

**RESOLUTION NO. 811 -2015, ADOPTING LOCAL LAW
NO. 32 -2015, A LOCAL LAW TO PROHIBIT THE SALE OF
PERSONAL CARE PRODUCTS CONTAINING MICROBEADS**

WHEREAS, there was duly presented and introduced to this County Legislature at a meeting held on July 28, 2015, a proposed local law entitled, "**A LOCAL LAW TO PROHIBIT THE SALE OF PERSONAL CARE PRODUCTS CONTAINING MICROBEADS;**" now, therefore be it

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

LOCAL LAW NO. 32 -2015, SUFFOLK COUNTY, NEW YORK

**A LOCAL LAW TO PROHIBIT THE SALE OF PERSONAL CARE
PRODUCTS CONTAINING MICROBEADS**

**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 leader in preserving the environment and clean water for the health, safety and enjoyment of its residents and visitors.

This Legislature also finds and determines that over the past ten (10) years, manufacturers of a variety of personal care products added small plastic beads, commonly known as microbeads, to their products.

This Legislature further finds and determines that microbeads are made of materials including, but not limited to: polyethylene, polypropylene plastic, polyethylene terephthalate, or nylon or poly (methyl) methacrylate.

This Legislature finds that microbeads can be found in facial scrubs, body wash, toothpaste, soaps and shampoos.

This Legislature determines that microbeads are very small, with many measuring less than 1 millimeter.

This Legislature also finds that microbeads enter the waste water system when a product is used and washed off the body. Due to their small size, microbeads are not filtered out by wastewater treatment systems.

This Legislature further finds that microbeads can become coated with toxic chemicals like PCBs, DDT, flame retardants and other industrial chemicals.

This Legislature also determines that the microbeads are similar in size to the food sources for a number of fish, leading fish to ingest them and the toxins that cling to the microbeads, contaminating the food chain.

This Legislature further determines that microbead pollution has been found in the Great Lakes, the Hudson and Mohawk Rivers, the Erie Canal, as well as the Los Angeles River and the Pacific Ocean.

This Legislature finds that Suffolk County would be directly impacted by the health hazards associated with contaminated seafood, should local waterways be polluted with microbeads.

This Legislature also finds that microbeads can be easily replaced in personal care products by natural exfoliates such as pumice, oatmeal, apricot and ground walnut husks.

This Legislature further determines that the sale of personal care products containing microbeads has been banned in the State of Illinois.

This Legislature also finds that Suffolk County should bar products containing microbeads to protect the Atlantic Ocean, Long Island Sound, and the many surface waters within the County.

Therefore, the purpose of this law is to ban the sale of personal care products containing microbeads in Suffolk County.

Section 2. Definitions.

In this law, the following terms shall have the meaning indicated:

“BIOPOLYMER” shall mean an alternative to a synthetic polymer that is derived from a living organism.

“MICROBEADS” shall mean intentionally added plastic particles used to exfoliate or cleanse in a rinse off personal care product that are made of synthetic polymers or biopolymers, are either entirely solid or hollow, and measure less than 5 millimeters in diameter.

“PLASTIC” shall mean any synthetic material made from linking monomers through a chemical reaction to create an organic polymer chain that can be molded or extruded at high heat into various solid forms, retaining their defined shapes during the material’s life cycle and after disposal.

“PERSON” shall mean any natural person, individual, corporation, unincorporated association, proprietorship, firm, partnership, joint venture, joint stock association or any other entity or business organization of any kind.

“PERSONAL CARE PRODUCT” shall mean any consumer product manufactured for use in personal hygiene and beautification. Personal care products shall include, but not be limited to, the following: antibacterial soaps; hand soaps; bar soaps; liquid soaps; facial and body washes; facial and body cleansers; facial masks; exfoliating products; face, foot and body scrubs; body, skin and foot polishes; body, skin and foot buffers; body, skin and foot foams; micro technology items; acne treatment products; shampoos; conditioners; toothpaste; shaving creams or gels;

and foot care products. This term shall not apply to any product for which a prescription is required for distribution or dispensation as provided in NYS PUBLIC HEALTH LAW § 281 or NYS EDUCATION LAW § 6810.

Section 3. Prohibitions.

Effective January 1, 2018, no person shall sell or offer for sale any personal care product which contains microbeads within the County of Suffolk, except that this prohibition shall not apply to any personal care product that is regulated by the United States Food and Drug Administration until December 31, 2018 or in the case of over-the-counter drugs until December 31, 2019.

Section 4. Enforcement.

- A. This law shall be enforced by the Department of Health Services.
- B. Beginning on July 1, 2017, the Department of Health Services will inform retailers selling personal care products of the requirements of this law.
- C. Enforcement of the law through the random inspection of at least 10 retailers per quarter shall commence on January 1, 2018.
 - 1. At each retailer inspected, the Department will select no more than 10 personal care products for inspection to determine which contain microbeads that are composed of the following ingredients: polyethylene, polypropylene polyethylene terephthalate, or nylon or poly (methyl) methacrylate plastic, or any similar plastic ingredient.
 - 2. The Department shall inform the retailer of products screened that contain impermissible microbeads in this law. A retailer that continues to offer for sale a personal care product found by the Department to violate this law shall be issued a notice of violation.
- D. Enforcement of the law shall also be done upon complaint in the manner set forth in Paragraph C of this section, with the inspection of at least 5 retailers associated with complaints per quarter, provided a minimum of 5 complaints have been received, beginning January 1, 2018. A record of complaints shall be retained by the Department of Health Services for the purposes of effectuating these quarterly inspections. Investigation upon complaint does not have to be completed during the quarter the complaint was originally filed.

Section 5. Penalties.

- A. Any person who violates any portion of this law shall be subject to a civil fine of up to \$500 for a first offense, a fine of up to \$750 for a second offense and a fine of up to \$1,000 for all subsequent violations. Each act in violation of this law shall be considered a separate and distinct violation.
- B. No penalties shall be imposed by the Department of Health Services until a hearing is held by the Commissioner or his or her designee and the alleged violator is given an opportunity to be heard.

Section 6. Authority to Promulgate Rules and Regulations.

The Commissioner of the Suffolk County Department of Health Services is hereby authorized and empowered to promulgate such rules and regulations as he or she deems necessary to implement this law.

Section 7. Applicability.

This law shall apply to all sales of personal care products occurring on or after the effective date of this law.

Section 8. Reverse Preemption.

This local law shall be null and void on the day that federal and 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 Suffolk. The County Legislature may determine via duly enacted resolution whether or not identical or substantially similar federal or statewide legislation, or pertinent preempting state or federal regulations have been enacted for the purpose of triggering the provision of this section.

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. 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)(20), (21), and/or (27) 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 a promulgation of regulations, rules, policies, procedures, and legislative decisions in connection with continuing agency administration, management and information collection. 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 11. Effective Date.

This law shall take effect immediately upon filing with the Office of the Secretary of State.

DATED: October 6, 2015

APPROVED BY:

/s/ Steven Bellone
County Executive of Suffolk County

Date: October 26, 2015

After a public hearing duly held on October 19, 2015
Filed with the Secretary of State on November 4, 2015