

PUBLIC NOTICE OF ADOPTION OF LOCAL LAW

PLEASE TAKE NOTICE THAT the following is a true copy of Local Law Number 3-2009 of the County of Suffolk, which was duly passed by the County Legislature on February 3, 2009, by Resolution No.32-2009, returned signed by the County Executive on February 27, 2009, and filed with the Secretary of State on March 19, 2009.

RESOLUTION NO. 32 -2009, ADOPTING LOCAL LAW NO. 3 -2009, A LOCAL LAW TO PROMOTE THE DEVELOPMENT OF RESIDENTIAL DWELLINGS FOR FIRST TIME HOMEBUYERS

WHEREAS, there was duly presented and introduced to this County Legislature at a regular meeting held on November 18, 2008, a proposed local law entitled “**A LOCAL LAW TO PROMOTE THE DEVELOPMENT OF RESIDENTIAL DWELLINGS FOR FIRST TIME HOMEBUYERS;**” and said local law in final form is the same as when presented and introduced; now, therefore be it

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

LOCAL LAW NO. 3 -2009, SUFFOLK COUNTY, NEW YORK

A LOCAL LAW TO PROMOTE THE DEVELOPMENT OF RESIDENTIAL DWELLINGS FOR FIRST TIME HOMEBUYERS

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

Section 1. Legislative Intent.

This Legislature hereby finds and determines that the County of Suffolk auctions and sells vacant parcels that are located within a residential zoning district, but do not meet minimum residential zoning code criteria (“Substandard Lots”), to individuals who own adjoining residential parcels.

This Legislature further finds and determines that there is a growing demand and need for affordable, workforce housing within Suffolk County, and that some of these Substandard Lots may support such housing with minimal relief from the zoning code requirements of the municipal zoning district in which the parcel is located.

This Legislature further finds and determines that the current procedures under the Suffolk County Administrative Code do not encourage the auction sale of such Substandard Lots to persons willing to apply for and obtain such minimal relief from the zoning code requirements of the municipal zoning district in which the parcel is located, and to construct an affordable, workforce housing, single family residential dwelling on such Substandard Lot that substantially conforms in size and appearance to the residential dwellings located within the immediate surrounding residential community.

This Legislature further finds and determines that the auction sale of such Substandard Lots to persons willing to apply for and obtain such minimal relief from the zoning requirements of the municipal zoning district in which the parcel is located, and to construct an affordable, workforce housing, single family residential dwelling on such Substandard Lot that substantially conforms in size and appearance to the residential dwellings located within the immediately surrounding residential community, would provide an opportunity to make such affordable, workforce housing available to first time home buyers in Suffolk County.

Therefore, the purpose of this law is to amend the Suffolk County Administrative Code to provide that, prior to offering a vacant, Substandard Lot for sale to an adjacent owner, the County shall first offer such Substandard Lot for sale at public auction to the highest bidder who is willing to apply for and obtain such minimal relief from the zoning requirements of the municipal zoning district in which the parcel is located, and to construct an affordable, workforce housing, single family residential dwelling on such Substandard Lot that substantially conforms in size and appearance to the residential dwellings located within the immediately surrounding residential community.

Section 2. Amendments.

Article XLII of the SUFFOLK COUNTY ADMINISTRATIVE CODE is hereby amended as follows:

Article XLII Department of Environment and Energy

* * * *

§ A42-4. Disposition of property acquired through Suffolk County Tax Act.

- H.) [The Commissioner, or his or her designee, shall, in the case of parcels which, because of size, shape, covenants, restrictions, and other factors, do not meet the minimum zoning requirements of the municipality in which the parcel is located in order to be developed, and are appraised for less than \$20,000, offer such parcels to appropriate adjoining property owners at not less than the appraised value before advertising them for sale by general auction. The County Director of Planning may also sell any parcel at not less than the appraised value to any local government or school district requesting such parcel, subject to County Legislature approval.]

The Commissioner, or his or her designee, in the case of a parcel which does not meet the minimum zoning code requirements of the municipal zoning district in which the parcel is located, in order to promote the development of residential dwellings for first time home buyers and/or occupants, shall offer to convey such parcel to the highest bidder at a special auction who: (i) agrees, in writing, within sixty (60) days of the date of such auction, to apply for and diligently pursue, using best efforts and at such bidder's sole cost and expense, a building permit, to allow the construction

of a single family residential dwelling on such parcel that substantially conforms in size and appearance to the residential dwellings located within the immediately surrounding residential community; (ii) agrees, in writing, within one hundred eighty (180) days of the date of such auction, to apply for and diligently pursue, using best efforts and at such bidder's sole cost and expense, any and all variances and/or other relief from such minimum zoning requirements; and (iii) agrees, in writing, to accept title to such parcel subject to the covenants contained in this Subsection H. The requirement to offer and convey such parcel to such highest bidder at a special auction under this Subsection shall apply only to parcels located substantially within a residential zoning district that have a lot area of not less than 5,000 square feet and street frontage of not less than 50 feet and that substantially conform in size to the developed and/or undeveloped parcels located within the immediately surrounding residential community.

1.) Upon the granting of any required variance or other relief from the minimum zoning requirements of the municipal zoning district in which the parcel is located, and the issuance of a building permit to construct such single family residential dwelling on such parcel, fee title shall be promptly conveyed to such highest bidder by deed containing the following covenants, which covenants shall run with the land:

a.) "The use of the parcel herein described by the grantee is hereby restricted solely to the development of a single family residential dwelling unit for first time home owners or buyers; with all right, title, and interest reverting back to the County of Suffolk, at the sole option of the County of Suffolk, in the event the grantee, at any time, uses or attempts to use the parcel herein described for any other use or purpose, including, without limitation, no use or purpose. This reverter clause shall also apply to any transferee from the grantee who is not a first time home owner or buyer."

b.) "All right, title, and interest to the parcel herein described shall revert back to the County of Suffolk should any one or more of the following events occur:

[1.] If the grantee, or any transferee from the grantee who is not a first time home owner or buyer, fails to substantially complete the construction of a single family residential dwelling upon the parcel described herein within three (3) years from the date of transfer to the grantee, unless one or more extensions

of time is granted, in writing, for good cause shown, by the Suffolk County Director of Affordable Housing or any successor thereto. Notwithstanding the foregoing, such extensions shall not exceed, in the aggregate, a period of four (4) years from the date of transfer to the grantee, unless approved by a duly enacted resolution of the County of Suffolk;

- [2.] If the income of the first time home owner or buyer, at the time of occupancy of the single family dwelling constructed on the parcel described herein, should exceed 80% of the HUD established median income for the Nassau-Suffolk Primary Metropolitan Statistical Area adjusted by family size;

- [3.] If the sale price of the single family dwelling constructed on the parcel described herein exceeds 60% of the median sales price for Suffolk County single family dwellings, based upon the State of New York Mortgage Agency Guidelines;

- [4.] If the first time home owner or buyer of the single family dwelling constructed on the parcel described herein fails to occupy such single family dwelling as his and/or her primary residence for a period of ten (10) consecutive years from the time of occupancy of such single family dwelling; provided, however, that the right, title and interest to the parcel herein described shall not revert to the County of Suffolk if:
 - [a.] the first time home owner or buyer sells to a first time home owner or buyer meeting the income qualifications set forth in paragraph (H)(1)(B)(2), or as amended; and

 - [b.] any gain realized from such sale up to and including the fifth anniversary of ownership, and declining ratably thereafter to fifty (50%) percent of any realized gain during the sixth year of ownership up to and including the tenth anniversary of ownership, shall be paid to the County of Suffolk; and

- [c.] the income qualifications and the formula for recapture of realized gain set forth in this paragraph shall apply to each and every subsequent sale;
- [5.] If all or any portion of the single family residential dwelling is rented or leased to any other person, whether or not by written agreement;
- [6.] If the grantee fails to certify to the Suffolk County Director of Affordable Housing, (or his or her designee), prior to closing of the title by a first time home buyer, or occupancy by a first time home owner, as the case may be:
 - [a.] the dates of completion and occupancy of the single family dwelling constructed on the parcel described herein; and
 - [b.] the total income, from all sources, of all occupants of the single family dwelling constructed on the parcel described herein; and
 - [c.] in the case of a first time home buyer, the sales price of the single family dwelling constructed on the parcel described herein; and
 - [d.] the single family dwelling constructed on the parcel described herein meets all applicable building and zoning codes, rules and regulations;
- [7.] If the grantee fails to provide the Suffolk County Director of Affordable Housing, (or his or her designee), with a detailed, annual written report no later than December 31 of each year commencing in the year immediately subsequent to the date of this deed, which report shall include any and all information as may be required by the said Director, including, but not limited to, the status of the development and/or sale of the parcel described herein, and an accounting of all sums directly or indirectly attributable to the use of the parcel described herein.”

- 2.) In the event such highest bidder, after using best efforts to apply for and diligently pursue any variance or other relief from such minimum zoning requirements and a building permit, to allow the construction of a single family residential dwelling on such parcel that substantially conforms in size and appearance to the residential dwellings located within the immediately surrounding residential community, does not obtain such variance and building permit within the time prescribed herein, the auction sale shall be deemed cancelled and the County shall return to the bidder any sum paid under the terms and conditions of the special auction.
- 3.) In the event a parcel offered for sale pursuant to the preceding provisions of this Subsection is not sold the first time it is offered at a special auction, and the parcel is appraised for less than \$30,000, the Commissioner, or his or her designee, shall offer the parcel to appropriate adjoining property owners at not less than the appraised value before offering it for sale by general auction.
- 4.) In the event a parcel does not meet applicable minimum zoning code requirements in order to be developed, is appraised for less than \$30,000, and fails to satisfy the criteria for special auction under the provisions of this Subsection, the Commissioner, or his or her designee, shall offer the parcel to appropriate adjoining property owners at not less than the appraised value before offering it for sale by general auction.
- I.) The Commissioner, or his or her designee, is authorized to execute and deliver, by a bargain and sale deed without covenants, or by quitclaim deed, for the transfer of any properties which are the subject matter of this section. All deed transfers shall be subject to the express approval of the County Legislature, and all contracts negotiated by the County shall provide that the proposed conveyance is subject to legislative approval and subject to such restrictive covenants as may be provided for in Subsections G and H of this section.

* * * *

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 shall take effect immediately upon filing in the Office of the Secretary of State.

BY ORDER OF THE SUFFOLK COUNTY LEGISLATURE
Tim Laube, Clerk

PUBLIC NOTICE OF ADOPTION OF LOCAL LAW

PLEASE TAKE NOTICE THAT the following is a true copy of Local Law Number 4-2009 of the County of Suffolk, which was duly passed by the County Legislature on February 3, 2009, by Resolution No.62-2009, returned signed by the County Executive on February 27, 2009, and filed with the Secretary of State on March 19, 2009.

**RESOLUTION NO. 62 -2009, ADOPTING LOCAL
LAW NO. 4 -2009, A LOCAL LAW TO PROTECT
SUFFOLK RESIDENTS BY PERMITTING THE SEIZURE
AND FORFEITURE OF VEHICLES ENGAGED IN
UNLAWFUL FLEEING A POLICE OFFICER IN A
MOTOR VEHICLE**

WHEREAS there was duly presented and introduced to this County Legislature at a meeting held on November 18, 2008, a proposed local law entitled, “**A LOCAL LAW TO PROTECT SUFFOLK RESIDENTS BY PERMITTING THE FORFEITURE AND SEIZURE OF VEHICLES ENGAGED IN UNLAWFUL FLEEING A POLICE OFFICER IN A MOTOR VEHICLE;**” and said local law in final form is the same as when presented and introduced; now, therefore be it

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

LOCAL LAW NO. 4 -2009, SUFFOLK COUNTY, NEW YORK

A LOCAL LAW TO PROTECT SUFFOLK RESIDENTS BY PERMITTING THE FORFEITURE AND SEIZURE OF VEHICLES ENGAGED IN UNLAWFUL FLEEING A POLICE OFFICER IN A MOTOR VEHICLE

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

Section 1. Legislative Intent.

This Legislature finds that in 2006, the New York State Legislature enacted the “Craig J. Todeschini Unlawful Fleeing a Police Officer Act” in honor of an officer killed in the line of duty by a motorist fleeing from the police, which act elevated the fleeing a police officer in a motor vehicle to a crime and imposed criminal sanctions for such activity.

This Legislature further finds that from November 1, 2006 to June 30, 2008 there were 220 arrests in Suffolk County involving drivers fleeing from police.

This Legislature further finds that drivers who flee from police place the public at peril of grave injury, and that penalties stronger than those currently in place are needed to deter individuals from unlawfully fleeing a police officer in a motor vehicle.

Therefore, the purpose of this law is to protect the health and lives of Suffolk motorists and residents by permitting the seizure and forfeiture of vehicles involved in unlawful fleeing a police officer in a motor vehicle.

Section 2. Definitions.

- I. As used in this law, the following terms shall have the meanings indicated:
 - A.) “Claiming Authority” means the County Attorney, or his or her designee.
 - B.) “Instrumentality of an Offense” or “Instrumentality” means a vehicle whose use contributed directly and materially to the commission of an offense as defined in this law.

- C.) "Offense" means engaging in unlawful fleeing a police officer in a motor vehicle as prohibited by New York Penal Law §270.25, §270.30 or §270.35.
- D.) "Police Officer" means a police officer as defined in Section 1.20 of the New York Penal Law.
- E.) "Seizing Agency" means the law enforcement agency seizing the instrumentality of an offense.

Section 3. Warrantless Seizures.

A. Upon making an arrest or upon issuing a summons or an appearance ticket for an Offense, or in the event an officer has probable cause to believe a person has committed an Offense and has fled the scene of the Offense leaving the Instrumentality of an Offense behind, an officer shall seize such Instrumentality. Said Instrumentality may be forfeited as hereinafter provided.

B. Notice of seizure.

- (1) The seizing agency shall send notification of the seizure to all titled owners and registrants, if different, on file with the New York State Department of Motor Vehicles or another state's equivalent office if not titled in New York by certified mail, return receipt requested, within five business days of the seizure. Such notification shall inform the recipient that there will be a hearing promptly scheduled before a neutral magistrate to determine whether probable cause existed for the defendant having been issued a summons or having been arrested for committing an Offense, or in the event a person has fled the scene of an Offense leaving the vehicle behind, whether probable cause existed that the vehicle was used in the commission of an Offense, and whether the County is likely to succeed on the merits of the forfeiture action, whether retention is necessary to preserve the vehicle from destruction or sale during the pendency of the forfeiture proceeding, and whether any other measures would better protect the County's interest during the proceedings, including, but not limited to: (a) issuance of a restraining order prohibiting the sale, transfer, or loss of the vehicle with imposition(s) of appropriate penalties for violation of said restraining order; and/or (b) taking of a bond.
- (2) When a hearing is held, the neutral magistrate shall review the documents or other evidence supporting the probable cause for the determination that an Offense was committed and the vehicle was used in the commission of the offense, or for the issuance of a summons or arrest for an Offense and any other relevant documents and take any testimony to determine whether the Seizing Agency has sustained its burden of proof as set forth in § 3-B(1) of this law. If the Seizing Agency has met its burden of proof, the neutral magistrate shall authorize the continued

retention of the property by the Seizing Agency pending a judicial determination of any civil forfeiture action. Nothing herein shall be construed to preclude a party with a legal interest in the seized property from commencing an action or proceeding in a court of competent jurisdiction for its return.

- (3) The Suffolk County Executive shall designate neutral magistrates to conduct hearings in accordance with this Subsection B(2).

C. Any action for forfeiture under § 4 of this law shall be commenced, in the manner prescribed by the New York Civil Practice Law and Rules, § 304, within 180 days after the disposition of the summons or arrest for the offense, and in the instance where no summons or arrest was made, within the period consistent with the Statute of Limitations for the underlying offense, but in no event more than five (5) years after seizure. Failure to commence such an action within the aforesaid time period shall result in the immediate return of the property to its lawful owner. The vehicle will be made available for release to the titled owner at the place of storage subject to payment of reasonable and customary towing, maintenance and storage fees to the date of release. In the event of a failure to take possession of the vehicle within sixty (60) days after actual notification or by certified mail, return receipt requested sent to the address of the titled owner on file with the New York State Department of Motor Vehicles or another state's equivalent office, if not titled in New York, whichever date is earlier, the vehicle will be forfeited.

Section 4. Civil Authority.

A. A civil action may be commenced by the Claiming Authority, or its designee against a defendant to forfeit seized property which constitutes the Instrumentality of an Offense or to recover a money judgment in an amount equivalent in value to the property which constitutes an Instrumentality of an Offense, except that:

- (1) No property used by any person as a common carrier in the transaction of business as a common carrier shall be forfeited under the provisions of this law unless it shall appear that the owner or agent of the owner was a consenting party or privy to the commission of the Offense; and
- (2) No property shall be forfeited under the provisions of this law by reason of any act or omission established by the owner thereof to have been committed or omitted by any person other than the owner while the subject property was unlawfully in the possession of a person other than the owner.

B. A civil action may be commenced by the Claiming Authority, or its designee against a defendant to seize and to forfeit property which constitutes the Instrumentality of an Offense, or to recover a money judgment in an amount equivalent in value to the property which constitutes the Instrumentality of an Offense, except that:

- (1) No property used by any person as a common carrier in the transaction of business as a common carrier shall be forfeited under the provisions of this law unless it shall appear that the

owner or agent of the owner was a consenting party or privy to the commission of the Offense ; and

- (2) No property shall be forfeited under the provisions of this law by reason of any act or omission established by the owner thereof to have been committed or omitted by any person other than the owner while the subject property is unlawfully in the possession of a person other than the owner.

C. A civil action may also be commenced against a non-criminal defendant to recover the property which constitutes the Instrumentality of an Offense, subject to the same exceptions contained in Subsections A and B of this Section. A non-criminal defendant who is physically present in an Instrumentality at the time of the commission of an Offense, or a non-criminal defendant whose vehicle was an Instrumentality used and operated by a person who is unlicensed or is driving with a suspended or revoked license, shall be presumed to know that the Instrumentality of an Offense was or would be used in a manner that would directly and materially contribute to the commission of an Offense or that obtaining his or her interest in the Instrumentality could assist the criminal defendant in avoiding the forfeiture. A non-criminal defendant who knows, or should know, of prior illegal use by a criminal defendant of an Instrumentality or other property of a like nature or kind, shall be presumed to know that the Instrumentality of an Offense was or would be used in a manner that would directly and materially contribute to the commission of a subsequent crime or that obtaining his or her interest in the Instrumentality of an Offense could assist the criminal defendant in avoiding the forfeiture.

D. All actions commenced under this law shall be governed by the procedures enumerated in law 13-A of the New York Civil Practice Law and Rules, where not specifically outlined herein.

E. No property shall be forfeited under this law unless the Claiming Authority produces clear and convincing evidence that the non-criminal defendant engaged in affirmative acts which aided, abetted or facilitated the conduct of the criminal defendant. The non-criminal defendant must take all prudent steps to prevent the illegal use of his or her property, and willful disregard by the owner or lienholder of the acts giving rise to forfeiture shall not constitute a defense to such forfeiture.

F. Unless barred by the five (5) year limitation contained in § 3(C) of this law, any action to forfeit seized property under Subsection A of this Section may be commenced within 180 days after the disposition of the summons or arrest for the Offense or, in the instance where no summons or arrest was made, within the Statute of Limitations for the underlying Offense when the property has first been seized under § 3(A) of this law, and within 180 days after the disposition of the summons or arrest for the Offense, or within the Statute of Limitations for the underlying Offense where no summons or arrest has been made when the property has not been first seized under § 3(A), and said action shall be civil, remedial, and *in rem* in nature and shall not be deemed to be a penalty or criminal forfeiture for any purpose. An action under this law shall not be deemed a criminal proceeding of any type. The action shall be commenced in the manner prescribed by the New York Civil Practice Law and Rules § 304. Potential claimants to the property shall be served with a summons and notice or summons and

verified complaint. No property shall be forfeited without service of notice upon potential claimants to the property and the opportunity for a hearing given prior to such forfeiture.

G. Once a civil action for forfeiture has been commenced pursuant to this Section, the Claiming Authority shall notify victims who have been physically injured as a result of the offensive actions of an individual which have precipitated such seizure and forfeiture proceeding as to the time and place of said court forfeiture hearing.

H. In order to establish its case in any action commenced under this law, the Claiming Authority shall demonstrate, by clear and convincing evidence, that the Instrumentality in question is subject to forfeiture at the time of commission of the offense, as defined in this law, which precipitated the seizure or the commencement of an action for the seizure of the property without regard to the final determination of any criminal actions, if any, brought against the individual for such Offense. The non-criminal defendant shall then have the burden of proving a lack of knowledge or lack of consent on behalf of said non-criminal defendant sufficient to constitute a defense to such forfeiture.

I. If, after a seizure of property has been made under § 3(A) of this law, it is determined that the non-criminal defendant has met the burden set forth hereinabove, then the vehicle which constitutes the Instrumentality of an Offense so seized shall immediately be returned to its lawful owner. The vehicle will be made available for release to the lawful owner at the place of storage, subject to payment of reasonable and customary towing, maintenance and storage fees to the date of release. In the event of a failure to take possession of the vehicle within sixty (60) days after actual notification or by certified mail, return receipt requested sent to the address on file to the titled owner with the New York State Department of Motor Vehicles or another state's equivalent office, if not titled in New York, whichever date is earlier, then upon such failure the vehicle will be forfeited.

J. All property seized pursuant to this law is subject to reasonable and customary towing, maintenance and daily storage fees as may be established by the Suffolk County Police Commissioner. Such fees shall be payable to the Seizing Agency, or in the event the Instrumentality of the offense has been transferred to the custody of the Suffolk County Police Department by the Seizing Agency, such fees shall be payable to the Suffolk County Police Department, prior to release of said property. The Seizing Agency, if other than the Suffolk County Police Department, shall be reimbursed up to \$300 for towing and storage expense actually incurred, upon disposal of said instrumentality of the offense by the Claiming Authority, but said reimbursement shall not exceed money actually received by the Suffolk County Police Department for its disposition. All towing, storage and maintenance fees collected shall be retained by the Suffolk County Police Department and shall be transferred into a police asset forfeiture fund in a separate non-lapsing appropriation for law enforcement purposes.

K. The Claiming Authority may at any time authorize the return of the seized vehicle to the lawful owner, with or without conditions attached. When a vehicle is made available for release to the lawful owner, it shall be at the place of storage and subject to payment of reasonable and customary towing, maintenance and storage fees to the date of release. In the event of a failure to take possession of the vehicle within sixty (60) days after actual notification or by certified mail, return receipt requested sent to the address on file to the titled owner with the New York State Department of Motor Vehicles

or another state's equivalent office, if not titled in New York, whichever date is earlier, then upon such failure the vehicle will be forfeited.

Section 5. Disposition of forfeited assets and proceeds.

A. Whenever property is forfeited under this law, the Claiming Authority, or his or her respective designee, may:

- (1) Retain the property or asset for official use.
- (2) Sell any forfeited property or asset which is not required to be destroyed by law and which is not harmful to the public.
- (3) Transfer the property or asset to any County agency, department or other political subdivision demonstrating need for the specific property or asset so that the property or asset may be put into official use by that agency, department or other political subdivision.
- (4) Transfer the property or asset to any County-funded agency or organization demonstrating need for the specific property or asset so that the property or asset may be put into use by the funded agency or organization in the regular course of business of that funded agency or organization. Any such transfer of forfeited property or assets under this subsection may result in an in-kind deduction from those funds paid by the County to the specific agency or organization.

B. Any funds generated by the sale of forfeited property or assets described in this law, after deducting therefore any fees imposed pursuant to Subsection 4(J) above, shall be distributed in the following order of priority:

- (1) Amounts to satisfy any valid lien or claim against the property forfeited;
- (2) Amounts ordered to be paid by the defendant in any other action or proceeding as restitution, reparations or damages to a victim of the offense which constitutes the basis upon which forfeiture of the seized asset was effected under this law, to the extent such amounts remain unpaid, whichever is less; provided, however, the Claiming Authority receives written notice from the victim or their duly appointed representative within 30 days of the commencement of the civil forfeiture action in order for the victim to receive such funds;
- (3) All monies remaining after distributions made pursuant to Subsection 5(B)(1) and (2) shall be distributed as follows:
 - a) Twenty percent to the Claiming Authority in satisfaction of actual costs and expenses incurred in the investigation, preparation and litigation of the forfeiture action, including

that proportion of the salaries of the attorneys, clerical and investigative personnel devoted thereto, plus all costs and disbursements made in the administration of this law shall be deposited into a separate nonlapsing appropriation of the Claiming Authority for law enforcement purposes;

b) Ten percent to the Sheriff's Department in satisfaction of actual costs and expenses incurred in the service of process of the civil forfeiture actions, including that proportion of the salaries of the personnel devoted thereto shall be deposited into a separate nonlapsing appropriation of the Sheriff's Department for law enforcement purposes; and

c) Seventy percent to the Suffolk County STOP-DWI Office for the purposes of supporting or providing drunk driving education, prevention and enforcement programs administered by governmental and/or non-governmental agencies within Suffolk County.

The expenditure of funds pursuant to Subsection B(3) shall be in accordance with an annual plan approved by resolution of the County Legislature.

Section 6. Discretionary action.

A. Nothing contained in this law shall require the Claiming Authority, or his or her respective designee, to commence a forfeiture action when, in his or her discretion, it is in the interests of justice not to commence such an action.

B. Nothing contained in this law shall require a court to order a forfeiture when it determines, in its discretion, that it is in the interests of justice not to do so.

Section 7. Rules and regulations.

The County Attorney shall issue and promulgate such rules and regulations as may be necessary to implement the provisions of this law.

Section 8. Applicability.

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

Section 9. 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 10. 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 Suffolk. The County Legislature may determine via mere resolution whether or not identical or substantially similar statewide legislation has been enacted for the purposes of triggering the provision of this section.

Section 11. 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 12. Effective Date.

This law shall take effect immediately upon filing in the Office of the Secretary of State.

BY ORDER OF THE SUFFOLK COUNTY LEGISLATURE
Tim Laube, Clerk