

AMENDED COPY AS OF 11/9/2012

Intro. Res. No. 2064-2012

Laid on Table 11/7/2012

Introduced by Legislators Stern, D'Amaro, Lindsay, Spencer and Hahn

**RESOLUTION NO. -2012, ADOPTING LOCAL LAW
NO. -2012, A LOCAL LAW TO ENSURE ADEQUATE
GASOLINE DISTRIBUTION TO THE PUBLIC AFTER
DISASTERS**

WHEREAS, there was duly presented and introduced to this County Legislature at a meeting held on _____, 2012, a proposed local law entitled, "**A LOCAL LAW TO ENSURE ADEQUATE GASOLINE DISTRIBUTION TO THE PUBLIC AFTER DISASTERS**" now, therefore be it

RESOLVED, that said local law be enacted in form as follows:

LOCAL LAW NO. -2012, SUFFOLK COUNTY, NEW YORK

**A LOCAL LAW TO ENSURE ADEQUATE GASOLINE
DISTRIBUTION TO THE PUBLIC AFTER DISASTERS**

BE IT ENACTED BY THE COUNTY LEGISLATURE OF THE COUNTY OF SUFFOLK, as follows:

Section 1. Legislative Intent.

This Legislature hereby finds and determines that motor fuel is one commodity indispensable for effective disaster response and recovery.

This Legislature further determines that evacuations from areas impacted by natural and man-made disasters necessarily require fuel. Further, recovery efforts are dependent on a reliable supply of fuel.

This Legislature finds that, in the wake of Hurricane Sandy, emergency response efforts have been hindered because residents and emergency responders were unable to obtain fuel after gas station pumps were rendered useless by electrical power outages.

This Legislature further finds that Hurricane Sandy has proven that the County of Suffolk is vulnerable to extended power outages and the devastating results thereof.

This Legislature also finds and determines that it is necessary for the safety, health and well-being of Suffolk County residents to require gasoline stations and wholesale gasoline facilities to maintain equipment that will allow them to provide essential services during periods of long-term power outages.

Therefore, the purpose of this law is to amend Chapter 497 of the SUFFOLK COUNTY CODE to require that gasoline retailers and wholesalers equip their stations and facilities with all necessary infrastructure to operate their businesses using an alternate generated power source in the wake of natural or man-made disasters.

Section 2. Amendments.

I. Section 497-1 of the SUFFOLK COUNTY CODE is hereby amended as follows:

Chapter 497, GASOLINE STATIONS

**ARTICLE I,
Hours of Operation**

§ 497-1. Definitions.

As used in this [Article] Chapter, the following terms shall have the meanings indicated:

ALTERNATE GENERATED POWER SOURCE – any power source that is not dependent upon the electrical grid and would not be rendered inoperable during a power outage to the station. This term includes manual pumping capacity for fuel pumps.

* * * *

STATION – any establishment engaged in the retail sale of fuel which has four (4) or more fueling stations, inclusive of diesel.

WHOLESALE – any person who purchases and stores motor fuel in bulk and directly supplies said fuel to stations for retail sale to the public.

* * * *

II. Chapter 497 of the SUFFOLK COUNTY CODE is hereby amended by the addition of a new Article 2, to read as follows:

**ARTICLE II,
Alternate Power Source Requirements**

§ 497-5. Requirements.

- A) All operators and wholesalers shall equip their station or facility with the capability to operate all fuel pumps, dispensing equipment, safety systems and payment acceptance equipment using an alternate generated power source for a minimum period of five (5) days. This equipment must include all appropriate wiring and a transfer switch.
- B) All operators and wholesalers shall have an alternate generated power source for their station or facility available for operation within 36 hours of losing pumping capabilities.
- C) Operators and wholesalers will maintain at the station or facility premises a copy of the documentation of the installation of the equipment capable of operating an alternate generated power source to power their station or facility and keep a written statement attesting to the periodic testing of and ensured operational capacity of the equipment.

§ 497-6. Exemptions.

The provisions of this law shall not apply to an automobile dealer or any person or entity that operates a fleet of motor vehicles or who sells motor fuel exclusively to a fleet of motor vehicles.

§ 497-7. Penalties for offenses.

Any operator violating the provisions of this law shall be guilty of a violation, punishable by a civil fine of five hundred dollars (\$500.00) for the first offense, with a civil fine of one thousand dollars (\$1,000.00) for each subsequent offense.

§ 497-8. Enforcement; rules and regulations.

- A) This law shall be enforced by the Department of Consumer Affairs.
- B) The Commissioner of the Department of Consumer Affairs is hereby authorized to issue and promulgate such rules and regulations as he may deem necessary in order to carry out the provisions of this law.

Section 3. Applicability.

The provisions of this law shall apply immediately to gasoline stations for which a certificate of occupancy is issued on or after the effective date of this law. Existing stations for newly constructed or renovated stations for which a certificate of occupancy is issued prior to the effective date of this law shall comply with the provisions of this law within one hundred eighty (180) days of the law's effective date.

Section 4. 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 5. SEQRA Determination.

This Legislature, being the State Environmental Quality Review Act (SEQRA) lead agency, hereby finds and determines that this law constitutes a Type II action pursuant to Section 617.5(c)(20), (21), and/or (27) of Title 6 of the NEW YORK CODE OF RULES AND REGULATIONS (6 NYCRR) and within the meaning of Section 8-0109(2) of the NEW YORK ENVIRONMENTAL CONSERVATION LAW as a promulgation of regulations, rules, policies, procedures, and legislative decisions in connection with continuing agency administration, management and information collection. The Suffolk County Council on Environmental Quality (CEQ) is hereby directed to circulate any appropriate SEQRA notices of determination of non-applicability or non-significance in accordance with this law.

Section 6. Effective Date.

This law shall take effect on the one hundred eightieth (180th) day immediately subsequent to filing in the Office of the Secretary of State.

[] Brackets denote deletion of existing language.

___ Underlining denotes addition of new language.

DATED:

APPROVED BY:

County Executive of Suffolk County

Date: