

Marcellus Town Board
Workshop Meeting
Wednesday July 20, 2022

6:30 PM

Call to Order

Salute to the Flag

Public Hearing: Double Utility Poles

I. Approve Monthly Activity

II. **OLD BUSINESS**

a. Adopt Local Law – Double Utility Poles

III. **NEW BUSINESS**

A. Agreement with County: Streamline County Planning Board Review Process

IV. **Residents Comments**

V. **Discussion Agenda**

VI. **Adjournment**

Future Meeting Dates:

Planning/Zoning Board Meeting – Monday August 1, 2022 at 6:30 - Town Hall Meeting Room

Town Board Meeting – Wednesday August 3, 2022 at 6:30 - Town Hall Meeting Room

Workshop Meeting - Wednesday August 17, 2022 at 6:30 – Town Hall Meeting Room

**TOWN BOARD RESOLUTION
ENACTING LOCAL LAW A-2022
TOWN OF MARCELLUS**

At a regular meeting of the Town Board of the Town of Marcellus, held at the Town Hall, 22 East Main Street, in said Town, County of Onondaga, State of New York, on July 20, 2022, at 6:30 P.M., there were:

PRESENT:	Karen Pollard	Town Supervisor
	Jamie Curtin	Councilor
	Gabe Hood	Councilor
	Terry Hoey	Councilor
	Laurie Stevens	Councilor

WHEREAS, the following resolution was offered by Councilor _____, who moved its adoption, seconded by Councilor _____, to wit:

WHEREAS, pursuant to the provisions of the Municipal Home Rule Law, a proposed local law titled Local Law No. A-2022, "A Local Law Amending the Code of the Town of Marcellus to Include Chapter 200, Double Utility Poles" was presented and introduced at a regular meeting of the Town Board of the Town of Marcellus held on June 15, 2022; and

WHEREAS, a public hearing was held on such proposed local law on this 20th day of July, 2022, by the Town Board of the Town of Marcellus and proof of publication of notice of such public hearing, as required by law, having been submitted and filed, and all persons desiring to be heard in connection with said proposed local law having been heard, and said proposed local law having been in the possession of the members of the Town Board of the Town of Marcellus in its final form in the manner required by Section 20 of the Municipal Home Rule of the State of New York; and

WHEREAS, the enactment of Proposed Local Law No. A-2022 has previously been determined to be an Unlisted Action and will have no significant adverse impact on the environment thus concluding the SEQR review process; and

WHEREAS, it is in the public interest to enact said Proposed Local Law No. A-2022.

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Marcellus, Onondaga County, New York, does hereby enact proposed Local Law No. A-2022 as Local Law No. 1-2022 as follows:

**"TOWN OF MARCELLUS
LOCAL LAW A-2022**

**A LOCAL LAW AMENDING THE CODE OF THE TOWN OF MARCELLUS
TO INCLUDE CHAPTER 200, DOUBLE UTILITY POLES**

BE IT ENACTED by the Town Board of the Town of Marcellus as follows:

Section 1. Legislative purpose and intent.

The Town Board hereby finds that double utility pole conditions are a problem throughout the Town of Marcellus. The Town Board finds that the incomplete transfer of utilities and failure to remove old utility poles pose safety and aesthetic concerns for the Town and its residents. Double utility pole conditions clutter and obscure visibility on sidewalks and roadways. They are also unnecessary eyesores on Town streets, obstructions for pedestrians and detriments to local aesthetics.

The Town Board also finds that public safety can be compromised when utility lines and equipment remain affixed to utility poles that are weathered or otherwise are damaged. The Town Board finds further that there is often an unreasonable delay of months to years before responsible utility providers relocate their equipment and remove weathered or damaged utility poles.

The 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.

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

Therefore, the purpose of this Chapter is to require utilities that use the Town of Marcellus 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 from said poles.

Section 2. Authority.

This local law is enacted pursuant to the New York State Constitution and New York Municipal Home Rule Law §10.

Section 3. Amendment of the Code of the Town of Marcellus to Include Chapter 200, "Double Utility Poles."

The Code of the Town of Marcellus is hereby amended to include a new Chapter 200, titled "Double Utility Poles," which shall read as follows:

"Chapter 200. DOUBLE UTILITY POLES

§ 200-1 Definitions.

DANGEROUS/DAMAGED POLE

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

DOUBLE UTILITY POLE CONDITION

Any utility pole which is placed in close proximity to another utility pole.

PLANT

The transformers, terminals, conductors, utility boxes, wires, cables, lights, antennae and any other fixture used for the transmission of utilities and attached or affixed to a utility pole.

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 Marcellus.

TOWN ROAD

Any street, highway, road or right-of-way so designated on the latest "Road Map of the Town of Marcellus" issued by the Town Highway Superintendent as well as all other Town Highways not so indicated, both existing and proposed.

§ 200-2 Removal of Dangerous/Damaged Utility Poles

- A. When the Town Highway Superintendent, or his or her designee, or the Town Code Enforcement Officer, or his or her designee, determines that a utility pole on a Town Road is damaged or otherwise poses a potential threat to public safety, the Town Highway Superintendent shall provide written notice to the pole owner and any public utility with a Plant on the damaged pole that the pole must be repaired, replaced or removed within 15 days or such shorter reasonable time period as may be necessary to protect the public safety.
- B. It shall be the joint and several obligation of the pole owner and any other public utility maintaining a Plant on the Dangerous/Damaged Utility Pole to repair, replace or remove the Dangerous/Damaged Utility Pole within 15 days or such other reasonable period designated by the Town Highway Superintendent.

§ 200-3 Double Utility Pole Conditions prohibited.

- A. When a public utility installs a utility pole which is directly next to or in close proximity to another utility pole on a Town Road, the public utility shall, within 30 days of installation of the new pole, provide written notice to all other public utilities maintaining a Plant on the existing pole that a new pole has been installed and that the Plant on the existing pole must be relocated to the new pole within 90 days of the date of the notice.
- B. It shall be the joint and several obligation of the public utility installing the new pole and any other public utility maintaining a Plant on the existing pole to remove the existing pole within 30 days after relocation of all applicable Plant(s) to the new pole.

§ 200-4 Extensions of time.

In the event of an emergency that affects the repair, replacement, removal or installation of utility poles or Plants, the Town Highway Superintendent, Code Officer, or Town Board may temporarily suspend the deadlines described above.

§ 200-5 Penalties.

- A. Any person, firm, corporation or public utility convicted of a violation of the provisions of this Chapter shall be guilty of a violation, as follows: a first conviction is punishable by a fine not exceeding \$500; a second or subsequent conviction is punishable by a fine not

exceeding \$1,000. Every day that the violation continues shall be deemed a separate violation. Each location of a Double Utility Pole Condition or Dangerous/Damaged Utility Pole shall be a separate violation.

- B. Any person, firm, corporation or public utility found guilty of violating this Chapter and that fails to remove its Plant from a dangerous/damaged pole, the dangerous/damaged utility pole and/or the double utility pole within 15 days from receipt of the order of the court shall be punished by a penalty of up to \$1,000 for each such violation. Each day that the violation continues shall be a separate violation.
- C. If a person, firm or corporation or public utility violates the provisions of this Chapter, the attorney for the Town may commence an action in the name of the Town of Marcellus 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/Dangerous Poles and/or any Double Utility Pole Condition and may be commenced against a third-party Plant owner to remove a Plant from such poles, to impose civil penalties as authorized by this Chapter, to recover costs of the action and such other remedies as may be necessary to prevent or enjoin a dangerous condition from existing on a Town Road.

§ 200-6 Applicability.

- A. 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, 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.
- B. This Chapter shall apply to all utility poles located on any Town Road as of the enactment of this Chapter and to all utility poles installed after the enactment of this Chapter.
- C. Any person, firm, corporation or public utility which maintains a Double Utility Pole Condition as of the date of the adoption of this Chapter shall fully comply with the regulations set forth herein within 30 days of enactment of this Chapter. Any failure to timely comply with this Subsection C shall be enforced in accordance with the provisions of this Chapter.”

Section 4. Severability.

If any clause, sentence, paragraph, word, section or part of this Chapter shall be adjudged by any court of competent jurisdiction to be unconstitutional, illegal or invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, word, section or part thereof, directly involved or in the controversy in which said judgment shall have been rendered.

Section 5. Effective Date.

This Local Law shall be effective upon filing with the Office of the Secretary of State.”

The question of the foregoing Resolution was duly put to a vote and, upon roll call, the vote was as follows:

VOTE:	Karen Pollard	Town Supervisor	Yes/No
	Jamie Curtin	Councilor	Yes/No
	Gabe Hood	Councilor	Yes/No
	Terry Hoey	Councilor	Yes/No
	Laurie Stevens	Councilor	Yes/No

The foregoing resolution was thereupon declared duly adopted.

DATED: July 20, 2022



Joanne M. Mahoney
County Executive

Onondaga County Planning Board

RESOLUTION OF THE ONONDAGA COUNTY PLANNING BOARD

Meeting Date: July 06, 2022

OCPB Case # Z-22-168

- WHEREAS, the Onondaga County Planning Board, pursuant to General Municipal Law, Section 239 l, m and n, has considered and reviewed the referral for a LOCAL LAW from the Town of Marcellus Town Board at the request of Town of Marcellus for the property located ; and
- WHEREAS, General Municipal Law Section 239-m allows the County Planning Board to review the adoption or amendment of a zoning ordinance or local law; and
- WHEREAS, the applicant is proposing a local law to amend the Code of the Town of Marcellus to include Chapter 200, "Double Utility Poles"; and
- WHEREAS, per the proposed local law, the intent is to address the safety and aesthetic concerns of double utility pole conditions throughout the Town that occur with incomplete transfer of utilities and failure to removed old utility poles upon placement of a new pole; the local law states that "double utility pole conditions clutter and obscure visibility on sidewalks and roadways" and are "unnecessary eyesores" that compromise public safety; and
- WHEREAS, the purpose of the proposed local law is "to require utilities that use the Town of Marcellus 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 from said poles"; and
- WHEREAS, the local law proposes that any utility pole identified by the Town as damaged or otherwise poses a potential threat to public safety must be repaired, replaced, or removed within 15 days; the law also prohibits two utility poles from being placed in close proximity to each other (double utility pole condition); if a new utility pole is installed, the law provides direction for all public utilities to move their infrastructure to the new pole within 90 days of receiving a notice that a new pole has been installed; and
- WHEREAS, the law proposes penalties for any person, firm, corporation or public utility convicted of a violation; the first conviction is punishable by a fine not to exceed \$500 and any subsequent conviction is punishable by a fine not to exceed \$1000, where each day in violation is a separate violation and each separate location of a violation is a separate violation; and
- WHEREAS, the law is applicable to all utility poles located on any Town Road; the law states that any pre-existing violations prior to the adoption of the local law shall fully comply with the regulations of the law within 30 days of the enactment of the adopted local law; and

NOW THEREFORE BE IT RESOLVED, that the Onondaga County Planning Board has determined that said referral will have no significant adverse inter-community or county-wide implications and may consequently be acted on solely by the referring board.

A handwritten signature in dark ink, appearing to read 'M. E. Voss', with a stylized flourish at the end.

Martin E. Voss, Chairman
Onondaga County Planning Board

GML 239 Report of Final Action

NYS GML § 239-m.6. and n.6. require the referring body to file a report of the final action it has taken on a referred matter with the county planning agency within 30 days after the final action (separate from the minutes taken at the meeting). A referring body which acts contrary to a County Planning Board recommendation of MODIFICATION or DISAPPROVAL of a referred matter shall also set forth the reasons for the contrary action in such report.

This section to be completed by the Syracuse-Onondaga County Planning Agency

To: Onondaga County Planning Board **From:** Town of Marcellus Town Board

Fax: 435-2439 **Phone:** 435-2611

Re: Applicant: Town of Marcellus

Address:

Referral Type: LOCAL LAW

OCPB Date: July 06, 2022

OCPB Action: No Position

OCPB Case #: Z-22-168

The local board took the following action regarding the above referenced referral (Check one box. If checking Other, please specify the final action taken. Use the space at the bottom of the report to identify reasons if acting contrary to the OCPB recommendation.):

- ☐ Approved the proposed action with regard to the OCPB's No Position or No Position with Comment.
- ☐ Approved the proposed action as modified by the OCPB.
- ☐ Approved the proposed action contrary to some of the modifications recommended by the OCPB.*
- ☐ Approved the proposed action contrary to all of the modifications recommended by the OCPB.*
- ☐ Approved the proposed action contrary to the disapproval recommended by the OCPB.*

- ☐ Disapproved the proposed action with regard to the OCPB's no position or no position with comment.
- ☐ Disapproved the proposed action with regard to the recommended modification(s) by the OCPB.
- ☐ Disapproved the proposed action as recommended and for reasons set forth by the OCPB.
- ☐ Disapproved the proposed action as recommended but for reasons other than those set forth by the OCPB. (Please list reasons below for local disapproval.)

☐ Other _____

Local Board Date: _____

*List reasons for acting contrary to the OCPB recommendation and include a copy of the local board resolution. Attach additional reasons on a separate sheet of paper as necessary.



County of Onondaga
Office of the County Executive

John H. Mulroy Civic Center, 14th Floor
421 Montgomery Street, Syracuse, New York 13202

Phone: 315.435.3516 Fax: 315.435.8582

www.ongov.net

RECEIVED

JUL 08 2022

Brian J. Donnelly
Deputy County Executive

Mary Beth Primo
Deputy County Executive, Physical Services

J. Ryan McMahon II
County Executive

Ann Rooney
Deputy County Executive, Human Services

July 7, 2022

Town of Marcellus

Karen Pollard, Supervisor
Town of Marcellus
24 E. Main St.
Marcellus, NY 13108

Dear Supervisor Pollard:

I am pleased to share the following agreement for your consideration to further streamline the Onondaga County Planning Board and local planning review processes.

General Municipal Law, Sections 239-m and -n, require that municipal boards in Onondaga County refer certain proposed planning, zoning, subdivision, and other land use actions to the Onondaga County Planning Board for review and recommendations, unless the Onondaga County Planning Board enters into an agreement with the referring body that certain proposed actions "are of local, rather than inter-community or county-wide concern, and are not subject to referral."

On June 8, 2022, the Onondaga County Legislature adopted Resolution No. 101 of 2022 authorizing the County Executive to enter into agreements with the municipalities of Onondaga County for the purpose of waiving Onondaga County Planning Board referrals where there is no inter-community or county-wide impact. A similar resolution was previously adopted by the Legislature in 1993, and 29 of 35 municipalities subsequently entered into such an agreement with the County at that time.

Some notes regarding the updated agreements:

- The updated agreement reflects updates to General Municipal Law and expands the list of actions to be fully exempt from County Planning Board review.
- Upon full execution of this agreement, those specific actions listed therein do not require any submission to the Onondaga County Planning Board. Local boards may proceed to act without County Planning Board review. (Please note, County Planning Board exemption does not exempt applicants from county and state agency consultation and permit requirements.)
- Municipalities may opt to remove (but not add) items to the listed exempt actions, prior to execution.
- In January 2022, the County Planning Board also adopted a separate new, expedited *Administrative Review* procedure, whereby certain additional actions determined to likely be minor in potential impact are

delegated to Syracuse-Onondaga County Planning Agency (SOCPA) staff review rather than going to the full Board. A list of these actions may be found at <http://ongov.net/planning/ocpbpreferableactions.html>.

- Municipalities may continue to request County Planning Board review of individual projects, for either Administrative Review or formal Board review, regardless of its inclusion in this agreement.

Please see the attached agreement for local approval and signature. Once signed, please return both copies to the Syracuse-Onondaga County Planning Agency in the provided envelope. We will return one copy of the fully executed agreement for your records.

Please feel free to contact SOCPA with any questions regarding this agreement, or any other planning matters.

Sincerely,


J. Ryan McMahon, II
County Executive

Attachments: Intermunicipal Exemption Agreement
Reply Envelope

DEPARTMENT: Planning

CONTRACT NO. _____

AGREEMENT

THIS AGREEMENT, made this _____ day of _____, 2022 by and between the COUNTY OF ONONDAGA, a municipal corporation of the State of New York, by J. Ryan McMahon, II, its County Executive, hereinafter called the "County", and the Town of Marcellus, by Karen Pollard, its Supervisor, 24 East Main Street, Marcellus, NY 13108, hereinafter called the "Town";

WITNESSETH:

WHEREAS, General Municipal Law Sections 239-m and -n require that notice of certain proposed municipal planning, zoning, subdivision and other land use actions be submitted to the Onondaga County Planning Board for review and recommendation unless exempted by an agreement approved by the governing bodies of the municipal agency and the County Planning Agency that such matter is of a local rather than an inter-community or county-wide concern; and

WHEREAS, the Onondaga County Legislature and the Town have approved such an agreement exempting the following actions as actions of local concern:

Area Variances solely seeking relief for:

1. Residential front, side, or rear yard setbacks or lot depth;
2. Height of any buildings;
3. Residential accessory structures;
4. Reductions in the number of parking spaces.

Subdivisions, that solely consider:

1. Creation of up to 3 parcels;
2. Combination of lots;
3. Lot line adjustments.

Special Permits, that solely consider:

1. Co-location of telecommunication equipment and accessories on existing towers and structures;
2. Façade or interior/exterior commercial building modifications;
3. A change of tenant in a commercial or mixed use building;
4. Residential accessory structures;
5. On-premises signs.

Site Plan Reviews or Project Site Reviews, that solely consider:

1. Co-location of telecommunication equipment and accessories on existing towers and structures;
2. Façade or interior/exterior commercial building modifications;
3. A change of tenant in an existing commercial or mixed-use building;
4. Residential accessory structures;

5. On-premise signs;

Zoning Actions or Amendments, involving:

1. Administration and fees;
2. Interpretations of language;

NOW THEREFORE, the parties hereto mutually agree that the above described planning, zoning, site plan and subdivision actions are henceforth exempt from the Onondaga County Planning Board referral requirements of General Municipal Law Section 239-m and -n; and be it further

AGREED, that the term of this Agreement shall be for a five (5) year period commencing on the date last executed by either party hereto ("initial term"), which initial term shall be automatically renewed for additional five (5) year periods ("renewal term(s)") unless and until a party provides written notice to the other party of its intent not to renew this Agreement at least thirty (30) days prior to the expiration of the initial term or any applicable renewal term; and

AGREED, that the Town shall not be precluded, at its discretion, from submitting any such action for referral to the Onondaga County Planning Board pursuant to the provisions of the General Municipal Law Sections 239-m and -n, in which case such referral shall comply with and be bounded by all requirements and time frames associated with said action; and be it further

AGREED, that the Town may at any time request assistance of the Syracuse-Onondaga County Planning Agency in making a determination of the applicability of these provisions, and/or request an informal review for exempt items.

AGREED, that this document shall take effect upon execution by both parties.

Dated: _____, 2022

County of Onondaga
By: _____
J. Ryan McMahon, II
County Executive

Dated: _____, 2022

Town of Marcellus
By: _____
Karen Pollard
Supervisor