

**RESOLUTION NO. 810 -2012, ADOPTING LOCAL LAW
NO. 56 -2012, A LOCAL LAW TO FURTHER 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 June 5, 2012, a proposed local law entitled, "**A LOCAL LAW TO FURTHER 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. 56 -2012, SUFFOLK COUNTY, NEW YORK

**A LOCAL LAW TO FURTHER 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 Local Law No. 46-2010 requires public utilities to remove cables, terminals, conductors and other fixtures from damaged utility poles on County roadways in a timely fashion.

This Legislature also finds and determines that, despite the enactment of this law, a large number of damaged and decommissioned utility poles, commonly known as "double poles", remain on County road right-of-ways for extended periods of time.

This Legislature further finds and determines that the County should enact stronger regulations to ensure that all double poles on County road right-of-ways are addressed promptly by the utility company which own and utilize them.

This Legislature finds that the Town of Southampton has successfully implemented a program to prevent the proliferation of double poles in their community.

This Legislature also finds that the County of Suffolk will benefit from the establishment of a similar program to protect public safety on County roadways and improve the appearance of County road right-of-ways.

Therefore, the purpose of this law is to require utilities to promptly remove their plant from old and damaged poles and to further require the prompt removal of double poles once all cables, terminals and other fixtures have been removed.

Section 2. Amendments.

Chapter 808 of the SUFFOLK COUNTY CODE is hereby amended as follows:

Chapter 808. UTILITIES.

ARTICLE I. Utility Poles on County Road Rights-of Way.

§ 808-2. Definitions.

As used in this article, the following terms shall have the meanings indicated:

COMMISSIONER - The Commissioner of the Suffolk County Department of Public Works.

DEPARTMENT - The Suffolk County Department of Public Works.

DOUBLE POLE - Any damaged utility pole or old utility pole from which the plant has been removed, in whole or in part, which is attached or in close proximity to a new utility pole.

PLANT - The cables, terminals, conductors and other fixtures necessary for transmitting electric, telephone, cable television or other telecommunications service.

PUBLIC UTILITY - Any corporation, authority or other entity that provides electric, telephone, cable television or other telecommunications service to the residents of the County of Suffolk.

WRITTEN NOTIFICATION - A writing directed to a representative of a public utility, who may be designated by the utility, by regular mail, fax transmission or electronic mail.

§ 808-3. Department notification, time frame for removal.

- A.** When the Department, or its duly authorized agent, determines that a utility pole in a County road right-of-way is damaged and poses a potential threat to public safety, the Department, or its duly authorized agent, shall notify any public utility with a plant on the damaged pole that it must remove its plant from the pole or be subject to a penalty. A public utility must remove its plant from the damaged pole within 15 days of receiving such notification from the Department or its duly authorized agent.
- B.** When the Department, or its duly authorized agent, determines that a double pole is in a County road right-of-way, the Department or its duly authorized agent will notify the public utility which has the top plant on the double pole that the plant must be removed within 60 days or be subject to penalty. Upon removal of the top plant each subsequent public utility with plant on a double pole will have 60 days to remove such plant from the date they receive notification from the Department or its duly authorized agent.
- C.** After all plants have been removed from the double pole, the public utility which owns the double pole shall remove said pole within 30 days after receiving notification from the Department or its duly authorized agent. This provision shall not nullify or limit

any private agreement between and among public utilities that assign responsibility for pole removal.

§ 808-4. Permit Requirements.

The Suffolk County Department of Public Works shall include in all permits for the installation of utility poles on County roadways the following provision:

The permittee shall have 30 days to remove a double pole following removal of all plants from the pole. Failure to do so may result in penalties as provided by law.

§ [808-4.] 808-5. Penalties for Offenses.

- A. Any public utility that [violates this article and] fails to remove its plant from a damaged pole within 15 days of receiving notification from the Department pursuant to § 808-3(A) 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.
- B. Any public utility that fails to remove its plant from a double pole within 60 days of receiving notification from the Department or its duly authorized agent pursuant to § 808-3(B), shall be subject to a civil penalty of \$1,000 per full calendar month that the violation continues.
- C. Any public utility that fails to remove a double pole pursuant to the requirements of § 808-3(C) shall be subject to a civil penalty of \$1,000 per month per full calendar month that the violation continues.
- D. If a public utility violates the provisions of this article [and fails to remove its plant from a damaged pole in accordance with the provisions of this article], 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 article, an order to remove the plant from a damaged utility pole and/or to remove [the] damaged pole or double 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.
- E. The Commissioner may reduce or waive the penalties set forth in this section if a public utility demonstrates that their failure to comply with the provisions of this law is due to an Act of God or other circumstances beyond the control of the public utility.

[§ 808-5. Applicability.]

§ 808-6. Notification to Pole Owner.

The Department of Public Works or its duly authorized agent shall, for informational purposes, provide notice to the owner of a damaged or double pole when notification is given to a public utility that their plant must be removed from the pole.

Section 3. Request for Proposals.

The Department of Public Works is hereby authorized, empowered and directed to develop and issue a request for proposals to identify a vendor to aid in the implementation and enforcement of this law. .

Section 4. Applicability.

This law shall apply to all utility poles located on County road right-of-ways on or after the effective date of this law.

Section 5. Exemption.

This law shall have no application to any federal, state, county, town or village public safety agency.

Section 6. 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 7. 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.

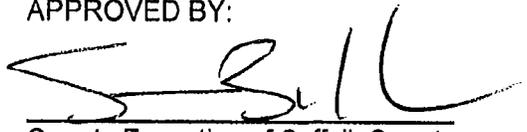
Section 8. Effective Date.

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: September 13, 2012

APPROVED BY:

A handwritten signature in black ink, appearing to be "Bill", written over a horizontal line.

County Executive of Suffolk County

Date: 10. 12. 2012

After a public hearing duly held on September 24, 2012
Filed with the Secretary of State on November 6, 2012

AFFIDAVIT OF PUBLICATION

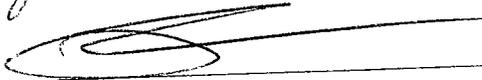
State of New York }
County of Suffolk } ss:

Phillip L. Sciarillo, of Woodbury, in Nassau County, is the
Publisher of the

Smithtown Messenger Ronkonkoma Review
 Brookhaven Review Medford News

a weekly newspaper published at Smithtown, Town of Smithtown, County of Suffolk, State of New York, and annexed is a printed copy, that has been regularly published in said newspaper once in each week for 1 week(s), dates of insertion being the following:

September 20, 2012.



Sworn to before me this 20th
day of September, 2012

Darlis C. Ward
NOTARY PUBLIC, State of New York
No. 4856446, Suffolk County
Term Expires April 14, 2014

Darlis C. Ward
NOTARY PUBLIC

PUBLIC NOTICE
NOTICE IS HEREBY GIVEN that the Suffolk County Legislature has passed Introductory Resolution No. 1622-2012 and presented to me for approval Local Law No. -2012, "A Local Law to Further Regulate Utility Poles on County Road Right-of-Ways" which law requires utilities to promptly remove plants, as defined, to facilitate repairs of double poles, as defined, within prescribed time periods. Violators of this law are subject to civil penalties. The Department of Public Works is directed to issue a Request For Proposal to identify a vendor to aid in the enforcement of the law.

NOTICE IS FURTHER GIVEN that the County Executive will hold a public hearing on the aforesaid Local Law at 10:00 a.m., prevailing time, on Monday, September 24, 2012, in the H. Lee Dennison Building Media Room, 100 Veterans Memorial Highway, Hauppauge, New York, at which time all interested persons will be heard.

DATED: September 17, 2012
Hauppauge
New York
STEVEN BELLONE
Suffolk County Executive
9/20/4222

1R1600

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 September 13, 2012 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

Motion:

Romaine, Schneiderman, Browning, Muratore, Anker
Calarco, Montano, Cilmi, Lindsay, Hahn, Barraga,
Kennedy, Nowick, Horsley, Gregory, Stern, D'Amaro, Spencer

Co-Sponsors:

Romaine, Schneiderman, Browning, Muratore, Anker
Calarco, Montano, Cilmi, Lindsay, Hahn, Barraga,
Kennedy, Nowick, Horsley, Gregory, Stern, D'Amaro, Spencer

Second:

Romaine, Schneiderman, Browning, Muratore, Anker
Calarco, Montano, Cilmi, Lindsay, Hahn, Barraga,
Kennedy, Nowick, Horsley, Gregory, Stern, D'Amaro, Spencer

LD	Legislator	Yes	No	Abs	NP	R
1	Edward P. ROMAINE					
2	Jay H. SCHNEIDERMAN					
3	Kate M. BROWNING					
4	Thomas MURATORE					
5	Kara HAHN					/
6	Sarah S. ANKER					
7	Rob CALARCO					
9	Ricardo MONTANO					
10	Thomas CILMI		/			
11	Thomas F. BARRAGA		/			
12	John M. KENNEDY, JR.					
13	Lynne C. NOWICK					
15	DuWayne GREGORY					
16	Steven H. STERN					
17	Lou D'AMARO					
18	William SPENCER					
14	Wayne R. HORSLEY, D.P.O.					
8	William J. LINDSAY, P.O.					
	Totals	16	1			1

MOTION
<input checked="" type="checkbox"/> 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 <input checked="" type="checkbox"/> FAILED _____
No Motion _____ No Second _____

RESOLUTION DECLARED
<input checked="" type="checkbox"/> ADOPTED
___ NOT ADOPTED

Tim Laube

Tim Laube, Clerk of the Legislature

Roll Call _____ Voice Vote