

**RESOLUTION NO. 930 -2017, ADOPTING LOCAL LAW
NO. 4 -2018, A LOCAL LAW TO IMPROVE FOOD ALLERGY
SAFETY AND AWARENESS AT FOOD SERVICE
ESTABLISHMENTS IN SUFFOLK COUNTY**

WHEREAS, there was duly presented and introduced to this County Legislature at a meeting held on June 6, 2017, a proposed local law entitled, "**A LOCAL LAW TO IMPROVE FOOD ALLERGY SAFETY AND AWARENESS AT FOOD SERVICE ESTABLISHMENTS IN SUFFOLK COUNTY**"; now, therefore be it

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

LOCAL LAW NO. 4 -2018, SUFFOLK COUNTY, NEW YORK

**A LOCAL LAW TO IMPROVE FOOD ALLERGY SAFETY AND
AWARENESS AT FOOD SERVICE ESTABLISHMENTS IN
SUFFOLK COUNTY**

**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 food allergies are a growing public health concern with an estimated 15 million Americans affected.

This Legislature also finds that dining in restaurants can pose a significant risk to people affected by food allergies.

This Legislature further finds that more than half of fatal food allergy reactions are triggered by food consumed outside the home.

This Legislature determines that individuals with food allergies and their families are often reluctant to dine out if they are unsure as to whether a food service establishment can accommodate their needs.

This Legislature also finds and determines that restaurants lose an estimated \$45 million a week in potential revenue because families with food allergies avoid restaurant dining.

This Legislature also finds that four states – Massachusetts, Michigan, Rhode Island and Virginia – have enacted laws to improve food allergy safety and awareness in restaurants.

This Legislature also finds and determines that Article 13 of the Suffolk County Sanitary Code sets forth the requirement that persons in charge of a food service establishment must have knowledge of foods identified as major food allergens and the symptoms these foods cause during an allergic reaction.

This Legislature also determines that making knowledge of food allergens and allergic reactions available to staff would result in a safer dining environment for people with food allergies.

This Legislature also finds that a voluntary program that allows a food service establishment to earn a designation as “food allergy friendly” could encourage those with food allergies and their families to consider dining out.

Therefore, the purpose of this law is to make it safer and more appealing for individuals with food allergies to eat at food service establishments.

Section 2. Amendments.

Chapter 700 of the SUFFOLK COUNTY CODE is hereby amended by the addition of a new Article II to read as follows:

CHAPTER 700. RESTAURANTS

Article II. Food Allergies

§ 700-8. Definitions.

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

Commissioner – the Commissioner of the Suffolk County Department of Health Services.

Food Service Establishment – as defined in Article 13, §760-1300(3)(X) of the Suffolk County Sanitary Code, except this definition shall not include food service operations at public and private schools of primary and secondary education, colleges, summer camps, child care facilities and other child care programs, institutional settings in which food is prepared for a specific population and temporary food establishments operated by non-profit organizations.

Menu – a printed or pictorial display of a food item or items and their price(s) that are available for sale from a food-service establishment, including menus published on an establishment’s website.

Menu Board – any list or pictorial display of a food item or items and their price(s) posted within or outside a food-service establishment.

§ 700-9. Notice on menus and menu boards.

Food-service establishments shall include on all menus and menu boards a notice that reads: “Before placing your order, please inform your server if a person in your party has a food allergy”.

§ 700-10. “Food Allergy Friendly” designations.

- A. The Commissioner of the Suffolk County Department of Health Services shall establish a program for food service establishments to be designated as “Food Allergy Friendly” and shall maintain a listing of food service establishments receiving such designations on the Department of Health Services’ website.
- B. Participation in the program shall be voluntary.
- C. The Commissioner shall issue guidelines and requirements for food service establishments to receive such designations, provided that such requirements to be designated as “Food Allergy Friendly” shall include, but not be limited to, prominently displaying in the staff area a poster that shall provide information regarding food allergy awareness, signs of an allergic reaction, and instructions for responding to an allergic reaction. The poster shall be developed by the Suffolk County Department of Health Services and approved by the Commissioner.

§ 700-11. Enforcement; rules and regulations.

- A. The provisions of this article shall be enforced by the Suffolk County Department of Health Services.
- B. The Commissioner of the Department of Health Services shall promulgate rules and regulations relating to the implementation of this article.

§ 700-12. Penalties for offenses; hearing.

- A. Any food service establishment operator who violates the provisions of § 700-9 shall be subject to a civil penalty of not less than \$50 nor more than \$500 for each such violation.
- B. No civil penalty shall be imposed under this article until after a hearing has been held, upon at least fifteen (15) days notice, before the Commissioner, or his designee. Such notice shall be served either personally or by certified mail, return receipt requested, to the address of the food service establishment and shall state the date, time and place of the hearing as well as enumerate the grounds constituting the alleged violation by the operator. The food service establishment operator may produce witnesses on his or her own behalf. A record of the hearing shall be taken and preserved. For the purpose of such hearing, the Commissioner or his designee may administer oaths, subpoena witnesses and compel the production of books, papers, records and other documents deemed pertinent to the subject of the hearing.

Section 3. Applicability.

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

Section 4. 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 5. 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 6. Effective Date.

This law shall take effect on the one-hundred-eightieth (180th) day immediately subsequent to filing in the Office of the Secretary of State.

DATED: November 21, 2017

APPROVED BY:

/s/ Steven Bellone
County Executive of Suffolk County

Date: December 20, 2017

After a public hearing duly held on December 4, 2017
Filed with the Secretary of State on January 18, 2018