

TO: HONORABLE BOARD OF LEGISLATORS  
COUNTY OF WESTCHESTER

Your Committee has reviewed “A LOCAL LAW amending the Laws of Westchester County by adding a new Chapter 541 concerning Food Allergy Restaurant Safety.”

Your Committee is informed that the Food Allergy Research and Education organization (“FARE”), the world’s leading food allergy advocacy organization and the largest private funder of food allergy research, estimates that 32 million Americans have food allergies, including 5.6 million children under the age of eighteen. About 40 percent of children with food allergies are allergic to more than one food. Every three minutes, a food allergy reaction sends someone to the emergency room. Each year in the U.S., 200,000 people require emergency medical care for allergic reactions to food.

Your Committee is further informed that according to the Mayo Clinic, a food allergy is an immune system reaction that occurs soon after eating a certain food. Even a tiny amount of the allergy-causing food can trigger signs and symptoms such as digestive problems, hives or swollen airways. In some people, a food allergy can cause severe symptoms or even a life-threatening reaction known as anaphylaxis. FARE reports that medical procedures to treat anaphylaxis resulting from food allergy increased by 380 percent between 2007 and 2016. Most fatal food allergy reactions are triggered by food consumed outside the home.

Your Committee notes that there is no cure for a food allergy. Food allergies are managed by avoiding the problem food(s) and learning to recognize and treat reaction symptoms. Food allergies in the United States are clearly a public health crisis.

Your Committee is aware that there are many restaurants in Westchester County and recognizes that food allergies can be a significant barrier to both safety and quality of life. Your Committee believes that food allergen awareness should be enhanced in food service establishments throughout the County. Preventative training is necessary to ensure that appropriate safety measures are utilized in food preparation and service. This proposed Local Law would require every food service establishment in the County to post at least 2 signs produced by the County Department of Health to be visible to both employees and customers to include the following information: that no fewer than two (2) employees have completed a food allergen training program, a list of the major food allergens, a list of symptoms of allergic reactions, advising customers to inform a staff member if they have a food allergy, actions to take if a customer has a food allergy and actions to take when informed by a customer that they have a food allergy. The Law also provides that the Commissioner of Health shall establish an online food allergen training program for food service establishment employees which shall be taken by at least 2 employees from each establishment. The proposed Local Law would be enforced by the Department of Health.

Your Committee is further informed that the proposed Local Law does not meet the definition of an action under New York State Environmental Quality Review Act and its implementing regulations 6 NYCRR Part 617. Please refer to the memorandum from the Department of Planning dated January 14, 2022, which is on file with the Clerk of the Board of Legislators.

Your Committee, after careful consideration, recommends the adoption of this Local Law.

Dated: \_\_\_\_\_, 2022  
White Plains, New York

COMMITTEE ON

# FISCAL IMPACT STATEMENT

SUBJECT: Food Allergy Notice

NO FISCAL IMPACT PROJECTED

## OPERATING BUDGET IMPACT

To Be Completed by Submitting Department and Reviewed by Budget

### SECTION A - FUND

GENERAL FUND

AIRPORT FUND

SPECIAL DISTRICTS FUND

### SECTION B - EXPENSES AND REVENUES

Total Current Year Expense \$           -

Total Current Year Revenue \$           -

Source of Funds (check one):  Current Appropriations  Transfer of Existing Appropriations

Additional Appropriations

Other (explain)

Identify Accounts: \_\_\_\_\_

Potential Related Operating Budget Expenses: Annual Amount \$           -

Describe: \_\_\_\_\_

Potential Related Operating Budget Revenues: Annual Amount \$           -

Describe: \_\_\_\_\_

Anticipated Savings to County and/or Impact on Department Operations:

Current Year: \_\_\_\_\_

Next Four Years: \_\_\_\_\_

Prepared by: Gideon Grande

Title: Deputy Director

Department: Budget

Date: April 15, 2022

Reviewed By: 

Budget Director

Date: 4/18/22

**RESOLUTION NO. \_\_\_\_ – 2022**

RESOLVED, that this Board hold a public hearing pursuant to Section 209.141(4) of the Laws of Westchester County on Local Law Intro. No. \_\_\_\_\_ - 2022, entitled “A LOCAL LAW amending the Laws of Westchester County by the addition of a new Chapter 541 concerning Food Allergy Restaurant Safety.” The public hearing will be held at \_\_\_\_\_ .m. on the \_\_\_\_\_ day of \_\_\_\_\_, 2022 in the Chambers of the Board of Legislators, 8th Floor, Michaelian Office Building, White Plains, New York. The Clerk of the Board shall cause notice of the time and date of such hearing to be published at least once in one or more newspapers published in the County of Westchester and selected by the Clerk of the Board for that purpose in the manner and time required by law.

**LOCAL LAW INTRO. NO. \_\_\_\_\_-2022**

A LOCAL LAW amending the Laws of Westchester County by adding a new Chapter 541 in relation to Food Allergy Restaurant Safety.

BE IT ENACTED by the County Board of the County of Westchester as follows:

**Section 1.** The Laws of Westchester County are hereby amended to include a new Chapter 541 to read as follows:

**CHAPTER 541  
FOOD ALLERGY RESTARANT SAFETY**

**Sec. 541.01 Definitions.**

**Sec. 541.11 Posting of Signs.**

**Sec. 541.21 Food Allergen Awareness Training.**

**Sec. 541.31 Promulgation of Rules and Regulations.**

**Sec. 541.41 No Private Right of Action.**

**Sec. 541.51 Violations, Penalties; Liability.**

**Sec. 541.61 Severability.**

**Sec. 541.01. Definitions.**

- A. “Commissioner” shall mean the Commissioner of the Westchester County Department of Health.
- B. “Department” shall mean the Westchester County Department of Health.
- C. “Food Service Establishment” shall have the definition set forth in Title 10, subpart 14-1.20 (a) of the New York Codes, Rules and Regulations and shall exclude mobile food trucks.
- D. “Major food allergens” shall mean any of the following:
  - 1. Milk, egg, fish, Crustacean shellfish, tree nuts, wheat, peanuts, sesame and soybeans.

2. A food ingredient that contains protein derived from a food specified in paragraph (1), except any highly refined oil derived from a food specified in paragraph (1) and any ingredient derived from such highly refined oil.

**Sec 541.11. Posting of Signs.**

- A. Every food service establishment in Westchester County shall post a minimum of two signs meeting the requirements prescribed in this section.

1. A minimum of one sign shall be posted in a conspicuous area on the premises in a manner that is clearly visible to employees in all food preparation areas.
2. A minimum of one sign shall be posted in a conspicuous area on the premises in a manner that is clearly visible to customers approaching a point of service.
3. Such signs shall be posted in English and Spanish, and such other language deemed necessary by the Department.

- B. Signs required by this ordinance shall meet the following criteria:

1. Include the following statement: "This entity has designated \_\_\_\_\_ employees as food safety officers who have completed a food allergen training program approved by the Commissioner of the Westchester County Department of Health. If you have a food allergy or a special dietary requirement, please advise a member of staff";
2. List the eight major food allergens;
3. List symptoms of an allergic reaction including loss of consciousness, shortness of breath, itching or tingling in or around the mouth, face, scalp, hands, and feet, hives, swelling of the face, eyelids, tongue, lips, hands, or feet, tightening of the throat and sudden onset of vomiting, cramps, or diarrhea;
4. Actions to be taken if a customer informs a food service establishment employee that he or she has a food allergy;
5. Action to be taken if a customer has an allergic reaction; and

6. Text on the sign shall be no smaller than 21-point font size and shall be in a contrasting color to the background.

C. The Department shall produce and deliver to all Food Service Establishments signs conforming to the requirements of this section.

D. Signs shall be available for inspection at all times by the Department.

**Sec. 541.21. Food Allergen Awareness Training.**

A. The Commissioner shall establish an online food allergen training program or identify and approve an appropriate online third-party food allergen training program for food service establishment employees. Such program shall be in English, Spanish, and such other language deemed necessary by the Department.

B. An owner or operator of a food service establishment shall designate a minimum of two employees as food safety officers who shall complete a food allergen training program approved by the Commissioner. Recertification shall be required every five years.

C. The Department shall make an online food allergen training program available to food service establishments free of charge.

D. The Department shall notify every Food Service Establishment of this local law and shall maintain records regarding proof of such notice.

**Sec 541.31. Promulgation of Rules and Regulations.**

The Commissioner is authorized to promulgate rules and regulations to effectuate the provisions of this local law.

**Sec. 541.41. No Private Right of Action.**

This local law does not create a private right of action against Food Service Establishments in Westchester County.

**Sec 541.51. Violations; Penalties; Liability**

A. Non-compliance with sections 541.11 and 541.21(B) of this law shall be deemed a violation. The Department shall establish procedures for the administrative adjudication of any violation.

B. Any violation under this law shall be subject to a civil penalty of not less than fifty dollars but not more than five hundred dollars for each violation.



**Sec. 541.61. Severability.**

If any clause, sentence, paragraph, subdivision, section, or part of this local 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 local 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.

§2. This local law shall take effect 180 days after final adoption.