AGENDA

CONSERVATION, SUSTAINABILITY AND GREEN INITIATIVES COMMITTEE

SEPTEMBER 9, 2019

1. **RESOLUTION NO. 350**: PUBLIC HEARING ON PROPOSED LOCAL LAW NO. “D” FOR 2019 - A LOCAL LAW OF THE COUNTY OF ALBANY, NEW YORK TO INCENTIVIZE THE USE OF REUSABLE SHOPPING BAGS AND TO INSTITUTE A FEE ON THE USE OF PAPER BAGS IN ALBANY COUNTY SHOPPING ESTABLISHMENTS

2. **RESOLUTION NO. 352**: PUBLIC HEARING ON PROPOSED LOCAL LAW NO. “F” FOR 2019 - A LOCAL LAW OF THE COUNTY OF ALBANY, NEW YORK TO REQUIRE ALBANY COUNTY RESTAURANTS AND EATING ESTABLISHMENTS TO PROVIDE STRAWS AND PLASTIC CUTLERY ONLY UPON REQUEST
RESOLUTION NO. 350

PUBLIC HEARING ON PROPOSED LOCAL LAW NO. "D" FOR 2019 - A LOCAL LAW OF THE COUNTY OF ALBANY, NEW YORK TO INCENTIVIZE THE USE OF REUSABLE SHOPPING BAGS AND TO INSTITUTE A FEE ON THE USE OF PAPER BAGS IN ALBANY COUNTY SHOPPING ESTABLISHMENTS

Introduced: 8/12/19
By Ms. Cunningham, Messrs. A. Joyce, Reinhartd and Touchette:

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 Institute A Fee On The Use Of Paper 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, September 24, 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 – 8/12/19
Favorable Recommendation Law Committee – 8/26/19
LOCAL LAW D 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 Pein, 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 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 100-260 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 287 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.

The Albany County Legislature applauds Governor Cuomo and the New York State for their inclusion in the 2019 New York State Budget of 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. The Albany County Legislature is concerned that without the imposition of a fee, along with the creation and implementation of aggressive efforts to educate consumers to change behavior to begin using reusable bags, Albany County will experience a new environmental problem that results from the overuse of paper bags. This will yield to increased landfill use for the increase in paper bag usage, prices in local grocery and convenience stores increasing due to the increased costs associated with a move from plastic to paper bags and other potential unintended negative consequences.

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 waste-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 costs to taxpayers in particular communities:

"Prior to California's statewide single-use plastic bag ban, the City of San Diego consumed 800 million single-use plastic bags each year. Approximately 92% 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 spends 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 $13.5 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 reusable bags 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 modeled in 2012, there was a 94% reduction in carry-out 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 all 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 0.20 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 carry-out bag consumption, including that of single-use plastic bags. In addition, municipalities are also finding taxpayervindicated environmental benefit from instituting bag bans or fees. The City of San Jose saw an 82% reduction in plastic bags in their storm drain system, a 60% reduction of plastic bag litter in their
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 portions 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 1/1000 of a 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 0.6 mil, a thinnest “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-packaged 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) “Paper Carryout Bag” shall have the same meaning as set forth in Title 27, Section 27-2801 of the New York State Environmental Conservation Law.

(g) “Reusable Bag” shall have the same meaning as set forth in Title 27, Section 27-2801 of the New York State Environmental Conservation Law.

(h) “Recoverable 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.

(i) “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.

(j) “Paper Carryout Reduction Fee” shall have the same meaning as set forth in Title 27, Section 27-2805 of the New York State Environmental Conservation Law.
(b) 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 beverage; and (4) is made of plastic—a minimum of 4-mil thick.

Section 43 Prohibition:

No covered store shall provide a single-use plastic carryout bag to any customer at the check-out stand, each 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 43 Imposition of Fees for Use of Paper Bags/Reusable Bags:

(a) In accordance with Section 27-2805 of the New York State Environmental Conservation Law, Albany County establishments subject to the ban on Plastic Carryout Bags set forth in Section 27-2803 of the New York State Environmental Conservation Law shall charge customers a Paper Carryout Reduction Fee of Covered Stores may not provide or make available to customers at the check-out stand, each register, point of sale, or other point of departure, any single-use plastic carryout bag for the purpose of transporting food or merchandise out of the establishment.

(b) All covered stores shall make available to customers, only reusable 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 this subsection, Albany County covered stores shall charge customers at least $0.05 for each Paper Carryout 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 Paper Carryout Bags, reusable paper bags that are provided to customers and the fee at which they were charged for the use of such bags, the reusable paper bag. All monies collected by a covered store shall be retained by the covered store.

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 for at least $.05 and single-use plastic bags shall not be available in Albany County-Covered Stores.

(b) Exempt individuals that shall not pay the $.05 fee include any customers identified in Section 27-2805 Subsection 3 of the New York State Environmental Conservation Law, unless the supplemental—nutritional assistance program, supplemental—nutrition program for women, infants, and children, or any successor program used as full or partial payment for any item purchased.

(c) The $.05 fee shall be reported and paid to the New York State Commissioner of Taxation and Finance per the requirements identified in Section 27-2805 Subsection 4 of the New York State Environmental Conservation Law.

Section 5 Distribution of Fees and Transparency of Fee Collections

(a) Per Section 27-2805 of the New York Environmental Conservation Law, forty percent of the fee shall be provided to Albany County for the purpose of purchasing reusable bags for Albany County residents, particularly those of low-income or limited means. New York State Law, §63 of the $.05 fee shall be paid to the State of New York Environmental Protection Fund. The remaining §63 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.

(b) The Albany County Comptroller, upon receipt of these funds, will provide the amounts generated by the $.05 fee to the Albany County Department of XXXXX, who will provide these funds to the Albany County Department charged with implementing this local law, for purposes of offsetting costs for purchasing reusable bags for Albany County residents, as well as to provide funds to offset expenses for programs, advertising, and other initiatives identified in the Model Consumer Education Program (Section 8a of this local law).

Section 66. 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 Local 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)(1) Covered stores may retain the mandatory bag fee of at least $.05 per recyclable paper bag.

(c)(2) 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.

(c)(3) 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.

(d) 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.

(e) 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.

(f)(1) 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) Consumer Education Program: Upon the date of enactment, the Albany County Executive shall designate the Department within the Albany County Government of XXXX to immediately begin work to put into place a model Consumer Education Program with the following goals:

i. Work collaboratively with all covered stores (in particular the large grocery stores and convenience stores) to hold County-supported roundtable discussions at various locations around the County about how to better educate consumers about the impending state plastic bag ban and the Albany County paper bag fee.
ii. Develop educational marketing materials with a uniform message to help educate Albany County residents about the impending bag ban/fee law. These marketing materials shall include web-based informational campaigns as well as signage for stores to utilize to educate consumers. The Albany County Department of XXX shall also consider paid advertising in highly trafficked locations including billboards, signage on buses, etc., shall also be considered.

Work with covered stores to identify constituencies who may be late adopters of using reusable bags. Once identified, special outreach shall be made to these “late adopter” constituencies to encourage and facilitate their adoption of using reusable bags. These efforts could include outreach to social or employment centers that are fragmented by the “late adopter” populations and other outreach. This effort may also include the purchase of reusable bags by Albany County as a tool to encourage adoption of the use of reusable bags by the “late adopters.”

(a)(b) 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, disposable bags;

ii. the landfill space that is affected by the use of paper bags;

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

iv. any cost savings to the County attributable to single-use, disposable 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)(c) 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 local law shall provide electronic templates that include the information regarding this local law referred to in Section 6, subsection b 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.

(f) Violations: In accordance with Section 27-2807 of the New York State Environmental Conservation Law, penalties will be levied. Additional penalties related to violations regarding the implementation of the Paper Bag Carryout fee covered in this local law will be the following: 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 institute additional punishments for those temporarily suspended 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 88. 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 10.0. 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 11.40. 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.
LOCAL LAW D 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 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 Albany County Reusable Shopping Bag Incentive 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.

The Albany County Legislature applauds Governor Cuomo and the New York State for their inclusion in the 2019 New York State Budget of 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. The Albany County Legislature is concerned that without the imposition of a fee, along with the creation and implementation of aggressive efforts to educate consumers to change behavior to begin using reusable bags, Albany County will experience a new environmental problem that results from the overuse of paper bags. This will yield to increased landfill use for the increase in paper bag usage, prices in local grocery and convenience stores increasing due to the increased costs associated with a move from plastic to paper bags and other potential unintended negative consequences.

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

(d) “Paper Carryout Bag” shall have the same meaning as set forth in Title 27, Section 27-2801 of the New York State Environmental Conservation Law.

(e) “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.
(f) "Reusable Bag" shall have the same meaning as set forth in Title 27, Section 27-2801 of the New York State Environmental Conservation Law.

(g) "Paper Carryout Reduction Fee" shall have the same meaning as set forth in Title 27-2805 of the New York State Environmental Conservation Law.

Section 4 Imposition of Fees for Use of Paper Bags

(a) In accordance with Section 27-2805 of the New York State Environmental Conservation Law, Albany County establishments subject to the ban on Plastic Carryout Bags set forth in Section 27-2803 of the New York State Environmental Conservation Law shall charge customers a Paper Carryout Reduction Fee of $.05 for each Paper Carryout Bag the Establishment provides to customers. On the effective date, all covered stores shall indicate on the customer receipt the number of Paper Carryout Bags that are provided to customers and the fee at which they were charged for the use of such bag.

(b) Exempt individuals that shall not pay the $.05 fee include any customers identified in Section 27-2805 Subsection 3 of the New York State Environmental Conservation Law.

(c) The $.05 fee shall be reported and paid to the New York State Commissioner of Taxation and Finance per the requirements identified in Section 27-2805 Subsection 4 of the New York State Environmental Conservation Law.

Section 5 Distribution of Fees and Transparency of Fee Collection

(a) Per Section 27-2805 of the New York Environmental Conservation Law, forty percent of the fee shall be provided to Albany County for the purpose of purchasing reusable bags for Albany County residents, particularly those of low-income or limited means.

(b) The Albany County Comptroller, upon receipt of these funds, will provide these funds to the Albany County Department charged with implementing this local law, for purposes of offsetting costs for purchasing reusable bags for Albany County residents, as well as to provide funds to offset expenses for programs, advertising and other initiatives identified in the Model Consumer Education Program (Section 8a of this local law).

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 Local Law. Covered
stores shall also indicate in signage that recyclable paper bags will be available for a charge of $.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) 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.

(d) 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.

(e) 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.

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) Consumer Education Program: Upon the date of enactment, the Albany County Executive shall designate a Department within the Albany County government to immediately begin work to put into place a model Consumer Education Program with the following goals:

i. Work collaboratively with all covered stores (in particular the large grocery stores and convenience stores) to hold County-supported round table discussions at various locations around the County about how to best educate consumers about the impending state plastic bag ban and the Albany county paper bag fee.

ii. Develop educational marketing materials with a uniform message to help educate Albany County residents about the impending bag ban/fee law. These marketing materials shall include web based informational campaigns as well as signage for stores to utilize to educate consumers. Paid advertising in highly trafficked locations including bill boards, signage on buses, etc. shall also be considered.

Work with covered stores to identify constituencies who may be late adopters of using reusable bags. Once identified, special outreach shall be made to these “late adopter” constituencies to encourage and facilitate their adoption of using reusable bags.
These efforts could include outreach to social or employment centers that are frequented by the “late adopter” populations and other outreaches. This effort may also include the purchase of reusable bags by Albany County as a tool to encourage adoption of the use of reusable bags by the “late adopters”.

(b) 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;
   ii. the land fill space that is affected by the use of paper bags;
   iii. the number of notices of violation issued pursuant to this Local Law; and

(c) 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 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.

(d) Violations: In accordance with Section 27-2807 of the New York State Environmental Conservation Law, penalties will be levied. Additional penalties related to violations regarding the implementation of the Paper Bag Carryout fee covered in this local law will be the following:
   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 institute additional punishments for those Covered Stores that persistently violate this Local Law.

Section 9. 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 10. 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 11. Effective Date.
The effective date of this local law will be simultaneous to the effective date of the single-use statewide bag ban, March 1, 2020.
**Instructions for Completing**

Part 1 - Project Information. The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

<table>
<thead>
<tr>
<th>Part 1 - Project and Sponsor Information</th>
</tr>
</thead>
<tbody>
<tr>
<td>Albany County Legislature</td>
</tr>
<tr>
<td><strong>Name of Action or Project:</strong></td>
</tr>
<tr>
<td>Local Law to Incentivize the use of reusable shopping bags and institute a fee on the use of Paper Bags in Albany County</td>
</tr>
<tr>
<td><strong>Project Location (describe, and attach a location map):</strong></td>
</tr>
<tr>
<td>Albany County</td>
</tr>
<tr>
<td><strong>Brief Description of Proposed Action:</strong></td>
</tr>
<tr>
<td>Adoption of a local law known as the “Albany County Reusable Shopping Bag Incentive Act” to incentivize the use of reusable shopping bags by imposing a fee on the use of paper bags in covered stores. The intent of the law is to further reduce bag waste. The law is applicable to establishments engaged in the retail sales of personal, consumer, and household items and food service establishments that provide carryout bags. Also all apparel, clothing and shoe stores. No adverse impacts to environmental resources are anticipated from this action. (see attached proposed Local Law No. “D” for 2019).</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Name of Applicant or Sponsor:</th>
<th>Telephone: (516) 447-7168</th>
</tr>
</thead>
<tbody>
<tr>
<td>Albany County</td>
<td>E-Mail:</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Address:</th>
</tr>
</thead>
<tbody>
<tr>
<td>112 State St. Room 710</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>City/PO:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Albany</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>State:</th>
</tr>
</thead>
<tbody>
<tr>
<td>NY</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Zip Code:</th>
</tr>
</thead>
<tbody>
<tr>
<td>12207</td>
</tr>
</tbody>
</table>

1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation?  
   \[☐ \quad ☑ \quad \square \]

   If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.

2. Does the proposed action require a permit, approval or funding from any other governmental Agency?  
   \[☐ \quad ☑ \quad \square \]

   If Yes, list agency(ies) name and permit or approval:

3. a. Total acreage of the site of the proposed action?  
   \[acres\]

   b. Total acreage to be physically disturbed?  
   \[acres\]

   c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor?  
   \[acres\]

4. Check all land uses that occur on, adjoining and near the proposed action.  
   \[☐ Urban \quad ☐ Rural (non-agriculture) \quad ☐ Industrial \quad ☐ Commercial \quad ☐ Residential (suburban) \quad ☐ Forest \quad ☐ Agriculture \quad ☐ Aquatic \quad ☐ Other (specify): \]
   \[Parkland\]

Page 1 of 4
5. Is the proposed action,  
   a. A permitted use under the zoning regulations?  
      | NO | YES | N/A |
   b. Consistent with the adopted comprehensive plan?  
      | NO | YES | N/A |

6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?  
   | NO | YES |

7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area?  
   If Yes, identify:  
   | NO | YES |

8. a. Will the proposed action result in a substantial increase in traffic above present levels?  
   | NO | YES |
   b. Are public transportation service(s) available at or near the site of the proposed action?  
   | NO | YES |
   c. Are any pedestrian accommodations or bicycle routes available on or near site of the proposed action?  
   | NO | YES |

9. Does the proposed action meet or exceed the state energy code requirements?  
   If the proposed action will exceed requirements, describe design features and technologies:  
   | NO | YES |

10. Will the proposed action connect to an existing public/private water supply?  
    If No, describe method for providing potable water:  
    | NO | YES |

11. Will the proposed action connect to existing wastewater utilities?  
    If No, describe method for providing wastewater treatment:  
    | NO | YES |

12. a. Does the site contain a structure that is listed on either the State or National Register of Historic Places?  
    | NO | YES |
   b. Is the proposed action located in an archaeological sensitive area?  
   | NO | YES |

13. a. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, state or local agency?  
   | NO | YES |
   b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody?  
   If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres:  
   | NO | YES |

14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply:  
   | NO | YES |
   - Shoreline  
   - Forest  
   - Agricultural/grasslands  
   - Early mid-successional  
   - Wetland  
   - Urban  
   - Suburban  

15. Does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered?  
   | NO | YES |

16. Is the project site located in the 100 year flood plain?  
   | NO | YES |

17. Will the proposed action create storm water discharge, either from point or non-point sources?  
   If Yes,  
   a. Will storm water discharges flow to adjacent properties?  
      | NO | YES |
   b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)?  
      | NO | YES |

Page 2 of 4
18. Does the proposed action include construction or other activities that result in the impoundment of water or other liquids (e.g., retention pond, waste lagoon, dam)?
If Yes, explain purpose and size:

19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility?
If Yes, describe:

20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste?
If Yes, describe:

I AFFIRM THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE
Applicant/sponsor name: Laura DeGaetano
Date: June 20, 2019
Signature:

---

Part 2 - Impact Assessment. The Lead Agency is responsible for the completion of Part 2. Answer all of the following questions in Part 2 using the information contained in Part 1 and other materials submitted by the project sponsor or otherwise available to the reviewer. When answering the questions the reviewer should be guided by the concept “Have my responses been reasonable considering the scale and context of the proposed action?”

<table>
<thead>
<tr>
<th>Question</th>
<th>No, or small impact may occur</th>
<th>Moderate to large impact may occur</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?</td>
<td>☑</td>
<td>☐</td>
</tr>
<tr>
<td>2. Will the proposed action result in a change in the use or intensity of use of land?</td>
<td>☑</td>
<td>☐</td>
</tr>
<tr>
<td>3. Will the proposed action impair the character or quality of the existing community?</td>
<td>☑</td>
<td>☐</td>
</tr>
<tr>
<td>4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?</td>
<td>☑</td>
<td>☐</td>
</tr>
<tr>
<td>5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?</td>
<td>☑</td>
<td>☐</td>
</tr>
<tr>
<td>6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?</td>
<td>☑</td>
<td>☐</td>
</tr>
<tr>
<td>7. Will the proposed action impact existing:</td>
<td>☑</td>
<td>☐</td>
</tr>
<tr>
<td>a. public / private water supplies?</td>
<td>☑</td>
<td>☐</td>
</tr>
<tr>
<td>b. public / private wastewater treatment utilities?</td>
<td>☑</td>
<td>☐</td>
</tr>
<tr>
<td>8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?</td>
<td>☑</td>
<td>☐</td>
</tr>
<tr>
<td>9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)?</td>
<td>☑</td>
<td>☐</td>
</tr>
</tbody>
</table>

Page 3 of 4
<table>
<thead>
<tr>
<th>No, or</th>
<th>Moderate to large impact may occur</th>
</tr>
</thead>
<tbody>
<tr>
<td>small impact may occur</td>
<td>occur</td>
</tr>
<tr>
<td>10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems?</td>
<td>✓</td>
</tr>
<tr>
<td>11. Will the proposed action create a hazard to environmental resources or human health?</td>
<td>✓</td>
</tr>
</tbody>
</table>

Part 3 - Determination of significance. The Lead Agency is responsible for the completion of Part 3. For every question in Part 2 that was answered "moderate to large impact may occur", or if there is a need to explain why a particular element of the proposed action may or will not result in a significant adverse environmental impact, please complete Part 3. Part 3 should, in sufficient detail, identify the impact, including any measures or design elements that have been included by the project sponsor to avoid or reduce impacts. Part 3 should also explain how the lead agency determined that the impact may or will not be significant. Each potential impact should be assessed considering its setting, probability of occurring, duration, irreversibility, geographic scope and magnitude. Also consider the potential for short-term, long-term and cumulative impacts.

It has been determined that the adoption of Local Law No. "D" For 2019 known as "The Albany County Reusable Shopping Bag Incentive Act" will not result in a significant adverse environmental impact. Given the intent to incentivize the use of reusable bags and reduce the amount of non-reusable bag waste there is expected to be a positive impact on the environment.

☐ Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action may result in one or more potentially large or significant adverse impacts and an environmental impact statement is required.

✓ Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action will not result in any significant adverse environmental impacts.

Albany County

Name of Lead Agency
Hon. Andrew Joyce
Print or Type Name of Responsible Officer in Lead Agency
Signature of Responsible Officer in Lead Agency

Date
Chairman
Title of Responsible Officer
Signature of Preparer (if different from Responsible Officer)
RESOLUTION NO. 352

PUBLIC HEARING ON PROPOSED LOCAL LAW NO. “F” FOR 2019 - A LOCAL LAW OF THE COUNTY OF ALBANY, NEW YORK TO REQUIRE ALBANY COUNTY RESTAURANTS AND EATING ESTABLISHMENTS TO PROVIDE STRAWS AND PLASTIC CUTLERY ONLY UPON REQUEST

Introduced: 8/12/19
By Ms. Cunningham, Messrs. A. Joyce, Reinhardt, Touchette and Drake:

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, September 24, 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 – 8/12/19
Favorable Recommendation Law Committee – 8/26/19
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: Ms. Cunningham and Ms. Lekakis

Section 1. Findings and Purpose

The Albany County Legislature finds and determines that:

Littered plastic products, including plastic straws, stirrers 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 the initiative to minimize the unnecessary use of plastic in our environment. A reduction in the use of plastic straws, stirrers, and plastic 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 any jurisdiction covered by the Local Law [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

352
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.

(c) Nothing in this local law requires stores that offer a “self-service” station that includes straws, stirrers and plastic cutlery to additionally ask consumers if they request a straw or plastic item. “Self-service” areas, by definition offer consumers the ability to make their own choice about whether to use plastic items.

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 responsibility to engage the restaurant and food service community affected by this local law for pre-implementation discussions about how best to collaboratively work together to successfully enact this Local Law. Included in this collaborative work, the County department charged with oversight and implementation shall provide, at a minimum, consistent signage and other implementation and public education tools aimed at ensuring successful adoption of this local law. In addition, this County department shall also 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
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: Ms. Cunningham and Ms. Lekakis

Section 1. Findings and Purpose

The Albany County Legislature finds and determines that:

Littered plastic products, including plastic straws, stirrers 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 the initiative to minimize the unnecessary use of plastic in our environment. A reduction in the use of plastic straws, stirrers, and plastic 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 any jurisdiction covered by the Local Law 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.

(c) Nothing in this local law requires stores that offer a “self-service” station that includes straws, stirrers and plastic cutlery to additionally ask consumers if they request a straw or plastic item. “Self-service” areas, by definition offer consumers the ability to make their own choice about whether to use plastic items.

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 responsibility to engage the restaurant and food service community affected by this local law for pre-implementation discussions about how best to collaboratively work together to successfully enact this Local Law. Included in this collaborative work, the County department charged with oversight and implementation shall provide, at a minimum, consistent signage and other implementation and public education tools aimed at ensuring successful adoption of this local law. In addition, this County department shall also 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