

Catherine F. Parker
Legislator, 7th District

Chair, Committee on Human Services,
Human Rights & Equity,



Committee Assignments:
Budget & Appropriations
Economic Development
Environment, Energy & Climate
Housing
Law & Major Contracts
Parks & Recreation
Public Works & Transportation

MEMORANDUM OF LEGISLATION

DATE: April 12, 2023

TITLE: Utility Poles on County Road Rights-of-Way

SPONSOR: Legislator Catherine F. Parker

PURPOSE OR GENERAL IDEA OF BILL: Attached to this Memorandum of Legislation is a copy of Suffolk County's legislation enacted in 2010 that deals with utility poles. Suffolk County determined quite some time ago that "local governments have the authority to regulate their roads and rights-of-way to protect the public." Westchester County and our residents are long overdue the same treatment by our respective utility companies regarding how these damaged poles should be addressed, repaired and replaced.

INTENT: Enact legislation to require utility companies that utilize Westchester County road rights-of-way to remove their lines and equipment from damaged poles in a timely manner in order to enhance public safety and the aesthetic appearance of roadways in Westchester County.

JUSTIFICATION: Public utility companies place poles in County road rights-of-way to facilitate the delivery of electric, telephone and cable television services to the residents of Westchester County. Many times, these utility poles are damaged as a result of traffic accidents or adverse weather conditions. Public Safety is often compromised when utility lines and equipment remain affixed to damaged poles for unreasonably long periods of time. A utility company's delay in removing lines and equipment from damaged poles, delays the removal of the pole itself, and simultaneously causes many aesthetically unpleasant "double woods" along roadways.

PRESENT LAW: No such law requiring how utility companies remove their lines and equipment from damaged poles in a timely manner in Westchester County currently exists.

FISCAL IMPACT: TBD

Select Language ▼

Suffolk County, NY
Wednesday, April 12, 2023

Chapter 808. Utilities; Utility Workers

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

[Adopted 8-3-2010 by L.L. No. 46-2010 (Ch. 465A of the 1985 Code)]

§ 808-1. Legislative intent.

This Legislature hereby finds and determines that public utility companies place poles in County road rights-of-way 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 rights-of-way to protect the public. Therefore, the purpose of this article is to require utilities that utilize County road rights-of-way to remove their lines and equipment from damaged poles in a timely manner in order to enhance public safety and the aesthetic appearance of roadways in Suffolk County.

§ 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.
[Added 9-13-2012 by L.L. No. 56-2012]

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.
[Added 9-13-2012 by L.L. No. 56-2012]

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.

[Added 9-13-2012 by L.L. No. 56-2012]

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

[Amended 9-13-2012 by L.L. No. 56-2012]

- 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 it receives 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.

[Added 9-13-2012 by L.L. No. 56-2012]

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."

§ 808-5. Penalties for offenses.

[Amended 9-13-2012 by L.L. No. 56-2012]

- A. Any public utility that fails to remove its plant from a damaged pole within 15 days of receiving notification from the Department pursuant to § **808-3A** 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 § **808-3B** 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 § **808-3C** 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, 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 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 its failure to comply with the provisions of this article is due to an Act of God or other circumstances beyond the control of the public utility.

§ 808-6. Notification to pole owner.

[Added 9-13-2012 by L.L. No. 56-2012]

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 its plant must be removed from the pole.