

PROPOSED ORDINANCE NO. 77-2019

AN ORDINANCE TO ENHANCE FOOD ALLERGY SAFETY MEASURES AT FOOD  
SERVICE ESTABLISHMENTS IN NASSAU COUNTY

WHEREAS, the Food Allergy Research and Education organization estimates that 32 million Americans have food allergies, including 5.6 million children under the age of eighteen; and

WHEREAS, about forty percent of children with food allergies are allergic to more than one food and more than forty percent of children with food allergies have experienced a severe allergic reaction such as anaphylaxis; and

WHEREAS, contact with food that an individual is allergic to can cause a medical emergency; and

WHEREAS, every three minutes, a food allergy reaction sends someone to the emergency room; and

WHEREAS, each year in the United States, approximately 200,000 people require emergency medical care for allergic reactions to food; and

WHEREAS, medical procedures to treat anaphylaxis resulting from a food allergy increased by 380 percent between 2007 and 2016; and

WHEREAS, there are over 4,100 restaurants in Nassau County; and

WHEREAS, this Legislature recognizes that food allergies can be a significant barrier to both safety and quality of life; and

WHEREAS, this Legislature believes that food allergen awareness should be enhanced in food service establishment throughout Nassau County; and

WHEREAS, this Legislature finds that preventative training is necessary to ensure that appropriate safety measures are utilized in food preparation and service; NOW THEREFORE

BE IT ORDAINED by the County Legislature of the County of Nassau as follows:

Section 1. Short Title.

This ordinance shall be known as the “Food Allergy Restaurant Safety Ordinance.”

Section 2. Definitions.

As used in this ordinance, the following terms shall have the following definitions:

- A. "Commissioner" shall mean the Commissioner of the Nassau County Department of Health.
- B. "Department" shall mean the Nassau 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 foods that trigger allergic reactions including milk, eggs, fish, crustacean shellfish, wheat, soybeans, peanuts and tree nuts.

### Section 3. Posting of Signs.

- A. Every food service establishment in Nassau County shall post a minimum of two signs meeting the requirements prescribed in this section.
  - i. 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.
  - ii. 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.
  - iii. Such signs shall be posted in English, Spanish, Mandarin Chinese and such other language deemed necessary by the Department.
- B. Signs required by this ordinance shall meet the following criteria:
  - i. 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 Nassau County Department of Health. If you have a food allergy or a special dietary requirement, please advise a member of staff";
  - ii. List the eight major food allergens;
  - iii. 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;
  - iv. Actions to be taken if a customer informs a food service establishment employee that he or she has a food allergy;
  - v. Action to be taken if a customer has an allergic reaction; and
  - vi. 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.

### Section 4. 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, Mandarin, Chinese 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. All costs and expenses to train employees of Food Service Establishments pursuant to this section shall be a County charge reimbursable to the Food Service Establishment through the Department.
- D. The Department shall notify every Food Service Establishment of this ordinance and shall maintain records regarding proof of such notice. Notice to Food Service Establishments shall be hand delivered.

#### Section 5. Promulgation of Rules and Regulations.

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

#### Section 6. No Private Right of Action.

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

#### Section 7. Violations; Penalties; Liability

- A. Non-compliance with sections 3 and 4(b) of this ordinance shall be deemed a violation subject to the procedures set forth in Article I, section 2 of the Nassau County Public Health Ordinance.
- B. Any violation under this ordinance shall be subject to a civil penalty of not less than fifty dollars and not exceeding five hundred dollars for each violation.
- C. To the fullest extent permitted by law, Food Service Establishments shall not assume any liability whatsoever with respect to any alleged failure to comply with the terms of this Local Law.

#### Section 8. Enforcement.

The Department shall implement and enforce the provisions of this ordinance and shall take reasonable steps to inform food service establishments within Nassau County of the requirements of this ordinance prior to the effective date. The Commissioner shall promulgate rules and regulations necessary to effectuate this ordinance.

#### Section 9. Severability.

If any clause, sentence, paragraph, subdivision, section, or part of this ordinance 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 ordinance, 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 10. SEQRA Determination.

It is hereby determined, pursuant to the provisions of the State Environmental Quality Review Act, 8 N.Y.E.C.L., section 0101 et. seq. and its implementing regulations, Part 617 of 6 N.Y.C.R.R. and section 1611 of the County Government Law of Nassau County, that the adoption of this ordinance is a “Type II” Action within the meaning of Section 617.5(c)(20) and (27) of 6 N.Y.C.R.R., and, accordingly, is a class of actions which do not have a significant effect on the environment; and no further review is required.

#### Section 11. Effective Date.

This ordinance shall take effect ninety days after final adoption.