

**RESOLUTION NO. 708 -2010, ADOPTING LOCAL LAW
NO. 46 -2010, A LOCAL LAW TO REGULATE UTILITY POLES
ON COUNTY ROAD RIGHT-OF-WAYS**

WHEREAS, there was duly presented and introduced to this County Legislature at a meeting held on May 11, 2010, a proposed local law entitled, "**A LOCAL LAW TO REGULATE UTILITY POLES ON COUNTY ROAD RIGHT-OF-WAYS**"; now, therefore be it

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

LOCAL LAW NO. 46 -2010, SUFFOLK COUNTY, NEW YORK

**A LOCAL LAW TO REGULATE UTILITY POLES ON COUNTY
ROAD RIGHT-OF-WAYS**

**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 public utility companies place poles in county road right-of-ways to facilitate the delivery of electric, telephone and cable television services to the residents of Suffolk County.

This Legislature also finds that utility poles are frequently damaged by traffic accidents and adverse weather conditions.

This Legislature determines that public safety can be compromised when utility lines and equipment remain affixed to damaged poles for unreasonably long periods of time.

This Legislature further determines that a utility's delay in removing lines and equipment also delays the removal of the pole itself, which causes a proliferation of aesthetically unpleasant "double woods" along roadways.

This Legislature also finds and determines that local governments have the authority to regulate their roads and right-of-ways to protect the public.

Therefore, the purpose of this local law is to require utilities that utilize county road right-of-ways to remove their lines and equipment from damaged poles in a timely manner in order to enhance public safety and aesthetic appearance of roadways in Suffolk County.

Section 2. Definitions.

"Department" - shall mean the Suffolk County Department of Public Works.

"Plant" - shall mean the cables, terminals, conductors and other fixtures necessary for transmitting electric, telephone, cable television or other telecommunications service.

“Public Utility” - shall mean any corporation, authority or other entity that provides electric, telephone, cable television or other telecommunications service to the residents of the County of Suffolk.

Section 3. Department Notification; Civil Penalty Authorized.

- A. When the Department determines that a utility pole in a county road right-of-way is damaged and poses a potential threat to public safety, the Department shall notify any public utility with a plant on the damaged pole that they must remove their plant from the pole or be subject to penalty. A public utility must remove their plant from the damaged pole within fifteen (15) days of receiving such notification from the Department.
- B. Any public utility that violates this law and fails to remove their plant from a damaged pole within fifteen (15) days of receiving notification from the Department shall be subject to a civil penalty not to exceed \$250 for each such violation. Each day that the violation continues shall be deemed a separate violation.
- C. If a public utility violates the provisions of this law and fails to remove their plant from a damaged pole in accordance with the provisions of this law, the County Attorney, upon the request of the Department, may commence an action in the name of the County in a court of competent jurisdiction for necessary relief which may include the imposition of civil penalties as authorized by this law, an order to remove the plant from a damaged utility pole and/or to remove the damaged pole, the recovery of costs of the action and such other remedies as may be necessary to prevent or enjoin a dangerous condition from existing in a county road right-of-way.

Section 4. Applicability.

This law shall apply to actions occurring on or after the effective date of this law.

Section 5. 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 6. 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 7. Effective Date.

This law shall take effect immediately upon its filing in the Office of the Secretary of State.

DATED: August 3, 2010

EFFECTIVE PURSUANT TO SECTION 2-15(D) OF THE SUFFOLK COUNTY CHARTER,
RETURNED BY THE COUNTY EXECUTIVE UNSIGNED SEPTEMBER 7, 2010

After a public hearing duly held on August 16, 2010
Filed with the Secretary of State on September 23, 2010

SUFFOLK COUNTY
County Legislature
RIVERHEAD, NY



This is to Certify That I, TIM LAUBE, Clerk of the County Legislature of the County of Suffolk, have compared the foregoing copy of resolution with the original resolution now on file in this office, and which was duly adopted by the County Legislature of said County on August 3, 2010 and that the same is a true and correct transcript of said resolution and of the whole thereof.

In Witness Whereof, I have hereunto set my hand and the official seal of the County Legislature of the County of Suffolk.

Tim Laube

Clerk of the Legislature

Intro. Res. 1578 Res. No. 708

August 3, 2010

Motion:
 Romaine, Schneiderman, Browning, Muratore, Losquadro
 Eddington, Montano, Cilmi, Lindsay, Vilorio-Fisher, Barraga,
 Kennedy, Nowick, Horsley, Gregory, Stern, D'Amaro, Cooper

Co-Sponsors:
 Romaine, Schneiderman, Browning, Muratore, Losquadro
 Eddington, Montano, Cilmi, Lindsay, Vilorio-Fisher, Barraga,
 Kennedy, Nowick, Horsley, Gregory, Stern, D'Amaro, Cooper

Second:
 Romaine, Schneiderman, Browning, Muratore, Losquadro
 Eddington, Montano, Cilmi, Lindsay, Vilorio-Fisher, Barraga,
 Kennedy, Nowick, Horsley, Gregory, Stern, D'Amaro, Cooper

LD	Legislator	Yes	No	Abs	NP	R	
1	Edward P. ROMAINE	↓					
2	Jay H. SCHNEIDERMAN						
3	Kate M. BROWNING						
4	Thomas MURATORE						
6	Daniel P. LOSQUADRO						
7	Jack EDDINGTON						
9	Ricardo MONTANO						
10	Thomas CILMI						
11	Thomas F. BARRAGA						
12	John M. KENNEDY, JR.						
13	Lynne C. NOWICK						
14	Wayne R. HORSLEY						
15	DuWayne GREGORY						
16	Steven H. STERN						
17	Lou D'AMARO						
18	Jon COOPER						
5	Vivian VILORIA-FISHER, D.P.O.						
8	William J. LINDSAY, P.O.						
Totals		18					

MOTION

Approve

Table: _____

Send To Committee _____

Table Subject To Call _____

Lay On The Table _____

Discharge _____

Take Out of Order _____

Reconsider _____

Waive Rule _____

Override Veto _____

Close _____

Recess _____

APPROVED FAILED _____

No Motion _____ No Second _____

RESOLUTION DECLARED

ADOPTED

NOT ADOPTED _____

Roll Call _____ Voice Vote

Tim Laube
 Tim Laube, Clerk of the Legislature