

STRICKEN AS OF 2/7/2013
AMENDED COPY AS OF 8/8/2012

Intro. Res. No. 1803-2012
Introduced by Legislator Cilmi

Laid on Table 8/7/2012

**RESOLUTION NO. -2013, ADOPTING LOCAL LAW
NO. -2013, A LOCAL LAW TO ELIMINATE ITEM PRICING
WAIVER FEE**

WHEREAS, there was duly presented and introduced to this County Legislature at a meeting held on _____, 2012 a proposed local law entitled, "**A LOCAL LAW TO ELIMINATE ITEM PRICING WAIVER FEE**"; now, therefore be it

RESOLVED, that said local law be enacted in form as follows:

LOCAL LAW NO. -2013, SUFFOLK COUNTY, NEW YORK

A LOCAL LAW TO ELIMINATE ITEM PRICING WAIVER FEE

BE IT ENACTED BY THE COUNTY LEGISLATURE OF THE COUNTY OF SUFFOLK, as follows:

Section 1. Legislative Intent.

This Legislature hereby finds that Local Law No. 14-1992 required retail stores operating within the County of Suffolk to item price certain products including food, detergents, soaps, non-prescription drugs, health and beauty aids.

This Legislature further finds that subsequent to the enactment of Local Law No. 14-1992, most retail stores fully implemented laser scanning and other computer-assisted checkout systems.

This Legislature finds that in 2008, the County of Suffolk recognized that the new technologies employed by retail establishments obviated the need for item pricing.

This Legislature determines that the County of Suffolk enacted Local Law No. 37-2008, to allow retailers to seek a waiver from item pricing requirements while instituting new safeguards that protected the right of consumers to obtain clear, accurate pricing information.

This Legislature also finds that Local Law No. 37-2008 required retail stores to pay substantial fees, as high as \$15,000 annually for the largest stores, to obtain an item pricing waiver.

This Legislature further finds that it is widely accepted and understood that Long Island's high costs discourage economic development and job creation.

This Legislature also determines that the item pricing waiver fee is another disincentive for businesses to locate in Suffolk.

Therefore, the purpose of this law is to repeal the County's onerous item pricing waiver fee.

Section 2. Amendments.

Chapter 542 of the SUFFOLK COUNTY CODE is hereby amended as follows:

Chapter 542, Item Pricing

Article I. Requirements.

* * * *

§ 542-9 Waiver of Requirements[; fees].

- A. Every retail store which uses a computer-assisted checkout system and which would otherwise be required to item price as provided in § 542-2 of this article may make an application, in writing, to the Director for a waiver of said item pricing requirement. A separate application shall be required for each store. [Each application shall be subject to a nonrefundable waiver fee based upon the gross square footage of each store as set according to the following schedule:

Gross Store Size (square feet)	Waiver Fee
Under 3,000	\$ 500
Between 3,001 and 10,000	\$1,000
Between 10,001 and 30,000	\$3,000
Between 30,001 and 90,000	\$5,000
Over 90,000	\$15,000]

- B. Upon receipt of an application [and fee] as provided in Subsection A of this section, the Director shall cause to be conducted a scanner accuracy inspection of the store for which the application has been submitted. This inspection shall be in the manner prescribed by the Director. At stores with a gross size in excess of 10,000 square feet, a minimum of 100 stock-keeping units shall be checked at inspection. At stores with a gross size of 10,000 square feet or less, a minimum of 50 stock-keeping units shall be checked. If the number of stock-keeping units found to be in violation does not exceed 2% of all those stock-keeping units inspected, the Director shall grant to the applicant a one-year revocable waiver from the item pricing requirement. Any store with a current waiver shall be exempt from the requirements of § 542-2 of this Code.

* * * *

- E. Waivers from item pricing shall be valid for a period of one year from the date of issuance, except as set forth in Subsection F of this section, and shall expire on the last

day of the 12th month of such issuance. Stores must reapply annually for renewal at the rates established in Subsection A of this section. [The waiver fee and] An inspection shall be required for each annual renewal application, as required for an original waiver application.

- F. In the event that the Director is unable to conduct an inspection pursuant to Subsection B of this section within 90 days of receipt of a complete waiver application [and proper waiver fee], the Director shall grant a temporary waiver pending completion of the inspection. The Director shall cause said inspection to be completed as soon as practicable. If, upon completion, the inspection detects a violation rate of less than 2%, the Director shall issue a regular waiver with an expiration date of one year from the date of the temporary waiver. If the inspection detects a violation rate in excess of 2%, the temporary waiver shall be immediately revoked and the provisions of Subsection D shall apply.

* * * *

Section 3. Applicability.

This law shall apply to actions occurring on or after the effective date of this law.

Section 4. 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 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 5. SEQRA Determination.

This Legislature, being the State Environmental Quality Review Act (SEQRA) lead agency, hereby finds and determines that this law constitutes a Type II action pursuant to Section 617.5(c)(20), (21), and/or (27) of Title 6 of the NEW YORK CODE OF RULES AND REGULATIONS (6 NYCRR) and within the meaning of Section 8-0109(2) of the NEW YORK ENVIRONMENTAL CONSERVATION LAW as a promulgation of regulations, rules, policies, procedures, and legislative decisions in connection with continuing agency administration, management and information collection. The Suffolk County Council on Environmental Quality (CEQ) is hereby directed to circulate any appropriate SEQRA notices of determination of non-applicability or non-significance in accordance with this law.

Section 6. Effective Date.

This law will take effect on January 1, 2013.

- [] Brackets denote deletion of existing language.
___ Underlining denotes addition of new language.

DATED:

APPROVED BY:

County Executive of Suffolk County

Date: