

Proposed Local Law No. 14 Of 2015

County Of Ulster

A Local Law Prohibiting The Sale Of Personal Care Products Containing Microbeads In Ulster County

BE IT ENACTED, by the Legislature of the County of Ulster, as follows:

SECTION 1. LEGISLATIVE INTENT AND FINDINGS.

Over the past ten (10) years, manufacturers of personal care products have increasingly added small plastic beads, commonly known as microbeads, to numerous products including facial cleansers, body wash, shampoos, and toothpaste. Microbeads enter the waste water system when a product is used and washed off. This microplastic waste is released into streams, rivers, lakes and the ocean through sewage overflows or by passing through sewage treatment plants not designed to remove such tiny particles. Microbeads constitute plastic pollution that poses a threat to the environment and human health in Ulster County.

Microbeads are persistent organic compounds that attract and become contaminated with toxic chemicals in the environment, many of which are recognized as having serious deleterious impacts on human health and the environment, including DDT, PCBs, flame retardants and other industrial chemicals. Microbeads are similar in size to the food sources for a number of fish and other marine organisms, leading them to ingest the microbeads and the toxins that cling to them. The chemicals are transferred from plastic to fish tissue once ingested and then bioaccumulate as they are passed up the food chain to larger fish and wildlife. Humans that consume these fish also ingest the microbeads and their associated toxins.

An estimated 19 tons of microbeads enter the wastewater stream in New York annually and microbeads have been found in large quantities in New York State's waterbodies, including the Great Lakes, the Hudson and Mohawk Rivers and the Erie Canal. Without significant and costly improvements to Ulster County's sewage treatment facilities, microbeads in personal care products will continue to pollute the Hudson River and other waterbodies within Ulster County.

There are economically feasible and currently available alternatives to the use of plastic microbeads in personal care products, including such natural exfoliants as pumice, oatmeal, ground shells, nuts and seeds and sand. Some companies already use natural abrasive materials in their personal care products including apricot shells and cocoa beans.

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Banning the sale of personal care products containing microbeads in Ulster County is necessary to protect its surface waters, as well as the larger bodies of water that also serve the County, from continuing pollution with microplastic waste that will hinder on-going efforts to restore those waterways and their fisheries, as well as putting at risk our recent investments in re-developing our waterfronts.

SECTION 2. DEFINITIONS.

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

- (a) "Microbeads" shall mean any plastic component of a personal cosmetic product measured to be 5 millimeters or less in size.
- (b) "Person" shall mean any natural person, individual, corporation, unincorporated association, proprietorship, firm, partnership, joint venture, joint stock association or any other entity or business organization of any kind.
- (c) "Personal care product" means any 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, and any article intended for use as a component of any such article. Personal care products shall include, but not be limited to, the following: antibacterial soaps; hand soaps; bar soaps; liquid soaps; facial and body washes; facial and body cleansers; facial masks; exfoliating products; face, foot and body scrubs; body, skin and foot polishes; body, skin and foot buffers; body, skin and foot foams; micro technology items; acne treatment products; shampoos; conditioners; toothpaste; shaving creams or gels; and foot care products. "Personal care product" does not include any product for which a prescription is required.

SECTION 3. PROHIBITION.

It shall be unlawful for any person to sell, offer, or expose for sale, ~~give or furnish~~ any personal care product that contains microbeads as defined herein within the County of Ulster.

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SECTION 4. ENFORCEMENT.

This local law shall be enforced by the County through the Ulster County Department of Weights and Measures.

SECTION 5. PENALTIES.

(a) Any person who violates any portion of this law shall be liable for a civil penalty not to exceed \$2500 for each day during which such violation continues, and in addition thereto, such person may be enjoined from continuing such violation. For a second violation, such person shall be liable for a civil penalty not to exceed \$5000 for each day during which such violation continues and in addition thereto, such person may be enjoined from continuing such violation.

(b) The County Attorney may bring an action to recover the civil penalty provide for in this local law in any court of competent jurisdiction.

SECTION 6. REVERSE PREEMPTION.

This local law shall be null and void on the day that federal and statewide 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 Ulster. The County Legislature shall determine via duly enacted resolution whether or not identical or substantially similar federal or statewide legislation, or pertinent preempting state or federal regulations have been enacted for the purpose of triggering the provision of this section.

SECTION 7. 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

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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 8. SEQRA DETERMINATION.

On April 20, 2010, under the authority contained in Part 617.5(b) of the State Environmental Quality Review Act (SEQRA), the Ulster County Legislature adopted a Type II Action list. As lead agency, the Legislature hereby finds and determines that this law constitutes a Type II action pursuant to Sections 2.20, 2.27, and 4.2.1 of the Ulster County Type II list, that no significant environmental impacts will occur as a result of this action, and that no additional SEQRA findings or determinations are necessary.

SECTION 9. EFFECTIVE DATE.

This law shall take effect 180 days after filing with the Office of the Secretary of State.