

# OFFICE OF THE CLERK OF THE LEGISLATURE

Wendy M. Falls  
Clerk of the Legislature  
315-349-8230



46 East Bridge Street  
Oswego, New York 13126  
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## NOTICE OF ADOPTION

Per Section 214 of the County Law, you are hereby notified that on July 14, 2016, the Oswego County Legislature adopted the following:

**COUNTY OF OSWEGO LOCAL LAW NUMBER 3 OF 2016  
“A LOCAL LAW REGULATING SECONDHAND DEALERS  
REGARDING THE SALE AND PURCHASE OF SECONDHAND ARTICLES  
WITHIN THE COUNTY OF OSWEGO”**

Copies of Local Law #3 of 2016 are posted in the Oswego County Courthouse on East Oneida Street in Oswego, at the County Clerk’s Office at 46 E. Bridge Street in Oswego and are available upon request to Wendy Falls, Clerk of the Legislature at 46 E. Bridge Street, Oswego, NY 13126, by phone at 315-349-8230 or by e-mail at [wfalls@oswegocounty.com](mailto:wfalls@oswegocounty.com)

By Order of the Oswego County Legislature  
July 14, 2016  
Wendy M. Falls, Clerk

**COUNTY OF OSWEGO  
LOCAL LAW NUMBER 3 OF 2016**

**A LOCAL LAW REGULATING SECONDHAND DEALERS  
REGARDING THE SALE AND PURCHASE OF SECONDHAND ARTICLES  
WITHIN THE COUNTY OF OSWEGO**

**BE IT ENACTED BY THE COUNTY LEGISLATURE OF OSWEGO COUNTY  
AS FOLLOWS:**

**Section 1. Legislative Finding & Purpose.** This legislature finds and determines that the creation of a uniform, countywide registration and record-keeping requirement for Secondhand Dealers located within the County of Oswego will curtail the distribution and facilitate the recovery of stolen property. The legislature further finds and determines pursuant to its police and home rule powers that the record-keeping requirements imposed herein are both reasonable and feasible to implement and will assist the law enforcement community in tracing and recovering Secondhand Articles as defined herein that are stolen property.

**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.
- b. “Secondhand Article” for the purposes of this enactment means jewelry, watches, earrings, rings, broaches or similar items containing precious metals, in whole or in part, typically worn upon a person for adornment; semi precious bullion, coins, or stones including diamonds, rubies, emeralds, topaz; televisions; cameras; video and other digital recording equipment; video game consoles including any version of Playstation or XBox; portable GPS units commonly used in motor vehicles and hand held GPS units, portable MP3 music players including iPods, computers; laptop computers; cell phones and tablet computers and iPads.
- 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 documents contains a photographic image of the holder.
- d. “Precious metals” shall mean gold, silver, platinum, titanium, precious and semi-precious stones and coins.
- e. “Antiques” are such items or collectibles recognized as such by established dealer associations within the industry.

**Section 3. License Required.** Effective August 1, 2016 no person, corporation, partnership, association, limited liability corporation or other entity shall operate in Oswego County as a Secondhand Dealer or hold themselves out as a Secondhand Dealer without first being licensed by the County of Oswego as provided for herein.

**Section 4. Exemption from Licensing Requirement.** Nothing in this Local Law shall apply to the following:

- a. The sale of any item sold at a garage sale, yard sale, estate sale, going out of business or moving sale (collectively referred to herein as “garage sale”), provided that all of the following conditions are met:
  - i. 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
  - ii. The items offered for sale are owned by the seller, and/or the seller is authorized by the owner to sell said items; and
  - iii. The garage sale does not exceed a period of ninety-six (96) consecutive hours; and
  - iv. The seller does not conduct more than four (4) garage sales in any consecutive twelve month period; and

- v. 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, benevolent, religious or charitable organization or on property occupied by any non-profit, benevolent, religious or charitable organization.
- c. The sale of Secondhand Articles at an advertised auction held by a licensed auctioneer.
- d. Any transaction involving the sale or disposal of Secondhand Articles regulated by state or federal law, rule or regulation including sales through state or federal licensed dealerships, court-ordered sales, court-ordered levies or executions.
- e. Internet sales or purchases.
- f. The sale of antiques by an Antiques Dealer, or his/her employee or associate, provided the Antiques Dealer:
  - g. Has an established antiques shop advertised and promoted as such and maintains a regular schedule of open hours; or
    - ii. Exhibits at least twice a year at established advertised and/or promoted antiques shows in the United States; or
    - iii. 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 crimes related to the possession of or sale of stolen goods of any sort, and has applied for and been granted a New York State resale number for collection and submission of sales tax
    - iv. Is not engaged in the purchase or sale of precious metals by weight.
  - h. The sale of Secondhand Articles at antique shows or trade shows, where such shows are advertised and/or promoted as such.
  - i. Transfers of Secondhand Articles, including gifts with or without consideration, between or among relatives or family members.
  - j. Transfers or gifts of Secondhand Articles by an individual or agent with letters of administration or letters testamentary over a decedent’s estate, or pursuant to rules of intestate succession or a bequest in a last will and testament.
  - k. Licensed or permitted automotive dealers or automobile dismantlers; brokers or processors of recycled or recovered metals or electronics; or scrap metal yards.

- l. Precious metals used, bought, sold or transferred in connection with a university or educational institution or ongoing business or industry, the primary purpose of which is not to sell Secondhand Articles, as defined herein, at retail.
- m. Used books or periodicals, used phonographic albums, used compact discs and/or DVDs.

**Section 5. License Application.** Applicants for a license pursuant to this Local Law must file with the Oswego County Clerk 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 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 written certification that the applicant, including its principals and officers, have not been convicted within the immediately preceding ten years of a crime involving theft, larceny, burglary, possession of stolen property, or other fraudulent dealing;
- f. Proof of inspection by the Oswego County Bureau of Weights & Measures of any scales used to buy or sell precious metals by weight, if applicable; and
- g. A copy of a valid NYS Sales Tax Certificate of Authority for the business, person or entity.

**Section 6. License Fee.** The fee for the initial license for one (1) premises shall be \$100.00. Amendments, replacement or duplicate licenses for additional business locations shall be issued upon the payment of a \$5.00 fee per license.

**Section 7. Licensing** Applicants shall obtain a license by registering with the County Clerk. The License shall remain in effect until surrendered or revoked. 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 County Clerk and complete the appropriate paperwork to amend same within thirty (30) days.

**Section 8. Grounds for Denial or Revocation of License.**

- a. The County Clerk shall have the power 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 ten years of a crime involving theft, larceny, burglary, possession of stolen property, or other fraudulent dealing.

- b. The County Clerk may revoke any license granted herein in the following situations:
  - i. Where the Secondhand Dealer is convicted of a crime involving theft, larceny, burglary, possession of stolen property, or other fraudulent dealing, whether or not in connection with his or her licensed business, or of a violation of this Local Law, as provided for in Section 14 below;
  - ii. Where the Secondhand Dealer has made a false statement in connection with its application for a license or false business record entry on its books or records;
  - iii. Where the Secondhand dealer revokes the consent to examine such records and Secondhand Articles, as provided for in Section 12 below.

c. Notice of denial or revocation of a license issued pursuant to this Local Law shall be given to 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 denial or revocation of a license, no person shall operate as a Secondhand Dealer unless otherwise provided for by court order.

**Section 9. Expiration and Renewal of Licenses.** A License issued pursuant to this Local Law must be renewed on the five (5) year anniversary as measured from the date of the issuance of the initial license. The charge for a renewal shall be \$50.00.

**Section 10. Display of License.** Every Secondhand Dealer shall cause the Secondhand Dealer License to be prominently displayed at each location said Secondhand Dealer's place of business or shall exhibit said license upon request of any individual.

**Section 11. Records to be Maintained by Secondhand Dealer.**

- a. Seller Information. Except as otherwise provided herein, no Secondhand Dealer operating within Oswego County shall acquire any Secondhand Article unless such Secondhand Dealer has obtained and recorded the following information:
  - i. The amount paid, advanced, or loaned for the article;
  - ii. A detailed and accurate description of the article including any identifying marks;
  - iii. The serial and model number (if any);
  - iv. In the case of precious metals, jewelry, and gems, a photograph of the article;
  - v. The seller's Identification information as required in subparagraph b of this Section 12(b); and
  - vi. The date, time and place of the acquisition.

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

b. Identification Information. Prior to acquiring any Secondhand Article, every Secondhand 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 Secondhand 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 Secondhand Dealer, the Secondhand 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.

c. Records Retention/Inspection.

- i. Every Secondhand Dealer shall maintain for a period of six (6) years all of the information required in subparagraphs a and b of 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.
- ii. All records required by this Local Law and each Secondhand Article shall be subject to examination during such times and in such areas of the business that are open to the public by any member of the Oswego County Sheriff's Office or other police department or law enforcement agency. Consent to such examination shall be a condition of obtaining and retaining the Secondhand Dealer license; provided, however, that a revocation of such consent by the Secondhand Dealer shall not result in a criminal penalty or violation, as provided for in Section 14 of this Local Law. In the event that a Secondhand Dealer revokes the consent to examine such records and Secondhand Articles, the license granted herein may be revoked by the Sheriff. Nothing in this Local Law shall diminish or obviate the need for voluntary consent or a warrant to search a residence, business or other location not open to the public. The County Clerk shall compile a list of all licensed Secondhand Dealers and provide same to any law enforcement agency upon request.

**Section 12. Requirement to Hold Secondhand Articles Prior to Disposal, Resale or Alternation, and Additional Requirements**

a. For a period of seven (7) 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 record documenting the transaction in which said article was acquired. During the holding period, no Secondhand Dealer shall:

- i. Sell, trade, transfer, remove from the local business premises or otherwise dispose of any Secondhand Article covered by this Local Law;
- ii. Alter in any fashion any such article; or

iii. Commingle any such article with similar items.

b. As a condition of licensing, the Secondhand Dealer shall agree to hold, for a period of seventy-two (72) hours, any Secondhand Article, where a police officer has notified the Secondhand Dealer that law enforcement suspects that the article is stolen property. The 72-hour hold period shall commence at the time of said notification. During the holding period, no Secondhand Dealer shall:

- i. Sell, trade, transfer, remove from the local business premises or otherwise dispose of any Secondhand Article covered by this Local Law;
- ii. Alter, in any fashion, any such article including, but not limited to, obliterating or defacing identifying marks or disassembling same; or
- iii. Commingle any such article with similar items.

c. As a condition of licensing, any Secondhand Dealer who purchases, sells or offers for sale new articles, shall obtain those new articles only from an authorized retailer or wholesaler. Nothing in this paragraph 12(c) shall prohibit the purchase or sale of new items obtained from individuals who sell less than three (3) of an identical or same type of article within any calendar year.

**Section 13. Scale Inspection Requirement.** In addition to any provisions of NYS Agriculture & Markets law, it shall be unlawful for a Secondhand Dealer to knowingly buy or sell precious metals by weight the scale used for the transaction has first been inspected by the Oswego County Department of Weights & Measures. Notwithstanding any other provisions of law, no Secondhand Dealer License shall issue unless all scales used by the licensee have been inspected and passed by the Sealer of Weights and Measures.

**Section 14. Penalty.** Any Secondhand Dealer who fails to comply with the provisions of Sections 3, 5, 7, 12(a), (b), (c)(i), 13 and 14 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 Sections 8, 11, 12(c)(ii) of this Local Law shall, upon conviction thereof, be guilty of an unclassified 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 12(c)(ii) of this Local Law shall not be punishable as a crime.

**Section 15. Severability.** If any provision, sentence or clause of this Local Law is held unconstitutional, illegal or invalid by a court of competent jurisdiction, such findings shall not affect or impair any or 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 Oswego 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. Effective Date.** This Local Law shall become effective August 1<sup>st</sup>, 2016, and shall be filed pursuant to the provisions of the Municipal Home Rule.