



COUNTY OF ERIE

MARK C. POLONCARZ
COUNTY EXECUTIVE

MICHAEL A. SIRAGUSA
COUNTY ATTORNEY

MICHELLE M. PARKER
FIRST ASSISTANT COUNTY ATTORNEY

DEPARTMENT OF LAW

JEREMY C. TOTH
SECOND ASSISTANT COUNTY ATTORNEY

August 17, 2015

Hon. Karen McCarthy
Erie County Legislature
92 Franklin Street, 4th Floor
Buffalo, New York, 14202

Re: Local Law No. 3-2015 (A Local Law in relation to prohibiting the sale of personal cosmetic products containing microbeads in Erie County) Our File No.: 22-20150016

Dear Hon. McCarthy:

Enclosed please find an original of the above-referenced Local Law for filing in your office.

Thank you.

Very truly yours,

MICHAEL A. SIRAGUSA
Erie County Attorney

By: 
Gregory P. Kammer
Assistant County Attorney

GPK/ncd
Enclosure

Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County City Town Village
(Select one)

of Erie

Local Law No. 3 of the year 20 15

A local law in relation to prohibiting the sale of personal cosmetic products containing
(insert Title)
microbeads in Erie County.

Be it enacted by the Erie County Legislature of the
(Name of Legislative Body)

County City Town Village
(Select one)

of Erie as follows:

Section 1: Legislative Findings and Intent

The legislature hereby makes the following findings and determinations:

- a) The legislature hereby finds and determines that microbeads, a synthetic alternative ingredient to such natural materials as ground almonds, oatmeal and pumice, found in over one hundred personal cosmetic products, including facial cleansers, shampoos and toothpastes, pose a serious threat to Erie County's environment. Microbeads have been documented to collect harmful pollutants, already present in the environment, and harm fish and other aquatic organisms that form the base of the aquatic food chain. Microbeads have been found in high quantity in New York State's water bodies, and in particular, the waters of Lake Erie.
- b) Research has indicated that the majority of these microbeads are entering bodies of water through disposal down household drains following the use of such personal cosmetic products. Without significant and costly improvements to Erie County's sewage treatment facilities, microbeads contained in personal cosmetic

(If additional space is needed, attach pages the same size as this sheet, and number each.)

products will continue to pollute Lake Erie and other water bodies within Erie County.

Section 2: Definitions

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

- a) "Microbead" shall mean any intentionally added plastic particle measured to be five millimeters or less in size used to exfoliate or cleanse in a personal care product.
- b) "Personal care product" shall mean any (a) article intended to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting attractiveness, or altering the appearance, including but not limited to soap, exfoliates, shampoos, toothpastes and scrubs, and (b) article intended for use as a component of any such article. The term "personal cosmetic product" shall not include any product for which a prescription is required for distribution or dispensation as provided in section two hundred eighty-one of New York State Public Health Law or Section six thousand eight hundred ten of New York State Education Law.

Section 3: Restrictions on the Sale of Microbeads in Erie County

It shall be unlawful for any person, firm, corporation, or any other entity no matter how constructed to sell, offer or expose for sale, give or furnish any personal cosmetic product which contains microbeads as defined herein.

Section 4: Enforcement

- a) The County of Erie through its Department of Public Works Division of Weights and Measures ("the Division") shall have sole jurisdiction to enforce the provisions of this local law.
- b) Any person, firm, corporation, or other entity who violates section 3 of this local law shall be liable for a civil penalty not to exceed two thousand five hundred dollars for each day during which such violation continues, and in addition thereto, such person, firm, corporation, or other entity may be enjoined from continuing such violation. For a second violation, such person, firm, corporation, or other entity shall be liable for a civil penalty not to exceed five thousand dollars for each day during which such violation continues, and in addition thereto, such person, firm, corporation, or other entity may be enjoined from continuing such violation.
- c) The Erie County Attorney may bring an action in the name of Erie County or the Erie County department of Public Works division of Weights and Measures to recover the civil penalty provided by this local law in any court of competent jurisdiction.

Section 5: Reverse Preemption

This local law shall be null and void on the day that state-wide 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 Erie. The Erie County Legislature shall determine by resolution whether or not identical or substantially similar state-wide legislation has been enacted for purposes of triggering the provisions of this section.

Section 6: Severability

If any clause, sentence, paragraph, subdivision, section or part of this law or the application thereof to any person, individual, corporation, firm, partnership, or Business 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 specific application.

Section 7: Effective Date

This local law shall become effective 180 days after filing with the Secretary of State.

Sponsored By:

Legislator Patrick B. Burke

Co-Sponsored By:

Legislator John J. Mills

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, in accordance with the applicable provisions of law.

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*)

I hereby certify that the local law annexed hereto, designated as local law No. 3 of 20¹⁵ of the (County)~~(City)(Town)(Village)~~ of Erie was duly passed by the Erie County Legislature on July 30 20¹⁵, and was (approved)~~(not approved)~~ by the Erie County Executive and was deemed duly adopted on August 12 20¹⁵, in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) (repassed after disapproval) by the _____ on _____ 20____.

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 20____, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) (repassed after disapproval) by the _____ on _____ 20____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, in accordance with the applicable provisions of law.

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 2 above.

Kenneth M. McCarty
Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

Date: August 17 2015

(Seal)

A Public Hearing was held on the foregoing Local Law Intro. No. 8-2 2015 on August 11, 2015 due notice thereof having been published in the official newspapers of the County of Erie designated for this purpose, and after due deliberation thereon, I, MARK C. POLONCARZ, County Executive of Erie County, do hereby APPROVE and SIGN said Local Law this 12 day of August, 2015.



Mark C. Poloncarz

A Public Hearing was held on the foregoing Local Law Intro. No. 8-2 2015 on August 11, 2015 due notice thereof having been published in the official newspapers of the County of Erie designated for this purpose, and after due deliberation thereon, I, MARK C. POLONCARZ, County Executive of Erie County, do hereby DISAPPROVE and VETO said Local Law this ____ day of August, 2015.

Mark C. Poloncarz