

MONDAY, SEPTEMBER 13, 1976

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THAT the total votes for said proposed local law were 130 and the total votes against said local law were none.

IN WITNESS WHEREOF I have hereunto set my hand and affixed the official seal of the said Board of Supervisors on the 13th day of September 1976.

(SEAL)

STANLEY W. KRAUSE

Clerk, Board of Supervisors  
County of Nassau

LOCAL LAW NO. 7—1976

A LOCAL LAW in relation to requiring an expiration date for perishable food products offered for sale or sold in the county of Nassau.

(Became a law on September 13, 1976 with the approval of the County Executive. Passed by the Board of Supervisors of the County of Nassau on September 13, 1976.)

BE IT ENACTED by the Board of Supervisors of the County of Nassau as follows:

Section 1. Legislative purpose. The board of supervisors hereby finds and determines that the consumers of Nassau county should be able to ascertain that perishable food products offered for sale or sold in the county are fresh and that such food products will not spoil or suffer loss of either nutritional value or palatability for a reasonable period of time after purchase. Therefore, the board of supervisors deems it in the best interests of the consumer public to establish a system of clear and legible dating in order to assure consumers of the freshness of perishable food products sold or offered for sale within the county.

§ 2. Definitions. a. "Commissioner" means the commissioner of consumer affairs.

d. "Office" means the office of consumer affairs.

c. "Person" means an individual, firm, partnership, association or corporation.

d. "Perishable food products" shall mean those commodities as defined in section three or as otherwise designated by regulations promulgated pursuant to the provisions of this local law.

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e. "Sell" or "offer to sell" shall mean the act of selling, displaying, or offering for sale by a retailer or retail entity to the public for off-premises human consumption.

§ 3. Perishable food products. For the purposes of this local law, the following items shall be deemed perishable food products:

a. eggs — grade AA, grade A and grade B shell eggs.

b. all pre-packaged, fully or partially prepared baked goods, which have a moisture content exceeding eighteen per cent, with or without additives known as:

(1) bread, rolls and buns as defined in title twenty-one, chapter one, part seventeen of the code of federal regulations, except those products traditionally known as "fruitcake";

(2) cakes, pastries and cookies, except those that are offered for sale in individual, portion-pack, snack-pack type packages:

(3) english muffins, corn muffins, bran muffins and other similar products.

c. The following pre-packaged dairy and dairy-type products:

(1) those products with or without additives or flavorings, known as cheese, as defined in title twenty-one, chapter one, part nineteen of the code of federal regulations, which contain fifty per cent or more moisture in the finished product;

(2) milk and milk products as defined in title ten, chapter one, part three of the official compilation of codes and rules and regulations of the state of New York.

(3) cultured milk, cultured milk products, cultured skim milk and cultured skim milk products with or without fruits, vegetables, meats or cheeses, or other additives;

(4) yogurt, made from skim milk or whole milk, with or without fruits, vegetables, meats or other additives;

(5) cultured cream, salad cream and non-cultured sour cream, with or without fruits, vegetables, meats or cheese or other additives;

(6) cultured half and half, non-cultured sour half and half and non-cultured half and half;

(7) dairy dressing and dairy dip;

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(8) non-dairy coffee creamers which are normally stored at temperatures between thirty-two degrees fahrenheit and forty degrees fahrenheit.

d. All pre-packaged, prepared foods which require refrigeration.

e. Meat as defined in title one, chapter six, part three hundred one of the official compilation of codes, rules and regulations of the state of New York.

f. slaughtered domesticated poultry (chicken, turkeys, ducks, geese and guineas).

§ 4. General dating requirements. a. It shall be unlawful to sell or offer for sale any perishable food product unless there is a stamped, printed or otherwise plainly and conspicuously marked a day or date indicating the last day or date of sale with a statement which shall further indicate that it is the last day or date of sale.

b. It shall be unlawful to sell or offer for sale any perishable food product after the day or date required by subdivision (a) of this section, except that outdated perishable food products may continue to be sold provided they are conspicuously identified as outdated perishable food products and are physically separated from perishable food products whose expiration dates have not expired. The commissioner may, by regulation, set standards for the form of conspicuous identification required for the sale of outdated perishable food products.

§ 5. Display of required information. The information required by subdivision (a) of section four shall be clearly marked on each and every package or item as follows:

a. On the top cover or principal panel of the packaging or container, or, on a label affixed thereto; or

b. on the top or principal panel or on a label affixed thereto, a notice shall appear indicating the location on the packaging of the required information.

§ 6. Exemptions. The provisions of this local law shall not apply to:

a. any product stored in a retail store at or below a temperature of thirty-two degrees fahrenheit, in accordance with the specifications of the manufacturer or processor;

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b. any sterilized product when hermetically sealed and packaged and is so maintained until the time of sale to the public;

c. products made from products which are date marked where such secondary products are the result of an additional processing stage.

d. prepared foods sold or offered for sale exclusively on the premises where manufactured.

e. poultry and meat articles prepared at any establishment under inspection pursuant to the federal meat inspection act, as amended by the wholesome meat act.

§ 7. Violations. a. The commissioner or his designated representative shall have the power to impose upon any person who shall violate any of the provisions of this local law and/or any regulations duly promulgated with respect thereto a civil penalty of not less than fifty dollars nor more than five hundred dollars for each such violation.

b. for purposes of this section, each group of identical packaged perishable food products which, on any single day, are in violation of either or both subdivisions (a) or (b) in section four, shall constitute a single violation.

c. each day a violation is continued shall constitute a separate violation.

d. no penalty shall be imposed until after a hearing has been held before the commissioner or his designated representative upon at least five business days' notice to the alleged violator. Such notice shall be served either personally or by certified mail, return receipt requested, to the last known address of the alleged violator, and shall state the date and place of the hearing as well as enumerate the grounds constituting the allegations. The alleged violator may be represented by counsel and may produce witnesses in his own behalf.

e. all monies received by the office pursuant to the provisions of this local law shall be remitted to the county treasurer for deposit in the general fund of the county within thirty days after receipt.

§ 8. Powers of the commissioner. a. The commissioner shall receive and evaluate complaints and initiate his own investigations relating to these matters and may take appropriate action related thereto including stop-sale and stop-removal orders where neces-

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sary and proper, except that stop-sale and stop-removal orders may only be issued in conjunction with the issuance of a notice of violation of either section four or section five hereof.

b. The commissioner shall have the power after reasonable notice and hearing, to determine the reasonableness of any statement or representation as to the day or date affixed pursuant to sections four and five.

c. The commissioner may promulgate regulations designating additional commodities as perishable food products whenever the commissioner shall find that because of the nature of the commodity or the mode of packaging, information relative to the last selling day or date of the commodity shall be necessary in order to provide adequate information to the consuming public as to the perishable nature of such commodity.

d. The commissioner may promulgate regulations deleting commodities as perishable food products whenever the commissioner may find that as a result of new technology or otherwise, it is no longer necessary to require disclosure of the last selling day or date of such commodity.

e. No rule or regulation may be promulgated pursuant to subdivisions (c) or (d) herein unless a public hearing is held by the commissioner. At least seven business days' prior notice of such public hearing shall be published in the official newspapers of the county. A copy of all rules and regulations promulgated and any amendments thereto shall be filed in the office of the clerk of the board of supervisors.

§ 9. Injunctive relief. Upon application of the commissioner, the county attorney may commence a civil action in the name of the county to restrain, prevent and enjoin a violation of this local law or any rule or regulation promulgated or any continuance of such violation.

§ 10. Review of administrative determination. The action of the commissioner in adjudging penalties or making administrative determinations appropriate to his powers and duties may be reviewed by a proceeding brought under and pursuant to article seventy-eight of the civil practice law and rules of the state of New York.

§ 11. Separability. If any part of or provision of this local law or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment

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shall be confined in its operation to the part of or provision of or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this local law or the application thereof to other persons or circumstances.

§ 12. Superseder. Nothing contained within this local law shall be deemed to conflict with and/or supersede the authority of the Nassau county department of health or any state or federal law or regulation with respect to the dating of perishable food products.

§ 13. Effective date. This local law shall take effect sixty days after its adoption.

Approved: September 13, 1976

**RALPH G. CASO**

**County Executive**

The vote on the foregoing local law is recorded as follows:

Ayes: Suozzi 2; D'Amato 35; Burke 32; Komanoff 3; Tully 23;  
Purcell 35. Total 130.

Noes: None.

The Clerk then read Item No. 1 on the calendar for this meeting, which was a hearing in relation to the acquisition of real property for the extension of Grace Avenue, Incorporated Village of Great Neck Plaza. The County Executive inquired if anyone wished to be heard on this matter. The following persons appeared and were heard:

Mrs. Sonia Sable of Great Neck  
Mrs. Renee Beyer of Great Neck  
Hon. Franklin Lesser, Mayor of Thomaston  
Arthur D. Goldstein, Esq. of Mineola  
Mrs. Jewell L. Silver of Great Neck  
Mr. Arnold Prenskey of Great Neck  
Hon. Andrew L. Wurman, Mayor of Great Neck Plaza  
Mr. Edward Hall, Chairman, Nassau Village Officials  
Association Planning Council for the Great Neck Peninsula  
Steven Wimpfheimer, Esq. of Mineola  
Mr. Seymour Ikenson of Great Neck  
Mr. Walt Sterling of Woodmere