AGENDA

CONSERVATION, SUSTAINABILITY AND GREEN INITIATIVES COMMITTEE

OCTOBER 29, 2019

PREVIOUS BUSINESS:

APPROVING PREVIOUS MEETING MINUTES

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

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

3. 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

4. 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

5. RESOLUTION NO. 407: PUBLIC HEARING ON PROPOSED LOCAL LAW NO. "T" FOR 2019 - A LOCAL LAW OF THE COUNTY OF ALBANY, NEW YORK TO ESTABLISH CLEAN AIR STANDARDS FOR WASTE BURNING FACILITIES
6. **LOCAL LAW NO. "T" FOR 2019: A LOCAL LAW OF THE COUNTY OF ALBANY TO ESTABLISH CLEAN AIR STANDARDS FOR WASTE BURNING FACILITIES**

**CURRENT BUSINESS:**

7. **RESOLUTION NO. 450: PUBLIC HEARING ON PROPOSED LOCAL LAW NO. "T" 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**
Honorable Andrew Joyce and Members of the Albany County Legislature:

LADIES AND GENTLEMEN:

The Conservation, Sustainability and Green Initiatives Committee of the Albany County Legislature met on September 24, 2019. Chairperson Reinhardt, Messrs. Mendick, Comisso, Fein, Ms. Plotsky, and Messrs. Frainier, Domalewicz, and Stevens were present. Mr. Ethier was excused. The following items were discussed and/or acted upon:

Approving Previous Meeting Minutes: Unanimously approved.


3. 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: Tabled at the Request of the Sponsor.


Respectfully submitted,
THE CONSERVATION AND IMPROVEMENT COMMITTEE

WILLIAM W. REINHARDT, Chairperson  GILBERT F. ETHIER
RICHARD W. MENDICK  JOHN FRAINIER
FRANK COMISSO  VICTORIA PLOTSKY
GARY DOMALEWICZ  TRAVIS STEVENS
SAMUEL I. FEIN
RESOLUTION NO. 180

PUBLIC HEARING ON PROPOSED LOCAL LAW NO. “J” FOR 2018

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

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

Referred to Law and Conservation and Improvement Committees – 4/9/18
LOCAL LAW NO. “J” FOR 2018

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

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

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

Section 1. Legislative Intent

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

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

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

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

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

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

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

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

Section 2. Definitions

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

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

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

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

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

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

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

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

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

Section 4. Health Commissioner's Enforcement Authority

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

Section 5. Penalties

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

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

Section 5. Reverse Preemption.

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

Section 6. Severability

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

Section 7. Effective Date and Applicability

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

Referred to Law and Conservation and Improvement Committees – 4/9/18
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, Mrs. 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 / 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 100-280 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.

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 taxpayers in particular communities:

- Prior to California’s statewide single-use plastic bag ban, the City of San Diego consumed 500 million single-use plastic bags each year. Approximately 95% of these ended up in landfills and cost the people of California $20 million per year to manage. A 2013 study reported that if 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 "incurs significant sums of money to control and pick up litter." In NYC alone, single-use carry-out bags account for 1,500 tons of residential garbage each week, which equals 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 reusables and 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 64% 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, as well as municipalities 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 55 countries have taken steps to reduce the consumption of single-use plastic bags. About one-third of these have instituted bans, approximately one-third have instituted fees, and the remaining one-third have taken the approaches listed below that differ from an outright ban or fee. As of March 2017, bans on the distribution of single-use plastic bags existed in nearly 100 cities, towns, and municipalities across the country, and fees existed in almost 30. Of the existing single-use bag fees, at least half are used in combination with a bag ban. In these instances, plastic bags are banned and the fees exist on other types of single-use carryout bags such as paper and compostable plastics. 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 32 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, 2019.

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 88% 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, food marts, 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 1/1000”) in thickness 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 2 mil, a thicker “mall store” plastic bag is 2.3 mil or greater. “Single-use Plastic Carryout Bag” does not include (1) a bag without handles used to carry produce, meat, dry goods or other non-prepackaged food items to the point of sale within a store or market or to prevent such food items from coming into direct contact with other purchased items; (2) a garment bag or large plastic bag with two openings that is used to transport clothing from a clothing retailer or garment cleaner such as a dry cleaner.

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

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

(h) “Reusable Bag” shall have the same meaning as set forth in Title 27, Section 27.2801 of the New York State Environmental Conservation Law.

(i) “Paper Carryout Reduction Fee” shall have the same meaning as set forth in Title 27.2805 of the New York State Environmental Conservation Law.
Sec. 1. Prohibition.

No covered store shall provide a single-use plastic carryout bag to any customer at the checkout 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.

Sec. 4(b) Imposition of Fees for Use of Paper Bags Permitted Bag.

(a) In accordance with Section 27:2805 of the New York State Environmental Conservation Law, Albaays 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 checkout 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 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 this local law, Albaay County covered stores shall charge customers a fee of $0.05 for each Paper Carryout Bag that the establishment provides to customers 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 Paper Carryout Bags, recyclable paper bags that are provided to customers and the fee at which they were charged for the use of such bag, the recyclable 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 $0.05 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 reusable 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, using the supplemental nutritional assistance program, special supplemental nutrition program for women, infants and children, or any successor programs used as full or partial payment for pre-items 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 on a quarterly basis, before the twentieth day of the month following each quarterly period.

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, $.05 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.

(b) The Albany County Comptroller, upon receipt of these funds, will provide the funds generated by the $.02 to the Albany County Department of XXX 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).

(4)

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, as
well as the per-bag charge for recyclable paper bags and reusable bags that the store may offer. Covered stores shall also indicate in signage that recyclable paper bags will be available for a charge of at least $.05 each recyclable paper bag.

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

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

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

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

(f) Covered stores shall also be encouraged to adopt “leave-a-bag” “take-a-bag” initiatives that encourage consumer engagement on the use of reusable bags and that aim to enable wide adoption in communities with a high proportion of customers with limited incomes.

(g) Covered stores shall waive the fee for any customers using Supplemental Nutrition Assistance Program (SNAP) and the federal Women Infants and Children (WIC) Program cards. Covered stores shall have discretion in waiving the recyclable bag fee for any low-income constituency it deems appropriate.

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

Section 7. Deduction from Employee Wages Prohibition

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

Section 8. Albany County Responsibilities, Enforcement and Penalties.

(a) Consumer Education Program: Upon the date of enactment, the Albany County Executive shall designate a 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 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 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 frequented by the "late adopter" populations and other outreachs. 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 carryout 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. the number of notices of violation issued pursuant to this Local Law; and

v. 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)(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 that include the important information regarding this local law referenced in Section 6, subsection 4 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) \quad \text{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 suspend the business practices of Covered Stores that persistently violate this Local Law.

\[vi\] 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 89. 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 10.9, Reverse Preemption.

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

Section 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 landfill 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 countywide 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.

### Part 1 - Project and Sponsor Information

<table>
<thead>
<tr>
<th>Name of Action or Project:</th>
<th>Local Law to Incentivize the use of reusable shopping bags and institute a fee on the use of Paper Bags in Albany County</th>
</tr>
</thead>
<tbody>
<tr>
<td>Project Location (describe, and attach a location map):</td>
<td>Albany County</td>
</tr>
<tr>
<td>Brief Description of Proposed Action:</td>
<td>Adoption of a local law known as the &quot;Albany County Reusable Shopping Bag Incentive Act&quot; 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. &quot;D&quot; for 2016).</td>
</tr>
</tbody>
</table>

### Applicant or Sponsor Information

<table>
<thead>
<tr>
<th>Name of Applicant or Sponsor:</th>
<th>Telephone: (518) 447-7188</th>
</tr>
</thead>
<tbody>
<tr>
<td>Albany County</td>
<td>E-Mail:</td>
</tr>
<tr>
<td>Address:</td>
<td></td>
</tr>
<tr>
<td>112 State St. Room 710</td>
<td></td>
</tr>
<tr>
<td>City/PO: Albany</td>
<td>State: NY</td>
</tr>
<tr>
<td>Zip Code: 12207</td>
<td></td>
</tr>
</tbody>
</table>

1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation?  
   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?  
   If Yes, list agency(s) name and permit or approval:  

3.a. Total acreage of the site of the proposed action?  
   b. Total acreage to be physically disturbed?  
   c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor?  

4. Check all land uses that occur on, adjoining and near the proposed action.  
   - Urban  
   - Rural (non-agriculture)  
   - Industrial  
   - Commercial  
   - Residential (suburban)  
   - Forest  
   - Agriculture  
   - Aquatic  
   - Other (specify):  
   - Parkland
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:  
    - 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)?  
       If Yes, briefly describe:  
       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, 2018
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: 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>
<tr>
<td>Question</td>
<td>No, or small impact may occur</td>
<td>Moderate to large impact may occur</td>
</tr>
<tr>
<td>------------------------------------------------------------------------</td>
<td>-------------------------------</td>
<td>-----------------------------------</td>
</tr>
<tr>
<td>Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems?</td>
<td>☑</td>
<td>☐</td>
</tr>
<tr>
<td>Will the proposed action create a hazard to environmental resources or human health?</td>
<td>☑</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 2016 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): □

PRINT
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
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.

(b)(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.

Referral to Law and Conservation, Sustainability and Green Initiatives Committee - 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.

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“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.
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(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
RESOLUTION NO. 407

PUBLIC HEARING ON PROPOSED LOCAL LAW NO. “T” FOR 2019 - A LOCAL LAW OF THE COUNTY OF ALBANY, NEW YORK TO ESTABLISH CLEAN AIR STANDARDS FOR WASTE BURNING FACILITIES

Introduced: 9/9/19
By Messrs. Touchette and Bullock:

RESOLVED, By the County Legislature of the County of Albany that a public hearing on proposed Local Law No. “T” for 2019, “A Local Law of the County of Albany, New York to Establish Clean Air Standards for Waste Burning Facilities” 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, October 29, 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 – 9/9/19
LOCAL LAW NO. “T” FOR 2019

A LOCAL LAW OF THE COUNTY OF ALBANY TO ESTABLISH CLEAN AIR STANDARDS FOR WASTE BURNING FACILITIES

Introduced: 9/9/19
By Messrs. Touchette and Bullock

Section 1: TITLE

This Local Law (Chapter) shall be known as the “Albany County Clean Air Law.”

Section 2: STATUTORY AUTHORIZATION

This Local Law (Chapter) is hereby adopted pursuant to the provisions of the New York State Municipal Home Rule Law, the Clean Air Act (42 U.S.C. § 7416), the Resource Conservation and Recovery Act (42 U.S.C. § 6929), New York State Air Pollution Control Act (Environmental Conservation Law §§ 19-0703 and 19-0709), and New York State Environmental Conservation Law § 27-0711.

Section 3: INTENT

It is the intent of this Local Law (Chapter) to promote and protect the public health and welfare of the residents of the County of Albany by regulating burning or related processing of wastes, and prohibiting the same on a large scale.

Section 4: DEFINITIONS

As used in this Local Law (Chapter), the following terms shall have the meanings indicated:

COMMERCIALY AVAILABLE

A system that is currently offered for purchase by equipment vendors for the proposed application, and for which service contracts can be obtained for a fee. The determination of commercial availability does not include an analysis of the costs of the system.

CONTINUOUS EMISSIONS MONITORING SYSTEM (OR “CEMS”)

A pollution monitoring system capable of sampling, conditioning, analyzing, and providing a record of emissions at frequent intervals and meets U.S. Environmental Protection Agency or Department data acquisition and availability requirements. The sampling frequency capability sufficient to qualify a system as a CEMS for the
purposes of this law shall at a minimum deliver a monitoring sample (i) once per minute or (ii) any lesser frequency of interval that still provides sufficient data for a direct determination of compliance with all applicable emission limitations imposed by the Department for the Facility, but in no case may the frequency of interval for monitoring samples be less than once per hour. In the case of dioxins and furans, long-term sampling equipment may be used if real-time monitors are not Commercially Available, such that year-round monitoring is still achieved through back-to-back use of long-term monthly samples.

TEQDF-WHO\textsuperscript{88}

A unit of measurement for dioxins and furans, standardized to toxic equivalents, calculated in accordance with the World Health Organization's 1998 method.

WASTE

Any of the following, or combination of the following: sewage (including, but not limited to, methane or other emissions from animal or human sewage, and including the water carrying human or animal wastes from residences, buildings, industrial establishments or other places, together with such ground water infiltration and surface water as may be present); solid or liquid waste, including but not limited to, all putrescible and non-putrescible materials or substances that are discarded, discharged, deposited, injected, dumped, burned, spilled, leaked, or placed into or on any land or water, or otherwise disposed of, or rejected as being spent, useless, worthless, or in excess to the owners at the time of such discard or rejection; garbage; trash; rubbish; refuse; industrial, commercial and household waste; plastics; any material that has been source separated for recycling or composting purposes; ash (including, but not limited to, bottom ash, boiler ash, fly ash, incinerator ash); ash and sludge from air or water treatment facilities; sewage sludges; biosolids; “biomass” as defined in Appendix B of New York State Public Service Commission's 9/24/2004 Order Approving Retail Renewable Portfolio Standard (Case 03-E-0188); coal refuse; waste coal; contained gaseous material; incinerator residue; offal; construction and demolition debris; disaster debris; industrial waste, hazardous waste as defined by N.Y. Environmental Conservation Law § 27-0901(3); “Waste” as defined by N.Y. Environmental Conservation Law § 27-0901(11); low-level radioactive waste as defined by N.Y. Environmental Conservation Law § 29-1010(1); source, special nuclear or by-product material as defined by the Atomic Energy Act of 1954, as amended (68 Stat. 923); high-level radioactive waste; transuranic waste; regulated medical waste as defined by N.Y. Environmental Conservation Law § 27-1501(1); “Solid Waste” as defined in the Resource Conservation and Recovery Act of 1976 ("RCRA") §1004(27), 42 U.S.C. §6904(27); “solid waste” as defined in 6 NYCRR Part 360.2; “solid waste” as defined in NY ECL §27-0701(1); automobile shredder residue; discarded automobiles; waste tires as defined by N.Y. Environmental Conservation Law § 27-1901(13); pharmaceutical wastes or expired
pharmaceuticals; contaminated soil; electronic wastes; processed engineered fuel, refuse-derived fuel, any material determined by the U.S. Environmental Protection Agency or state agency to be a non-hazardous secondary material; the solid residue of any air or water pollution control device; and liquid or solid waste generated by stores, offices, warehouses, institutions, and restaurants. Any material that falls under this definition shall not be considered fuel. Landfill gas and gas produced from anaerobic digestion shall not constitute “waste” under this definition.

NEW WASTE DISPOSAL FACILITY

Any facility which – starting on or after January 1, 2019 – disposes of Waste or uses Waste to produce energy (heat, electricity, or a burnable fuel) by combusting Waste (or gases produced on-site from the burning, gasification or pyrolysis of such Waste), or which produces a solid, liquid and/or gaseous fuel product through conversion of Waste, and is capable of processing at least five tons of Waste per day. A New Waste Disposal Facility does not include systems used exclusively for on-site space heating purposes at a residential home. Anaerobic digesters burning digester gas are not New Waste Disposal Facilities.

Section 5: PROHIBITION

It is hereby prohibited for a New Waste Disposal Facility to process more than 25 tons of Waste in any 24 hour period.

Section 6: MONITORING AND DISCLOSURE

A. A New Waste Disposal Facility with any air emissions point source shall not process more than one ton of Waste in any 24 hour period without complying with the monitoring requirements in this section.

B. Continuous Emissions Monitoring Systems (“CEMS”) equipment shall be used to monitor, measure and disclose the smokestack emission of the following pollutants:

   a. Dioxins / Furans
   b. Carbon Dioxide (CO2)
   c. Carbon Monoxide (CO)
   d. Hydrochloric Acid (HCl)
   e. Hydrofluoric Acid (HF)
   f. Nitrogen Oxides (NOx)
   g. Sulfur Oxides (SOx)
   h. Particulate Matter (PM)
   i. Volatile Organic Compounds (VOCs)
   j. Polycyclic Aromatic Hydrocarbons (PAHs)
k. Arsenic
l. Cadmium
m. Chromium (VI)
n. Lead
o. Manganese
p. Mercury
q. Nickel
r. Selenium
s. Zinc

C. A New Waste Disposal Facility shall disclose all data provided by CEMS required under this section in real-time on a public website. Data shall also be provided in summary form, including total amounts of releases of each chemical in pounds per day and per year. All displays of data shall be accompanied by any local, state, and federal emissions limits that apply. Data shall be archived and maintained such that the history of data is available for download in a commonly available spreadsheet format. Data shall be maintained until six months after the New Waste Disposal Facility closes or changes their activities such that they no longer qualify as a New Waste Disposal Facility.

Section 7: CLEAN AIR STANDARDS

A. A New Waste Disposal Facility with any air emissions point source shall not process more than one ton of Waste in any 24 hour period without complying with the clean air standards in this section.

B. New Waste Disposal Facilities must meet the following pollution limits where they are more stringent than corresponding limits in an air permit issued by a state or federal environmental agency:

Mercury: 15 micrograms per dry standard cubic meter (µg/dscm) corrected at 7% O₂

Sulfur Dioxide (SO₂): 18 parts per million dry volume (ppmvd) corrected at 7% O₂ (24 hour geometric mean)

Dioxins/Furans (PCDD/F): 2.6 nanograms TEQDF-WHO88 per dry standard cubic meter (ng/dscm) corrected at 7% O₂

Nitrogen Oxides (NOₓ): 45 parts per million dry volume (ppmvd) corrected at 7% O₂ (24 hour block arithmetic mean)
40 parts per million dry volume (ppmvd) corrected at 7% O₂ (12 month rolling average)
Section 8: LOCAL ENFORCEMENT OF STATE / FEDERAL AIR PERMITS

For any New Waste Disposal Facility regulated by this law, the County hereby adopts and incorporates by reference herein the standards, limits, and requirements for the emission of air contaminants for such facilities, and standards of performance for stationary sources that would apply to such facilities, as promulgated by the U.S. Environmental Protection Agency pursuant to the Clean Air Act, the State of New York pursuant to New York's air pollution laws, or any other relevant statutes or consent orders. It is expressly the intent of the County in adopting these standards, limits, requirements, and standards of performance, to make them independently enforceable by the County of Albany, using any data made available from any Continuous Emissions Monitoring Systems required under Section 6.

Section 9: RESIDUE MANAGEMENT

A New Waste Disposal Facility with any air emissions point source shall not process more than one ton of Waste in any 24 hour period without complying with the residue management requirements in this section.

Solid waste residue resulting from a combustion or gasification process at a New Waste Disposal Facility, such as fly ash, bottom ash, combined ash, cement kiln dust, and gasification slag, shall be disposed of as hazardous waste in a licensed hazardous waste landfill.

Section 10: PENALTIES FOR OFFENSES

A. Failure to comply with any of the provisions of this Local Law shall be a violation as contemplated by Article 10 of the New York State Penal Law, and, upon conviction thereof, shall be punishable by a fine of up to $2,000 or imprisonment for not more than 10 days, or both, for the first offense. A second offense shall be punishable by a fine up to $5,000 or imprisonment for a period of not more than 30 days, or both. All subsequent offenses shall be punishable of a fine up to $10,000 or imprisonment for a period of not more than 50 days, or both. For purposes of this subsection, failure to monitor, disclose, or meet an emissions limit are all separate and distinct offenses, per pollutant, and for each day that noncompliance with this Local Law exists.

B. The Attorney for the County may also maintain an action or proceeding in a court of competent jurisdiction to prevent, restrain, enjoin, correct, enforce, and/or abate any violations of, or non-conformance with, any provision or requirement of this Local Law (Chapter). If equitable relief is requested in the form of a temporary restraining order, a temporary injunction, an injunction, or by any other form of prohibition or similar relief, the County shall not be
required to post any bond or undertaking as a condition or requirement for or of such relief, and the County shall not be required to prove or show a lack of an adequate remedy at law. No right, remedy, or penalty specified in this Section 10 shall be the exclusive remedy of the County, and each remedy or penalty specified in this Section 10 shall be in addition to, and not in substitution for or in limitation of, any other remedies or penalties specified in this Local Law or permitted by any applicable law, rule, order, or regulation. Any remedy or penalty specified in this Local Law may be pursued by the County at any time, whether prior to, simultaneously with, or after the pursuit of any other remedy or penalty specified in this Section 10.

C. In addition, any enforcement officer may issue stop work orders or compliance notices relative to any violation of this Local Law. The failure of any person to comply with any such notice or order shall be and be deemed a violation of any other applicable law or ordinance, including, without limitation, the New York Executive Law, § 382, and, in each case, such non-compliance or violation may also be enforced as such.

D. In the event the County desires or is required to take legal action to enforce this Local Law the violator will be responsible for any and all necessary costs and expenses incurred by the County relative thereto, including attorneys', engineering, consulting, and experts' fees; provided, however, any responsibility or liability therefor, and the amount thereof, shall be determined by a court or other tribunal of competent jurisdiction, and this clause shall be interpreted, construed, and applied only to the maximum extent permitted by applicable law.

Section 11: ENFORCEMENT AND ADMINISTRATION

Enforcement of this Local Law (Chapter) shall be the responsibility of the Code Enforcement Office and/or Assistants duly authorized by the County of Albany.

Section 12: COMMUNITY ENFORCEMENT

Any County resident or taxpayer shall have the standing and authority to bring a civil action in state court to compel compliance with this law's provisions and/or to seek civil penalties for a violation of a provision of this law or any order issued pursuant to this law. A civil action under this section may not be commenced prior to thirty (30) days after the plaintiff had given notice in writing of the noncompliance to the County and to the owner or operator of the New Waste Disposal Facility. The court, in issuing any final order in any action brought pursuant to this section, may award costs of litigation (including reasonable attorney and expert witness fees) to any party, whenever the court determines such award is appropriate.
Section 13: SEVERABILITY

If any provisions of this Local Law (Chapter) are held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, the remaining provisions of this Local Law (Chapter) shall remain in effect.

Section 14: CONFLICTS OF LAW

Whenever any Local Law, Chapter, Ordinance or Regulation of the County of Albany, State of New York, or United States of America is inconsistent with this Local Law (Chapter), whichever Local Law, Chapter, Ordinance or Regulation is more stringent shall supersede the less stringent Local Law, Chapter, Ordinance or Regulation.

Section 15: EFFECTIVE DATE

This Local Law shall take effect immediately.

Referred to Law and Conservation, Sustainability and Green Initiatives Committees – 9/9/19
RESOLUTION NO. 450

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: 10/15/19
By Mss. Cunningham and McLean Lane:

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, November 19, 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 – 10/15/19