

## **LOCAL LAW NO. “E” FOR 2023**

### **A LOCAL LAW OF THE COUNTY OF ALBANY, NEW YORK REQUIRING THE ELECTRONIC REPORTING OF TRANSACTIONS OF PRECIOUS METAL EXCHANGE DEALERS AND SECONDHAND DEALERS IN ALBANY COUNTY**

Introduced: 5/8/23

By Domalewicz, Cunningham and O’Brien:

BE IT ENACTED by the Legislature of the County of Albany New York as follows:

#### **Section 1. Title**

This local law shall be known as “Precious Metals Exchange and Secondhand Dealers Reporting Law.”

#### **Section 2. Legislative Intent**

The Legislature hereby finds and determines that the creation of a uniform, countywide electronic reporting program for tangible personal property acquired by precious metal exchange establishments, pawnshops and secondhand merchants will curtail the distribution and facilitate the recovery of stolen property in Albany County.

The Legislature further finds and determines that advances in technology make the establishment of such an electronic reporting system to monitor and track the transactions set forth in this local law both necessary for the protection of the citizens of Albany County and feasible for such precious metal exchange establishments, pawnshops, and secondhand merchants.

Therefore, the purpose of this local law is to establish a uniform electronic reporting system for precious metal exchanges, pawnshops, and dealers in secondhand articles to assist the law enforcement community in tracing and recovering stolen property.

#### **Section 3. Definitions**

- a. “Antiques” are such items or collectibles recognized as such by established dealer associations within the industry, other than items defined as precious metals herein.
- b. “Antiques Dealer” shall mean a person, corporation, partnership, association, Limited Liability Corporation or other entity that offers to the public for sale antiques.

- c. "Antique Firearm" – Any muzzle-loading pistol, revolver, or other firearm with a matchlock, flintlock, percussion cap or similar type of ignition system or a firearm that uses fixed cartridges no longer available in the ordinary channels of commercial trade.
- d. "Coin" – Any loose coin, token, or medal, including those manufactured of gold, silver, platinum, palladium, or copper whose numismatic or collector value exceeds its intrinsic value.
- e. "Electronic Record" – An electronic file kept on the Licensee's computer in the English language which shall contain entries which shall be made at the time of each transaction and shall contain an identification number and such other information as required by this local law.
- f. "Goods" shall mean all things which are movable at the time of identification to the transaction for sale other than the money in which the price is to be paid.
- g. "Identification" means an official document issued by the United States government, or by any state, county, municipality, public agency, or department hereof, provided that such document contains a photographic image of the holder.
- h. "Local Law Enforcement Agency" – A Local Law Enforcement Agency with jurisdiction over the Precious Metal Exchange Dealer, Precious Metal Exchange Establishment, or Secondhand Dealer.
- i. "Licensee" – Any Person who has been licensed by the Office of the Sheriff of Albany County as a Precious Metal Exchange Dealer, Precious Metal Exchange Establishment, or Secondhand Dealer.
- j. "Person" – Includes one or more natural persons, corporations, associations, limited liability companies or other legal entity recognized by the State of New York.
- k. "Precious metals" shall mean gold, silver, platinum, titanium, precious and semi-precious stones including coins, utensils, or objects of art containing one or more of these metals.
- l. "Precious Metal Exchange Dealer" – Persons engaged in the business of, purchase or exchange of precious metals for other objects of precious metal, United States currency, bank drafts, other negotiable instruments as defined in the Uniform Commercial Code or any other object or thing of value.
- m. "Pawnbroker" – Any person who lends money at interest in exchange for personal property deposited as security.
- n. "Pawnshop" – Any shop, store, residence, place, or premises where a Pawnbroker operates their business.
- o. "Reportable Transaction" – Any purchase, exchange or pledge of Precious Metal(s) or Secondhand Article(s) by a Precious Metal Dealer or Secondhand Dealer taking place within Albany County and not specifically excluded herein.
- p. "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.

- q. "Secondhand Article" means any goods sold at resale, except as specifically provided for herein.
- r. "Retailer" shall mean a person, corporation, partnership, association, limited liability corporation or other entity operating in Albany County that offers to the public for sale goods, wares, or merchandise.

#### **Section 4. License Required**

No person, corporation, partnership, association, Limited Liability Corporation or other entity shall operate in Albany County as a Precious Metal Exchange dealer or Secondhand dealer or hold themselves out as a Precious Metal Exchange dealer or Secondhand dealer without first begin licensed by the Sheriff as provided for herein:

- (a) Every person desiring to engage in any business as a Precious Metal Exchange dealer or Secondhand dealer in the County of Albany shall obtain a license therefore from the Sheriff in accordance and subject to the provisions of this Local Law.
- (b) Every Licensee shall maintain a regular place of business within the County of Albany or designate a local agent for the service of process.
- (c) A licensee shall prominently display the license obtained pursuant to this local law in the establishment and visible to the general public. If a licensee shall maintain more than one establishment within the County of Albany, they shall obtain duplicate licenses.
- (d) No person who, within 15 years previous to applying for a license, has been convicted of burglary, felony possession of stolen property, grand larceny or forgery shall be eligible for a license.
- (e) When an application for a license is filed, the Sheriff shall inform the applicant that the procedure requires them to perform a criminal background investigating through the New York State Division of Criminal Justice Services. On receipt of the investigation, the Sheriff shall determine whether or not the applicant qualifies for a license pursuant to sub-section "d" of this Section.
- (f) Regular license shall expire two (2) years from the date of issuance.
- (g) The Sheriff's Office shall promulgate an application form and a license form consistent with the provisions of this local law.

#### **Section 5. Precious Metal Exchange Dealers Methods of Purchase**

(i) A Precious Metal Exchange Dealer may purchase Precious Metal by weight or without use of weight to establish value depending on the individual object. A Licensee must display a sign, which will notify customers of which method of purchase is utilized.

(ii) Purchase by weight. A Precious Metal Dealer must have scales of weight approved, tested, and sealed by the Albany County Department of Weights and Measures. All purchases and sales by weight must be by pennyweight, gram, or

troy ounce and if the Precious Metal Dealer purchases an object of Precious Metal by weight, the buyer or seller, as the case may be, must be told, upon request, the measurement and price per unit of measurement as well as the total weight.

(iii) Purchase Not By Weight. If a Precious Metal Dealer does not utilize a scale, it must prominently display a sign stating that precious metals are not posted by weight, tell the customer that precious metals are not purchased by weight, and note on the sales receipt given to the customer that the purchase was not by weight.

(iv) Nothing in this section shall prohibit a Precious Metal Dealer from purchasing precious metal for more than its value based on its weight.

(v) Purchases and/or sales may be made by a Precious Metal Exchange Dealer at location(s) other than the premises of such Precious Metal Exchange Dealer or Precious Metal Establishment. When such purchases and/or sales are made at such locations, the licensee must note, adjacent to the other entries required for the transaction, the location where the transaction took place.

### **Section 6. Issuance of Duplicate License**

If a license hereunder shall be lost, stolen or destroyed, a duplicate may be issued by the Sheriff on the filing of an affidavit satisfactorily explaining the facts of such loss or theft.

### **Section 7. Temporary License**

- (a) The Sheriff may in his discretion issue a temporary license pending satisfaction of application requirements and shall issue a temporary license to any applicant for a Precious Metal Exchange dealer or Secondhand Dealer license if he/she has not, within 30 days after receipt of the application for such license, approved or disapproved such application.
- (b) The temporary license shall be for a period of 90 days. If within such 90-day period, the Sheriff shall have failed to approve or disapprove the application, the Sheriff shall then issue a regular license to the applicant. If the application is approved during the term of the temporary license, the Sheriff shall issue a regular license to the applicant.
- (c) A temporary license issued by the Sheriff pending satisfaction of application requirements shall be revoked if the applicant fails to timely comply with all application procedures and requirements.

### **Section 8. Exemption from Licensing Requirement**

Nothing in this Local Law shall be construed to apply to the following:

- a. The sale, or purchase, 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 items offered for sale are owned by the seller, and/or the seller is authorized by the owner to sell said items; and

2. [The garage sale does not exceed a period of seventy-two (72) consecutive hours; and
  3. The seller does not conduct more than three (3) garage sales in any consecutive twelve (12) month period; and]
  4. 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, or purchase, of a secondhand article by a non-profit or charitable organization or on property occupied by any non-profit or charitable organization.
  - c. The sale, or purchase, of secondhand books or magazines, wherever sold.
  - d. The sale, or purchase, of secondhand articles at an auction held by a licensed auctioneer.
  - e. The sale, or purchase, of used furniture, used clothing, or used baby/children's items.
  - f. 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 provided for herein.
  - g. Any transaction involving the sale or disposal of Secondhand Articles regulated by state or federal law.
  - h. Internet sales or purchases.
  - i. Antiques dealers shall be exempt from the provisions of this law, except in the purchase of Precious Metals as defined, provided that the following conditions are met:
    1. At least 80% of the secondhand articles purchased by the antiques dealer for resale are purchased from estates, moving sales, auctions, antique shops, antique shows, flea markets, or in bulk lots; and
    2. The antiques dealer has an established antiques shop advertised and promoted as such and maintains a regular schedule of open hours; or
    3. The antiques dealer exhibits at least twice a year at established advertised and/or promoted antiques shows in the United States; or
    4. The antiques dealer is a private dealer working from home and/or non-retail locations by appointment or invitation and provided that such private dealer offers for sale an inventory of primarily, by count, merchandise fitting definitions of "antiques" or "collectibles: as recognized by established dealer associations and/or promoters, has never been convicted of any crime related to the possession of or sale of stolen goods or any sort, and has applied for and been granted a New York State resale number for collection and submission of sales tax.
  - j. The sale, or purchase, of secondhand articles at antique shows, flea markets, or trade shows, where such shows are advertised and/or promoted as such[, with the exception of precious metals as defined in this local law].
  - k. Used car dealers, unless a used car dealer receives or accepts anything of value other than cash or another used vehicle as a down payment, part payment, or full payment on, of or for the sale of a used vehicle. In the event that any used

car dealer accepts or advertises or holds himself or herself out as willing to accept anything of value other than cash or another used vehicle as a down payment, part payment or full payment on, of or for any used vehicle sold by him or her, such used car dealer shall conclusively be presumed, held and construed to be a secondhand dealer for all purposes and subject to all regulations herein.

- l. The sale, or purchase, of any secondhand article purchased or sold outside of Albany County.
- m. The purchase of secondhand articles by secondhand dealers from other secondhand dealers that are regulated by this law.
- n. Licensed Firearms Dealers.
- o. Persons engaged in the business of service and/or repair of business machines and electronic equipment or the component parts thereof and who may sell such articles that have been left for repair and are abandoned by their owners;
- p. Transactions involving secondhand DVDs and other recorded video and audio, comic books, collectable card games, sports memorabilia, sporting goods, magazines, post cards, and/or postage stamps [having a value individually or in the aggregate of no more than Two Hundred and Fifty (\$250.00) Dollars;]
- q. The purchase, sale or exchange of Precious Metal between two or more Precious Metal Exchange Dealers shall be exempt from the provisions of this local law;
- r. Lawn Equipment Retailers;
- s. Archery Equipment Retailers;
- t. Heavy Equipment and Contractor's Supply Retailers;
- u. Sewing Machine Retailers;
- v. Farm Equipment Retailers;
- w. Motorcycle and Motorized Power Sports Retailers;
- x. Consignment Shops; and
- y. Estate Sales held on commercial property, provided the seller is a licensed retailer whose permanent place of business is on such commercial property.
- z. Antique Dealers, so long as they are not additionally engaged in the purchase of Precious Metals by weight.
- aa. The Sheriff may provide for an exemption from the requirements of this Section, or establish additional or different requirements concerning the description of any property purchased by a secondhand dealer, upon consideration of the nature of the property, transaction or business, including, but not limited to, articles in bulk lots.
- bb. Bulk transfers not in the ordinary course of transferor's business as defined by the New York State Uniform Commercial Law Section 6-102.

## **Section 9. License Application**

Applicants for a license pursuant to this Local Law must file with the Sheriff an application, supplied by such Office, containing the following information:

- a. The exact name, address, and telephone number of the applicant and

- the principals and officers there thereof and the date of incorporation or organization, as applicable; and
- b. The name, business address, residential address, and telephone number of the operator of such business if other than the applicant; and
  - 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; and
  - e. A certification that the applicant, including its principals and officers have not been convicted within the immediately preceding ten (10) years of a crime involving theft, larceny, burglary, possession of stolen property, or other fraudulent dealing.
  - f. Whether the applicant either alone or together with others is currently or has previously been licensed.

### **Section 10. Fingerprinting Required**

Each applicant applying for a Precious Metal Exchange dealer or Secondhand Dealer License pursuant to this Local Law, including any principals and officers, shall be required to provide fingerprint information to the Albany County Sheriff's Office as necessary to obtain a criminal history record check through the New York State Division of Criminal Justice Services/FBI for such applicant. The applicant's fingerprints and any applicable fees shall be forwarded to the Division of Criminal Justice Services (DCJS) in the form and manner as prescribed by DCJS for a complete criminal background check.

Prior to the issuance of a license, the Albany County Sheriff, or his designee, will review the criminal history record information provided by DCJS in connection with the applicant's criminal back ground and investigation and will either "approve" or "disapprove" said application.

If an Applicant 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, and Section 4(d) of this Local Law.

### **Section 11. Licensing**

Upon filing of an application for a license, if the Sheriff, or designee, shall be satisfied that the application complies with the provisions of this Local law, they shall issue a license to operate as a Precious Metal Exchange dealer or Secondhand Dealer. 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 principals, officers or operators of such business, licensee shall notify the Sheriff and shall provide fingerprint information pursuant to Section 10 above. The form of this license shall be prescribed by the Sheriff.

## **Section 12. Prohibited Acts**

- (a) No person, firm, or corporation shall engage in any business, trade or transaction in the County of Albany as a Precious Metal Exchange Establishment or Secondhand Dealer unless licensed in accordance with the provisions of this Local Law.
- (b) No object, containing precious metal, shall be purchased by a precious metal exchange establishment from:
  - (1) Any person whose judgment appears to be impaired;
  - (2) Any person under the age of 18 without the written consent of his/her parents or guardian;
  - (3) Any person who is unable to produce proper and reliable identification.
  - (4) presents merchandise which has had its serial number altered or obliterated or merchandise which has had its serial number removed.
- (c) No article or precious metal as defined herein shall have its identification changed by melting or otherwise, nor shall any such article be sold, transferred or exchanged for a period of ten (10) business days from the date that such article is reported by the Precious Metal Exchange dealer or secondhand dealer to the Sheriff as prescribed in Section 17.
- (d) No entity shall organize, procure, present, produce, or sponsor any show, exhibit, market, or exchange in which precious metals are or may be bought, sold or traded unless such entity has previously advised, in writing, all participants, traders or exhibitors of the license requirements of this Local Law.
- (e) Any suspicious seller or article, including any article that possesses an altered or obliterated serial number or any article which has had its serial number removed shall be immediately reported to the appropriate local law enforcement agency.

## **Section 13. Grounds for Denial or Revocation of License**

- a. The Sheriff shall have the authority to deny the application for a license of any applicant, where such applicant, including the principals or officers thereof, has been convicted within the immediately preceding fifteen years of a crime involving theft, larceny, burglary, possession of stolen property, other fraudulent dealing, or any felony offenses related to New York State Penal Law Articles 220 and 221.
- b. The Sheriff may revoke any license granted herein in the following situations:
  - 1. Where the Precious Metal Exchange Establishment or Secondhand Dealer is convicted of a crime involving theft, larceny, burglary, possession of stolen property, other fraudulent dealing, or any felony offenses related to New York State Penal Law Articles 220 and 221, or of a violation of this Local Law, as provided for in Section 14 below.
  - 2. Where the Precious Metal Exchange Establishment or Secondhand Dealer



- has made a false statement in connection with its application;
3. Where the Precious Metal Exchange Establishment or Secondhand Dealer revokes the consent to examine such records and secondhand articles, as provided for in Section 16 below.
  - c. Notice of denial or revocation of a license issued pursuant to this Local Law shall be given by the Sheriff of his designee in writing, setting forth specifically the grounds on which such license was either denied or revoked with opportunity to be heard. Such notice shall be transmitted by certified or registered mail. Such denial or revocation may be challenged in a special proceeding conducted pursuant to Article 78 of the New York State Civil Practice Law and Rules. Pending the outcome of such special proceeding regarding the Sheriff's denial or revocation of a license, no person shall operate as a Precious Metal Exchange or Secondhand Dealer.

#### **Section 14. Expiration and Renewal of Licenses**

A license issued pursuant to this Local Law, unless voluntarily surrendered or revoked, shall remain in effect for two (2) years. In case any Precious Metal Exchange dealer or Secondhand Dealer shall move his/her place of business from the place designated in the license, he/she shall immediately thereupon give notice to the Sheriff and have the same endorsed on the license.

#### **Section 15. Display of License**

A licensee shall display prominently the license obtained pursuant to this local law in the establishment and visible to the general public.

#### **Section 16. Records To Be Maintained By Dealer**

- a. Seller Information. Except as otherwise provided herein, no Precious Metal Exchange dealer or Secondhand Dealer operating within Albany County shall acquire any Precious Metals or secondhand article unless such dealer has obtained and recorded the following information from the Seller of goods or from the person in the position of the seller of the goods:
  1. The amount paid, advanced, or loaned for the article;
  2. A detailed and accurate description of the article including any identifying marks, including brand name, make, serial and model numbers and any initials or engraving, monograms or other unique differentiating factors. In the case of those items which by their very nature are not uniquely identifiable or are purchased in mass quantities, a brief description shall suffice. A photograph(s) of the item(s) shall constitute a complete description for this subpart only;
  3. In the case of precious metals, jewelry, and gems, the weight (if applicable) and purity of the precious metal and a photograph of the article;

4. The seller's identification information as required in subparagraph (b) of this Section; and
5. The date, time, hour and place of the acquisition.

The information obtained shall be recorded on a written or electronic receipt, which receipt shall be numbered in consecutive order and maintained in the Precious Metal Exchange dealer or secondhand dealer's records as provided for herein.

No alterations or erasures are to be made in said receipt. Erroneous entries are to have a simple line drawn through them and the corrected entry made on the next line.

A written receipt shall be issued to the seller and the serial number of the transaction and the information required in Section 15(a) of this local law.

b. In the case of a Pawnbroker ticket or other evidence of a pledged article issued or the redemption or sale of a pledged article, there shall be recorded in the file the following additional information:

- (i) The name of the Licensee or employee who issued such ticket;
- (ii) The pledge number on such ticket or other evidence of such pledge;
- (iii) The name and address of the pledger as appears on such ticket or other evidence; and
- (iv) The amount loaned or advanced as it appears on such pawn ticket or other evidence.

c. Identification Information: Prior to acquiring any Precious Metal or Secondhand Article, every Dealer shall request and review identification from the seller to verify the seller's identity 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. The dealer shall make a photocopy or photograph of the front of the identification. If the acquisition is made from a seller who is also a Precious Metal Exchange dealer or secondhand dealer, the dealer purchasing the item shall also record the business name and address of such seller and a statement by such seller regarding the number of days the item was held by such seller prior to instant acquisition.

d. Records Retention/Inspection:

1. Every Precious Metal Exchange dealer or secondhand dealer shall maintain for a period of ten (10) years all of the information required in subparagraphs a, b, and c of this Section. 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.
2. All records required by this Local Law and each Precious Metal or

secondhand Article shall be subject to examination during such times and in such areas of the business that are open to the public by a member of the Albany County Sheriff's Office or other local law enforcement agency. Consent to such examination shall be a condition of obtaining and retaining the Precious Metal Exchange dealer or Secondhand Dealer license; provided, however that a revocation of such consent by the Dealer shall not result in a criminal penalty or violation, as provided for in this Local Law. In the event that a Dealer revokes the consent to examine such records and item, the license granted herein may be revoked by the Sheriff. Nothing in this Local Law shall diminish or alleviate the need for voluntary consent or a warrant to search a residence or other location not open to the public.

Every Precious Metal Exchange dealer or Secondhand Dealer shall forward to the Albany County Sheriff's Office in electronic format [approved by the Sheriff,] a copy of records for all transactions (acquisitions) and a copy of the Seller Information required by subparagraphs a, b, and c of this Section for each Precious Metal or Secondhand Article acquired in the immediately preceding seventy-two (72) hours, including for each transaction, the name of the Licensee and, if applicable, the name of the employee conducting the transaction, and either a description or a photograph of the items. The required electronic format shall be through LEADS ONLINE, [www.Leadsonline.com](http://www.Leadsonline.com). Every Precious Metal Exchange dealer or Secondhand Dealer shall register with LEADS ONLINE and shall utilize LEADS ONLINE to enter the required records. [In the case of items which, by their very nature, are not uniquely identifiable or are purchased in mass quantities a brief description shall suffice.] Photographs of precious metals, jewelry and gems shall be required to be transmitted with these forms. The Sheriff may grant exemptions from the requirement of submitting such statements in an electronic format for good cause shown.

The Sheriff's Office or its designee shall be responsible for, implementing policies and procedures allowing authorized persons to access or transmit information over secured connections, implementing technical security measures that guard against unauthorized access to information and providing documentation materials for the use and implementation of said system.

Should a licensee be approached by a seller with items having been reported as stolen, or locate items matching the description of property having been reported as stolen, the licensee shall immediately contact the appropriate law enforcement agency.

#### **Section 17. Requirements to Hold Secondhand Articles Prior to Disposal, Resale or Alteration, and Additional Requirements**

- a. For a period of ten (10) days after the acquisition is reported to the Sheriff of

any Precious Metal or 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 record documenting the transaction in which said article was acquired. During the holding period, no secondhand dealer shall:

1. Sell, trade, transfer, remove from the local business premises or otherwise dispose of any secondhand article covered by this Local Law;
  2. Alter in any fashion any such article; or
  3. Commingle any such article with similar items.
- b. As a condition of licensing, the Precious Metal or secondhand dealer shall agree to hold, any precious metal or second hand item whenever a Local Law Enforcement Agency notifies a Licensee not to sell an item due to an investigation, and the item shall not be removed from the Licensee’s premises. This investigative hold shall be confirmed in writing within forty-eight hours and shall remain in effect for fifteen (15) days from the initial hold or until the investigative hold order is cancelled, whichever shall occur first. The hold order may only be cancelled in writing. Upon request of a Local Law Enforcement Agency and with reasonable cause to believe the item or items may be the subject of a criminal investigation, a Supreme or County Court Judge may issue a hold order under which a Licensee shall not sell or remove an item from the licensed premises until written authorization is provided by an authorized official of the requesting law enforcement agency. The hold order shall expire ninety (90) days from the date it is placed unless, upon a showing of good cause, it is extended by further court order.
- c. Whenever an item is placed on hold, the person doing so shall provide proper identification and provide the Licensee with the name and phone number of the party requesting the hold, the identification of a contact person regarding the investigation, and the case number related to the hold. Should an item acquired by a Licensee under this local law be material evidence in a criminal trial, the Sheriff shall have the right to take possession of said property for so long as it is required as evidence. Upon conclusion of a criminal trial in which property has been used as material evidence, the property shall be returned to the Licensee or, in the case of a criminal conviction or other court determination that the property was stolen, the Sheriff shall return the property to its rightful owner. In the event the property is returned to the original owner the Sheriff shall so notify the Licensee.

## **Section 18. Penalty**

- A. Any secondhand dealer who fails to comply with the provisions of Section 4, 9, 16(a), (b), (d)(1) and 17 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. Any secondhand dealer who fails to comply with the provisions of Section 15 or 16,

of this Local law shall, upon conviction thereof, be guilty of a Class B 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. Provided, however, that a secondhand dealer's failure to consent to a search of the premises as provided for in Section 16 of this Local Law shall not be punishable as a crime.

- B. In addition to the penalty above, any offense against the provisions of this Local Law shall subject the person committing the offense to a civil penalty in the amount of \$500.00 for each time that the offense shall occur collectible by and in the name of the County of Albany.
- C. Each day or part thereof on which a violation or failure continues, shall constitute a separate violation.
- D. If the Sheriff has reason to believe that this Local Law is being violated, he shall promptly investigate the matter. If he finds, after notice to the person accused of the violation and opportunity for such person to be heard, that there has been a violation, they shall issue an order directed to the person who has committed the violation directing him to cease and desist from the violation.
- E. The Sheriff may bring a proceeding in any court of competent jurisdiction to restrain by injunction violators of his order or otherwise to enforce such orders or provision of this Local Law.

#### **Section 19. Suspension Or Revocation Of License**

- a. Authority: The Sheriff, at any time for such cause as after investigation he shall deem sufficient, may suspend or revoke any license granted under the provisions of this Local Law. Violation of any of the prohibitions set forth in Section 12 shall be deemed sufficient cause.
- b. Effect: Whenever any licenses shall be revoked, no license shall be granted to any person whose license has been revoked within a period of two (2) years from the date of such revocation.
- c. Notice: Notice of the suspension or revocation and the reason therefore in writing shall be served by the Sheriff on the person named in the application by mailing the same to the business address given in the application with a copy of such notice to the County Attorney.
- d. Review: Within twenty (20) business days after service of the notice of suspension or revocation, the licensee may apply to the Sheriff to hear and review the order of suspension or revocation. If so requested, the Sheriff shall hold a hearing and licensee may present evidence on his behalf. Within five (5) days of said hearing, the Sheriff shall either affirm or disaffirm the suspension or revocation of the license issued under this Local Law.

#### **Section 20. Municipal Exemption**

Any municipality within the County of Albany which has adopted a local law or

ordinance which substantially comports with the requirements of this Local Law shall be exempt from this law so long as such local law or ordinance remains in effect.

### **Section 21. Severability**

If any Section of this Local Law of the application thereof to any person or circumstance shall be adjudged invalid by the court of competent jurisdiction such order or judgment shall be confirmed in its operation to the controversy in which it was rendered, and shall not effect or invalidate the remainder of any other provision or any section or the application of any part thereof to any other person or circumstance and to this end, the provisions of each Section of this Law are hereby declared to be severable.

### **Section 22. Application**

This Local Law shall apply to all Precious Metal Exchange dealers and secondhand dealers operating in Albany County.

### **Section 23. Effective Date**

This local law shall be effective one-hundred eighty (180) days after filing in the Office of the Secretary of State and shall apply to all transactions occurring on or after that date.

*Referred to Law and Public Safety Committees – 5/8/23*