

LOCAL LAW NO. "1" 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, Plotsky, Messrs. Reinhardt, Feeney, A. Joyce, Miller, Fein, Peter and Simpson:

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

Favorable Recommendation Conservation, Sustainability and Green Initiatives Committees - 12/16/19

Ms. Cunningham proposed the following amendment:

In Section 4(a), Delete "6" and insert "9" in its place.

Amendment was unanimously adopted.

Mr. Drake proposed the following amendment:

Delete Section 4 in its entirety. Sections 5, 6 and 7 shall be renumbered accordingly.

On long roll call vote the following members voted in favor of the amendment:

Messrs. Burgdorf, Crouse Drake, Hogan, Ms. Lockart, Messrs. Mauriello, Mendick, Smith and Stevens - 9

Those opposed: Messrs. Beston, Bullock, Cahill, Ms. Chapman, Messrs. Clay, Commisso, Ms. Cunningham, Messrs. Domalewicz, Ethier, Feeney, Fein, Frainier, Grimm, A. Joyce, R. Joyce, Ms. Lekakis, Mr. Mayo, Ms. McLean Lane, Messrs. Miller, O'Brien, Peter, Ms. Plotsky, Messrs. Reinhardt, Simpson, Touchette, Ward and Ms. Willingham - 27

Amendment was defeated.

State of New York
County of Albany

This is to certify that I, the undersigned, Clerk of the Albany County Legislature, have compared the foregoing copy of the resolution and/or local law with the original resolution and/or local law now on file in the office, and which was passed by the Legislature of said County on the 16th day of December 2019, a majority of all members elected to the Legislature voting in favor thereof, and that the same is a correct and true transcript of such original resolution and/or local law and the whole thereof.



IN WITNESS THEREOF, I have hereunto set my hand and the official seal of the County Legislature this 18th day of December, 2019.

A handwritten signature in black ink, appearing to read "Paul J. Deane".

Clerk, Albany County Legislature