

Intro. Res. No. 1022-2020
Introduced by Legislators Hahn, Berland, Gonzalez, Anker and Richberg

Laid on Table 1/2/2020

**RESOLUTION NO. 528 -2020, ADOPTING LOCAL LAW
NO. -2020, A LOCAL LAW TO ENSURE THE PROTECTION OF
COUNTY PARKLAND**

WHEREAS, there was duly presented and introduced to this County Legislature at a meeting held on January 2, 2020, a proposed local law entitled, "**A LOCAL LAW TO ENSURE THE PROTECTION OF COUNTY PARKLAND**"; now, therefore be it

RESOLVED, that said local law be enacted in form as follows:

LOCAL LAW NO. -2020, SUFFOLK COUNTY, NEW YORK

**A LOCAL LAW TO ENSURE THE PROTECTION OF COUNTY
PARKLAND**

**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 the County of Suffolk has a duty to protect and preserve all County parkland.

This Legislature also finds and determines that many private residences are on parcels of land that are adjacent to County parks and other park properties.

This Legislature further finds and determines that residents living on properties that border parkland should take appropriate steps to ensure that any construction or additions to their property do not encroach on the preserved park property.

This Legislature finds that because many private contractors are unsure of exactly where the private property ends and the parkland property begins, the installation of structures on the private residence may accidentally trespass onto the parkland.

This Legislature determines that when a property is bordering a park, it is necessary for the contractor to be precise, especially when installing fencing, pools, or other structures on the adjoining land.

This Legislature also finds that in order to further protect parkland, the contractor who is charged with installing or constructing any structure on a parcel that is adjacent to parkland should be required to obtain the survey of the property from the homeowner they are employed by and affirm that his or her work does not physically disturb any part of the parkland.

Therefore, the purpose of this law is to require that all private contractors working on properties that abut park properties obtain a survey from the private property owner who hired them to ensure that their work does not encroach on the protected parkland and affirm that their work does not infringe on preserved property.

Section 2. Definitions.

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

CONTRACTOR – any person or business which performs: any repair, remodeling, alteration, conversion, modernization, home raising or home elevating services, improvement or addition to residential property, and includes but is not limited to painting of residential structures; carpentry; fencing; driveways; exterminating; flooring; ductwork for heating, ventilation and air-conditioning systems; masonry; roofing; siding; the construction, installation and/or servicing of swimming pools and portable and permanent spas; and waterproofing; as well as other improvements to structures or upon land which are part of residential property, including landscaping and arboriculture, which as used herein shall mean tree sprayers, tree pruners, tree stump removers and all other tree services; but shall not include the construction of a new home or work done by a contractor in compliance with a guaranty of completion on new residential property or the sale of goods by a seller who neither arranges to perform nor performs, directly or indirectly, any work or labor in connection with the installation of or application of the goods or improvements to residences owned by or controlled by any government subdivision.

PARKLAND- Includes all parcels preserved by the State, County, or any municipality located within Suffolk County to be used as public parks, beaches, wetlands, playgrounds, athletic fields, recreation centers, marinas, golf courses, open spaces and areas publicly owned and acquired for the conservation of natural resources and the enjoyment of the residents of the County of Suffolk.

Section 3. Requirements.

When a contractor agrees to perform work on any portion of property that abuts parkland and such work is not located solely on or within the main structure on the parcel, the contractor shall:

- A. obtain from the private property owner a copy of the land survey of the parcel upon which the contractor is to perform work prior to beginning any physical labor on the property;
- B. obtain from the private property owner a written affirmation that there have been no changes to the property since the completion the survey, or, if changes were made since the survey, a written statement of those changes; and
- C. complete an affidavit affirming that, upon information and belief, the work to be performed by the contractor on the property is solely within the bounds of the private property and does not encroach on or physically disturb any part or portion of the adjacent parkland. Such affirmation shall be signed by the contractor and notarized by a licensed notary public.

Section 4. Enforcement.

This law shall be enforced by the Suffolk County Department of Labor, Licensing, and Consumer Affairs.

Section 5. Penalties.

- A. Violation of this law shall result in a fine of \$50 for the first offense, \$100 for a second offense, and \$250 for a third offense and every offense thereafter.
- B. No civil penalty or fine shall be imposed under this article until after a hearing has been held before the Commissioner of the Department of Labor, Licensing, and Consumer Affairs, or his or her designee, upon at least seven business days' notice to the contractor. Such notice shall be served either personally or by certified mail, return receipt requested, to the address of the contractor and shall state the date, time and place of the hearing as well as enumerate the grounds constituting the alleged violation by the contractor. The contractor may produce witnesses in his or her own behalf. A record of the hearing shall be taken and preserved. For the purpose of such hearing, the Commissioner, or his or her designee, may administer oaths, subpoena witnesses and compel the production of books, papers, records and other documents deemed pertinent to the subject of the hearing.
- C. If any portion of the contractor's work encroaches on a County, State, or municipal park, the County may commence a civil action to pursue damages in a court of competent jurisdiction against the contractor who duly affirmed that there was no such encroachment.

Section 6. Applicability.

This law shall apply to all actions occurring on or after the effective date of this law.

Section 7. 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 8. 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)(26) 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 routine or continuing administration and management not including new programs or major reordering of priorities that may affect the environment. 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 9. Effective Date.

This law shall take effect immediately upon its filing in the Office of the Secretary of State.

[] Brackets denote deletion of existing language
___ Underlining denotes addition of new language

DATED: June 23, 2020

APPROVED BY:

/s/ Steven Bellone
County Executive of Suffolk County

Date: July 9, 2020