

LEGISLATIVE & RULES COMMITTEE
AGENDA
MAY 31, 2018

Committee Members: Supervisors Strough, Leggett, Braymer, Wild, McDevitt, Diamond, Dickinson, Geraghty, Magowan, Sokol and Driscoll

- I. Committee meeting called to order by Chairman
- II. Motion to approve the minutes of the prior meeting - *March 26, 2018*

- III. Action Agenda/New Business Items:
 - 1) Resolution No. 193 of 2018, Introducing Proposed Local Law No. 3 of 2018 Entitled "Municipal Opioid Cost Recovery and Public Nuisance Legislation" and Authorizing Public Hearing Thereon, was withdrawn at the April 20, 2018 Board Meeting and referred back to Committee for discussion on revisions.
 - 2) Resolution from the Adirondack Association of Towns and Villages - Supporting the Exemption of the New York State Owned Former Camp Gabriels Correctional Facility Property Located in the Town of Brighton, Franklin County, New York from the "Forever Wild" Provision of the Constitution of the State of New York.
 - 3) Request from the Director of Veterans' Services for a resolution in support of Senate Bill 8210 relating to the cost of maintenance and operation of local Veterans' Services agencies. *Note: As Denise DiResta, Director of Veterans' Services is not available to attend the meeting Ryan Moore, County Administrator, will address this item on her behalf.*

- IV. Discussion Items:

None.

- V. Referrals/Pending Items:
 - 1) Ms. Braymer to work on language for proposed changes to FOIL Law for review at a future Committee meeting. (02.26.18)
 - 2) Referral from the Environmental Concerns & Real Property Tax Services Committee: Request for Legislative & Rules Committee to consider proposed legislation in relation to the banning of plastic bags; County Attorney to review in advance of meeting and propose revisions. (04.30.18)

- VI. Privilege of the Floor to discuss any additional items to come before the Committee

- VII. Motion to adjourn

Attachments:

- 1) Withdrawn Resolution No. 193 of 2018 (*Action Agenda/New Business Item 1*)
- 2) Adirondack Association of Towns & Villages Resolution No. 4 of 2018 (*Action Agenda/New Business Item 2*)
- 3) Senate Bill 8210 (*Action Agenda/New Business Item 3*)
- 4) Proposed revisions to Warren County FOIL Policy (*Referral/Pending Item 1*)
- 5) Revised proposed plastic bag legislation (*Referral/Pending Item 2*)

Warren County Board of Supervisors

RESOLUTION NO. 193 OF 2018

RESOLUTION INTRODUCED BY SUPERVISORS STROUGH, LEGGETT, BRAYMER, WILD, MCDEVITT, DIAMOND, DICKINSON, GERAGHTY, MAGOWAN, SOKOL AND DRISCOLL

INTRODUCING PROPOSED LOCAL LAW NO. 3 OF 2018 ENTITLED “MUNICIPAL OPIOID COST RECOVERY AND PUBLIC NUISANCE LEGISLATION” AND AUTHORIZING PUBLIC HEARING THEREON

RESOLUTION WITHDRAWN

RESOLVED, that proposed Local Law No. 3 of 2018 entitled “Municipal Opioid Cost Recovery and Public Nuisance Legislation, attached hereto and made a part hereof, be, and the same is introduced before the Warren County Board of Supervisors, and in order to give interested members of the public the opportunity to be heard thereon, the Board of Supervisors shall hold a public hearing at the Supervisors Rooms in the Warren County Municipal Center on the 15th day of May, 2018 at 6:00 p.m. on the matter of the adoption of said proposed Local Law No. 3 of 2018, and be it further

RESOLVED, that the Clerk of the Board of Supervisors be, and hereby is, authorized and directed to give notice of such public hearing in the manner provided by law.

RESOLUTION No. 193 OF 2018

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*RESOLUTION WITHDRAWN***COUNTY OF WARREN
PROPOSED LOCAL LAW NO. 3 OF 2018****A LOCAL LAW ENTITLED MUNICIPAL OPIOID COST RECOVERY AND PUBLIC
NUISANCE LEGISLATION****I. Purpose and Statement of Intent**

The opioid epidemic is sweeping the country. Indeed, addiction to and abuse of opioids is one of the greatest challenges facing Warren County. A cause of this increasing crisis is the overabundance of prescription opioids. Vast amounts of prescription opioids were sold, distributed, and prescribed in the County over the past several years, a practice that continues today. The selling, distributing, and prescribing of large amounts of opioids in our community has created a public health and safety hazard affecting the residents of the County. This crisis has devastated families, wreaked havoc on our economy, and produced a generation of narcotic dependence. As a result of the opioid epidemic, costs related to healthcare, family and social services, criminal justice, addiction and rehabilitation, and many other areas have significantly increased. Many of these costs are paid by the County.

The purpose and intent of this legislation is to allow the County to recover these costs, despite the existence of the common-law municipal cost recovery rule (a.k.a. free public services doctrine) and declare the opioid epidemic and its effects on the County a public nuisance. Specifically, the County provides services related to the opioid epidemic, which are funded by tax revenues. This statute clarifies that reimbursement may be sought for the costs of providing such services, whenever practicable, from the responsible party. To accomplish this, the County establishes this cost recovery procedure and declares the opioid epidemic and its effects on the County a public nuisance.

II. Definitions

“Costs” means all expenditures related to the opioid epidemic that directly or indirectly arise from the County’s response to a responsible party’s action or inaction.

“Responsible party” means any person or corporation whose negligent, intentional, or otherwise wrongful conduct causes the incident resulting in the County incurring costs or who is found liable or made

RESOLUTION NO. 193 OF 2018**PAGE 3 OF 4****RESOLUTION WITHDRAWN**

responsible by a court for the costs incurred by the County in the form of damages, regardless of the cause of action.

III. Governmental Function Cost Recovery

The County may recover the costs of governmental functions related to opioids marketed, sold, manufactured, dispensed, prescribed, and/or distributed by the responsible party. If a responsible party fails to pay the costs demanded, the County may initiate and recover costs through administrative, civil, and/or criminal action against the responsible party. In that case, the County may also recover attorney's fees, interest, and any other payment or type of damages the court deems proper.

IV. Effect of Criminal or Civil Proceedings on Governmental Function Cost Recovery

The initiation of administrative or civil proceedings for governmental function cost recovery does not bar the criminal prosecution of a responsible party for any associated violation. Similarly, criminal prosecution does not bar civil collection of costs for the violation giving rise to the criminal prosecution.

V. Public Nuisance

The County hereby finds and declares the following:

- 1) That addiction to and abuse of opioids is one of the greatest challenges facing the County;
- 2) A cause of this increasing crisis is the overabundance of prescription opioids. Vast amounts of prescription opioid pain pills were sold, distributed and prescribed in the County over the past several years which practice continues today;
- 3) There is evidence showing that approximately four in five heroin users began their addiction by first using and then misusing prescription pain medications containing opioids;
- 4) The selling, distributing, and prescribing of large amounts of opioid pain pills in the County has created a public health and safety hazard affecting the residents of the County, resulting in devastation to County families, a negative effect on the County economy, wasted public resources, and a generation of narcotic dependence;

RESOLUTION No. 193 OF 2018

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RESOLUTION WITHDRAWN

- 5) That selling, distributing, and prescribing of prescription opioid pain pills is a hazard to public health and safety, which has created a public nuisance to the citizens of the County, and said nuisance remains unabated;
- 6) That, in addition to all other powers and duties now conferred by law upon the County, the County is authorized to enact ordinances, issue orders, and take other appropriate and necessary actions for the elimination of hazards to public health and safety and to abate or cause to be abated anything which the commission determines to be a public nuisance;
- 7) That manufacturers of prescription opioids and those in the chain of distribution have wrongfully abused the privilege of selling and/or providing medication to our residents and must be held accountable; and
- 8) That it is the duty of the County to vindicate the rights of the citizens of the County and take action to abate this public nuisance.

VI. Retroactive Application

This legislation applies retroactively.

ADIRONDACK ASSOCIATION OF TOWNS & VILLAGES

Resolution No. 4 of 2018

Supporting the exemption of the New York State Owned Former Camp Gabriels Correctional Facility Property Located in the Town of Brighton, Franklin County, New York from the “Forever Wild” Provision of the Constitution of the State of New York

WHEREAS, the former Camp Gabriels Correctional Facility was closed by New York State in 2009 and has been vacant and unused since that time; and

WHEREAS, when the State took possession of the original 220.9 acres in 1982, they did add 129.2 acres of the property to the forest preserve; and

WHEREAS, the 91.7 acres which is Camp Gabriels was already developed and has a long history of occupation and extensive use since the late 19th century and is inconsistent with the “forever wild” provision; and

WHEREAS, as stated in the deed, those 91.7 acres are inconsistent with the “forever wild” provision, as they contain 55 buildings, roads, a self-contained waste water treatment plant, heating plant, wells and water distribution system and a back-up generator capable of keeping the facility secure in the event of a North Country power outage; and

WHEREAS, New York State conducted several auctions to sell the Camp Gabriels property; and

WHEREAS, a prospective private purchaser was unable to complete the purchase or obtain title insurance because this property is located within the Adirondack Park and potentially subject to the “forever wild” provision in the State Constitution; and,

WHEREAS, it is in the best interests of economic development in the Adirondack North Country communities that this property and facility be unencumbered for private purchase and put to good use in the region; NOW THEREFORE, BE IT

RESOLVED, that the Adirondack Association of Towns & Villages hereby supports a state side referendum by the voters of New York State that this property be unencumbered for private purchase, exempt from the “forever wild” clause in the State Constitution, and not be added to the forest preserve.

BE IT FURTHER RESOLVED, that a certified copy of this Resolution shall be forwarded to NYS Senators Elizabeth Little, Joseph Griffo, James Tedisco; NYS Assembly Members Marc Butler, Dan Stec, Billy Jones and Ken Blankenbush; Governor Andrew Cuomo; Basil Steggos, DEC Commissioner; Senate Majority leader and IDC leader; Assembly Speaker and Majority Leader; Senate and Assembly Encon Chairs; Peter Shrope, Town of Brighton/Franklin County Supervisor, Association Of Towns, InterCounty Legislative Committee of the Adirondacks.

Motion: Bill Farber

Second: Ron Moore

Unanimous.

S8210 ORTT Same as A 10714 DenDekker

Text Versions: S 8210

S8210 ORTT Same as A 10714 DenDekker

ON FILE: 04/19/18 Executive Law

TITLE....Relates to the cost of maintenance and operation of local veterans' service agencies

04/18/18REFERRED TO VETERANS, HOMELAND

SECURITY AND MILITARY AFFAIRS

05/08/18REPORTED AND COMMITTED TO

FINANCE

ORTT, SEWARD

Amd §359, Exec L

Provides that the state shall cover the cost of maintenance and operation of local veterans' service agencies up to certain set limits.

STATE OF NEW YORK

8210

IN SENATE

April 18, 2018

Introduced by Sen. ORTT -- read twice and ordered printed, and when printed to be committed to the Committee on Veterans, Homeland Security and Military Affairs

AN ACT to amend the executive law, in relation to the cost of maintenance and operation of veterans' service agencies

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subdivision 1 of section 359 of the executive law, as
2 amended by chapter 196 of the laws of 2009, is amended to read as
3 follows:

4 1. A local director shall designate the location of the local and
5 branch offices of the local veterans' service agency within his or her
6 jurisdiction, which offices shall be open during convenient hours. The
7 ~~[cost of maintenance and operation of a county veterans' service agency~~
8 ~~shall be a county charge and the cost of maintenance and operation of a~~
9 ~~city veterans' service agency shall be a city charge, excepting that~~
10 ~~the]~~ state director with the approval of the veterans' affairs commis-
11 sion shall allot and pay, from state moneys made available to him or her
12 for such purposes, to each county veterans' service agency and each city
13 veterans' service agency, an amount equal to ~~[fifty per centum of]~~ its

14 expenditures for maintenance and operation approved by the state direc-
 15 tor, provided that in no event shall the amount allotted and paid for
 16 such approved expenditures incurred in any given year exceed (1) in the
 17 case of any county veterans' service agency in a county having a popu-
 18 lation of not more than one hundred thousand or in the case of any city
 19 veterans' service agency in a city having a population of not more than
 20 one hundred thousand, the sum of [~~ten~~] twenty thousand dollars, nor (2)
 21 in the case of any county veterans' service agency in a county having a
 22 population in excess of one hundred thousand excluding the population of
 23 any city therein which has a city veterans' service agency, the sum of
 24 [~~ten~~] twenty thousand dollars, and, in addition thereto, the sum of
 25 [~~five~~] ten thousand dollars for each one hundred thousand, or major
 26 portion thereof, of the population of the county in excess of one
 27 hundred thousand excluding the population of any city therein which has

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
 [-] is old law to be omitted.

LBD15367-01-8

S. 8210

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1 a city veterans' service agency, nor (3) in the case of any city veter-
 2 ans' service agency in a city having a population in excess of one
 3 hundred thousand, the sum of [~~ten~~] twenty thousand dollars, and, in
 4 addition thereto, the sum of [~~five~~] ten thousand dollars for each one
 5 hundred thousand, or major portion thereof, of the population of the
 6 city in excess of one hundred thousand. Such population shall be certi-
 7 fied in the same manner as provided by section fifty-four of the state
 8 finance law.

9 § 2. This act shall take effect immediately.

**NEW YORK STATE SENATE
 INTRODUCER'S MEMORANDUM IN SUPPORT
 submitted in accordance with Senate Rule VI. Sec 1**

BILL NUMBER: S8210

Revised 04/25/18

SPONSOR: ORTT**TITLE OF BILL:**

An act to amend the executive law, in relation to the cost of mainte-
 nance and operation of veterans' service agencies

PURPOSE:

This legislation increased the amount of state reimbursement provided to
 a Counties Veteran Service Agency.

SUMMARY OF PROVISIONS:

Section 1 amends Subdivision n1 of section 3219 of the executive law to

remove the fifty percent cap on total expenditures for maintenance and operation that can be reimbursed by the State while increasing the maximum reimbursement to twenty thousand and from five to ten the amount in excess of certain population figures.

JUSTIFICATION:

This legislation seeks to provide additional financial resources to County Veteran Service Agencies. Under Law every County is mandated to have a Veteran Service Agency, however the amount of funding provided to them is minimal. These governmental entities are limited by the funding they receive from State and County Government, increasing their funding even this little amount will mean better and increased services they can provide to our Veterans.

LEGISLATIVE HISTORY:

New Bill.

FISCAL IMPLICATIONS:

To be determined.

EFFECTIVE DATE:

This act shall take effect immediately.

Proposed Revisions
 March 26, 2018
 Deleted text is in [bracket]s; new
 text is in *italics*

FREEDOM OF INFORMATION LAW FOIL

§ III.075 PURPOSE AND SCOPE.

The purpose of these regulations are to set forth the rules, methods and procedures governing the availability, location and nature of records (as that term is defined herein) of the County of Warren subject to the provisions of N.Y. State Pub. Off. Law Article 6, known as the Freedom of Information Law.
 (Res. 77 of 1978, passed - -1978)

§ III.076 DEFINITIONS.

For the purpose of these regulations, the following terms are defined as set forth below:

FISCAL OFFICER. The Warren County Treasurer or his or her authorized representative.

PAYROLL RECORD. An itemized record setting forth the name, business address, title and salary of every officer and employee of the County of Warren or its authorized agencies.

RECORD. Any information kept, filed, held, produced, or reproduced by, with or for the County of Warren, in any physical form whatsoever including, but not limited to, reports, statements, examinations, memoranda, opinions, folders, files, books, manuals, pamphlets, forms, papers, designs, drawings, maps, photos, letters, microfilm, computer tapes or discs, rules, regulations or codes.

WORKDAY. Any day except Saturday, Sunday, a public holiday or a day on which the Warren County Municipal Center is otherwise closed for general business.
 (Res. 77 of 1978, passed - -1978)

§ III.077 PROCEDURE FOR OBTAINING RECORDS.

(A) Record Access Officers.

(1) The following Warren County officers or their authorized representatives are hereby designated as Records Access Officers, each for [his or her respective] *the departments listed* and shall be the custodian of such records, excepting payroll records:

Warren County - Plans and Policies

(2) Each of the following are to be contacted at his or her office, having as a business address the Warren County Municipal Center, 1340 State Route 9, Lake George, New York, 12845, such other address as specifically designated herein or through the Warren County website at <http://www.warrencountyny.gov/contact.php>.

<u>Department</u>	<u>Records Access Officer</u>
Administrator's Office	County Administrator
Assigned Counsel	County Administrator
Auditor	County Administrator
Board of Elections	Commissioners
Board of Supervisors	Clerk of the Board of Supervisors
Budget Officer	County Administrator
County Attorney	County Administrator
County Clerk	County Clerk
County Treasurer	County Treasurer
District Attorney	District Attorney
Emergency Services	County Administrator
Employment and Training/One-Stop Career Center	County Administrator
Fire Prevention and Building Codes Enforcement	County Administrator
Historian	County Administrator
Human Resources and Civil Service	County Administrator
Information Technology	County Administrator
Motor Vehicles	County Clerk
Office for the Aging	County Administrator
Planning	County Administrator
Probation	County Administrator
Purchasing	County Administrator
Public Defender	County Administrator

Public Health	County Administrator
Real Property Tax Services	County Administrator
Self-Insurance	County Administrator
Social Services	Commissioner of Social Services
Tourism	County Administrator
Veterans Services	County Administrator
Weights and Measures	County Administrator

(3) As well as each of the following at the business address set forth opposite his or her specific job title:

Public Works (incl. Buildings and Grounds, Airport, Parks, Recreation and Railroad Up Yonda Farm)	County Administrator
Sheriff	Major 1400 State Route Nine Lake George, NY 12845
Countryside Adult Home	County Administrator
[Westmount Health Facility (until 5/15)]	[Director 42 Gurney Lane, Queensbury, NY 12804]

(4) Any FOIL request directed to any department of Warren County not specifically set forth herein is to be sent to the attention of the Warren County [Attorney] Administrator or to the Warren County website at <http://www.warrencountyny.gov/contact.php>. FOIL is not generally applicable to courts within the Warren County Municipal Center, which are operated by the Office of Court Administration, an agency of New York State.

(B) (1) Any person who wishes to inspect or obtain a copy of any such record may request access to the record by making application to the Records Access Officer. Such application shall be in writing to

County Administrator/Board of Supervisors

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the address provided or through the Warren County website and shall reasonably describe the record or records sought. A person requesting records should supply information regarding dates, file designations or any other information that may help to describe the records sought. Application forms which comply with the law may be obtained from the Office of the County Attorney or are also available on the Warren County website at

<http://www.warrencountyny.gov/contact.php>.

(2) Requests for access to records may be submitted to the appropriate Records Access Officer either personally at such office on any workday between the hours of 9:00 a.m. and 4:30 p.m., by mail, addressed to such officer or to such other officer as the Records Access Officer may specify upon contact or through the Warren County website (<http://www.warrencountyny.gov/contact.php>) directed to the Records Access Officer. Any request received after 4:30 p.m. is deemed to have been received on the next workday. Upon the receipt of an application in the proper form and at the appropriate time, the Records Access Officer shall cause a search to be made for the requested record. Within five business days of receipt of a FOIL request, the following actions will be taken by the Records Access Officer or his or her designee:

(a) Produce the record(s) for inspection at the Records Access Officer's office or send the requested records to the applicant (and if so requested and upon payment of the appropriate fee, make and certify a copy of the record).

(b) Deny the request as provided in § III.081 of these regulations, providing the reason for the denial and sending a copy of such denial to the County Attorney.

(c) Partially grant and partially deny the request.

(d) Advise the applicant that the record(s) are not in the custody of that specific department, but may be in the custody of another specified department or may be available on the Warren County website or other site on the internet.

(e) Certify that the records cannot be located after diligent search.

(f) Acknowledge receipt of the request, setting an approximate date for a full response and seeking clarification if the request is overly voluminous or unspecific. If circumstances prevent a response within 20 workdays, a statement specifying the reasons for the inability to do so and a date certain must be supplied. The failure to comply with this time limit constitutes a denial which may be appealed.

(3) The Records Access Officer, in his or her discretion, may waive compliance with any formality prescribed by this division (B), including the use of county application forms.

(C) Any person wishing to inspect and/or obtain a copy of a payroll record may make application to the Fiscal Officer in writing pursuant to the provisions of division (B) above of these regulations to the Fiscal Officer at the office of the Fiscal Officer at the Warren County Municipal Center, Lake George, New York. Upon receipt of such an application, the Fiscal Officer shall search for and produce for inspection the payroll record. If the applicant requests a copy of such payroll record, the Fiscal Officer shall provide him with one, upon payment of the appropriate fee. (Res. 77 of 1978, passed - -1978)

§ III.078 SUBJECT MATTER LIST.

(A) On behalf of the County of Warren, the Records Access Officer for each department *for which he or she is responsible pursuant to III.077 (A)(2) above* shall maintain and make available for inspection and copying at their office a current list, reasonably detailed by subject matter, of all records in the possession of the department(s), whether or not available under N.Y. Pub. Off. Law Article 6. Such list shall be in conformity with such regulations as may be promulgated by the Committee on Open Government. Any person desiring a copy of such list may request a copy thereof personally, by mail or through the Warren County website and he shall be supplied with one copy.

(B) Each Records Access Office shall maintain:

(1) A record setting forth the name, public office address, title and salary of every officer or employee of the department(s); and

(2) A reasonably detailed current list by subject matter, of all records in the possession of the department(s) whether or not available under this article. (Res. 77 of 1978, passed - -1978)

§ III.079 FEES.

(A) The fees for copies of records shall not exceed \$0.25 per photocopy not in excess of nine inches by 14 inches, or the actual cost of reproducing any other record except when a different fee is otherwise prescribed by law or pursuant to such general rules and regulations as may be promulgated by the Committee on Open Government and any additional fees that may be applicable pursuant to N.Y. Pub. Off. Law Article 6.

(B) Additionally, a Records Access Officer has the authority to redact portions of a record pursuant to N.Y. Pub. Off. Law Article 6 and do so prior to disclosure of the record by making a photocopy from which the proper redactions are made. If redaction must be made to an electronic record, and the record must be printed and/or copied several times prior to being produced in response to the FOIL request, the standard copying fee will be charged.

(C) Further fees may be charged based on the actual cost of reproduction as set forth in N.Y. Pub. Off. Law § 87(1)(c), which may include the hourly salary of the lowest paid employee with the needed skill required to prepare a copy of the requested record in the event two or more hours are required as well as the actual cost of any storage device or media provided in response or if necessary, the actual cost of an outside professional to prepare a copy of a record.

(D) The agency shall inform the requestor of the estimated cost of copying, reproducing or preparing a copy and may require the fee to be paid prior to release of any records.

(Res. 77 of 1978, passed - -1978)

§ III.080 PREVENTION OF INVASIONS OF PRIVACY.

In accordance with the provisions of N.Y. Pub. Off. Law § 89, subd. 3 regarding the prevention of unwarranted invasion of personal privacy, the Records Access Officer may delete from any record identifying details, the disclosure of which would result in an unwarranted invasion of personal privacy prior to making such record available for inspection and/or copying. In the event that one or more deletion is made from any document, the Records Access Officer shall provide written notice of that fact to the person given access to the record.

(Res. 77 of 1978, passed - -1978)

§ III.081 DENIAL OF ACCESS TO RECORDS.

(A) In accordance with N.Y. Pub. Off. Law Article 6 as well as these regulations, each Records Access Officer shall make available for public inspection and copying a record as described herein, except that such Records Access Officer may deny access to a record or portions thereof that:

(1) Is specifically exempted from disclosure by state or federal statute;

(2) If disclosed would constitute an unwarranted invasion of personal privacy under the provisions of N.Y. Pub. Off. Law Article 6, § 89(2);

(3) If disclosed would impair present or imminent contract awards or collective bargaining negotiations;

(4) Is a trade secret or is maintained for the regulation of commercial enterprise which if disclosed would cause substantial injury to the competitive position of the subject enterprise;

(5) Is compiled for law enforcement purposes and which, if disclosed, would:

(a) Interfere with law enforcement investigations or judicial proceedings;

(b) Deprive a person of a right to a fair trial or impartial adjudication;

(c) Identify a confidential source or disclose confidential information relating to a criminal investigation; or

(d) Reveal criminal investigative techniques or procedures, except routine techniques and procedures.

(6) If disclosed would endanger the life or safety of any person;

(7) Is an inter-departmental or intra-departmental material which is not:

(a) Statistical or factual tabulations or data;

(b) Instructions to staff that affect the public; or

(c) Final agency policy or determinations.

(8) Are examination questions or answers which are requested prior to the final administration of such questions.

(B) Denial of access to records shall be in writing stating the reason therefore and advising the applicant of the right to appeal as set forth below. (Res. 77 of 1978, passed - -1978)

§ III.082 APPEALS.

Within 30 days of a denial, any person whose application to inspect and/or copy records has been denied pursuant to § III.081 of this regulation may appeal such denial to the Chairman of the Board of Supervisors at the Warren County Municipal Center, 1340 State Route 9, Lake George, New York. Such appeal shall be in writing and must set forth: the name and address of the applicant; the specific record(s) requested; the date of denial; and the reasons given for such denial. The Chairman shall, upon receipt of a written appeal, review the matter and in writing,

either affirm, modify or reverse the denial. If the Chairman either affirms or modifies the denial, he shall, within ten workdays of receipt of the appeal, communicate his or her reasons for such affirmation or modification to the person making the appeal. N. Y. Pub. Off. Law Article 6 notes that in the event of a denial to access to a record, such person may appeal such determination under N.Y. Civ. Prac. L. & R. Article 78. Failure to respond to an appeal within the statutory time period shall constitute a denial of the appeal. The Committee on Open Government, and the Board of Supervisors, shall be furnished with copies of the application, and the underlying denial of the application as well as the appeal and the determination of that appeal.

(Res. 77 of 1978, passed - -1978)

§ III.083 SEVERABILITY.

If any provision(s) of these regulations or the application thereof to any person or circumstances is adjudged invalid by a court of competent jurisdiction, such judgment shall not affect the validity of the other provisions of these regulations or the application thereof to other persons and circumstances.

(Res. 77 of 1978, passed - -1978)

§ III.084 EFFECTIVE DATE.

These regulations shall take effect immediately upon adoption by the Warren County Board of Supervisors.

(Res. 77 of 1978, passed - -1978)

COUNTY SURPLUS PROPERTY

§ III.095 INITIAL COMMITTEE REVIEW.

[REDACTED]

concerning whether the same is currently needed or is

Revised ~~May 29~~ April 25, 2018

Proposal for an Amendment to the Warren County Law

Promoting the Use of Re-usable Bags

“Bring Your Own Bag Law”

A Proposal for an amendment to the Local Laws of Warren County to promote the use of re-usable bags and reduce the use of single-use carryout bags by prohibiting the distribution of plastic bags by grocery stores.

Part I: Legislative Intent

- (1) Warren County has a responsibility to protect the natural environment and the health of its citizens and visitors; and
- (2) The use of Single-use Carryout Bags (as defined in this proposal) has severe environmental impacts on a local and global scale, including greenhouse gas emissions, litter, harm to wildlife, atmospheric acidification, water consumption and solid waste generation; data released by the United States Environmental Protection Agency shows that between 500 billion and one trillion plastic bags are consumed worldwide each year; and
- (3) Single-use Carryout Bags represent an unnecessary use of non-renewable resources. Plastic shopping bags are made from polyethylene, a thermoplastic made from oil. Accordingly, reducing the use of plastic bags will decrease our dependence on fossil fuels. Re-usable Bags (as defined in this proposal) represent a sustainable alternative to single-use bags because they consume less resources overall and produce less waste; and
- (4) Plastic bags are the least desirable type of all single-use bags because they consume non-renewable fossil fuels, never fully degrade, and harm wildlife: birds can become entangled in the bags and different species of sea life can die from ingesting plastic bags which they mistake for food; and
- (5) Despite recycling and voluntary solutions to control pollution from Single-use Carryout Bags, these bags end up littering our environment, impeding waterways, contaminating water and soil, clogging sewers, overwhelming landfills, and endangering wildlife; and
- (6) From an environmental and economic perspective, re-usable bags are considered to be a better alternative to Single-use Carryout Bags because re-usable bags reduce waste and litter, protect wildlife and conserve resources. They are readily available and affordable for the customer; and
- (7) Studies document, and participating municipalities report, that prohibiting the distribution of Single-use Carryout Bags will dramatically reduce the use of those types of bags; and
- (8) Warren County aims to conserve resources, reduce greenhouse gas emissions, waste, and litter and to protect the public health and welfare, including wildlife; all of which increase the quality of life for the County’s residents and tourists; and
- (9) Warren County taxpayers must bear costs associated with the effects of Single-use Carryout Bags on the solid waste stream, drainage, litter, and wildlife. It is in the best interests of the health, safety and welfare of citizens and visitors of Warren County to reduce the cost to the County of solid waste disposal, and to protect our environment and our natural resources; and

- (10) Therefore, Warren County concludes that prohibiting the distribution of Single-use Carryout Bags by grocery stores will promote the use of Re-usable bags, and will begin to reduce the negative impacts that result from the unrestricted distribution of Single-use Carryout Bags.

Part II: Definitions.

As used in this Local Law the following terms have the following meanings:

Covered Store means retail establishments, where produce, meats, or other food items are regularly and customarily sold for consumption off the premises including but not limited to ~~Grocery Stores, supermarkets, convenience stores, food marts,~~ and food service establishments located within grocery stores, that provide carryout bags to customers in which to place purchased items. This term does not include: (1) stores where the only food items sold are bakery goods or produce made or grown onsite (such as at bakeries or farm stands located at the farm), (2) food service establishments located outside of ~~Grocery Stores~~ **Covered Stores**; and (3) stores that do not have scales that are regulated by the County's Weights and Measures Department.

Food Service Establishment means a place where prepared food is provided for individual portion service directly to a consumer, whether consumption occurs on or off the premises.

~~**Grocery Store** means a retail establishment where produce, meats, or other food items are regularly and customarily sold for consumption off the premises.~~

Re-usable Bag means a bag that is specifically designed and manufactured for multiple reuse, and is either:

- (a) made of cloth or other machine-washable material, but not film plastic;
- (b) made of paper that ~~contains no old-growth fiber,~~ is 100% recyclable overall and contains a minimum of 40% post-consumer recycled content; or
- (c) made of durable plastic that is at least 2.25 mils thick and that has handles. Reusable carryout bags provided to customers pursuant to this article shall be conspicuously labeled as reusable.

Single-use Carryout Bag means a plastic bag other than a Re-usable bag, including those advertised as compostable, biodegradable, photodegradable or similar, provided by a Covered Store at the check-out stand, cash register, point of sale or other point of departure for the purpose of transporting merchandise out of the establishment. The term Single-use Carryout Bag does not include:

1. Re-usable Bags;
2. Produce Bags that are used to carry bulk items such as produce, fruit, meats, poultry, fish, dairy, dry goods or other non-prepackaged food items to the point of sale from within a Covered Store.
3. Product Bags provided by pharmacists that are used to carry prescription medications to the point of sale within a Covered Store.
4. Bags brought to the store by the consumer for reuse including plastic and paper bags the consumer may have obtained previously.

Part III: Prohibition of Single-use Carryout Bags

- (1) A Covered Store shall not provide to customers any Single-use Carryout Bag(s) to carry purchased goods from such store.
- (2) No Covered Store shall charge a fee for, or prevent a customer from using, any bag brought by the customer to such store to carry purchased goods from such store.

(3) Nothing in this section shall preclude a Covered Store from making Re-usable Bags available to customers for a fee or for free.

Part IV: Violations and enforcement

The Warren County ~~Director of the Weights and Measures Department Chair or his/her designee(s)~~ shall have the primary responsibility for enforcement of this Local Law. If the ~~Director of the Chair or his/her designee(s)Weights and Measures Department~~ determines that a violation has occurred, he/she shall issue a written ~~warning~~ notice to the Covered Store that a violation has occurred and that the violation must be remedied within two weeks. Failure of the Covered Store to remedy the violation within said two week period shall constitute a violation that is subject to a civil fine of \$500.00, with ~~Each~~ subsequent separate violations occurring every day thereafter until the violation is remedied. It shall not be necessary for the Director of the Weights and Measures Department to issue a written notice for each subsequent day, ~~after the two-week period has elapsed, to constitute a subsequent violation.~~ occurrence of a violation shall be subject to a civil fine of \$500.00 for each such violation.

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Part V: 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 Warren. The Board of Supervisors 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.

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Part VI: 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.

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Part VII: Effective Date

The Local Law shall take effect on January 1, 2019.

Legislative Bill Drafting Commission
12007-02-8

S. -----
Senate

IN SENATE--Introduced by Sen

--read twice and ordered printed,
and when printed to be committed
to the Committee on

----- A.
Assembly

IN ASSEMBLY--Introduced by M. of A.

with M. of A. as co-sponsors

--read once and referred to the
Committee on

ENVCONLA
(Relates to prohibiting plastic
carryout bags)

En Con L. plastic bags prohibit

AN ACT

to amend the environmental conserva-
tion law, in relation to prohibiting
plastic carryout bags

The People of the State of New
York, represented in Senate and
Assembly, do enact as follows:

IN SENATE

Senate introducer's signature

The senators whose names are circled below wish to join me in the sponsorship
of this proposal:

s15 Addabbo	s03 Croci	s27 Hoylman	s25 Montgomery	s23 Savino
s52 Akshar	s50 DeFrancisco	s60 Jacobs	s40 Murphy	s41 Serino
s31 Alcantara	s18 Dilan	s09 Kaminsky	s58 O'Mara	s29 Serrano
s46 Amedore	s17 Felder	s26 Kavanagh	s62 Ortt	s51 Seward
s11 Avella	s02 Flanagan	s63 Kennedy	s21 Parker	s16 Stavisky
s36 Bailey	s55 Funke	s34 Klein	s13 Peralta	s35 Stewart-
s30 Benjamin	s59 Gallivan	s28 Krueger	s19 Persaud	Cousins
s42 Bonacic	s12 Gianaris	s24 Lanza	s07 Phillips	s49 Tedisco
s04 Boyle	s22 Golden	s39 Larkin	s61 Ranzenhofer	s53 Valesky
s44 Breslin	s47 Griffo	s01 LaValle	s48 Ritchie	s57 Young
s08 Brooks	s20 Hamilton	s45 Little	s33 Rivera	s32
s38 Carlucci	s06 Hannon	s05 Marcellino	s56 Robach	s37
s14 Comrie	s54 Helming	s43 Marchione	s10 Sanders	

IN ASSEMBLY

Assembly introducer's signature

The Members of the Assembly whose names are circled below wish to join me in the
multi-sponsorship of this proposal:

a049 Abbate	a034 DenDekker	a115 Jones	a132 Palmesano	a114 Stec
a092 Abinanti	a070 Dickens	a077 Joyner	a002 Palumbo	a110 Steck
a084 Arroyo	a054 Dilan	a040 Kim	a088 Paulin	a127 Stirpe
a035 Aubry	a081 Dinowitz	a131 Kolb	a009 Pellegrino	a071 Taylor
a120 Barclay	a147 DiPietro	a105 Lalor	a141 Peoples-	a001 Thiele
a030 Barnwell	a016 D'Urso	a013 Lavine	Stokes	a061 Titone
a106 Barrett	a004 Englebright	a134 Lawrence	a058 Perry	a031 Titus
a060 Barron	a133 Errigo	a050 Lentol	a023 Pheffer	a033 Vanel
a082 Benedetto	a109 Fahy	a125 Lifton	Amato	a055 Walker
a042 Bichotte	a126 Finch	a123 Lupardo	a086 Pichardo	a143 Wallace
a079 Blake	a008 Fitzpatrick	a121 Magee	a089 Pretlow	a112 Walsh
a117 Blankenbush	a124 Friend	a129 Magnarelli	a073 Quart	a146 Walter
a098 Brabenec	a095 Galef	a064 Malliotakis	a019 Ra	a041 Weinstein
a026 Braunstein	a137 Gantt	a090 Mayer	a012 Raia	a024 Weprin
a119 Brindisi	a007 Garbarino	a108 McDonald	a006 Ramos	a059 Williams
a138 Bronson	a148 Giglio	a014 McDonough	a043 Richardson	a113 Woerner
a093 Buchwald	a066 Glick	a101 Miller, B.	a078 Rivera	a056 Wright
a118 Butler	a150 Goodell	a038 Miller, M.G.	a068 Rodriguez	a096 Zebrowski
a094 Byrne	a075 Gottfried	a020 Miller, M.L.	a027 Rosenthal, D.	a005
a103 Cahill	a100 Gunther	a015 Montesano	a067 Rosenthal, L.	a010
a044 Carroll	a139 Hawley	a136 Morelle	a025 Rozic	a017
a062 Castorina	a083 Heastie	a145 Morinello	a149 Ryan	a039
a047 Colton	a028 Hevesi	a057 Mosley	a111 Santabarbara	a046
a032 Cook	a048 Hikind	a003 Murray	a140 Schimminger	a074
a085 Crespo	a018 Hooper	a065 Niou	a076 Seawright	a080
a122 Crouch	a128 Hunter	a037 Nolan	a087 Sepulveda	a102
a021 Curran	a029 Hyndman	a144 Norris	a052 Simon	a104
a063 Cusick	a097 Jaffee	a130 Oaks	a036 Simotas	a107
a045 Cymbrowitz	a011 Jean-Pierre	a069 O'Donnell	a104	a142
a053 Davila	a116 Jenne	a051 Ortiz	a099 Skoufis	
a072 De La Rosa	a135 Johns	a091 Otis	a022 Solages	

1) Single House Bill (introduced and printed separately in either or
both houses). Uni-Bill (introduced simultaneously in both houses and printed
as one bill. Senate and Assembly introducer sign the same copy of the bill).

2) Circle names of co-sponsors and return to introduction clerk with 2
signed copies of bill and 4 copies of memorandum in support (single house);
or 4 signed copies of bill and 8 copies of memorandum
in support (uni-bill).

1 Section 1. The environmental conservation law is amended by adding a
2 new section 27-2708 to read as follows:

3 § 27-2708. Plastic carryout bag prohibition.

4 1. Beginning January first, two thousand nineteen, the provision of
5 plastic carryout bags at any point of sale to customers is prohibited.

6 2. This prohibition does not apply to (i) a reusable bag that is not
7 made of film plastic or a compostable bag; (ii) a plastic bag used sole-
8 ly to contain or wrap uncooked meat, fish, or poultry; (iii) a plastic
9 bag used by a customer solely to package bulk items, such as fruits,
10 vegetables, nuts, grains, or candy; (iv) a plastic bag used solely to
11 contain food sliced to order; (v) a plastic bag used solely to contain a
12 newspaper for delivery to a subscriber; (vi) plastic bags sold in bulk;
13 (vii) a plastic bag prepackaged for sale to a customer including, but
14 not limited to, a trash bag and a food storage bag; (viii) a plastic
15 garment bag; (ix) a plastic bag provided by a restaurant, tavern or
16 similar establishment to carry out or deliver food; or (x) any other bag
17 exempted by the department in regulations.

18 § 2. Section 27-2713 of the environmental conservation law, as amended
19 by chapter 481 of the laws of 2014, is amended to read as follows:

20 § 27-2713. Preemption.

21 Jurisdiction in all matters pertaining to plastic bag and film plastic
22 recycling and fees or other measures associated with reducing the use of
23 single use bags is by this article vested exclusively in the state. Any
24 provision of any local law or ordinance, or any rule or regulation
25 promulgated thereto, governing the recycling of plastic bags and film
26 plastic and fees or other measures associated with single use bags
27 shall, upon the effective date of this title, be preempted. Provided
28 however, nothing in this section shall preclude a person from coordinat-

1 ing for recycling or reuse the collection of plastic bags or film plas-
2 tic.

3 § 3. This act shall take effect immediately.

Memorandum

AN ACT to amend the environmental conservation law, in relation to prohibiting plastic carryout bags

Purpose of the bill:

This bill would amend the environmental conservation law to impose a ban on plastic carryout bags.

Summary of provisions:

Section 1 of this bill would add a new section 27-2708 to the environmental conservation law (ECL) to prohibit the provision of plastic carryout bags to customers at the point of sale beginning January 1, 2019.

Section 2 of this bill would amend section 27-2713 of the ECL, describing preemption.

Section 3 of this bill provides for an immediate effective date.

Justification:

Throughout New York State, plastic bags have become a ubiquitous sight on the landscape. They can be seen stuck in trees, as litter in our neighborhoods, floating in our waterways and are a general aesthetic eyesore of our environment. Single-use plastic bags are a detriment to the health of communities and the environment alike. From the significant recycling and disposal issues they pose to the litter and harm to wildlife they create, their negative impacts can be seen daily. These problems with single-use plastic bags are not only a statewide problem but are a national as well as international issue of concern.

Placing a ban on plastic carryout bags will result in a significant reduction of waste, lessening these environmental impacts. New York City alone estimates they would save \$12.5 million in disposal costs by reducing the number of disposable bags used. These costs do not include the significant cleanup costs to remove this plastic through litter collection programs and beach and ocean cleanup efforts. Plastic bag reduction further translates to reductions in the raw material and natural resources used to make, transport, and recycle the bags. Fewer carryout bags given away at checkout could result in decreased recycling and disposal costs for municipalities and municipal recycling facilities.

In New York State, a multitude of cities, towns or villages have enacted plastic bag bans. This proposal will provide an incentive for consumers to use reusable bags which have been shown to be an effective and appropriate means to carry products and goods. A statewide solution is necessary to eliminate the costly and negative impacts of plastic bags on New York's natural resources.

Prior legislative history:

This is a new bill.

Budget implications:

None known.

Effective date:

This act shall take effect immediately.