hearing, may grant approval for a self-service or full-service gasoline station to concurrently sell products unrelated to the use and operation of motor vehicles, provided that such gasoline service station/convenience stores as defined in § 70-231, meet the following requirements:

(a) [~~Only prepackaged items, excepting coffee, tea or cocoa, shall be sold or offered.~~]

Gross floor area and the allowable methods of food preparation are as follows. The maximum floor area is inclusive of the cashier area.

<u>Lot Area</u>	<u>Maximum Floor Area</u>	<u>Food Preparation</u>
<u>less than 1/2 acre</u>	<u>1250 s.f.</u>	<u>Prepackaged for off-site consumption only; no warming, heating, or cooking excepting coffee, tea or cocoa.</u>

<u>Lot Area</u>	<u>Maximum Floor Area</u>	<u>Food Preparation</u>
<u>1/2 acre to 1 acre</u>	<u>2500 s.f.</u>	<u>Warming of prepackaged items by microwave for off-site consumption; no oven, grill, or fryer. Brewing or preparing coffee, tea or cocoa is permitted.</u>
<u>greater than 1 acre</u>	<u>5000 s.f.</u>	<u>Permitted; Fast food restaurant regulations apply.</u>

(b) No trash or refuse shall be stored or kept on the site except where permitted by the Town Board.

(c) The station shall be supervised by the owner or employee of the owner on the premises at all times when the station is open for operation.

(d) There shall be no exterior display or storage of materials, merchandise, supplies or accessories, except in the area(s) indicated on the approved site plan.

(e) Site circulation shall be designed so that fuel tankers servicing the gasoline service station do not obstruct ingress or egress to the site and pedestrian ingress and egress to the convenience store, and do not make use of any portion of public right-of-way or landscaped areas.

(f) Perimeter landscaping requirements: Along the parcel of land which abuts a street, exclusive of vehicular access points, a perimeter landscape area shall be provided. The perimeter landscape area shall be designed so as not to obstruct sight lines from the subject property.

(3) An application to permit a gasoline service station/convenience store, as defined in § 70-231, shall be reviewed by the Commissioner of Planning, shall include the items required for submission in § 70-219 and shall demonstrate compliance with the requirements provided herein.

(4) In considering applications for a permit hereunder, the Town Board shall consider the general standards set forth in § 70-225B of this Code.

Section 3.

Section 70-231 of the Town Code is hereby amended as follows:

Article XXV. Word Usage and Definitions

§ 70-231. Definitions.

[Amended 7-23-1968; 10-15-1968; 12-31-1974 by L.L. No. 22-1974; 2-1-1977 by L.L. No. 2-1977; 3-27-1979 by L.L. No. 3-1979; 8-12-1980 by L.L. No. 11-1980; 8-12-1980 by L.L. No. 12-1980; 8-26-1980 by L.L. No. 13-1980; 9-13-1983 by L.L. No. 6-1983; 2-26-1985 by L.L. No. 4-1985; 12-17-1985 by L.L. No. 13-1985; 12-17-1985 by L.L. No. 18-1985; 3-25-1986 by L.L. No. 3-1986; 4-28-1987 by L.L. No. 10-1987; 2-19-1991 by L.L. No. 5-1991; 7-9-1991 by L.L. No. 10-1991; 5-21-1996 by L.L. No. 8-1996; 1-28-1997 by L.L. No. 2-1997; 3-18-1997 by L.L. No. 6-1997; 5-21-1997 by L.L. No. 9-1997; 12-16-1997 by L.L. No. 25-1997; 6-8-1999 by L.L. No. 7-1999; 12-14-1999 by L.L. No. 14-1999; 10-2-2001 by L.L. No. 8-2001; 3-12-2002 by L.L. No. 2-2002; 6-25-2002 by L.L. No. 9-2002; 3-11-2003 by L.L. No. 1-2003; 9-30-2003 by L.L. No. 12-2003; 11-15-2005 by L.L. No. 13-2005; 1-3-2006 by L.L. No. 1-2006; 1-24-2006 by L.L. No. 2-2006; 8-22-2006 by L.L. No. 13-2006; 10-3-2006 by L.L. No. 14-2006; 12-12-2006 by L.L. No. 16-2006; 5-29-2007 by L.L. No. 4-2007; 5-29-2007 by L.L. No. 5-2007; 12-11-2007 by L.L. No. 12-2007; 7-29-2008 by L.L. No. 7-2008; 9-22-2008 by L.L. No. 9-2008; 10-2-2008 by L.L. No. 10-2008; 5-19-2009 by L.L. No. 9-2009; 6-23-2009 by L.L. No. 11-2009]

For the purpose of this chapter, the terms used herein are defined as follows:

COMMERCIAL PARKING LOT

Any lot or premises, other than one owned or maintained by the municipality, used for parking automobiles or other motor vehicles by the public upon the payment of a fee, whether or not such use is an accessory use.

CONVENIENCE STORE

A retail sales area that offers for sale prepackaged food or beverages, **and may allow for cooking and preparation of ready-to-serve food**, for off-site consumption. [~~Such retail sales area shall not exceed 750 square feet, including the cashier area.~~] A convenience store shall co-locate or coexist only with a gasoline service station or automobile service station, and only as approved by the Town Board.

CORNER LOT

A lot situated at the intersection or junction of two or more streets.

GASOLINE SERVICE STATION or AUTOMOBILE SERVICE STATION (used synonymously in this chapter)

The use of premises for the dispensing of motor fuels, lubricants and other materials used in the operation of motor or other vehicles and/or where minor repairs to motor or other vehicles are made.

GASOLINE SERVICE STATION/CONVENIENCE STORE

The co-location of a gasoline service station and a convenience store, **only as approved by the Town Board**. No use other than a convenience store may coexist or co-locate with a gasoline service station. A gasoline service station/convenience store contains a convenience store that offers for sale [~~prepackaged~~] food or beverages [~~for off-site consumption~~], in conjunction with the sale of automotive fuel. Other prepackaged goods, household items, automotive fluids and wiper blades, automotive cleaning supplies, oils, waxes and windshield fluids, newspapers and magazines may also be sold at a gasoline service station/convenience store.

GROSS FLOOR AREA (NONRESIDENTIAL)

The sum of the gross horizontal areas of the several floors of a building, including interior balconies and mezzanines, but excluding exterior balconies. All horizontal dimensions of each floor are to be measured from the exterior faces of the walls of each such floor, including roofed porches having more than one wall. The "gross floor area" of accessory buildings shall include the floor area of accessory buildings on the same lot, measured the same way. In computing the "gross floor area," there shall be excluded any floor area of a story whose ceiling is less than four feet above grade at the nearest building line and attic space having a headroom of less than seven feet, provided that those areas are nonhabitable and are used for storage or mechanical equipment.

Section 4.

This Local Law shall take effect immediately upon filing with the Secretary of State.