

**RESOLUTION NO. -2024, ADOPTING LOCAL LAW  
NO. -2024, A LOCAL LAW TO BAN RESTAURANTS AND  
THIRD-PARTY FOOD DELIVERY SERVICES FROM  
PROVIDING SINGLE USE UTENSILS AND CONDIMENT  
PACKAGES UNLESS REQUESTED**

**WHEREAS**, there was duly presented and introduced to this County Legislature at a meeting held on April 9, 2024, a proposed local law entitled, "**A LOCAL LAW TO BAN RESTAURANTS AND THIRD-PARTY FOOD DELIVERY SERVICES FROM PROVIDING SINGLE USE UTENSILS AND CONDIMENT PACKAGES UNLESS REQUESTED**"; now, therefore be it

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

**LOCAL LAW NO. -2024, SUFFOLK COUNTY, NEW YORK**

**A LOCAL LAW A LOCAL LAW TO BAN RESTAURANTS AND  
THIRD-PARTY FOOD DELIVERY SERVICES FROM PROVIDING  
SINGLE USE UTENSILS AND CONDIMENT PACKAGES UNLESS  
REQUESTED**

**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 United States uses over 100 million plastic utensils every day and has thrown away 855 billion single-use condiment packets each year enough to cover the entire surface of the planet.

This Legislature also finds and determines that single use plastic utensils (forks, spoons, and knives) and condiment packages are common items consumers and patrons of restaurants often discard.

This Legislature further finds and determines that the County of Suffolk, a leader in environmental protection, continues to strive to protect the natural resources and beauty of its surroundings.

This Legislature also determines that plastic waste is a priority environmental problem worldwide with less than 10 percent of the plastic produced being recycled and this ban will minimize Suffolk County's carbon footprint by creating less unnecessary waste going into our oceans, landfills or being burned.

This Legislature further finds Suffolk County has previously enacted a wide variety of environmental protection laws such as the ban set forth within Article III of this Chapter that limited the providing of single use plastic beverage straws and stirrers at most food service establishments.

This Legislature determines that this law banning all unrequested single use utensils and condiment packages in takeout orders, food trucks and restaurants will also help small businesses cut down on product packaging costs.

Therefore, the purpose of this law is to ban all single use utensils and condiment packages in takeout orders, food trucks and restaurants of Suffolk County unless specifically requested by the customer.

## **Section 2. Amendments.**

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

### **Chapter 700. Restaurants and Food Service Establishments**

\* \* \* \*

#### **Article IV. Single Use Utensils and Condiment Packages**

##### **§ 700-24. Definitions.**

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

CONDIMENT PACK- An individual single-use container, sealed by the manufacturer or a restaurant, containing a condiment.

PLASTIC- A synthetic material made from organic polymers.

RESTAURANT- Any diner or other eating or beverage establishment, which offers for sale food or beverages to the public, guests, members, or patrons, whether consumption occurs on or off the premises or is provided from a food van, pushcart, stand or vehicle.

SINGLE-USE FOOD SERVICE ITEMS- Any eating utensil or other item used as part of food or beverage service that is designed and intended by the manufacturer for only one use before being discarded including, but not limited to condiment packs, forks, spoons, sporks, knives, chopsticks, beverage straws, cocktail sticks, toothpicks, beverage splash sticks, beverage stirrers, napkins, wet wipes, cup sleeves, beverage trays, beverage lids, empty plates, empty bowls, and empty cups. For purposes of this article, single-use food service items shall not include containers actively holding food or beverages for dine-in or take-away customers, such as plates, bowls, and cups.

THIRD-PARTY FOOD DELIVERY PLATFORM- The online or mobile platform of the third-party food delivery service on which a consumer can view products available for sale and place an order for a restaurant or other food service establishment's products.

THIRD-PARTY FOOD DELIVERY SERVICE- Any website, mobile application or other internet service that offers or arranges for the sale or delivery of food and beverages prepared by, and the same-day delivery or same-day pickup of food and beverage from, a restaurant or other food service establishment.

**§ 700-25. Restrictions.**

- A. Restaurants and third-party food delivery services shall only provide single-use utensils and/or condiment packages to customers when explicitly requested by the customer;
- (1) restaurants and third-party food delivery services shall provide options to allow a customer to request such single-use food service items upon submission of an order;
  - (2) such options shall be available for all methods of ordering, including but not limited to phone, internet, or mobile phone application orders;
  - (3) the default selected options shall be that no such single-use food service items are requested; and
  - (4) no inquiry into the reason for the request shall be made by a restaurant, third-party food delivery service, or any of its employees in carrying out the request authorized by subsection (A) of this article.
- B. Single-use utensils and/or condiment packages provided by a restaurant, pursuant to subsection (A) of this article, shall not be individually wrapped in plastic.
- C. If a restaurant fills an order placed through a third-party food delivery service, such restaurant may rely on the information provided by such third-party food delivery service regarding whether the customer has requested single-use utensils and/or condiment packages or other single-use food service items; and
- (1) It shall be a complete defense for a respondent in a civil procedure pursuant to this article for a restaurant to establish that they relied on the information provided to it by the third-party food delivery service or platform regarding the customer's choice pursuant to subsection (A) of this article; and
  - (2) a copy or screenshot of a communication by the third-party food delivery service to the restaurant regarding the customer's choice pursuant to subsection (A) of this article shall constitute prima facie evidence that the restaurant relied on the information provided to it by the third-party food delivery service or platform; and
  - (3) each third-party food delivery service or platform shall provide such communication in writing to a restaurant within 72 hours of such restaurant's request for such communication.

**§ 700-26. Enforcement.**

This law shall be enforced by the Suffolk County Department of Health Services.

**§ 700-27. Penalties for offenses.**

- A. A person who violates subsection (A) or (B) of this section, or any rule or subsection promulgated thereunder, is liable for a civil penalty as follows:
- (1) for the first violation, a civil penalty of \$200 dollars;

- (2) for the second violation committed on a different day within a period of 12 months, a civil penalty of \$300 dollars; and
- (3) for the third and each subsequent violation committed on different days within a period of 12 months, a civil penalty of \$500 dollars.

B. The Department shall not issue a notice of violation but shall issue a warning and provide information on compliance with such section, for any violation that occurs within one year of the effective date of this section.

**§ 700-28. Rules and Regulations.**

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

**Section 3. Applicability.**

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

**Section 4. Reverse preemption.**

This article 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 article, 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 of the purposes of triggering the provisions of this section.

**Section 5. 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 6. 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), (27) and (33) 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 in that the action constitutes 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 7. Effective Date.**

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

\_\_\_ Underlining denotes addition of new language

DATED:

APPROVED BY:

\_\_\_\_\_  
County Executive of Suffolk County

Date: