



# CATTARAUGUS COUNTY

John R. Searles, County Administrator

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The Legislature of Cattaraugus County will meet in adjourned session at the County Center, Little Valley, New York, on **Wednesday, June 27, 2012**, for the transaction of such business as may properly come before the meeting.

Contingent Fund Balance: \$384,189

Tobacco Settlement Proceeds to Date: \$19,031,363

3:00 p.m.

CALL TO ORDER

ROLL CALL

INVOCATION

MINUTES OF PREVIOUS MEETING

COMMUNICATIONS

PRIVILEGE OF THE FLOOR

- Presentation by McCarthy & Conlon - Nursing Homes 2011 Annual Audit
- Public Hearings - Local Law Numbers 3-2012, 4-2012 & 5-2012

RESOLUTIONS READY FOR ACTION

UNFINISHED BUSINESS

RESOLUTIONS - IMMEDIATE CONSIDERATION

ADJOURNMENT

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## ACT NO.

## RESOLUTIONS, MOTIONS AND NOTICES READY FOR ACTION

- 295-12 Public Safety Committee: Mr. Murphy, Mr. Hale, Mr. Felton, Mr. Snyder, Sr., Mr. VanRensselaer, Mr. Weller and Mr. Koch and Public Works Committee: Mr. Aiello, Mr. Weller, Ms. Edstrom, Mr. Klancer, Mr. Snyder, Jr., Mr. Teachman, Mr. Koch, Mr. Lamberson and Mr. Sprague  
LOCAL LAW NUMBER 3-2012 COUNTY OF CATTARAUGUS, NEW YORK - A LOCAL LAW PROVIDING FOR THE REMOVAL AND STORAGE OF VEHICLES  
Approved by 8 Finance
- 297-12 Mr. Aiello, Ms. Edstrom, Mr. Felton, Mr. Hale, Mr. Klancer, Mr. Marsh, Mr. Murphy, Mr. Snyder, Jr., Mr. Snyder, Sr., Mrs. Stockman, Mr. Teachman, Mr. VanRensselaer, Ms. Vickman and Mr. Weller  
LOCAL LAW NUMBER 4-2012 COUNTY OF CATTARAUGUS, NEW YORK - A LOCAL LAW OVERRIDING TAX LEVY LIMIT FOR FISCAL YEAR 2013 *Mrs. Stockman requested to be removed as sponsor*  
Approved by 7 Finance
- 299-12 Mr. Aiello  
LOCAL LAW NUMBER 5-2012 COUNTY OF CATTARAUGUS, NEW YORK - A LOCAL LAW REGULATING THE TRANSFER OF SECONDHAND ARTICLES *Additional sponsors: Mr. Hale, Mr. Klancer, Mr. Marsh, Mr. Murphy, Mrs. Stockman, Mr. Teachman, Mr. VanRensselaer, Ms. Vickman, Mr. Boser, Mr. Koch, Mrs. Labuhn and Mr. Padlo*  
Approved by 8 Finance and 7 Public Safety

- 305-12 Ms. Edstrom and Mrs. Stockman  
AUTHORIZING THE CHAIR TO EXECUTE CONTRACT WITH HEALTH RESEARCH, INC.  
FOR PUBLIC HEALTH PREPAREDNESS AND RESPONSE TO BIOTERRORISM *Additional  
sponsor: Mr. Aiello*  
Approved by 8 Finance, 7 Human Services and 6 Public Safety
- 306-12 Ms. Edstrom and Mrs. Stockman  
AUTHORIZING THE CHAIR TO EXECUTE CONTRACT WITH TOTAL SENIOR CARE, INC.  
FOR TELEHEALTH SERVICES *Additional sponsor: Mrs. Labuhn*  
Approved by 8 Finance and 7 Human Services
- 307-12 Ms. Edstrom and Mrs. Stockman  
AUTHORIZING THE CHAIR TO EXECUTE CONTRACT WITH WELCO, LKA, INC. FOR  
HEALTH DEPARTMENT CLEAN INDOOR AIR ACT COMPLIANCE CHECKS  
Approved by 8 Finance and 7 Human Services
- 308-12 Ms. Edstrom and Mrs. Stockman  
AUTHORIZING THE CHAIR TO EXECUTE CONTRACT WITH HOUGHTON COLLEGE FOR  
COUNTY HEALTH DEPARTMENT PARTICIPATION IN TEAMBUILDING AND OUTDOOR  
ADVENTURE *Additional sponsor: Mrs. Labuhn*  
Approved by 8 Finance and 7 Human Services
- 309-12 Mr. Felton and Ms. Vickman  
AUTHORIZING THE PURCHASE OF ACCIDENT/LIABILITY INSURANCE THROUGH  
CORPORATE INSURANCE MANAGEMENT, INC. FOR DEPARTMENT OF AGING RSVP  
VOLUNTEERS  
Approved by 8 Finance and 6 Senior Services
- 310-12 Mr. Felton and Ms. Vickman  
AUTHORIZING THE CHAIR TO EXECUTE LEASE AGREEMENT WITH FOURTH & MAPLE  
LLC FOR DEPARTMENT OF AGING LINWOOD ADULT DAY CARE SERVICES AND  
ADJUSTING VARIOUS APPROPRIATION AND REVENUE ACCOUNTS (Department of  
Aging)  
Approved by 8 Finance and 6 Senior Services
- 311-12 Mr. Felton and Ms. Vickman  
AUTHORIZING THE CHAIR TO EXECUTE CONTRACT WITH FOURTH & MAPLE LLC FOR  
ALLEGANY SENIOR WELLNESS AND NUTRITION PROGRAM AND ADJUSTING  
VARIOUS APPROPRIATION AND REVENUE ACCOUNTS (Department of Aging)  
Approved by 8 Finance and 6 Senior Services
- 312-12 Ms. Edstrom, Mr. Snyder, Jr. and Ms. Vickman  
AUTHORIZING THE CHAIR TO EXECUTE TRANSFER AGREEMENTS WITH ROCHESTER  
REGIONAL HEALTHCARE ASSOCIATION AND ITS AFFILIATES FOR PATIENT  
TRANSFERS  
Approved by 8 Finance, 7 Human Services and 6 Senior Services

- 313-12 Mr. Murphy  
AUTHORIZING THE CHAIR TO APPLY FOR FUNDING THROUGH NEW YORK STATE DIVISION OF HOMELAND SECURITY AND EMERGENCY SERVICES FOR STATEWIDE INTEROPERABLE COMMUNICATIONS GRANT *Additional sponsors: Mr. Aiello and Mr. Padlo*  
Approved by 8 Finance and 6 Public Safety
- 314-12 Labor Relations Committee: Mr. Aiello, Mr. Edwards, Ms. Vickman, Mr. Boser and Mr. Lamberson  
AUTHORIZING THE CHAIR TO ENTER INTO AN AGREEMENT REGARDING TERMS AND CONDITIONS OF PUBLIC EMPLOYMENT BETWEEN THE COUNTY OF CATTARAUGUS & SHERIFF OF CATTARAUGUS COUNTY AND CSEA LOCAL 1000 AFSCME, AFL-CIO CATTARAUGUS COUNTY SHERIFF'S DEPARTMENT EMPLOYEES UNIT FOR THE PERIOD JANUARY 1, 2012 TO DECEMBER 31, 2012 AND TRANSFER OF FUNDS (Contingent Fund - Sheriff's Department Employees Unit) *Additional sponsor: Mr. Padlo*  
Approved by 8 Finance and 6 Public Safety
- 315-12 Ms. Edstrom  
REINSTATING ONE POSITION OF COMMUNITY MENTAL HEALTH THERAPIST ON A TEMPORARY BASIS IN THE DEPARTMENT OF COMMUNITY SERVICES (COMMUNITY SERVICES) *Additional sponsors: Mr. Lamberson and Mr. Padlo*  
Approved by 8 Finance, 7 Human Services and 5 Labor Relations
- 316-12 Ms. Edstrom and Mrs. Stockman  
AUTHORIZING THE CHAIR TO EXECUTE CONTRACT WITH JAMESTOWN COMMUNITY COLLEGE, NEW YORK STATE DEPARTMENT OF LABOR AND CATTARAUGUS-ALLEGANY WORKFORCE INVESTMENT BOARD, INC., FOR ONE STOP SYSTEM OPERATOR SERVICES  
Approved by 8 Finance and 7 Human Services
- 317-12 Mr. Snyder, Sr.  
LOCAL LAW NUMBER 6-2012 - A LOCAL LAW AUTHORIZING COUNTY TREASURER TO DISPOSE OF JEWELRY AND OTHER PERSONAL PROPERTY  
Approved by 8 Finance
- 318-12 Mr. Snyder, Sr.  
AUTHORIZING PUBLIC HEARING ON LOCAL LAW NUMBER 6-2012  
Approved by 8 Finance
- 319-12 Ms. Edstrom and Mrs. Stockman  
AUTHORIZING THE CHAIR TO EXECUTE CONTRACT WITH CORNELL COOPERATIVE EXTENSION-CATTARAUGUS COUNTY FOR COORDINATOR OF PUBLIC HEALTH PREPAREDNESS AND RESPONSE TO BIOTERRORISM AND EMERGENCY PREPAREDNESS RESOURCE SPECIALIST *Additional sponsor: Mrs. Labuhn*  
Held in Finance and Human Services

320-12 Ms. Edstrom and Mrs. Stockman  
AUTHORIZING THE CHAIR TO EXECUTE CONTRACT WITH CORNELL COOPERATIVE  
EXTENSION-CATTARAUGUS COUNTY FOR COORDINATOR OF EMERGENCY MEDICAL  
SERVICES  
Approved by 8 Finance and 7 Human Services

321-12 Ms. Edstrom and Mrs. Stockman  
AUTHORIZING THE CHAIR TO EXECUTE CONTRACT WITH CHAUTAUQUA COUNTY  
DEPARTMENT OF THE AGING FOR DEPARTMENT OF HEALTH MEALS ON WHEELS  
PROGRAM  
Approved by 8 Finance, Human Services and 6 Senior Services

by Public Safety Committee:  
Mr. Murphy, Mr. Hale, Mr. Felton, Mr. Snyder, Sr.,  
Mr. VanRensselaer, Mr. Weller and Mr. Koch and

by Public Works Committee:  
Mr. Aiello, Mr. Weller, Ms. Edstrom, Mr. Klancer, Mr. Snyder, Jr.,  
Mr. Teachman, Mr. Koch, Mr. Lamberson and Mr. Sprague

**LOCAL LAW NUMBER 3 - 2012  
COUNTY OF CATTARAUGUS, NEW YORK**

Pursuant to Section 1650 of the Vehicle and Traffic Law and  
Section 10 of the Municipal Home Rule Law.

**A LOCAL LAW PROVIDING FOR THE REMOVAL AND  
STORAGE OF VEHICLES**

BE IT ENACTED by the County Legislature of the County of Cattaraugus as follows:

SECTION 1. Legislative Intent.

The County Legislature of the County of Cattaraugus has determined that it should exercise its right, pursuant to Vehicle and Traffic Law Section 1650 (7)(d), to provide for the removal and storage of vehicles parked or abandoned on County roads during snowstorms, floods, fires or other public emergencies, or found unattended where they constitute an obstruction to traffic or any place where stopping, standing or parking is prohibited.

SECTION 2. SEQRA Determination.

The Cattaraugus County Legislature hereby determines, as lead agency, pursuant to the State Environmental Quality Review Act (SEQRA) that passage of this Local Law constitutes a Type 2 action which will not have a significant effect on the environment.

SECTION 3. Application. This Local Law shall apply to all County roads situated in the County of Cattaraugus.

SECTION 4. Definitions. The following definitions shall apply to this Local Law:

- a. "Abandoned Vehicle" – for the purposes of this Local Law, any vehicle found unattended on a County road where it constitutes an obstruction to traffic or any place where stopping, standing, or parking is prohibited, regardless of whether vehicle is located in or upon the roadway;
- b. "Commissioner" – the Cattaraugus County Commissioner of Public Works or his authorized representative;
- c. "County" – the County of Cattaraugus, New York;
- d. "Owner" – as defined in Section 128 of the Vehicle and Traffic Law and also includes in the absence of the owner, any person who exercises control of the vehicle with the owner's consent;
- e. "Sheriff" – the Sheriff of Cattaraugus County or his authorized representative;
- f. "Vehicle" – as the term is defined in Section 159 of the Vehicle and Traffic Law.

SECTION 5. Powers of Sheriff and Commissioner. The Commissioner and the Sheriff shall, acting separately or in concert, have the power to cause or order the immediate removal of any vehicle that is parked or abandoned on a County road during snowstorms, floods, fires or at any public emergencies or found unattended where it constitutes an obstruction

to traffic or any place where stopping, standing, or parking is prohibited, regardless of whether such vehicle is located in or upon the roadway.

SECTION 6. Towing and Storage. The Commissioner or Sheriff may order the towing or removal of any vehicle pursuant to this Local Law by any licensed towing agency. The Commissioner or Sheriff may authorize the towing agency to store or arrange for the storage of the vehicle in a suitable and secure place at the expense of the owner, or may store the vehicle securely on County property. The owner may redeem the vehicle upon payment to the entity removing and storing the same of all expenses actually incurred in effecting such removal and storage. Such charge shall not exceed \$200.00, plus storage charges, which shall not exceed \$10.00 per day or fraction thereof. All towing and storage fees associated with the removal of such vehicle shall be the sole responsibility of the owner(s) thereof. In the event the Sheriff authorizes the towing and storage of a vehicle, he shall immediately notify the Commissioner of such action.

SECTION 7. Notice of Removal. After a vehicle is removed from a County road pursuant hereto, the Commissioner shall, without delay, ascertain the identity of the owner of the vehicle, or other person having charge of the same, and notify him/her by certified mail, return receipt requested and by regular mail, of the fact of such removal, the reasons therefor, the place to which said vehicle has been removed and the charges imposed for towing and storage. A copy of such notice shall be provided to the proprietor of the facility at which the vehicle is stored. If the identity of the owner is not readily obtainable, the Commissioner shall refer the matter to the Sheriff, who shall obtain the name and address by whatever means necessary and the Commissioner shall then comply with the requirements of this section.

SECTION 8. Disposition of Vehicles.

a. For the purposes of this Local Law, the authority entitled to custody of a vehicle removed from a County road pursuant hereto is the Commissioner.

b. In the event that a vehicle has been in the possession of the County or the towing agency and remains unclaimed or a period of ninety (90) days after the date on which the notice required by Section 7 hereof is placed in a United States Postal Service receptacle, ownership of such vehicle shall vest with the County and the Commissioner shall determine if the vehicle is suitable for operation on public highways. If so, the vehicle shall be sold to the highest bidder at the County's annual public auction or converted pursuant to subdivision e of this section.

c. If the Commissioner determines that any such vehicle is not suitable for operation on the public highways, he/she shall sell the vehicle to a vehicle dismantler or scrap processor registered or certified pursuant to Vehicle and Traffic Law Section 415-a or to a vehicle dismantler or scrap processor which does not have a place of business in this state but who conforms to the laws and regulations of the state in which it has a place of business.

d. A vehicle removed from a County road pursuant to this Local Law which does not have a vehicle identification number plate must be sold only to a vehicle dismantler or scrap processor registered or certified pursuant to Vehicle and Traffic Law Section 415-a or to a vehicle dismantler or scrap processor who does not have a place of business in this state but who conforms to the laws and regulations of the state in which it has a place of business. Nothing contained herein shall be construed as preventing the Commissioner from applying for a replacement vehicle identification number plate.

e. The Commissioner may convert to the use of Cattaraugus County any vehicle owned by the County pursuant to this Local Law, or may, if approved by the Cattaraugus County Legislature, by sale or gift, transfer title to such vehicle to any other municipal corporation for use by its law enforcement agency.

f. Any proceeds from the sale of a vehicle sold pursuant hereto less any expenses incurred by the Commissioner shall be held by the Cattaraugus County Treasurer without interest, for the benefit of the owner of such vehicle, for a period of one year. If not claimed within such one year period, such proceeds shall be paid into the general fund of the County of Cattaraugus.

SECTION 9. Supersession of State Law. To the extent that any provisions of this Local Law are inconsistent with New York State Vehicle and Traffic Law Section 1224, the Cattaraugus County Legislature hereby declares its intent to supersede such section of New York State Law, pursuant to its home rule powers under Municipal Home Rule Law, section 10 et. seq.

SECTION 10. 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, effect 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 9. Effective Date. This Local Law shall become effective immediately upon the filing by the Secretary of State.

**LOCAL LAW NUMBER 4 - 2012  
COUNTY OF CATTARAUGUS, NEW YORK**

Pursuant to Chapter 97-2011 of the Laws of the State of New York and  
Section 3-c of the General Municipal Law.

**A LOCAL LAW OVERRIDING TAX LEVY LIMIT FOR FISCAL YEAR 2013**

BE IT ENACTED by the County Legislature (“Legislature”) of the County of Cattaraugus (“County”) as follows:

SECTION 1. Legislative Intent.

a. By Chapter 97 of the Laws of 2011, effective Jun 24, 2011, codified as Section 3-c of the General Municipal Law, the State of New York imposed upon counties and other local governments and school districts, with certain exceptions, a two percent limit on the amount of real property taxes that may be levied by or on behalf of such entities.

b. General Municipal Law Section 3-c (6) provides that if a local government’s actual tax levy for a given fiscal year exceeds the tax levy limit, as determined by the State Comptroller, the local government must place the excess amount of the levy in reserve and use such funds to offset the tax levy for the ensuing fiscal year.

c. General Municipal Law Section 3-c (5) provides that a local government may adopt a budget that requires a tax levy that is greater than the tax levy limit for the coming fiscal year only if the governing body first enacts, by a vote of 60 percent of the total voting power, a local law to override such limit.

d. The Legislature has determined and hereby commits to use its best efforts to adopt a budget for fiscal year 2013 that complies with the requirements of General Municipal Law Section 3-c.

e. However, and solely in order to avoid the requirement that the County place any excess levy in reserve in the event that the State Comptroller determines that the 2013 levy exceeds the allowable limit due to clerical or technical errors, the Legislature deems it necessary to authorize an override of such limit.

SECTION 2. Authorizing Override of Tax Levy Limit for 2013. For fiscal year 2013, only in the event that the State Comptroller determines that the County’s actual tax levy limit exceeds the tax levy limit established by General Municipal Law Section 3-c due to clerical or technical errors, the County is hereby authorized to and shall override the real property tax levy limit established and imposed by such section.

SECTION 3. Effective Date. This local law shall become effective immediately.



**LOCAL LAW NUMBER 5 – 2012  
COUNTY OF CATTARAUGUS, NEW YORK**

**A LOCAL LAW REGULATING THE TRANSFER OF SECONDHAND ARTICLES**

BE IT ENACTED by the County Legislature of Cattaraugus County as follows:

SECTION 1. Legislative Finding & Purpose.

The purpose of this local law is to protect the residents of the County of Cattaraugus by discouraging the theft and sale of stolen goods. Secondhand Dealers engaged in the sale of secondhand goods serve a legitimate function, but may also be used by thieves to dispose of stolen goods. This Local Law will regulate those commercial outlets by requiring Secondhand Dealers to register their businesses and to maintain records of transactions. These requirements will serve to assist in the recovery of stolen items, assist in the detection and apprehension of thieves, and discourage Secondhand Dealers from taking in articles that they suspect may be stolen, thereby greatly reducing the market for stolen goods and discouraging theft.

SECTION 2. Definitions.

- a. "Secondhand Dealer" means any person, corporation, partnership, association, limited liability corporation, and the agents, associates or employees thereof, regularly engaged in the commercial exchange, purchase and/or sale of secondhand articles, including, without limitation, pawn brokers and collateral loan brokers.
- b. "Secondhand Article" means any goods sold at resale, except as specifically provided for herein.
- c. "Identification" means an official document issued by the United States government, or by any state, county, municipality, public agency or department thereof, provided that such document contains a photographic image of the holder.
- d. "Precious metals" shall mean gold, silver, platinum, titanium, precious and semi-precious stones and coins.
- e. "County" shall mean the County of Cattaraugus.
- f. "Sheriff" shall mean the Sheriff of Cattaraugus County.

SECTION 3. License Required.

Effective July 1, 2012, no person, corporation, partnership, association, limited liability corporation or other entity shall operate in Cattaraugus County as a Secondhand Dealer or hold themselves out as a Secondhand Dealer without first being licensed by the Sheriff as provided for herein.

SECTION 4. Exemption from Licensing Requirement.

Nothing in this local law shall be construed to apply to the following:

- a. The sale of any item sold at a garage sale, yard sale, estate sale, or moving sale (collectively referred to herein as "garage sale"), provided that all of the following conditions are met:
  1. The garage sale is held on residential property owned, rented, leased, or occupied by the seller or by at least one seller if there are multiple sellers; and
  2. The items offered for sale are owned by the seller, and/or the seller is authorized by the owner to sell said items.

3. The garage sale does not exceed a period of ninety-six (96) consecutive hours;
  4. The seller does not conduct more than three garage sales in any consecutive twelve month period;
  5. None of the items offered for sale were purchased by the seller for resale or received on consignment for purposes of resale.
- b. The sale of any secondhand article by any non-profit or charitable organization or on property occupied by any non-profit or charitable organization.
  - c. The sale of secondhand books or magazines, wherever sold.
  - d. The sale of secondhand articles at an auction held by a licensed auctioneer.
  - e. The sale of used furniture, used clothing, or used baby/children's items. The sale of electronics and games for electronics are not exempt from the requirements of this local law, but are exempt if sold at a garage sale, yard sale, estate sale or moving sale as defined herein.
  - f. Any transaction involving the sale or disposal of secondhand articles regulated by state or federal law.
  - g. Internet sales or purchases.

#### SECTION 5. License Application.

Applicants for a license pursuant to this local law must file with the Sheriff's Office an application, supplied by such Office, containing the following information:

- a. the exact name, address, and telephone number of the applicant and the principles and officers thereof and the date of incorporation or organization, as applicable;
- b. the name, business address, residential address, and telephone number of the operator of such business if other than the applicant;
- c. the address and telephone number where the business is to be conducted; and
- d. the days and hours during which such business will be customarily open to the public.

#### SECTION 6. License Fees.

- a. Upon original application for a license to operate as a Secondhand Dealer, and prior to the fingerprinting, the Sheriff shall secure from the applicant the required fee for a criminal history record check in the form of a check or money order made payable, as required, to the New York State Division of Criminal Justice Services ("the Division") to be forwarded to the Division and such fee for the Sheriff's services as may, from time to time, be established by resolution of the Cattaraugus County Legislature. Any fee for fingerprinting charged by the Division or vendor is in addition to the fees required to be paid to the Sheriff.
- b. Upon original application for a license to operate as a Secondhand Dealer, and prior to the fingerprinting, the Sheriff shall secure from the applicant a fee in the amount of Ten Dollars (\$10.00), or such other fee as may from time to time be established by resolution of the Cattaraugus County Legislature, for his services in processing the application.

#### SECTION 7. Fingerprinting required.

In addition to a completed application, an applicant must comply with the following requirements in order to be considered for a Secondhand Dealer's license. When the application form has been completed, the applicant shall appear at the Sheriff's office, or a New York State Division of Criminal Justice Services' approved vendor, to be fingerprinted as provided in the form and manner prescribed by the Division of Criminal Justice Services, for such fingerprint search. The Sheriff, or his/her designee(s), shall review all information provided by New York State Division of Criminal Justice

Services in connection with the applicant's criminal background and investigation. If a prospective applicant for a Secondhand Dealer's License has been convicted of a crime, any decision regarding such applicant's fitness for a license will be made upon consideration of New York State Correction Law §§ 701-703-b and §§ 751-753.

SECTION 8. Licensing.

After the filing of an application for a license and conducting an investigation, including fingerprinting, into the applicant's fitness to hold a Secondhand Dealer's License, if the Sheriff shall be satisfied that the application complies with the provisions of this Local Law and that the applicant is fit to hold such license pursuant to the requirements hereof, the Sheriff shall issue a license to operate as a Secondhand Dealer. The license shall remain in effect for a period of one year unless surrendered or revoked. The Sheriff shall approve or deny every application within ninety (90) days from filing. In the event the location of the business changes, licensee shall notify the Sheriff in writing. If there are changes among the principles, officers or operators of such business, licensee shall notify the Sheriff and shall submit two fingerprint cards and the appropriate fee for each individual. The form of the license shall be prescribed by the Sheriff.

SECTION 9. Grounds for denial or revocation of license.

The Sheriff shall have the power to deny or revoke the license of any person convicted within the immediately preceding ten years of a crime involving theft, larceny, burglary, possession of stolen property, or other fraudulent dealing. The Sheriff may revoke any license for a conviction pursuant to § 14 of this local law. Notice of denial or revocation of a license issued pursuant to this local law shall be given by the Sheriff or his designee in writing, setting forth specifically the grounds on which such license was either denied or revoked with opportunity for a hearing as provided for herein. Such notice shall be transmitted by certified or registered mail. Such denial or revocation may be challenged pursuant to Article 78 of the New York State Civil Practice Law and Rules. Pending a hearing and adjudication on denial or revocation of a license, no person shall operate as a Secondhand Dealer.

SECTION 10. Expiration and renewal of licenses.

A license issued pursuant to this local law must be renewed annually, as measured from the date of the issuance of the initial license.

SECTION 11. Display of license.

Every Secondhand Dealer shall cause the Secondhand Dealer License to be prominently displayed at said Secondhand Dealer's place of business.

SECTION 12. Records to be maintained by Secondhand Dealer.

- a. Seller Information. Except as otherwise provided herein, no Secondhand Dealer shall acquire within Cattaraugus County any secondhand article (whether or not acquired within the Secondhand Dealer's physical place of business) unless such Secondhand Dealer has obtained and recorded the following information:
  1. The amount paid, advanced, or loaned for the article;
  2. A detailed and accurate description of the article including any identifying marks;
  3. The serial and model number (if any);
  4. In the case of precious metals, jewelry, and gems, a photograph of the article;
  5. The Seller's Identification information as required in subparagraph b below; and
  6. The date, time and place of the acquisition.

The information shall be recorded on a Receipt, numbered in consecutive order and maintained in the Dealer's records as provided for herein.

- b. Identification Information. Prior to acquiring any secondhand article covered by this local law, every Secondhand Dealer shall request identification from the seller and shall verify the identity of the seller by comparing the seller to the photographic image contained on said identification. The Secondhand Dealer shall record the seller's name, date of birth and address (or current address if different than that listed on the identification), and the identification number (e.g., motorist ID number) listed on the identification. If the acquisition occurs within the physical place of business, the Secondhand Dealer shall make a photocopy of the front of the identification. If the acquisition is made from another Secondhand Dealer, the Secondhand

Dealer purchasing the item shall also record the business name and address of the Selling Dealer and the number of days the item was held by the Selling Dealer prior to instant acquisition.

c. Records Retention/Inspection.

1. Every Secondhand Dealer shall maintain for a period of 5 years all of the information required in subparagraphs a and b of this Section 12. Computerized records may be used to satisfy the requirements of this local law, provided that such records include the required information and are available upon reasonable request for inspection in printed format. All records required to be maintained pursuant to this local law and all secondhand articles covered by this local law shall be subject to examination during normal business hours by any member of the Sheriff's Office or other police department or agency.
2. On or before 10:00 a.m. every Tuesday, every Secondhand Dealer shall forward to the Sheriff, on electronic forms provided by the Sheriff, a copy of the Seller Information required by subparagraphs a and b of this Section 12 for each secondhand article acquired in the immediately preceding 7 days, and shall cause such forms to be delivered via electronic mail to the Sheriff at the address designated on said form. Photographs of precious metals, jewelry and gems shall not be required to be transmitted with these forms.
3. Failure to maintain the records required by this Section II shall constitute presumptive evidence of a crime.

SECTION 13. Requirement to Hold Secondhand Articles Prior to Disposal, Resale or Alteration.

For a period of seven days after the acquisition of any secondhand article, excluding the day of acquisition, (the "holding period"), every Secondhand Dealer shall maintain the secondhand article in a manner so as to be easily identified with the transaction in which said article was acquired. During said holding period, no Secondhand Dealer shall:

- a. Sell, trade, transfer, remove from the local business premises or otherwise dispose of any secondhand article covered by this local law;
- b. Alter in any fashion any such article; or
- c. Commingle any such article with similar items.

SECTION 14. Penalty.

Any Secondhand Dealer who fails to comply with the provisions of Sections 3, 5, 7, 11, 12 and 13 of this local law shall, upon conviction thereof, be guilty of a Class A misdemeanor as defined in section 55.10 of the Penal Law-of the State of New York as may be amended from time to time. Such violation shall be punishable as defined in the Penal Law of the State of New York as may be amended from time to time. Conviction of any offense against the provisions of this local law shall constitute grounds upon which the Sheriff may deny or revoke the license.

SECTION 15. Severability.

If any provision, sentence or clause of the local law is held unconstitutional, illegal or invalid by a Court of competent jurisdiction, such findings shall not affect or impair any of the remaining provisions, sentences or clauses or their application to persons and circumstances.

SECTION 16. Application.

This local law shall apply to all Secondhand Dealers operating in Cattaraugus County, except that this local law shall be inapplicable in any city, village or town, during such time as such city, village or town is regulating or licensing the occupation or business in question.

SECTION 17. Reverse Preemption.

This law shall be null and void on the day that statewide 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 Cattaraugus. The

Cattaraugus County Legislature may determine via resolution whether or not identical or substantially similar statewide legislation has been enacted for the purposes of triggering the provisions of this section.

SECTION 18. Effective Date.

The local law shall become effective immediately upon filing in the Office of the Secretary of State.