

LOCAL LAW NO. 2-15
CHAUTAUQUA COUNTY
Print 2

A LOCAL LAW PROHIBITING THE SALE OF PERSONAL CARE PRODUCTS
CONTAINING MICROBEADS IN CHAUTAUQUA COUNTY

BE IT ENACTED, by the County Legislature of the County of Chautauqua, New York, as follows:

Section 1. Legislative Findings and Intent

The Chautauqua County Legislature hereby makes the following findings and determinations:

- a) Microbeads, a synthetic alternative ingredient to such natural materials as ground almonds, oatmeal and pumice, found in over one hundred personal care products, including facial cleansers, shampoos and toothpastes, pose a serious threat to Chautauqua 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 care products. Without significant and costly improvements to Chautauqua County's sewage treatment facilities, microbeads contained in personal care products will continue to pollute Lake Erie, Chautauqua Lake, and other water bodies and waterways within Chautauqua 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 care 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, as may be amended from time-to-time.

Section 3. Restrictions on the Sale of Microbeads in Chautauqua 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 care product which contains microbeads as defined herein.

Section 4. Enforcement

- a) The County of Chautauqua through its Department of Weights and Measures 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 one thousand dollars. For a second or subsequent violation, such person, firm, corporation, or other entity shall be liable for a civil penalty not to exceed twenty 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.
- c) The Chautauqua County Department of Law may bring an action in the name of Chautauqua County or the Chautauqua County Department 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 Chautauqua. The Chautauqua 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 on February 15, 2016.

Adopted by Legislature: 9/23/15 (Message of Necessity in Effect)

Public Hearing by County Executive: 10/8/15

Adopted as Local Law 2-15 (Mailed to State – 10/9/15)