AGENDA

CONSERVATION, SUSTAINABILITY AND GREEN INITIATIVES COMMITTEE

DECEMBER 2, 2019

CURRENT BUSINESS

1. **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

2. **LOCAL LAW NO. "T" FOR 2019**: A LOCAL LAW OF THE COUNTY OF ALBANY TO ESTABLISH CLEAN AIR STANDARDS FOR WASTE BURNING FACILITIES
LOCAL LAW NO. “F" FOR 2019

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

Introduced: 5/13/19
By: Mss. Cunningham, Lekakis, McLean Lane, Plotisky and Messrs. Reinhardt Feeney, A. Joyce, Miller, Fein and Peter:

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

Littered plastic products, including 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 initiative to minimize the unnecessary use of plastic in our environment. A reduction in the use of plastic straws, stirrers, and cutlery will further serve Albany County’s goal of reducing plastic litter.

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

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

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

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

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

Section 3. Plastic Straws and Cutlery Upon Request

(a) All Albany County restaurants, including fast food restaurants drive-through windows of restaurants, beverage providers, or vendors shall only offer plastic cutlery and straws, upon request. Nothing in this local law shall preclude a drive-through restaurant employee or employee of any restaurant from asking its customers if they need utensils or straws.

(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. Distribution of Plastic Straws Prohibited

(a) Upon 6 months from the date of enactment, no establishment within the County shall offer to consumers any single-use straw or beverage stirrer made of plastic.

(b) Exceptions: this prohibition shall not apply to:
   a. Pre-packaged drinks sold at commercial establishments;
   b. Use by medical or dental facilities;
   c. Use by individuals with a disability or other impairment requiring use of plastic straws.

Section 5. Designated County Department for Compliance and Enforcement

The County Executive shall designate the County Health Department as the designated department to 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. Any rules and regulations so promulgated shall be made available on the County of Albany website in a manner approved by the Health Commissioner. The County Health Department 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*

*Favorable Recommendation Law Committee 11/25/19*
LOCAL LAW NO. “I’’ 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, Bullock, Miller and McLean Lane:

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.

**TEQ\textsubscript{DF-WHO\textsubscript{98}}**

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 and/or sewage sludge incinerators burning digester gas, including those located at the Albany County Water Purification District, are not intended to be included in the definition of New Waste Disposal Facility.

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 TEQ₉₅-WHO₉₈ 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
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 a misdemeanor as contemplated by Article 10 of the New York State Penal Law, and, upon conviction thereof, 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 Health Department and/or designees [Code Enforcement Office and/or Assistants] duly authorized by the County of Albany to act on its behalf.

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
Without Recommendation Law Committee – 11/25/19