

**RESOLUTION NO. 276-2019, ADOPTING LOCAL LAW NO. 20 -2019, A LOCAL LAW TO REQUIRE SINGLE-USE BEVERAGE STRAWS AND STIRRERS BE DISTRIBUTED IN SUFFOLK COUNTY "BY REQUEST" ONLY**

**WHEREAS**, there was duly presented and introduced to this County Legislature at a meeting held on February 13, 2019, a proposed local law entitled, "**A LOCAL LAW TO REQUIRE SINGLE-USE BEVERAGE STRAWS AND STIRRERS BE DISTRIBUTED IN SUFFOLK COUNTY "BY REQUEST" ONLY**"; now, therefore be it

**RESOLVED**, that said local law be enacted in form as follows:

**LOCAL LAW NO. 20 -2019, SUFFOLK COUNTY, NEW YORK**

**A LOCAL LAW TO REQUIRE SINGLE-USE BEVERAGE STRAWS AND STIRRERS BE DISTRIBUTED IN SUFFOLK COUNTY "BY REQUEST" ONLY**

**BE IT ENACTED BY THE COUNTY LEGISLATURE OF THE COUNTY OF SUFFOLK**, as follows:

**Section 1. Legislative Intent.**

This Legislature hereby finds and determines that the County of Suffolk is a national leader in environmental protection, as it strives to protect the natural resources and beauty of Long Island.

This Legislature also finds and determines that the County has enacted a wide variety of environmental protection laws, from the establishment of a 1/4 % sales tax to fund the preservation of environmentally sensitive parcels to recent pieces of legislation which impose a fee on single use plastic bags and establish a task force to reduce the consumption of single use plastics locally.

This Legislature further finds and determines that plastic straws are ubiquitous, often served automatically when a drink is ordered at a restaurant. Americans collectively use 500 million plastic straws per day, despite the fact that most people do not need a straw to drink their beverage. This is enough straws to wrap around the earth's circumference 2.5 times every day.

This Legislature finds that straws contribute to plastic pollution that litters the ground and clogs oceans, rivers and waterways.

This Legislature also finds that while many plastics are recyclable, plastic straws are so lightweight that they are not captured by mechanical sorters. As a result, straws are frequently found as pollution debris in the environment and are one of the top 10 items found on beaches.

This Legislature further finds that straws are frequently ingested by marine life, including sea birds and turtles. This can cause significant adverse effects for the animals involved, including death.

This Legislature also determines that a number of alternatives to plastic straws exist – from disposable single-use paper straws to reusable straws made of metal, glass, silicone or bamboo.

This Legislature finds that the Suffolk County Single Use Plastics Reduction Task Force has recommended requiring the provision of beverage stirrers and straws to consumers upon request only as a means to reduce plastics consumption.

This Legislature further determines that the Village of East Hampton and the State of California implemented law requiring the provision of straws to consumers upon request only with great success.

Therefore, the purpose of this law is to require that straws and beverage stirrers be provided to consumers upon request only in Suffolk County.

## **Section 2. Definitions.**

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

**BACKYARD COMPOSTABLE** – a product that can be placed into a composition of decaying biodegradable materials, and eventually turns into a nutrient-rich material.

**BEVERAGE STRAW** – a tube used for transferring a beverage from its container to the mouth of a consumer.

**BEVERAGE STIRRER** – a device used by a consumer that is designed solely for the purpose of mixing liquids intended for human consumption.

**BIODEGRADABLE** – the ability of a material to break down, within one year, into natural materials in the natural environment without causing harm.

**COVERED STORE** – shall mean an establishment engaged in the retail sale of personal, consumer items including but not limited to grocery stores, supermarkets, convenience stores, foodmarts, and food service establishments located within grocery stores, supermarkets, convenience stores or foodmarts, that provide drinks to customers. This term does not include food service establishments located outside of grocery stores, supermarkets, convenience stores or foodmarts. Covered stores may sell packages of plastic straws in the retail portion of their establishment.

**DISABILITY** – a physical, intellectual or sensory impairment that substantially limits one or more major life activities.

**DRIVE-THRU** – a service window at a food service establishment that consumers may utilize to obtain food and beverages without leaving their vehicle.

**FOOD SERVICE ESTABLISHMENT** - As defined in Article 13, § 760-1300(3)(X), of the Suffolk County Sanitary Code.

MEDICAL CONDITION – any illness, disease, disorder or injury that requires medical treatment.

PLASTIC - a synthetic material made from organic polymers, including, but not limited to, polypropylene and polystyrene, that can be molded into shape while soft, and then set into a rigid or slightly elastic form.

PREPACKAGED INDIVIDUAL SERVING BEVERAGES – pouches or boxes filled with milk, juice or similar drink items which are packaged in single serving containers.

SELF-SERVICE BEVERAGE STATION – a location within a food service establishment or covered store where consumers may obtain an unsealed beverage independent of a paid service worker or employee of the establishment.

SINGLE USE – a product that is designed and intended to be used only once and is generally recognized by the public as an item that is to be discarded after one use.

### **Section 3. Restrictions.**

- A. Food service establishments shall only provide single use beverage straws or beverage stirrers upon request by a consumer. This restriction shall not apply to pre-packaged individual serving beverages where a small plastic straw is included in the packaging. Beverages purchased at a drive-thru window or at self-service beverage station shall be exempt from this provision.
- B. Food service establishments shall not provide single use straws that are individually wrapped in plastic. This restriction shall not apply to prepackaged individual serving beverages where a small plastic straw is included in the packaging.
- C. Straws and beverage stirrers provided by food service establishments upon request by a consumer or at a drive-thru window or self-service beverage station shall be biodegradable and/or backyard compostable. A consumer with a disability or medical condition may be provided with a plastic or other non-biodegradable straw or stirrer if the consumer so requests.

### **Section 4. Enforcement.**

- A. This law shall be enforced by the Department of Health Services.
- B. Enforcement shall be done upon inspection by the Department of Health Services, where applicable, or upon complaint.

### **Section 5. Penalties.**

- A. Any food service establishment which violates this law shall be subject to a civil penalty, with an initial violation subject to a fine of \$100. Any second violation which occurs on a different calendar day within 12 months of an initial violation shall be subject to a fine of \$200. Any third or subsequent violations within 12 months of a prior violation shall be subject to a fine of \$400 per violation. Each day a violation occurs shall constitute a separate and distinct offense.

- B. No penalty shall be imposed by the Department until the alleged violator is given notice and an opportunity to be heard by the Commissioner or his or her designee.

**Section 6. Rules and Regulations.**

The Commissioner of the Department of Health Services is hereby authorized and empowered to promulgate rules and regulations necessary to enforce this law.

**Section 7. Applicability.**

This law shall apply to all actions occurring on or after the effective date of this law.

**Section 8. Effects on other Laws, Regulations.**

This law will not prohibit or supersede any town or village within the County of Suffolk from enacting any ordinance, resolution or local law which bans or otherwise limits the distribution of single-use plastic straws.

**Section 9. Severability.**

If any clause, sentence, paragraph, subdivision, section, or part of this 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 judgment 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 judgment shall be rendered.

**Section 10. Reverse Preemption.**

This law shall be null and void on the day that Statewide or federal 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 Suffolk. The County Legislature may determine via mere resolution whether or not identical or substantially similar statewide legislation has been enacted for the purposes of triggering the provisions of this section.

**Section 11. SEQRA Determination.**

This Legislature, being the State Environmental Quality Review Act (SEQRA) lead agency, hereby finds and determines that this law constitutes a Type II action pursuant to Section 617.5(c)(26) of Title 6 of the NEW YORK CODE OF RULES AND REGULATIONS (6 NYCRR) and within the meaning of Section 8-0109(2) of the NEW YORK ENVIRONMENTAL CONSERVATION LAW as routine or continuing administration and management not including new programs or major reordering of priorities that may affect the environment. The Suffolk County Council on Environmental Quality (CEQ) is hereby directed to circulate any appropriate

SEQRA notices of determination of non-applicability or non-significance in accordance with this law.

**Section 12. Effective Date.**

This law shall take effect on January 1, 2020.

DATED: April 9, 2019

APPROVED BY:

/s/ Steven Bellone  
County Executive of Suffolk County

Date: April 26, 2019

After a public hearing duly held on April 25, 2019  
Filed with the Secretary of State on May 9, 2019