

# 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.

STATE OF NEW YORK  
DEPARTMENT OF STATE

**FILED**

AUG 18 2015

County  City  Town  Village  
(Select one.)  
of Erie

MISCELLANEOUS  
& STATE RECORDS

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.  
(Name of Legislative Body)

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

I hereby certify that the local law annexed hereto, designated as local law No. 3 of 20 15 of the (County)(City)(Town)(Village) of Erie was duly passed by the Erie County Legislature on July 30 20 15, and was (approved)(not approved) by the Erie County Executive and was deemed duly adopted on August 12 20 15, in accordance with the applicable provisions of law.  
(Name of Legislative Body)  
(Elective Chief Executive Officer\*)

**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\_\_\_\_.  
(Name of Legislative Body)  
(Elective Chief Executive Officer\*)

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.  
(Name of Legislative Body)  
(Elective Chief Executive Officer\*)

\* 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.)**

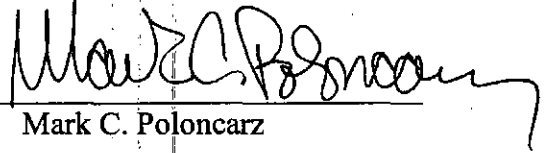
I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 2 above.

Kenneth M. McCarthy  
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