

## RESOLUTION NO. 524

### Reaffirming the Terms of Local Law “L” for 2018

Introduced: 11/13/18

By: Burgdorf

WHEREAS, The Albany County Legislature enacted Local Law No. “L” for 2018 entitled “A Local Law of the County of Albany, New York Regulating the Use of Polystyrene Foam Disposable Food Service Ware and Requiring the Use of Compostable or Recyclable Food Service Ware by Food Service Establishments in Albany County by Amending Local Law No. 4 for 2013”, and

WHEREAS, Said legislation was signed by the County Executive, filed with the Office of the Secretary of State, and has thereby been enacted and will take effect six months subsequent to filing in the Office of Secretary of State, and

WHEREAS, The Legislature was concerned with the potential negative impacts of the aforementioned legislation, including impacts on not-for-profit entities, and therefore included Section 6 entitled “Waiver” in the legislation which authorized the Albany County Department of Health to grant a waiver from the application of specific provisions of the legislation if there is undue financial hardship or other factors which would render compliance unreasonable, and

WHEREAS, The Commissioner of Health has stated that the regulatory structure and the waiver - which “shall not be unreasonably denied” - has not yet been drafted and approved, and

WHEREAS, Albany County Legislators specifically identified the financial impact on not-for-profit entities who service senior citizens and other frail communities in the County by providing them congregate meals and home delivered meals as likely applicants for Section 6 waivers, and

WHEREAS, The Legislature never intended to reduce the nutritional food volume and value of congregate and home delivered meal programs in order to make up for increases in pricing for temperature retaining packaging costs, and

WHEREAS, The County of Albany has contracts with various not-for-profit entities to provide congregate and home delivered meals to senior citizens and others who may qualify, and

WHEREAS, Many of the aforementioned, as well as additional county associated entities use polystyrene products, especially in the delivery of hot and cold items to citizens, and

WHEREAS, Based upon the information received, the contracts for these services do not permit the not-for-profit entities to increase their contract price if their costs rise, and

WHEREAS, The aforesaid contracts, upon information and belief, do not permit unilateral modifications by either side, including the County of Albany, and

WHEREAS, The County Executive has issued a press release indicating he has signed an executive order that mandates all county agencies and vendors immediately end the use of polystyrene for food, now, therefore be it

RESOLVED, That the Albany County Legislature reaffirms the terms of Local Law “L” for 2018, including Section 6 permitting the Department of Health to issue waivers in certain circumstances, which includes congregate and home delivered meal providers or any County vendor, and, be it further

RESOLVED, That Albany County must have a hardship waiver process in place prior to the effective date of Local Law “L” of 2018, as not having the waiver process in place would deny vendors and businesses who are required to comply with the law their right to appeal to the Albany County Department of Health for a waiver to such law’s provisions, and, be it further

RESOLVED, That the Albany County Legislature hereby indicates to any outside vendor which may experience increased costs because of the elimination of polystyrene containers that the Legislature affirms its support to amend existing contracts, upon proof of such increased costs, and requests that any outside vendor so situated contact the County Attorney to re-negotiate their contract as the County Legislature does not wish Local Law “L” of 2018 to adversely impact its delivery of important constituent programs, and, be it further

RESOLVED, That not-for-profit vendors of the County asserting such increased costs to comply with pre-existing contracts shall be granted an immediate, temporary, automatic waiver from the provisions of Local Law “L” while they negotiate with the County Attorney for additional compensation for compliance with the law.

RESOLVED, That the Clerk of the County Legislature is directed to forward certified copies of this resolution to the appropriate County Officials.

*Referred to Law and Health Committees – 11/13/18*