

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County

~~City~~

~~Town~~

~~Village~~

of ----- Niagara -----

Local Law No. ----- 6 ----- of the year 20. ⁰⁴ -----

A local law requiring impoundment of vehicles subsequent to an arrest for
(Insert Title)
driving while intoxicated/ability impaired

Be it enacted by the ----- Legislature ----- of the
(Name of Legislative Body)

County

~~City~~

~~Town~~

~~Village~~

of ----- Niagara ----- as follows:

A LOCAL LAW REQUIRING IMPOUNDMENT OF VEHICLES SUBSEQUENT TO AN ARREST FOR DRIVING WHILE INTOXICATED/ABILITY IMPAIRED

SECTION 1. LEGISLATIVE INTENT.

The Niagara County Legislature hereby finds, declares and determines that:

1. Driving While Intoxicated and Driving While Ability Impaired are serious criminal offenses which have tragic effects on Niagara County, New York, and the United States.
2. In order to help law enforcement curb these offenses, the Niagara County Legislature is initiating legislation calling for an absolute minimum twelve hour vehicle impoundment when someone is arrested for drunk driving.
3. There are numerous stories and instances of drunk drivers being released from jail on a bond, picking up their car and getting involved in a subsequent serious and/or fatal vehicle accident.
4. Data has shown that vehicle impoundment has been consistently effective in reducing DWI offenses among convicted drinking drivers.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

5. First-time offenders who had their vehicles impounded had 25 percent fewer crashes than those who did not; repeat offenders who had their vehicles impounded had 38 percent fewer crashes than those who did not.

6. Even two years after the impoundment, drivers whose vehicles were impounded had at least 35 percent fewer DWI's when compared with those who had not.

7. Various municipalities in Niagara County already support vehicle impoundment in DWI cases; however the Niagara County Legislature finds that there is the need to make mandatory impoundment an across-the-board measure to curb drunk driving and save lives.

8. Only through mandatory impoundment can we help to ensure that DWI and DWAI drivers are prohibited from driving until they are completely sober.

SECTION 2. SHORT TITLE.

This Local Law shall be known as "The Niagara County DWI/DWAI Vehicle Impoundment Law."

SECTION 3. IMPOUNDMENT OF VEHICLES.

1. Whenever a person has been arrested for a violation of N.Y. Vehicle & Traffic Law sections 1192(1), 1192(2), 1192(3), 1192(4), 1192(5), 1192(6), 1192-a and/or sections 49-A and 49-B of the New York State Navigation Law, the arresting law enforcement agency or its duly authorized agent shall impound and take possession of the vehicle the person was operating at the time of their arrest.

2. A vehicle impounded pursuant to Section 3(A) shall remain in the possession of the arresting law enforcement agency or its duly authorized agent until and when the following conditions are met:

a. The vehicle may be released to the arrestee no earlier than twelve (12) hours after the time of arrest;

b. The vehicle may be released to a party other than the arrestee if:

(i) the vehicle is owned or leased by the individual claiming the vehicle other than the arrestee; or

(ii) the vehicle is owned or leased by the arrestee, the arrestee is eighteen or older, and the arrestee gives their written permission, pursuant to the requirements of the arresting law enforcement agency or its duly authorized agent, to another individual to claim the vehicle; or

(iii) the vehicle is owned or leased by the arrestee, the arrestee is under eighteen and unemancipated, the vehicle may be released to the parent or legal guardian of the arrestee.

3. A vehicle impounded under this section shall not be released to any person unless the person claiming the vehicle from the arresting law enforcement agency or its duly authorized agent:

a. presents a valid license, proof of ownership or lawful authority to operate a motor vehicle;

b. would not be in violation of N.Y. Vehicle & Traffic Law sections 1192(1), 1192(2), 1192(3), 1192(4), 1192(5), 1192(6), 1192-a and/or sections 49-A and 49-B of the New York State Navigation Law in connection with operating the vehicle and is otherwise able to operate the vehicle in a safe manner; and

c. meets any other reasonable conditions established for release of the vehicle established by the arresting law enforcement agency or its duly authorized agent, including but not limited to, reasonable fees for towing and storage of the vehicle until the time the vehicle is claimed. The arresting law enforcement agency or its duly authorized agent may retain custody of the vehicle until such conditions are complied with or fees paid.

4. For the purposes of this law, "vehicle" shall include "vessel" as defined in section 49-A of the New York State Navigation Law. Nothing in this Local Law shall be construed to prevent or supercede a court of competent jurisdiction from exercising its authority in connection with the release of a vehicle impounded under this Local Law.

SECTION 4. EFFECT OF OTHER LAWS.

Notwithstanding any provision of this Local Law to the contrary, this Local Law is not intended to supercede or compromise any local, state or federal law, rule or regulation that would authorize the continued impoundment of a vehicle for evidentiary or other legal purposes.

SECTION 5. RULES & REGULATIONS.

The Niagara County Sheriff or the Chief Law Enforcement Officer of any other law enforcement agency in Niagara County or their duly authorized agents are hereby authorized to promulgate such rules and regulations that are lawful, necessary and appropriate to implement, enforce or otherwise carry out the purposes of this Local Law.

SECTION 6. 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 of judgement 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 Local Law or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such judgement or order shall be rendered.

SECTION 7. EFFECTIVE DATE.

This Local Law shall take effect immediately upon its filing with the Secretary of State, in accordance with Section 27 of the New York State Municipal Home Rule Law.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 6 of 2004 of the (County)(City)(Town)(Village) of Niagara was duly passed by the Niagara County Legislature on September 7 2004, in accordance with the applicable provisions of law.
(Name of Legislative Body)

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. of 20 of the (County)(City)(Town)(Village) of was duly passed by the on 20 , and was (approved)(not approved)(repassed after disapproval) by the and was deemed duly adopted on 20 , in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer*)

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. of 20 of the (County)(City)(Town)(Village) of was duly passed by the on 20 , and was (approved)(not approved)(repassed after disapproval) by the on 20 . Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on 20 , in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer*)

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. of 20 of the (County)(City)(Town)(Village) of was duly passed by the on 20 , and was (approved)(not approved)(repassed after disapproval) by the on 20 . Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of 20 , in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer*)

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

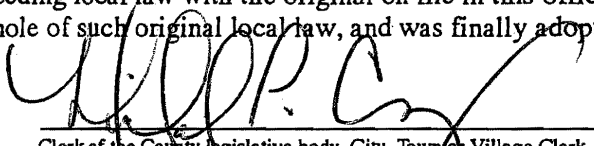
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph _____, above.



Clerk of the County legislative body, City, Town or Village Clerk
or officer designated by local legislative body

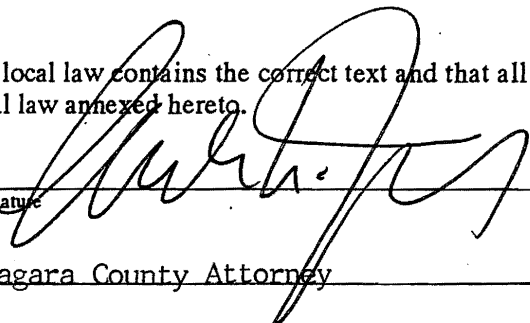
Date: September 9, 2004

(Seal)

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

STATE OF NEW YORK
COUNTY OF NIAGARA

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.



Niagara County Attorney
Title

County
~~XXXX~~ of Niagara
~~XXXX~~
~~XXXX~~

Date: SEPTEMBER 8, 2004