

Proposed Local Law Number 20 Of 2018

County Of Ulster

A Local Law Requiring Restaurants And Fast Food Service Establishments Provide Plastic Beverage Straws Solely Upon Request

BE IT ENACTED, by the County Legislature of the County of Ulster, New York, as follows:

SECTION 1. LEGISLATIVE INTENT AND FINDINGS.

The County of Ulster is dedicated to conserving resources and reducing greenhouse gas (GHG) emissions, waste, litter, and pollution. The Ulster County Legislature has actively been considering and implementing laws aimed at protecting our environment. In 2015, Ulster County began regulating the use of polystyrene foam disposable food service ware by food service establishments in the County. Regulating the use of plastic carryout bags is another measure aimed at reducing the amount of plastic that can end up in our environment through litter, windblown debris, and over-flowing trash cans.

Over 500,000,000 plastic straws are used each day in the United States. This equates to 175 billion straws per year filtering into landfills and littering our waterways and oceans. Less consumption equals less waste. The Ulster County Legislature desires to increase awareness in our community of the simple decisions we can all make to reduce waste.

The Ulster County Legislature recognizes that making straws available upon request will drastically reduce the plastic put into our environment, helping to preserve our community. Allowing customers to make a choice regarding whether or not they want a straw for their beverage empowers each patron to choose to help eliminate plastic pollution, and is a small step towards the elimination single use plastic.

SECTION 2. DEFINITIONS.

As used in this local law, the following terms shall have the meanings indicated:

"Beverage Straw" shall mean a tube for transferring a beverage from its container to the mouth of the drinker.

"Dine-In Customer" shall mean a customer that orders and consumes Prepared Food on a Restaurant's premises.

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"Fast Food Service Establishment" shall mean food service establishments located within the County of Ulster that serve food and/or beverages (1) via a drive-through; (2) in a packaged form for take-out/take-away; or (3) from stands or kiosks which provide no shelter for customers.

"Prepared Food" shall mean food or beverage prepared for consumption on the Restaurant's premises, using any cooking or food preparation technique.

"Restaurant" shall mean any vendor located or providing food within the County of Ulster which provides Prepared Food for public consumption on its premises.

"Single-Use" shall mean a product that is designed to be only used one time in its same form by the customer, food vendor or other entity.

"Take-Out Food Orders" shall mean prepared meals or other food or beverage items that a customer purchases at a Restaurant and intends to eat elsewhere.

SECTION 3. REGULATION OF SINGLE-USE BEVERAGE STRAWS.

A. Restaurants and Fast Food Service Establishments shall ask each Dine-In Customer if the customer wants a Single-Use Beverage Straw before providing a Single-Use Beverage Straw to the customer.

B. Restaurants and Fast Food Service Establishments shall ask each customer purchasing a Take-Out Food Order if the customer wants a Single-Use Beverage Straw before providing a Single-Use Beverage Straw to the customer.

SECTION 4. NOTIFICATION REQUIREMENT.

A. Each Restaurant and Fast Food Service Establishment shall post a sign in a location easily visible to each customer which shall state: "SINGLE-USE BEVERAGE STRAW AVAILABLE UPON REQUEST."

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B. Signs shall be protected from tampering, damage, removal, or concealment.

SECTION 5. PENALTIES.

Violations of this local law shall be enforced as follows:

A. For the first violation, the Commissioner of Health, or designee, upon determination that a violation of this local law has occurred, shall issue a written warning notice to the Fast Food Service Establishment or Restaurant which will specify the violation and the appropriate penalties in the event of future violations.

B. Thereafter, the following penalties shall apply:

1. First Offense. Any Fast Food Service Establishment or Restaurant guilty of a first offense shall be guilty of a violation and shall be fined an amount not to exceed twenty five (\$25) dollars.

2. Second Offense. Any Fast Food Service Establishment or Restaurant guilty of a second offense shall be guilty of a violation and shall be fined an amount not to exceed fifty (\$50) dollars.

3. Third and Subsequent Offense. Any Fast Food Service Establishment or Restaurant guilty of a third or subsequent offense shall be guilty of a violation and shall be fined an amount not to exceed one hundred (\$100) dollars for each offense.

For the purpose of this section, each physical location or establishment shall be treated individually, and offenses and fines for separate locations shall be considered individually.

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SECTION 6. 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 Ulster. The County Legislature may determine via mere resolution whether or not identical or substantially similar federal or statewide legislation, or pertinent preempting state or federal regulations have been enacted for the purposes of triggering the provisions of this section.

SECTION 7. 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 8. EFFECTIVE DATE.

This local law shall be effective three (3) months subsequent to filing in the Office of the Secretary of State.