LAID ON THE DESKS 7/14/2024
RELAID ON THE DESKS BY MAIL, E-MAIL, AND IN MAILBOXES 7/26/2024
GOVERNMENT SERVICES & ADMINISTRATION
PULLED BY SPONSOR 8/8/2024

RESOLUTION NO. 2024136

RE: LOCAL LAW NO. ____ OF 2024, A LOCAL LAW REGULATING HAZARDOUS POLLUTION SOURCES IN PROXIMITY TO PUBLIC WATER SUPPLY SOURCES AND AQUIFERS

Legislators METZGER, TRUITT, D'AQUANNI, GARITO, GORMAN, and MC HOUL offer the following and move its adoption:

RESOLVED, that the Legislature of the County of Dutchess adopted Local Law No. ____ of 2024, which has been submitted this date for consideration by said Legislature.

~~STATE OF NEW YORK~~
~~ss:~~
~~COUNTY OF DUTCHESS~~

~~This is to certify that I, the undersigned Clerk of the Legislature of the County of Dutchess, have compared the foregoing resolution with the original resolution now on file in the office of said clerk, and which was adopted by said Legislature on the 12th day of August 2024, and that the same is a true and correct transcript of said original resolution and of the whole thereof.~~

~~IN WITNESS WHEREOF, I have hereunto set my hand and seal of said Legislature this 12th day of August 2024.~~

~~LEIGH WAGER, CLERK OF THE LEGISLATURE~~

LOCAL LAW NO. _____ OF 2024

LOCAL LAW NO. ___ OF 2024, A LOCAL LAW REGULATING HAZARDOUS POLLUTION SOURCES IN PROXIMITY TO PUBLIC WATER SUPPLY SOURCES AND AQUIFERS

BE IT ENACTED BY THE COUNTY LEGISLATURE OF THE COUNTY OF DUTCHESS, STATE OF NEW YORK AS FOLLOWS:

SECTION 1. LEGISLATIVE INTENT.

Dutchess County has an abundance of rural and suburban areas that rely solely on public wells or individual wells for clean potable water. Many of the public water supplies rely on groundwater as their sole source of drinking water. With continued population growth and development, groundwater sources are increasingly becoming vulnerable to potential contamination. The Dutchess County Legislature finds it necessary and appropriate to establish restrictions to protect its residents' water supply sources by prohibiting the drilling of public wells in proximity to certain hazardous pollution sources.

It is the intent of the Dutchess County Legislature to establish restrictions to protect its residents' water supply sources by prohibiting the use of certain hazardous materials in close proximity to any public water supply or aquifer. In addition, the Legislature intends to prohibit the drilling of public wells (Community, Non-Community, and Non-Community Non-Transient as defined by Part 5. Drinking Water Supplies Sub Part 5-1. Public Water Systems of the New York State Sanitary Code) within close proximity to the contaminant sources enumerated herein.

The Sprout Creek and Fishkill Creek Aquifers are considered major valley-fill aquifers that span several municipalities in the southwestern portion of Dutchess County. In addition, there are several smaller aquifers scattered throughout Dutchess County. Petroleum products stored in underground storage tanks, whether commercial or residential heating oil or gas stations pose the highest risks to water quality. These uses place the aquifers and groundwater supply at greater risk for contamination. As per the NYS Department of Environmental Conservation Spill Incident Database, from 2019 to 2023, over 1,300 commercial and residential petroleum spills were reported in Dutchess County to the NYS Department of Environmental Conservation. Within Dutchess County there have been industrial sites, petroleum and chemical spills which caused significant environmental damage, public health issues, abandonment of contaminated potable wells and construction of new alternative water supplies, all at massive costs to Dutchess County residents. Additionally, such contamination creates blighted areas as contaminated properties are costly to remediate, contamination stigmatizes the area, are barriers to the sale and financing of properties and cause businesses to shut down. Similarly, dry cleaners that use solvents on site and car wash facilities have historically had detrimental impacts to groundwater quality. Water run-off from commercial car washes also contain numerous hazardous substances that pollute the environment and also result in waste of water. Dirty water containing soap, detergents, residue from exhaust fumes, gasoline, heavy metals from rust, and motor oils can wash off cars and flow directly to storm drains and into the nearest creek or stream where it can harm water quality and wildlife and enter the aquifer. While modern day car washes install measures to mitigate these

concerns, such detrimental impacts are not eliminated and pose a threat to County resident's drinking water.

The Dutchess County Legislature finds that, prohibiting the drilling of public wells near certain pollution sources and managing the location of hazardous uses on properties in close proximity to aquifers, wetlands and water bodies will greatly reduce the risk of groundwater contamination and protect the County's drinking water supply and County residents' health.

SECTION 2. DEFINITIONS.

A. Definitions contained in Part 5, subpart 5-1, and any subsequent revision of the New York State Sanitary Code are adopted as part of this Chapter.

B. The terms set forth below shall have the following meanings:

AQUIFER – any water-bearing permeable geologic unit, identified, mapped or delineated by any Federal, New York State or local Dutchess County municipalities or agencies.

Navigable Waters of the State as defined by the New York State Department of Environmental Conservation at 6 NYCRR 608.1(u)

WETLANDS – Lands and submerged lands commonly called marshes, swamps, sloughs, bogs, and flats supporting aquatic or semi-aquatic vegetation, including lands considered freshwater wetlands as defined, mapped or delineated by any Federal, New York State or local Dutchess County municipalities or agencies.

SECTION 3. PROHIBITED CONDUCT.

A. Dutchess County Local Separation Requirements. In addition to the separation requirements set forth in Table 1 of Part 5, Subpart 5-1 Standards for Water Wells - Appendix 5B of the New York State Health Department regulations, the following additional separation requirements shall be instituted and it shall be unlawful to have a contamination source within the prescribed distances, measured from point of use to a well for a public water supply (community, non-community, and non-community non-transient),Wetland, Aquifer or Navigable Waters of the State as identified in the table below:

Contaminan t Source	Separation Distance from a Public Water Supply, Wetland, Aquifer or Navigable Waters of the State (Feet)
Dry-cleaning establishments and laundries that utilize commercial cleaning solvents unless all waste waters from such activity are lawfully disposed of through a	1,500

connection to a publicly owned treatment works	
Underground chemical or petroleum storage vessels	1,500
Fill ports or piping for underground chemical or petroleum storage vessels	1,500
Gasoline or diesel fueling pumps for the purpose of dispensing to individual consumers	1,500
Commercial Car Wash unless all waste waters from such activity are lawfully disposed through a connection to a publicly owned treatment works	1,500
Salvage operations for vehicle parts	500
Production or refining of chemicals	500
Industrial laundry activity that involves the cleaning of clothes or cloth contaminated by hazardous material, unless all waste waters from such activity are lawfully disposed of through a connection to a publicly owned treatment works	500
Storage of de-icing chemicals for retail sale, unless such storage takes place within a weather tight water-proof structure	500

B. Nothing in this Local Law shall be interpreted to prohibit the uses listed above for projects with presently issued permits by the County or existing and operating when this Local Law was adopted from continuing to operate.

C. Any pre-existing non-conforming uses which are discontinued or inactive for a period in excess of one (1) year shall be deemed abandoned and are not permitted to continue to operate or receive permits from the County.

SECTION 4. ENFORCEMENT AND PENALTIES.

The Commissioner of the Department of Community and Behavioral Health is responsible for the enforcement of this Chapter. The Commissioner is authorized to promulgate rules and regulations and to take any and all other actions reasonable and necessary to enforce this Chapter in accordance with the authority enumerated in the Dutchess County Sanitary Code including, but not limited to, conducting inspections; investigating all claims and violations; issuing all notices and orders; conducting hearings; instituting penalties and fines; and any other processes that may be necessary in the enforcement of this Chapter.

SECTION 5. APPLICATION.

This Local Law is intended to supplement the local laws adopted by municipalities individually within Dutchess County and shall be non-exclusive and in addition to the existing local laws. To the extent that provisions of this Local Law conflict with local laws adopted by municipalities within Dutchess County this Local Law shall preempt any local laws or parts thereof in conflict with the provisions herein. To the extent that provisions of this Local Law are more stringent than state laws or requirements the provisions of this Local Law shall preempt any state laws or requirements.

SECTION 6. SEQRA DETERMINATION.

It is hereby determined, pursuant to the provisions of the State Environmental Quality Review Act, 8 NYECL Section 0101 et seq., and its implementing regulations, Part 617 of 6 NYCRR, that the adoption of this local law is a "Type II" Action within the meaning of Section 617.5(c)(26) and (33) of 6 NYCRR, and, accordingly, is of a class of actions which do not have a significant impact on the environment and no further review is required." [6 NYCRR Section 617.5(c) (26) and (33) apply to: "(26) routine or continuing agency administration and management, not including new programs or major reordering of priorities that may affect the environment" and "(33) adoption of regulations, policies, procedures and local legislative decisions in connection with any action on this list"]

SECTION 7. SEVERABILITY.

If any clause, sentence, paragraph, subdivision, section, or part of this law or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section, or part of this law, or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

SECTION 8. EFFECTIVE DATE.

This Local Law shall take effect upon after filing with the New York State Secretary of State.

FISCAL IMPACT STATEMENT

☑ NO FISCAL IMPACT PROJECTED

APPROPRIATION RESOLUTIONS

(To be completed by requesting department)

Total Current Year Cost $ _____

Total Current Year Revenue $ _____
and Source

Source of County Funds *(check one)*: ☐ Existing Appropriations, ☐ Contingency,
☐ Transfer of Existing Appropriations, ☐ Additional Appropriations, ☐ Other *(explain)*.

Identify Line Items(s):

Related Expenses: Amount $ _____
Nature/Reason:

Anticipated Savings to County: _____

Net County Cost (this year): _____
Over Five Years: _____

Additional Comments/Explanation:

Prepared by: Benjamin Traudt, Assistant to the Chairman Prepared On: 7/26/2024

Dut.pdf

LEIGH WAGER
CLERK

LAURA PHILLIPS
DEPUTY CLERK

DUTCHESS COUNTY LEGISLATURE

MEMORANDUM

TO: All Legislators

FROM: Laura Phillips, Deputy Clerk, Dutchess County Legislature LP

RE: Resolution No. **2024136,** A LOCAL LAW REGULATING HAZARDOUS POLLUTION SOURCES IN PROXIMITY TO PUBLIC WATER SUPPLY SOURCES AND AQUIFERS

DATE: July 26, 2024

Pursuant to Rules 4.5 I of the *Permanent Rules of the Dutchess County Legislature* enclosed is an amended Local Law entitled, "Resolution No. **2024136,** A LOCAL LAW REGULATING HAZARDOUS POLLUTION SOURCES IN PROXIMITY TO PUBLIC WATER SUPPLY SOURCES AND AQUIFERS". Amendments are in bold.

Please consider this law as being "Re-Laid on the Desks". If you have any questions, please contact my office.

lp

The foregoing Resolution No. 2024136, Local Law No. __ of 2024, A LOCAL LAW REGULATING HAZARDOUS POLLUTION SOURCES IN PROXIMITY TO PUBLIC WATER SUPPLY SOURCES AND AQUIFERS, was laid on desks on July 15, 2024, revised and re-laid on the desks by mail, e-mail, and in mailboxes on July 26, 2024, and was pulled by the sponsor on August 8, 2024.

The foregoing resolution was amended and reintroduced as Resolution No. 2024156.