AGENDA

CONSERVATION, SUSTAINABILITY AND GREEN INITIATIVES COMMITTEE

APRIL 23, 2019

PREVIOUS BUSINESS:

APPROVING PREVIOUS MEETING MINUTES

1. RESOLUTION NO. 180: PUBLIC HEARING ON PROPOSED LOCAL LAW NO. “J” FOR 2018

2. LOCAL LAW NO. “J” FOR 2018: A LOCAL LAW OF THE COUNTY OF ALBANY, NEW YORK ESTABLISHING COLOR REQUIREMENTS FOR PETROLEUM BULK STORAGE TANKS

3. RESOLUTION NO. 337: UPDATE AND CREATE AN ALBANY COUNTY MASTER WATERFRONT PLAN TO PROMOTE TRAVEL, TOURISM, RECREATION AND WATERFRONT DEVELOPMENT ON THE HUDSON AND MOHAWK RIVERS IN ALBANY COUNTY

4. RESOLUTION NO. 120: PUBLIC HEARING ON PROPOSED LOCAL LAW NO. “D” FOR 2019

5. RESOLUTION NO. 123: A RESOLUTION TO ESTABLISH ALBANY COUNTY AS A POLLINATOR-FRIENDLY MUNICIPALITY

6. LOCAL LAW “D” FOR 2019: A LOCAL LAW TO INCENTIVIZE THE USE OF REUSABLE SHOPPING BAGS AND TO ELIMINATE THE USE OF
SINGLE-USE PLASTIC BAGS IN ALBANY COUNTY SHOPPING ESTABLISHMENTS
Honorable Andrew Joyce and Members of the Albany County Legislature:

LADIES AND GENTLEMEN:

The Conservation, Sustainability and Green Initiatives Committee of the Albany County Legislature met on March 26, 2019. Chairman Reinhardt, Messrs. Comisso, Domalewicz, Fein, Ethier, Stevens, and Frainier were present. Mr. Mendick and Ms. Plotnsky were excused. The following items were discussed and/or acted upon:

Approving Previous Meeting Minutes: Unanimously approved.


3. **Resolution No. 337**: Update And Create An Albany County Master Waterfront Plan To Promote Travel, Tourism, Recreation And Waterfront Development On The Hudson And Mohawk Rivers In Albany County: Tabled at the Request of Sponsor.

4. **Resolution No. 120**: Public Hearing on Proposed Local Law No. “D” for 2019: Tabled by Committee 5 – 2, with Mr. Fein and Mr. Reinhardt opposed.

5. **Resolution No. 123**: A Resolution to Establish Albany County as a Pollinator – Friendly Municipality: Tabled at the Request of the Sponsor.

6. **Local Law “D” for 2019**: A Local Law to Incentivize the Use of Reusable Shopping Bags and to Eliminate the Use of Single – Use Plastic Bags in Albany County Shopping Establishments: Tabled at the Request of the Sponsor.

7. Public Hearing on Proposed Modifications to Agricultural Districts Nos. 1, 2, and 3: Section 303-b of the Agriculture and Markets Law mandates an annual thirty-day review period, when landowners can request inclusion of land in an agricultural district prior to the County established review period, a public hearing will be held in the William J. Conboy II Legislative Chambers, Albany County Courthouse, Albany, New York at 7:15 p.m. on Tuesday, April 23, 2019, for the purpose of receiving the comments of any interested persons regarding the proposed modifications to Agricultural District Nos. 1, 2 and 3 within Albany County. After further discussion, the Committee voted unanimously to move the proposal forward for legislative action with a favorable recommendation.
8. Adopting the Proposed Modifications to Agricultural District No. 3: 

In conducting such review, Section 303 of the Agriculture and Markets Law requires this Honorable Body to hold a public hearing at a place within or readily accessible to Agricultural District No. 3, which public hearing was held in the Legislative Chambers, Albany County Courthouse, Albany, New York for the purpose of receiving the comments of any interested persons regarding the proposed modification of Agricultural District No. 3: After further discussion, the Committee voted unanimously to move the proposal forward for legislative action with a favorable recommendation.

Respectfully submitted,
THE CONSERVATION AND IMPROVEMENT COMMITTEE

WILLIAM W. REINHARDEDT, Chairperson
RICHARD W. MENDECK
FRANK COMMISSO
GARY DOMALEWICZ
SAMUEL I. FEIN

GILBERT F. ETHIER
LYNNE LEKAKIS
VICTORIA PLOTSKY
TRAVIS STEVENS
RESOLUTION NO. 180

PUBLIC HEARING ON PROPOSED LOCAL LAW NO. "J" FOR 2018

Introduced: 4/9/18
By Mr. Fein:

RESOLVED, By the County Legislature of the County of Albany that a public hearing on proposed Local Law No. "J" for 2018, "A LOCAL LAW OF THE COUNTY OF ALBANY, NEW YORK ESTABLISHING COLOR REQUIREMENTS FOR PETROLEUM BULK STORAGE TANKS" be held by the County Legislature in the William J. Conboy II Legislative Chambers, Albany County Courthouse, Albany, New York at 7:15 p.m. on Tuesday, April 24, 2018, and the Clerk of the County Legislature is directed to cause notice of such hearing to be published containing the necessary information in accordance with the applicable provisions of law.

_Referred to Law and Conservation and Improvement Committees – 4/9/18_
LOCAL LAW NO. "J" FOR 2018

A LOCAL LAW OF THE COUNTY OF ALBANY, NEW YORK ESTABLISHING COLOR REQUIREMENTS FOR PETROLEUM BULK STORAGE TANKS

Introduced: 4/9/2018
By Messrs. Fein and Higgins:

BE IT ENACTED, by the Legislature of the County of Albany as follows:

Section 1. Legislative Intent

The Legislature finds that the external color of a petroleum bulk storage tank affects the amount of pollutants emitted from the tank into the air.

The Legislature further finds that dark-colored tanks absorb more heat, resulting in greater emissions of air pollutants, and that tanks painted white absorb less heat and therefore have lower emissions of air pollutants than dark-colored tanks.

The Legislature further finds that emissions from oil and petroleum-based products emit pollutants into the air including volatile organic compounds such as benzene, a known human carcinogen.

The Legislature further finds that all residents of the County of Albany deserve the ability to breathe clean air.

The Legislature further finds that safeguarding the health of the residents of Albany County is an important role of the government of the County of Albany.

The Legislature further finds that many residents of the County of Albany residing in the Southern end of the City of Albany do not have the ability to breathe clean air where they live due to emissions of air pollutants from a variety of industrial sources including but not limited to petroleum bulk storage tanks.

The Legislature further finds that air quality monitoring by the New York State Department of Environmental Conservation in the Southern end of the City of Albany has detected high levels of benzene and other air pollutants.

Therefore, the purpose of this Local Law is to reduce the harmful air pollutants emitted by petroleum bulk storage tanks that residents of the County of Albany are forced to breath.

Section 2. Definitions

As used in this Local Law, the following terms shall have the meanings indicated:
A. "Petroleum Bulk Storage Tank" means any tank with a capacity of 500,000 gallons or greater designed to store or being used to store oil or petroleum-based products.

B. "Existing Tank" means a Petroleum Bulk Storage Tank in existence on the effective date of this law.

C. "New Tank" means a Petroleum Bulk Storage Tank constructed after the effective date of this law.

D. "Operator" an entity, corporation, or individual that owns or operates a Petroleum Bulk Storage Tank.

Section 3. Color Requirements For New and Existing Petroleum Bulk Storage Tanks

A. As set forth below, all Existing and New Petroleum Bulk Storage Tanks located in Albany County must meet the following Color Requirement: (1) The entirety of the exterior of the tank must be painted white in a manner that completely covers any dark-colored surfaces on the tank, except for a logo or written text provided that such logo or written text does not exceed five percent (5%) of the exterior surface area of the tank; and (2) The white tank coloring shall be maintained as necessary to prevent underlying dark-colored surfaces from being exposed.

B. All New Tanks must meet the Color Requirement prior to being used or placed in operation.

C. All Existing Tanks must meet the Color Requirement within ninety (90) days of the effective date of this law.

D. The Operator is responsible for ensuring that the Color Requirement is complied with for all Petroleum Bulk Storage Tanks owned by the Operator.

Section 4. Health Commissioner's Enforcement Authority

The Health Commissioner is authorized to take any and all reasonable actions necessary to enforce this Local Law.

Section 5. Penalties

Any violation of Section 3 of this Local Law shall be punishable as follows:
A. First Offense. Any Operator guilty of a first-offense shall be guilty of a violation and shall be given a written warning allowing thirty (30) days to correct the violation.

B. Second Offense. Any Operator guilty of a second offense, meaning not correcting the first offense violation within the allowed thirty (30) days, shall be guilty of a violation and shall be fined an amount not to exceed one thousand dollars ($1,000) for each day the violation continues.

Section 5. Reverse Preemption.

This local law shall be null and void on the day that federal or statewide legislation goes into effect, incorporating either the same or substantially similar provisions as are contained in this law, or in the event that a pertinent state or federal administrative agency issues and promulgates regulations preempting such action by the County of Albany. The County Legislature may determine via mere resolution whether or not identical or substantially similar federal or statewide legislation, or pertinent pre-empting state or federal regulations have been enacted for the purposes of triggering the provisions of this section.

Section 6. Severability

If any clause, sentence, paragraph, section, subdivision, or other part of this local law or its application shall be inconsistent with any federal or state statute, law, regulation or rule then the federal or state statute, law, regulation, or rule shall prevail. If any clause, sentence, paragraph, section, subdivision, or other part of this local law or its application shall be adjudged by a court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder of the local law which shall remain in full force and effect except as limited by such order or judgment.

Section 7. Effective Date and Applicability

This local law shall be effective immediately upon filing in the Office of the Secretary of State.

Referred to Law and Conservation and Improvement Committees – 4/9/18
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RESOLUTION NO. 337

UPDATE AND CREATE AN ALBANY COUNTY MASTER WATERFRONT PLAN TO PROMOTE TRAVEL, TOURISM, RECREATION AND WATERFRONT DEVELOPMENT ON THE HUDSON AND MOHAWK RIVERS IN ALBANY COUNTY

Date: 7/9/18
By: Messrs. Frainier, Beston, Ms. Chapman, Messrs. Clenahan, Commesso, R. Joyce, Ms. McKnight, Messrs. Miller, O'Brien, Touchette, Ward, Ms. Willingham and Mr. Higgins:

WHEREAS, This honorable body recognizes that Albany County has many waterfront assets including trails, waterfalls, waterfronts, places of historical significance, industrial, commercial, residential and entertainment districts located on or in close proximity to waterfronts in Albany County. A thriving waterfront can be a catalyst for economic development and growth, and

WHEREAS, A coordinated strategy addressing this all important driver of economic and neighborhood development needs to be born and have the staying power to see and implement a transformation, and

WHEREAS, It is with this vision that this honorable body proposes the following, that the Albany County Industrial Development Agency and/or Albany County Capital Resource Corporation update a previous 2001 economic development study focusing on the waterfront in Albany County, this updated study will incorporate any and all local masterplans for one comprehensive plan, and

WHEREAS, The purpose of this study would be to examine our waterfront and create a master waterfront plan, including, but not limited to, remediation, recreation and development, as well as the promotion of the entire length of the waterfront as a destination. Coupling the study with the marketing of Albany County and its assets to help promote and encourage development in Albany County, and

WHEREAS, County waterfronts are defined as the Hudson and Mohawk River shoreline and are currently represented by 11 County Legislators District 1, Lucille McKnight, District 3 Wanda Willingham, District 6, Samuel Fein, District 14, Alison McLean Lane, District 15, Robert Beston, District 16, Sean Ward, District 17, Ralph Signoracci, District 18, Gilbert Ethier, District 19, Todd Drake, District 36, Richard Mendick, District 37 Richard Touchette, and

WHEREAS, The study area includes, the towns of Bethlehem, Colonie, Coeymans, the cities of Albany, Cohoes, and Watervliet and the villages of Green Island and Menands, and
WHEREAS, It is also the desire of this honorable body to allow transfer of any county foreclosed property to the Albany County Industrial Development Agency and/or the Albany County Capital Resource Corporation for waterfront development and encourage cooperation between the Albany County IDA and/or Albany County Capital Resource Corporation with local Economic Development Agencies, now, therefore, be it

RESOLVED, By the Albany County Legislature hereby requests the Albany County IDA and/or Albany County Capital Resource Corporation to accept this resolution and appropriate funds to complete a comprehensive study as stated above and invest $1,500,000 million dollars for development purposes including, but not limited to, land purchase and acquisition, remediation, conservation, public assess and any other soft costs that maybe needed for development, and, be it further

RESOLVED, This study area crosses many geographic boundaries and when complete would be a great tool for the Albany County IDA and/or Albany County Capital Resource Corporation in the spirit of shared services to share with local IDA's, the County Executive and other appropriate local development agencies in the study area to help promote development, business, entertainment and recreation throughout Albany County, and, be it further

RESOLVED, That the goal of this study is to compile a development strategy that the County Executive can promote and implement through the powers of the Executive branch of county government, and, be it further

RESOLVED, The Albany County Legislature respectfully requests the Albany County IDA and/or Albany County Capital Resource Corporation to report back to the Legislature within 60 days of adoption of this resolution regarding the status of this study, and be it further

RESOLVED, That the Clerk of the County Legislature is directed to forward certified copies of this resolution to the appropriate County Officials.

Referred to Audit and Finance and Conservation and Improvement Committees
7/9/18
RESOLUTION NO. 120

PUBLIC HEARING ON PROPOSED LOCAL LAW NO. “D” FOR 2019

Introduced: 3/11/19
By Ms. Cunningham:

RESOLVED, By the County Legislature of the County of Albany that a public hearing on proposed Local Law No. “D” for 2019, “A LOCAL LAW TO INCENTIVIZE THE USE OF REUSABLE SHOPPING BAGS AND TO ELIMINATE THE USE OF SINGLE-USE PLASTIC BAGS IN ALBANY COUNTY SHOPPING ESTABLISHMENTS” be held by the County Legislature in the William J. Conboy II Legislative Chambers, Albany County Courthouse, Albany, New York at 7:15 p.m. on Tuesday, March 26, 2019, and the Clerk of the County Legislature is directed to cause notice of such hearing to be published containing the necessary information in accordance with the applicable provisions of law.

Referred to Law and Conservation, Sustainability and Green Initiatives Committees - 3/11/19
RESOLUTION NO. 123

A RESOLUTION TO ESTABLISH ALBANY COUNTY AS A POLLINATOR-FRIENDLY MUNICIPALITY

Introduced: 3/11/19

By: Messrs. Bullock, Ms. Lekakis and Cunningham, Messrs. Reinhardt, Touchette and Ms. Plotsky:

WHEREAS, Albany County has a history of protecting rare and endangered invertebrates such as the Karner Blue Butterfly, which has been brought back to healthy population from the brink of extinction, and

WHEREAS, the recent swift and dramatic global declines in insect populations forces us to face the reality that humans are entirely dependent upon pollinators in our gardens, crops, food chain and ecosystems, making it necessary to continue our commitment to their protection, and

WHEREAS, there are now eight (8) endangered species of bees in the United States, one of which, the Rusty Patched Bumblebee, was native to Albany County, and

WHEREAS, recent research data has recorded dramatic insect declines globally, estimates from one 2014 study found that three has been a forty-five percent (45%) drop in the abundance of invertebrates, a majority of which are insects, and

WHEREAS, neonicotinoid pesticides remain in the pollen and nectar of plants for thirty-six (36) month, causing neurotoxic effects on visiting insects, and

WHEREAS, neonicotinoids have been found to be more toxic than other pesticides to bees, and

WHEREAS, declines of insectivorous (a diet of insects, worms and other invertebrates) birds have been documented as high as thirty-three percent (33%) decline since the 1970’s, the most rapid drop in population in any bird group, and

WHEREAS, Albany County has been a leader in protecting our partners in agriculture, wildlife and conservation, now, therefore be it

RESOLVED, that Albany County is hereby declared a Pollinator Friendly County, and be it further,

RESOLVED, that Albany County shall, to the extent practicable, establish host plants and nectar plant species for local pollinators – butterflies, moths, bee species and other flying insect species – along all County properties and County parks, and be it further,
RESOLVED, that Albany County shall take measures to restore and increase habitat to include native plants with succession blooming, aiming for pollen and nectar along County roads whenever such roads are reconstructed or repaved, and be it further

RESOLVED, shall conduct an inventory of all pesticides being used by Albany County, and make efforts to phase out the use of neonicotinoid pesticides in favor of lesser toxic methods as part of an Integrated Pest Management System plan promoting pollinator friendly practices, and be it further

RESOLVED, that Albany County will publish guides to pollinator host and nectar plants native to this region for gardeners to refer to, and to local neonicotinoid free organic farms and Community Supported Agriculture greenhouses, sellers of untreated organic seeds in an effort to encourage consumers and gardeners to support pollinator-friendly practices, and be it further

RESOLVED, that Albany County will encourage municipalities within Albany County to adopt conservation easement ordinances, allowing for possible reductions of property taxes in exchange for conservation easement access, and be it further

RESOLVED, that Albany County will encourage local educators to teach about host and nectar plants, and promote the establishment of pollinator gardens throughout schools and the community, and be it further

RESOLVED, That the Clerk of the County Legislature is directed to forward certified copies of this resolution to the appropriate County Officials.

Referred to Conservation, Sustainability and Green Initiatives Committee - 3/11/19
LOCAL LAW “D” FOR 2019

A LOCAL LAW TO INCENTIVIZE THE USE OF REUSABLE SHOPPING BAGS AND TO ELIMINATE THE USE OF SINGLE-USE PLASTIC BAGS IN ALBANY COUNTY SHOPPING ESTABLISHMENTS

Introduced: 02/28/2019
By Ms. Cunningham, Messrs. Reinhardt, Mss. Lekakis and Plotsky, Messrs. Dawson and Fein, Ms. McLean Lane, Messrs. Joyce, Higgins, O’Brien, Bullock and Mayo:

BE IT ENACTED BY THE COUNTY LEGISLATURE OF THE COUNTY OF ALBANY, as follows:

Section 1. Title.

This Local Law shall be known as the “The Eliminate Single-Use Plastic Bag Use in Albany County Act.”

Section 2. Legislative Purpose and Findings.

The Albany County Legislature hereby finds and determines that it is imperative that the use and reliance on single-use plastic shopping bags must be reduced, and ultimately, eliminated. Further, the data and evidence supporting the massive proliferation of single-use plastic bags in Albany County, the State of New York and in our nation is troubling and the future of our planet depends on legislative bodies such as the Albany County Legislature taking proactive steps to mitigate and eliminate the unnecessary usage of single-use plastic bags in Albany County.

Environmental Impact: The Environmental Protection Agency’s data indicates that between 500 billion and 1 trillion plastic bags are consumed worldwide each year. The United States is purportedly responsible for using approximately 100-260 million plastic bags annually. To manufacture 100 billion plastic bags, 12 million barrels of oil is required. The production and disposal of single-use plastic bags has significant environmental consequences and impacts including the contamination of the environment, the depletion of natural resources, the use of non-renewable polluting fossil fuels and increased clean up and disposal costs and challenges.

It is now believed that there are 5.25 trillion pieces of plastic debris in the ocean. Of that mass, 269,000 tons float on the surface, while some four billion plastic microfibers per square kilometer litter the deep sea. Ocean debris, which predominantly consists of plastic pollution, has dire consequences for ocean mammals and birds, which commonly mistake plastic bags for food. Plastic bags have been found in the intestines and stomachs of marine life, and one in three leatherback sea
turtles have been found with plastic in their stomachs. Plastic ocean debris is responsible for killing an estimated 1,000,000 seabirds and 100,000 ocean mammals each year. At least 267 different species have been negatively affected by plastic pollution, including plastic bags.

**Over-reliance on plastic:** The average American family takes home almost 1,500 single-use plastic bags each year, and a single-use plastic bag is used for an average of 12 minutes. Other data suggests that an average family accumulates 60 plastic bags in only four trips to the grocery store. The average American recycles one plastic bag out of every 200 used.

Managing the disposal of single-use plastic bags is also costly to the taxpayer. In communities that have examined policies to discourage the use of single-use plastic bags, there have been data collected indicating that the disposal costs of managing the trash impact of plastic bag garbage is significant. From the New York State Plastic Bag Task Force, created by Governor Cuomo in 2017, this analysis of the cost to taxpayers in particular communities:

> "Prior to California's statewide single-use plastic bag ban, the City of San Diego consumed 500 million single-use plastic bags each year. Approximately 95% of these ended up in landfills and cost the people of California $25 million per year to manage. A 2013 study reported that of the 100 billion single-use plastic bags that Americans use each year, nearly 50 million end up as litter nationwide. The study also indicated that residents in coastal areas pay almost $15 per resident in overall litter cleanup costs. According to a draft proposal in 2017 for a single-use plastic bag ban in Madison County, NY, it was noted that the county "expend significant sums of money to control and pick up litter." In NYC alone, single-use, carry-out bags account for 1,700 tons of residential garbage each week, which equates to 91,000 tons of plastic and paper carry-out bags each year and presently costs the City $12.5 million annually to dispose of this material outside the city."

The Albany County Legislature further finds that policies aimed at banning single-use plastic bags or charging a fee for recyclable bag usage are effective.

Solutions that result in a fee for single-use bags, or that institute a ban on single-use plastic bags altogether work effectively, with resounding results. Data supporting this is abundant: when the City of Los Angeles, CA adopted a ban/fee hybrid policy model in 2012, there was a 94% reduction in carryout bag consumption.

Further, policy proposals to combat the consumption of single-use plastic bags is prolific across the world. According to the Governor's report:
Municipalities within New York State, across the United States, and around the world have implemented single-use plastic bag reduction measures in a variety of forms. On a worldwide scale, more than 75 countries have taken steps to reduce the consumption of single-use plastic bags. About one-third of these have instituted bans, approximately one-third have instituted fees, and the remaining one-third have taken the approaches listed below that differ from an outright ban or fee. As of March 2017, bans on the distribution of single-use plastic bags existed in nearly 100 cities, towns, and municipalities across the country, and fees existed in almost 30. Of the existing single-use bag fees, at least half are used in combination with a bag ban. In these instances, plastic bags are banned and the fees exist on other types of single-use carry out bags such as paper and compostable plastic. Most programs across the United States, for either a ban or a fee, include an exemption for certain bags such as produce and meat bags, prescription bags, dry cleaning bags, and newspaper bags.

In New York State, ten cities, towns or villages have enacted plastic bag bans and one municipality has a plastic bag ban with a fee on single-use paper bags and bags that qualify as reusable, including 2.25 mil flexible plastic bags. The City of Long Beach has a single-use plastic bag fee in place and Suffolk County’s single-use plastic bag fee took effect January 1, 2018.

Municipalities that have taken these steps find successful outcomes, with significant reductions in the carryout bag consumption, including that of single-use plastic bags. In addition, municipalities are also finding taxpayer/direct environmental benefit from instituting bag bans or fees: The City of San Jose saw an 89% reduction in plastic bags in their storm drain system, a 60% reduction of plastic bag litter in their creeks and rivers, and a 59% reduction in plastic bag litter in neighborhoods after instituting its plastic bag ban and fee on the allowable alternatives.

Section 3. Definitions

For purposes of this local law, the following terms shall have the meanings indicated below:

(a) “Covered Store” shall mean an establishment engaged in the retail sale of personal, consumer, household items including but not limited to: drug stores, pharmacies, grocery stores, supermarkets, convenience stores, foodmarts, gas stations, hardware and home improvement stores, stationary and office supply stores and food service establishments that provide carryout bags to consumers. Covered stores also include all apparel, clothing and shoe stores, including those in malls.

(b) “Customer” shall mean any person obtaining goods from a covered store.
(c) “Food Service Establishment” shall mean a place where prepared food is provided for individual portion service directly to a customer whether consumption occurs on or off the premises.

(d) “Person” shall mean any natural person, firm, corporation, partnership or other organization or group, however organized”.

(e) “Single-use Plastic Carryout Bag” shall mean a single-use plastic bag less than 4 mils (1 mil equals 1/1000th thickness) thick that is provided by a covered store to a customer at the point of sale and is used to carry goods from such store. A typical plastic supermarket bag is .5 mil, a thicker “mall store” plastic bag is 2.3 mil or greater. “Single-use Plastic Carryout Bag” does not include (1) a bag without handles used to carry produce, meat, dry goods or other non-prepackaged food items to the point of sale within a store or market or to prevent such food items from coming into direct contact with other purchased items; (2) a garment bag or large plastic bag with two openings that is used to transport clothing from a clothing retailer or garment cleaner such as a dry cleaner.

(f) “Recyclable Paper Bag” shall mean a paper bag that (1) contains no old growth fiber; (2) is one hundred percent (100%) recyclable overall and contains a minimum of forty percent (40%) post-consumer recycled content.

(g) “Retail Sales” shall mean the transfer to a customer of goods in exchange for payment occurring in retail stores, sidewalk sale, farmers’ markets, flea markets and restaurants. The term “retail sales” does not include sales of goods at yard sales, tag sales, or other sales by residents at their homes.

(h) “Reusable Bag” shall mean a bag with handles that is specifically designed and manufactured for multiple reuse and meets all the following requirements: (1) has a minimum lifetime of one hundred twenty-five (125) uses, which for purposes of this subsection, means the capability of carrying a minimum of twenty-two (22) pounds one hundred twenty-five (125) times over a distance of at least one hundred seventy-five (175) feet; (2) is machine washable or capable of being cleaned and disinfected; (3) does not contain lead, cadmium, or any other heavy metal in toxic amounts as defined by applicable State and Federal standards and regulations for packaging or reusable bags; and (4) if made of plastic, a minimum of 4 mils thick.

Section 4 Prohibition.

No covered store shall provide a single-use plastic carryout bag to any customer at the check-out stand, cash register, point of sale or other point of departure, for the purpose of transporting food or merchandise out of the establishment. This prohibition shall also apply to any “order online and pickup in store” or food delivery service.

Section 5 Permitted Bags.
(a) Covered stores may not provide or make available to customers at the checkout stand, cash register, point of sale or other point of departure, any single-use plastic carry-out bag for the purpose of transporting food or merchandise out of the establishment.

(b) All covered stores shall make available to customers, only recyclable paper bags or boxes, or reusable bags for the purpose of carrying away goods or other materials from the point of sale. Nothing in this local law prohibits customers from using bags of any type that they bring to the store themselves or from carrying away goods that are not placed in a bag, in lieu of using bags provided by the store.

(c) On or immediately after the effective date, covered stores shall charge customers at least $.05 for each recyclable paper bag that is provided to customers. On or immediately after the effective date, all covered stores shall indicate on the customer receipt the number of recyclable paper bags that are provided to customers and the fee at which they were charged for the use of the recyclable paper bag. All monies collected by a covered store shall be retained by the covered store.

(d) The use of single-use plastic bags shall be prohibited, while the use of recyclable paper bags shall be available. On or immediately after the effective date, recyclable paper bags shall be available for at least $.05 and single-use plastic bags shall not be available in Albany County Covered Stores.

Section 6. Responsibilities and Obligations of Covered Stores.

(a) All covered stores shall post signs at or near the point of sale located in such Covered Stores to notify customers of the provisions of this law, as well as the per bag charge for recyclable paper bags and reusable bags that the store may offer. Covered stores shall also indicate in signage that recyclable paper bags will be available for a charge of at least $.05 each recyclable paper bag.

(b) Covered Stores must make available, on the customer receipt, the itemized number of recyclable or reusable bags used, on the sales receipt, including online receipts.

(c) Covered stores may retain the mandatory bag fee of at least $.05 per recyclable paper bag.

(d) No Covered Store shall provide a credit to any person specifically for the purpose of offsetting or avoiding the carryout bag charge required by this Local Law.

(e) Covered Stores shall be encouraged to work with organizations seeking to donate reusable bags for customer use that would allow for wide, free distribution of free reusable bags.

(f) Covered stores shall also be encouraged to adopt “leave-a-bag” “take-a-bag” initiatives that encourage consumer engagement on the use of reusable bags and that aim to enable wide adoption in communities with a high proportion of customers with limited incomes.
(g) Covered stores shall waive the fee for any customers using Supplemental Nutrition Assistance Program (SNAP) and the federal Women Infants and Children (WIC) Program cards. Covered stores shall have discretion in waiving the recyclable bag fee for any low-income constituency it deems appropriate.

(h) Covered stores shall be discouraged from “stock piling” plastic bag inventory and shall make every effort to be ready for the implementation of this local law.

Section 7. Deduction from Employee Wages Prohibition

Covered stores are prohibited from making a charge against, or deduction from, the wages of an employee to offset any penalty levied against the covered store pursuant to this local law.

Section 8. Albany County Responsibilities, Enforcement and Penalties.

(a) Department that will oversee this Local Law: The Albany County Executive shall deem the appropriate department within Albany County Government to oversee the enforcement, implementation of regulations and other guidance to secure the successful implementation of this Local Law. Further, the County Executive shall inform the Legislature of his or her recommendation to ensure enforcement of this Local Law. In addition, on an annual basis, the Department selected by the Albany County Executive to oversee and implement this local law shall prepare an annual recycling report that includes information detailing the success of the effort to eliminate the commercial use of plastic bags and include information such as:

i. the effectiveness of this local law in reducing the use of single-use carryout bags;

ii. the waste and litter reduction benefits of this local law;

iii. the number of notices of violation issued pursuant to this local law; and

iv. any cost savings to the County attributable to single-use carryout bag reduction such as reduced contamination of local waterways or reduction in flooding or combined sewer overflows. This report shall also be shared with state and local legislators, as well as provided to the New York State Department of Environmental Conservation.

(b) Compliance Assistance to Business and Retail Community: The County Executive shall ensure that information regarding this local law, its effective date, penalties and other relevant compliance information shall be distributed via website and other electronic means in order to ensure that Albany County’s Covered Stores shall be well informed about all aspects of compliance and adherence. The Albany County Department that will oversee and implement this law shall provide electronic templates that include the important information regarding this local law referenced in Section 6, subsection 1 that covered stores shall be able to print out and display at points of sale. This
template shall be easily downloadable from the County website and hard copies shall be made available at the Albany County Office Building for retail operators who need signage. In addition, the Albany County Department that will oversee this local law shall engage the business and retail community affected by this local law prior to the implementation date to provide technical and other assistance and information, and shared approaches regarding compliance. These outreaches to the business community shall include countywide business round tables.

(c) Penalties: Any Covered Store found to be in violation of the provisions of this law shall be liable for a civil penalty payable to the County of Albany pursuant to the following penalty structure

i. Any Covered Store found to be in violation of the provisions of this law a first time shall be issued a written warning.

ii. Any Covered Store found to be in violation of the provisions of this law a second time shall be liable for a civil penalty not to exceed $100.00.

iii. Any Covered Store found to be in violation of the provisions of this law a third time shall be liable for a civil penalty not to exceed $250.00.

iv. Any Covered Store found to be in violation of the provisions of this law a fourth time shall be liable for a civil penalty not to exceed $500.00.

v. For each subsequent violation, daily fines of $100.00 shall be instituted and applied for violations of this Local Law until compliance is achieved.

vi. The Albany County Executive’s designee department shall have the discretion to temporarily suspend the business practices of Covered Stores that persistently violate this Local Law.

vii. All fines collected for violations of the Local Law shall be used to offset any costs of compliance and oversight of adherence to this Local Law.

Section 8. Severability.

If any clause, sentence, paragraph, section or any part of this local 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 judgement 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 judgement shall be rendered.

Section 9. Reverse Preemption.

This local law shall be null and void on the day that a statewide law is in effect, incorporating either the same or substantially similar provisions as are contained in this local law or in the event that a relevant state or federal administrative agency
issues and promulgates regulations preempting such action by the County of Albany. The Albany County Legislature shall determine by resolution whether or not the identical or substantially similar statewide law or relevant pre-emptive state or federal regulations have been enacted for the purposes of triggering the provisions of this section.

Section 10. Effective Date.

The effective date of this local law will be 6 (six) months from the date of its filing with the Secretary of State.

Referred to Law and Conservation, Sustainability and Green Initiatives Committees - 3/11/19