AGENDA

CONSERVATION, SUSTAINABILITY AND GREEN INITIATIVES COMMITTEE

JULY 8, 2019

PREVIOUS BUSINESS:

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

2. **RESOLUTION NO. 220**: PUBLIC HEARING ON PROPOSED LOCAL LAW NO. “F” FOR 2019
RESOLUTION NO. 120

PUBLIC HEARING ON PROPOSED LOCAL LAW NO. "D" FOR 2019

Introduced: 3/11/19
By Ms. Cunningham and Mr. Reinhardt:

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 Committee - 3/11/19_
LOCAL LAW DATE FOR 2019

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

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

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 Albany County Reusable Shopping Bag
Incentive Act/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 100-200 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. This average American recycles one plastic
bag out of every 200 used.

The Albany County Legislature applauds Governor Cuomo and the New York State
for their inclusion in the 2019 New York State Budget, the "New York State Bag
Waste Reduction Act" and further intends to take steps to institute a paper bag fee
to ensure that bag waste is further reduced.

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—600 million single-use plastic bags each year. Approximately 98%
of these ended up in landfills and cost the people of California $85 million per year to manage. A 2013 study reported that of
the 100 billion single-use plastic bags that Americans use each year, nearly 60 million end up as litter nationwide. The study also indicated that residents in enviro-main 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 the county
"expends a significant amount of money to control and pickup litter. In NYC
alone, single-use, carry-out bags account for 1,700 tons of residential
garbage each week, which equates to 94,000 tons of plastic and paper
carry-out bags each year and presently costs the City—$18.5 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 1,000 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 1.96 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 18% reduction in plastic bags in their storm drain system, a 30% reduction of plastic bag litter in their creeks and rivers, and a 50% 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 5.5 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 sales, 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; (2) 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.
Section 48 Imposition of Fees for Use of Paper Bags

(a) Covered stores may not provide or make available to customers at the check-out 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 of the state law, Albany County 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 bags. All monies collected by a covered store shall be retained by the covered store.

(d) Per Title 28, Section 2 of the NYS 2019 Budget Bill, the $.05 fee shall be reflected on the sales slip, invoice, receipt provided to the customer. 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 at least $.05, and single-use plastic bags shall not be available in Albany County Covered Stores.

(e) Exempt individuals that shall not pay the $.05 fee include any customers using the Supplemental Nutrition Assistance Program, Special Supplemental Nutrition Program for Women, Infants and Children, or any successor programs used as full or partial payment for any items purchased.

(f) The $.05 fee shall be reported and paid to the New York State Commissioner of Taxation and Finance on a quarterly basis, before the twentieth day of the month following each quarterly period.

Section 5 Distribution of Fees

(a) Per New York State Law, $.03 of the $.05 fee shall be paid to the State of New York Environmental Protection Fund. The remaining $.02 will be paid to the Comptroller of Albany County, for purposes of establishing programs to purchase reusable bags provided to customers for their direct use.
**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 $0.05 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 $0.05 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 paper bags, 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 regarding the imposition of the bag fee 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 county-wide 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. 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—simultaneous to the effective date of the single-use statewide bag ban, March 1, 2020.
RESOLUTION NO. 220

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

Introduced: 5/13/19
By Ms. Cunningham, Messrs. Reinhardt and A. Joyce:

RESOLVED, By the County Legislature of the County of Albany that a public hearing on proposed Local Law No. “F” for 2019, “A Local Law to Require Albany County Restaurants and Eating Establishments to Provide Straws and Plastic Cutlery Only Upon Request” 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, June 25, 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 - 5/13/19
LOCAL LAW NO. "F" FOR 2019

A LOCAL LAW TO REQUIRE ALBANY COUNTY RESTAURANTS AND EATING ESTABLISHMENTS TO PROVIDE STRAWS AND PLASTIC CUTLERY ONLY UPON REQUEST

Introduced: 5/13/19
By: Mss. Cunningham, Lekakis, Messrs. Smith and Miller:

Section 1. Findings and Purpose
The Albany County Legislature finds and determines that:

Littered plastic products, including straws and plastic cutlery have caused and continue to cause significant environmental harm and have burdened local governments with significant environmental cleanup costs. Plastics synthesized from petroleum and natural gas do not biodegrade. Even with the emergence of bioplastics, which are derived from renewable biomass sources, such as plants and microorganisms, there is no certified type of bioplastic that biodegrades in a marine environment.

The Albany County Legislature prioritizes the protection of the environment and through public policymaking and adoption of local laws, intends to take initiative to minimize the unnecessary use of plastic in our environment. A reduction in the use of plastic straws and cutlery will further serve Albany County’s goal of reducing plastic litter.

Section 2. Definitions
For the purposes of this ordinance, the following shall have the following meanings:

“Beverage Provider” means any business, organization, entity, group, or individual located in the [name of jurisdiction] that offers liquid, slurry, frozen, semi-frozen, or other forms of beverages to the public for consumption.

“Plastic Cutlery” means any utensil, such as a fork, spoon, spork, or knife, made predominantly of plastic derived from either petroleum or a biologically based polymer intended for only one-time use. “Plastic cutlery” includes compostable and biodegradable petroleum or biologically based polymer forms of cutlery, but does not include forms of cutlery that are made from non-plastic materials, such as wood, bamboo, etc.

“Plastic Beverage Straw” means a tube made predominantly of plastic derived from either petroleum or a biologically based polymer for transferring a beverage from its container to the mouth of the drinker. “Plastic Beverage Straw” includes compostable and biodegradable petroleum or biologically based polymer straws, but does not include straws that are made from non-plastic materials, such as paper, grain stalks, bamboo, etc.

“Food service ware” means all containers, bowls, plates, trays, cups, lids, napkins, and other like items that are designed for one-time use for prepared foods, including, without limitation, service ware for takeout foods and/or leftovers from partially consumed meals prepared by food vendors. The term “food service ware” does not include items composed of aluminum.
Section 3. Plastic Straws and Cutlery Upon Request

(a) All Albany County restaurants, including fast food restaurants, beverage providers, or vendors shall only offer plastic cutlery and straws, upon request.

(b) Nothing in this section precludes restaurants, including fast food restaurants, beverage providers, vendors, or persons from using or making non-plastic alternatives, such as those made from paper, grain stalks, sugar cane, or bamboo, available to beverage consumers.

Section 4. Designated County Department for Compliance and Enforcement

The County Executive shall designate the appropriate County department that shall oversee implementation, compliance and adherence to this local law. This designated department shall have the authority to enforce this ordinance. Each day of violation, after written notice, is a separate violation. Violations will be subject to the following penalties:

First Offense: written warning
Second Offense: $100 penalty
Third and subsequent offense: $250 penalty

Section 5. Severability

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held invalid or unconstitutional by the decision of any court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions of this ordinance. Such decision shall not affect the validity of the remaining portions of this ordinance, which shall remain in full force and effect.

Section 5. Effective Date

This ordinance shall take effect six months after the date of enactment.

Referred to Law and Conservation, Sustainability and Green Initiatives Committees - 5/13/19