

LOCAL LAW No. 3 of 2025
TOWN OF CHESTER
A LOCAL LAW REQUIRING UTILITY COMPANIES TO REMOVE INACTIVE,
BROKEN OR REPLACED UTILITY POLES WITHIN THE TOWN

Adopted February 26, 2025

Be it enacted by the Town Board of the Town of Chester, County of Orange State of New York, as follows:

Section 1. Legislative Intent

The Town Board hereby finds and determines that public utility companies place poles on Town of Chester 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 Chester.

The 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 for unreasonable periods of time. 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 and increase the potential for safety hazards to motorists.

The Town Board finds and determines that the interest of the public is best served by cooperation and timely communication between public utilities and the Town Board.

In enacting this chapter, the Town Board deems this chapter to be an exercise of the police power of the Town of Chester 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.

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.

Section 2. Chapter ____, entitled "Utility Poles" shall read as follows:

§ _____-1. Definitions.

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

SUPERINTENDENT OF HIGHWAYS — The Town of Chester Superintendent of Highways or his/her designee.

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 Chester.

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.

§ ____-2. Notification requirements.

No person, firm or corporation subject to the jurisdiction and regulation of the New York State Public Service Commission (PSC) shall place or erect any pole for any purpose on any Town highway, street, road or right-of-way of said Town, or change the location of any existing pole on any Town highway, street, road or right-of-way of said Town, without first having provided notification through the PSC required accepted electronic notification system being utilized by said utilities.

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

A. When the Superintendent of Highways is properly notified of the pending installation of a utility pole which is directly next to or in close proximity (less than 20 feet) to another utility pole on a Town highway, street, road, or right-of-way, the Superintendent of Highways will 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 Superintendent of Highways 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 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 § ____-5 of this chapter.

B. When the Superintendent of Highways 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 Superintendent of Highways 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 § ____-5 of this chapter. The last utility to remove its plant is responsible for removing the damaged pole. Failure to comply with the requirements of this provision may result in penalties as provided for in § ____-5 of this chapter. The affected utility may present documentary evidence to the Town in the form of a report from a licensed engineer certifying that the plant and/or pole is not a threat to public safety within 10 days from the date of the Superintendent of Highways notification. In the event that the Superintendent of Highway is satisfied that

the plant and/or pole no longer poses a threat to public safety, he shall have the discretion to withdraw the removal notice.

§ ____-4. Extensions authorized; temporary emergency suspension.

A. Notwithstanding any provision of this chapter to the contrary, the Superintendent of Highways 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 Superintendent of Highway prior to the expiration of the time frame contained in the original written notice, together with the basis for the request. The Superintendent of Highway 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 Superintendent of Highway 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 Town Supervisor may temporarily suspend the deadlines in § __-4 of this chapter for periods not exceeding 30 days.

§ ____-5. Penalties for offenses.

A. Undamaged poles. Except as otherwise stated in this chapter, any person, firm, corporation or public utility convicted of a violation of the provisions of this chapter as it relates to undamaged poles shall be guilty of a violation, for a first conviction, punishable by a fine not exceeding \$1,000; for a second or subsequent conviction, punishable by a fine not exceeding \$2,000. Every day that the violation continues shall be deemed a separate violation.

B. Damaged or dangerous poles. Any public utility found guilty of violating this chapter and that fails to remove its plant from a damaged pole within 15 days of receiving notification from the Town, pursuant to this chapter, shall be punished by a fine of up to \$ 500 for each such violation. Each 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 Town Attorney may commence an action in the name of the Town of Chester 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 3. 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 4. Authority

This local law is adopted pursuant to section 10 of the Statute of Local Governments which provides local governments the power “to adopt, amend and repeal ordinances, resolutions and rules and regulations in the exercise of its functions, powers and duties” and is further authorized by New York State Home Rule Law.

Section 5. Effective Date

This local law shall take effect upon filing with the Secretary of State.