

LOCAL LAW NO. X OF THE YEAR 2016

Re: **A LOCAL LAW OF THE TOWN OF PLEASANT VALLEY, NEW YORK AMENDING CHAPTER 79 OF THE CODE OF THE TOWN OF PLEASANT VALLEY ENTITLED “STREETS AND SIDEWALKS”, BEING LOCAL LAW NO. 16 OF 2001 AS AMENDED**

BE IT ENACTED by the Town Board of the Town of Pleasant Valley as follows:

Section-I: TITLE.

This Local Law shall be known and cited as Town of Pleasant Valley Local Law No. X of 2016 entitled “A Local Law to Amending Chapter 79 of the Code of the Town of Pleasant Valley Entitled “Streets and Sidewalks””.

Section-II: LEGISLATIVE INTENT.

The intent of this law is to regulate utility poles within the Town Right-of-way.

Section-III: AMENDMENT TO THE CODE.

Chapter 79 of the Town of Pleasant Valley Code entitled “Streets and Sidewalks” shall be amended to add Article IX entitled “Utility Poles In Town Right-of-Way” as follows:

1. FINDINGS; LEGISLATIVE INTENT

- A. This Town Board hereby finds and determines that public utility companies place poles on Town of Pleasant Valley highways, streets, roads and rights-of-way to facilitate the delivery of electric, telephone, cable television, and other telecommunications services to the residents of the Town of Pleasant Valley.
- B. This Town Board finds and determines that local governments have the authority to regulate their highways, streets, roads and rights-of-way to protect the public.
- C. This Town Board finds and determines that utility poles are damaged from time to time.
- D. This Town Board finds and determines that public safety can be compromised when utility lines and equipment remain affixed to utility poles that are weathered or otherwise damaged.
- E. This Town Board finds and determines that when a new pole is installed, a utility's delay in removing lines and equipment from the old pole also delays the removal of the pole itself,

which causes a proliferation of aesthetically unpleasant double poles along highways, streets, roads, and rights-of-way, as well as obstructing the paths of pedestrians.

- F. This Town Board finds and determines that the interest of the public is best served by cooperation and communication between public utilities and the Town Board.
- G. In enacting this chapter, the Town Board deems this chapter to be an exercise of the police power of the Town of Pleasant Valley for the preservation and protection of public safety and is enacted pursuant to the authority contained in the Highway Law, Town Law, and Municipal Home Rule Law of the State of New York.
- H. Therefore, the purpose of this chapter is to require utilities that use Town highways, streets, roads and rights-of-way to promptly remove their plants, cables, lines, equipment, and terminals from old and damaged poles and to further require the prompt removal of double poles once all plants, cables, lines, equipment, and terminals have been removed.

2. DEFINITIONS

DANGEROUS/DAMAGED POLE

Any utility pole that is structurally compromised due to weather, a traffic incident, and/or age and poses a potential threat to public safety.

DOUBLE POLE

Any old utility pole 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 service, including telecommunications service, to the residents of the Town of Pleasant Valley.

SUPERINTENDENT OF HIGHWAYS

The Town of Pleasant Valley Superintendent of Highways or his/her designee.

UTILITY POLE

A column or post used to support service lines for a public utility.

WRITTEN NOTIFICATION/WRITTEN NOTICE

A writing directed to a representative of a public utility, who may be designated by the utility to receive such notice, sent by regular mail, facsimile transmission or electronic mail.

3. DEPARTMENT NOTIFICATION; TIME FRAME FOR REMOVAL.

- A. When the Highway Superintendent determines that a utility pole on a Town highway, street, road or right-of-way is damaged and poses a potential threat to public safety, the Town Clerk shall provide written notice to any public utility with a plant on the damaged pole that it must remove its plant from the pole within 15 days or be subject to a penalty as provided for in this chapter. The last public utility to remove its plant is responsible for removing the double pole. Failure to comply with the requirements of this provision may result in penalties as provided for in this chapter.
- B. When the Highway Superintendent determines that a double pole is on a Town highway, street, road or right-of-way, the Town Clerk shall provide written notice to the public utility which has the top plant on the double pole that the plant must be removed within 30 days or be subject to penalty. Upon the removal of each plant, the Town Clerk shall provide written notice to the public utility that owns the subsequent plant on the pole that the plant must be removed within 30 days or be subject to penalty. The last public utility to remove its plant is responsible for removing the double pole within an additional 30 days. Failure to comply with the requirements of this provision may result in penalties as provided for in of this chapter.

4. EXTENSION AUTHORIZED; TEMPORARY EMERGENCY SUSPENSION.

- A. Notwithstanding any provision of this chapter to the contrary, the Highway Superintendent may extend the time frame of any written notice provided under this chapter for an additional

period not exceeding the original statutory time frame set forth in this chapter. The public utility shall make a request for an extension in writing to the Town Clerk prior to the expiration of the time frame contained in the original written notice, together with the basis for the request. The Highway Superintendent shall determine whether the request for extension should be granted or denied and provide a written response to the public utility. In such instances where the request is granted, the Town Clerk shall issue another written notice, which shall then be applicable instead of the previously issued notice.

- B. In the event of an emergency that affects the repair, replacement, removal or installation of utility poles or plants, the Supervisor may temporarily suspend the deadlines in this chapter for period not exceeding 30 days.

5. PENALTIES FOR OFFENSES.

- A. Any person, firm, corporation or public utility convicted of a violation of the provisions of this chapter shall be guilty of a violation, for a first conviction, punishable by a fine not exceeding \$500; for a second or subsequent conviction, punishable by a fine not exceeding \$1,000. Every day that the violation continues shall be deemed a separate violation.
- B. In addition to the penalties provided above, any person, firm or corporation or public utility that violates the provisions of this chapter shall be subject to a civil penalty not to exceed \$500 for each such violation. Every day that the violation continues shall be deemed a separate violation.
- C. If a person, firm or corporation or public utility violates the provisions of this chapter, the Attorney to the Town may commence an action in the name of the Town of Pleasant Valley in a court of competent jurisdiction seeking any remedy provided by law or equity, including any civil and/or injunction proceeding necessary to enforce compliance and/or enjoin noncompliance with this chapter. Such action may seek to remove damaged poles and/or double poles, or to remove plants from such poles, the imposition of civil penalties as authorized by this chapter, the recovery of costs of the action and such other remedies as may be necessary to prevent or enjoin a dangerous condition from existing on a Town highway, street, road, or right-of-way.

6. APPLICABILITY.

- A. This chapter shall apply to all utility poles located on any Town highway, street, road or right-of-way, and to all utility poles installed hereafter.
- B. The provisions of this chapter shall be deemed to supplement applicable state and local laws, ordinances, codes and regulations; and nothing in this chapter shall be deemed to abolish, impair, supersede or replace existing remedies of the Town, county or state or existing requirements of any other applicable state or local laws, ordinances, codes or regulations. In case of conflict between any provision of this chapter and any applicable state or local law, ordinance, code or regulation, the more restrictive or stringent provision or requirement shall prevail.

Section IV: NUMBERING FOR CODIFICATION.

It is the intention of the Town of Pleasant Valley and it is hereby enacted that the provisions of this Local Law shall be included in the Code of the Town of Pleasant Valley; that the sections and subsections of the Local Law may be re-numbered or re-lettered to accomplish such intention; the Codifier shall make no substantive changes to this Local Law; the word “Local Law” shall be changed to “Chapter,” “Section” or other appropriate word as required for codification; and any such rearranging of the numbering and editing shall not affect the validity of the Local law or the provisions of the Code effected thereby.

Section V: SEVERABILITY.

If any clause, sentence, paragraph, subdivision, or part of this Local Law or the application thereof to any person, firm or corporation, or circumstance, shall be adjusted 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, or part of this Local Law or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

Section VI: EFFECTIVE DATE.

This Local Law shall take effect upon its adoption and filing with the Secretary of State in accordance with the provisions of Section 27 of the Municipal Home Rule Law.