

August 6, 1975

Ms. Christine M. Callahan
Town Clerk of Arlington
Town Hall
Arlington, Massachusetts

Dear Ms. Callahan:

I enclose the amendment to general by-laws adopted under article 11 of the warrant for the special town meeting held April 28, 1975, with the approval of the Attorney General endorsed thereon with the exception that paragraph (a) is stricken and deleted therefrom. The stricken paragraph (a) is broad enough to prohibit self-service gas stations. Rule 43 of the Rules and Regulations (Form FPR-4) of the Commonwealth of Massachusetts, Department of Public Safety, Board of Fire Prevention Regulations, filed May 1, 1975, and published May 8, 1975, permits self service automated gasoline dispensing systems. These rules are adopted under General Laws, Chapter 148. Towns may also make by-laws, not inconsistent with said rules and regulations, under section 9 of chapter 148. The stricken paragraph is inconsistent with the Board of Fire Prevention Regulations, Form FPR-4.

Additional procedural information is required in order to process the amendment voted under article 10. Please forward a copy of the BOCA Basic Fire Prevention Code/1975 edition, as published by the Building Officials and Code Administrators International Inc. with the appropriate insertions.

Very truly yours,

Henry F. O'Connell
Assistant Attorney General

HFO:Gtd
Enc.

Attorney General

OFFICE OF THE TOWN CLERK
TOWN OF ARLINGTON
MASSACHUSETTS

TOWN HALL
OFFICE HOURS
9 A.M. TO 5 P.M.
MONDAY THRU FRIDAY
TELEPHONE
643-6700

CHRISTINE M. CALLAHAN
TOWN CLERK

ARTICLE 11. AMENDMENT OF TOWN BY-LAWS - GASOLINE STATIONS, PUMPING
OF GAS BY AUTHORIZED INDIVIDUALS, ARTICLE 12, SECTION 15

VOTED: (Roll Call vote, 97 in the affirmative and 75 in the negative)
(Quorum Present)

That Article 12 of the By-Laws be and hereby is amended by adding
thereto a new Section 15 to read substantially as follows:

Section 15. Pumping of Gas by Authorized Individuals.

- (a) No gasoline filling station shall allow the pumping of gasoline for retail sale by any person other than an authorized attendant employee of said filling station.
- (b) No attendant at any authorized gasoline station shall permit any unauthorized person to pump gas or engage in any distribution of gasoline within the station.

A true copy of the vote under
Article 11 of the Warrant for
the Special Town Meeting of
the Town of Arlington held
April 26, 1975.

ATTEST:

Christine M. Callahan
Town Clerk

August 6, 1975

Boston, Massachusetts

The foregoing amendments to general by-laws adopted under article 11 of the warrant for the special town meeting held April 28, 1975 are hereby approved with the exception that paragraph (a) is stricken and deleted therefrom.

John Bell
Attorney General

Henry Combs on road at 655 PM
655 PM April 12, 76

Henry rep by Atty J Campbell
rep Mount. Det Company in 1 regt off
in Cambridge. Force - group of horse
owned by Sherman family
Wm Sherman plotted in Penn
200 shares for Penn to California

From open in Camb. Mt. Air Force - 1st
Camb. Police Station

Department from to passage -
Department arranged 2000 per million -
Spells Lafayette - 2 ft over Camb.
Police Station Hall -
Concerns should be given description
to descent

Now 2 of self service stations found
by Mount, one in Smithfield -
Tom Safety precautions provided in
Self Service

Orders established by State and
City Chief

Some bottles in bottles which contain
gas valves - 10 or 12 bottles

Fuel speaker system - you notify the
Cable and he will give order to
activate the gas pumps -

~~Attendant~~

Each man will hold the pump
continuously to keep gas coming

20% reduction in difference from 1/2
insurance underwriters - approved
to regular stations -

Inclusions are pointed out month
long period and PA system
held for instructions

Present Control Handbook
Mr. Harold Reynolds

Mr. W. J. R. E. for West
System - will answer all inquiries

Copy of Ord. passed May 1, 1975 - copy
also copy of AT Subm 15 of delivered
By John -

Pro A of delivered not approved
Aug 6, 1975 Copy of AT

Open accepted in both cities of Madison

Judge Roman struck down the ordinance -
as was Arlington's ordinance which NTS
disapprove -

NTS Opinion State Rule 43 - filed May 1, 1975
and published May 8, 75 -
by HPT State Association
of Attorneys -

709/201 May 5, 1975 is plainly in
error and should be rescinded
by Council -

When before Council HPT made
their ruling - no opportunity
to act on case.

Therefore it appears well legal here
for the striking of your ordinance
Council should be responsible and
deal with the ordinance
City of Walden ordered to pay costs
to Suppe Oil Company when they let

7¹²/_{PM} No money for expense of Court and
City Shelter Home.
2 cases now pending in Court
of 48 judges - etc.

= C.C. should take a responsible position
in this matter -
Situation that C.C. should deal
with responsibly -
Congress are entitled to demand of
City handle pumps themselves.

7¹³/_{PM} C. Russell what about obligations
to middleman -
Self service takes away work for
people that

7¹⁵/_{PM} C. Linn C.C. not prepared to act
on this issue -
Will have a regular advertisement
hearing - to act on these ordinances

Pl. Service not the local gas station
people and has provided for reliability
of self service stations

7th 1887 - Success will not be
derived of gas companies save their
way.

J.P.L.

7th 1887 Standard Protection Act passed by
Legislature similar to act passed
by Congress for auto dealers

At. Next stations are company owned - not
leased stations - but these reports
are in control by other companies

At. at the beginning - initially the issue whether we
had any validity -
Refer to leg. sub. sup. ~~the~~

7th 1887 leg. validity the issue -

Claims could only submit not special
permit be used to register
change etc also legality

7²⁷ / 66. Law to Ordinance legal -
Plus special permit route to help
stations affected by change -
Prior to change better station -
Council maybe city fol could advise -
use as soon to keep them out

At. office of re terms when record approved
Under zoning law its give great latitude
to zoning in zoning. It depends unless
they are totally bad -

2 Dedham } adopted by law - never tested in
2 Norfolk } Court =

Notice on law passed -
Self service stations now operating in Lowell

7³⁰ / 66 C. Buckley -

Re Legal Opinion -

How we can go forward to keep our
service stations now -

The ordinance will give stations
owner, will be hurt by the

C. Danby =

750/04 BA - York illegal

How are you proceed with the
young women - Spinal Point
whether it is possible -

C. Danby. If we get you some
more backlog of cases etc
should not try to liquidate
them might not lose - don't
refer to law file -

Had let B operate with
Mort and if there are legal
petitions - we may see some

C. Graham agreed to call service
stations. What will lay off
25 people

Keep people working -
transport etc - repairs -
will ask C. Powell to investigate -

C. Danby what should we do if you find
it is illegal -

What we might do
C. Williams refer to B Spinal Point
to determine sufficient stations - cases

15th Jan 8/11 Vote PROHIBIT SELF STORAGE -

"Only on event that ordinance is struck
down"

Chairman preclude reference to
City Solicitor

BA How can we use zoning part
to restrict self storage

Statement -

part of the work it is slight go to
some Board and sub - etc
than part of work

Approved at 103

**Ordinance No. 844
Final Publication No. 1833
First Publication in
Cambridge Chronicle-Sun
April 10, 1975**

**CITY OF CAMBRIDGE
In the Year One Thousand
Nine Hundred Seventy-five
AN ORDINANCE**

In amendment to an Ordinance formerly entitled: "The General Ordinances of the City of Cambridge" as revised in 1972 and now designated as "The Code of the City of Cambridge."

Be it ordained by the City Council of the City of Cambridge as follows:

Chapter 6 entitled: "Businesses"

Article V entitled: Petroleum is hereby amended by adding a new section at the end of said Article V to be numbered and known as Section 6-32A Self Service Stations which section shall read as follows:

No gasoline filling station shall allow the pumping of gasoline for retail sale by any person other than an authorized attendant employee of said filling station.

The attendant at authorized gasoline stations shall not permit any person to pump gas or engage in any distribution of gasoline within the station.

This ordinance shall take effect upon its passage.

In city Council May 5, 1975.

Passed to be ordained by a yeas and nays vote: Yeas 8; Nays 1; Absent 0.

James L. Sullivan,
City Manager

ATTEST: Paul E. Healy
City Clerk

C) May 8



City of Cambridge

14.

IN CITY COUNCIL
April 12, 1976

Councillor Ackermann

ORDERED:

That the Planning Board be and hereby is requested to conduct a study of the problems raised by Self-Service Gas Stations in the City of Cambridge to determine whether their operation is covered by the provisions of the Zoning Ordinance, and be it further

ORDERED:

That the Planning Board consider appropriate amendments to the Zoning Ordinance of the City of Cambridge for special permit or otherwise to provide for the regulation of Self-Service Gas Stations in the City of Cambridge.

In City Council April 12, 1976
Adopted by the affirmative vote of 8 members.
Attest: Paul E. Healy, City Clerk

A true copy,

ATTEST:

Order by L. Percamann to refer the

question of City of Cambridge Regulation of
Self Service Gas Stations MASSACHUSETTS to the Planning Board
for report on how zoning In City Council April 12 1976
regulations could control operation

	YEA	NAY	ABSENT	PRESENT
Mrs. Ackermann	✓			
Mr. Clem	✓			
Mr. Clinton				
Mr. Danehy		✓	✓	
Mr. Duehay	✓			
Mrs. Graham	✓			
Mr. Russell		✓		
Mr. Sullivan		✓		
Mayor Vellucci	✓			

5 3 1

Order adopted-

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Passed to be ordained by a yeas and nays vote: Yeas 8; Nays 1; Absent 0.

James L. Sullivan,
City Manager

ATTEST: Paul E. Healy
City Clerk

C)Mays

John J. Campbell
Counsellor at Law

One Center Plaza, Boston, Mass. 02108

617-542-8800

April 2, 1976

The Honorable City Council
Cambridge City Hall
Cambridge, Massachusetts

Dear Councillors:

Please be advised that I represent the Merit Oil Company of #299 Prospect Street, Cambridge.

Prior to May 5, 1975 the Merit Oil Company applied to the City of Cambridge for permission to open a self-service gas station. On May 5, 1975 the Council passed Ordinance #844 which would prohibit self-service gas stations in the City of Cambridge.

I respectfully call to your attention that in my opinion this Ordinance is illegal, and should be rescinded by your Honorable City Council. In support of this opinion, I direct your attention to Rule 43 of the Rules and Regulations, Form FPR-4 of the Commonwealth of Massachusetts, Department of Public Safety, Board of Fire Prevention Regulations, filed May 1, 1975, which permits self-service automated gasoline dispensing systems. These rules are adopted under General Laws, Chapter 148. Cities may make Ordinances not inconsistent with said Rules and Regulations, under Section 9 of Chapter 148. It is my opinion that said Ordinance is inconsistent with the Board of Fire Regulations, Form FPR-4.

In further support of this opinion I have filed with the City Clerk, a copy of the disapproval of the Attorney General of a similar by-law adopted by the Town of Arlington on April 28, 1975.

I have also filed a copy of the case of Gibbs Oil Co. v. City of Malden, Middlesex Superior Court #75/2051. The opinion in that case was written by Justice John T. Ronan and is dated September 11, 1975. The Court, in that case struck down a similar ordinance adopted by the Malden City Council on March 7, 1975.

I request that the Council schedule a hearing date so that additional evidence may be presented and that the Merit Oil Company may be permitted to operate self service stations in the City of Cambridge.

Respectfully yours,

John J. Campbell
JOHN J. CAMPBELL

JJC:mjr

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Communication from John J. Campbell, Counselor at Law, re: to Ordinance #844 re: to Self-service gas stations.

4/12/76 Public Hearing
Referred to the Planning
Board on order by
C. McKeen
5-3-1

In City Council,
April 5, 1976

To Calendar
April 12, 76
Name of People
who appeared
in connection
Referred to Ordinance
Hearing at 6:45 PM