Intro. Res. No. 1546-2011 Laid on Table 6/7/2011
Introduced by Legislators Stern, Browning, Muratore and Anker

RESOLUTION NO. 613 -2011, ADOPTING LOCAL LAW NO. 36 -2011, A LOCAL LAW AMENDING CHAPTER 260A OF THE SUFFOLK COUNTY CODE PERTAINING TO DEMONSTRATIONS AT FUNERAL SERVICES

WHEREAS, there was duly presented and introduced to this County Legislature at a regular meeting held on June 7, 2011, a proposed local law entitled "**A LOCAL LAW AMENDING CHAPTER 260A OF THE SUFFOLK COUNTY CODE PERTAINING TO DEMONSTRATIONS AT FUNERAL SERVICES**;" and said local law in final form is the same as when presented and introduced; now, therefore be it

RESOLVED, that said local law be enacted as follows:

LOCAL LAW NO. 36 -2011, SUFFOLK COUNTY, NEW YORK

A LOCAL LAW AMENDING CHAPTER 260A OF THE SUFFOLK COUNTY CODE PERTAINING TO DEMONSTRATIONS AT FUNERAL SERVICES

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 under Local Law No. 30-2010, this Legislature imposed restrictions upon persons who engage in demonstrations at funerals in order to protect the legitimate privacy and other interests of grieving family members, and to protect the peaceful nature of cemeteries and other funeral locations.

This Legislature further finds and determines that subsequent to the enactment of Local Law No. 30-2010, the United States Supreme Court issued a ruling in the case of *Snyder v. Phelps* reaffirming the First Amendment rights of persons to engage in certain types of funeral demonstrations, while at the same time confirming a government's right to impose reasonable, content neutral restrictions on such demonstrations. The Supreme Court decision furnished guideposts for permissible government regulations.

Therefore, the purpose of this local law is to make revisions to Chapter 260A of the County Code to provide content neutral, reasonable time, place and manner regulation of funeral demonstrations while continuing to afford a full opportunity for the exercise of free speech and other constitutional rights, consistent with the guidelines set forth by the United States Supreme Court in *Snyder v. Phelps*.

Section 2. Amendments.

Chapter 260A of the SUFFOLK COUNTY CODE is hereby amended to read as follows:

Article I
Demonstrations at Funeral Services

* * * *

§ 260A-3. Prohibitions.

A. No person in the County of Suffolk shall engage in a demonstration within [150] 750 feet of any church, mortuary or other location at which a funeral is being held within one hour prior to the commencement of any funeral, during any funeral, or until one hour following the completion of any funeral.

B. No person in the County of Suffolk shall engage in a demonstration within [300] 750 feet of any cemetery at which a funeral is being held within one hour prior to the commencement of any funeral, during any funeral, or until one hour following the completion of any funeral, nor shall any person impede the access to or egress from such cemetery.

* * * *

Section 3. Applicability.

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

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 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) and (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 immediately upon filing in the Office of the Secretary of State.

[ ] Brackets denote deletion of existing language.
____ Underlining denotes addition of new language.

DATED: August 2, 2011

APPROVED BY:

County Executive of Suffolk County

Date: AUG 1 7 2011

After a public hearing duly held on August 17, 2011
Filed with the Secretary of State on September 13, 2011

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 2, 2011 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. 1546 Res. No. 613 August 2, 2011

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

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

Second:
Romaine, Schneiderman, Browning, Muratore, Anker
Eddington, Montano, Cilmi, Lindsay, Viloria-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	Sarah S. ANKER	✓				
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

X 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 X FAILED___
No Motion___ No Second___

RESOLUTION DECLARED

X ADOPTED
___ NOT ADOPTED

Roll Call___ Voice Vote X

Tim Laube

Tim Laube, Clerk of the Legislature