

Local Law Filing

(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
(Select one.)

of STEUBEN

Local Law No. SIX of the year 2014

A local law Relative to Secondhand Dealers.
(Insert Title)

Be it enacted by the LEGISLATURE of the
(Name of Legislative Body)

County City Town Village
(Select one.)

of STEUBEN

as follows:

SECTION 1: SECONDHAND DEALER DEFINED

As used in this Local Law, a secondhand dealer is any person, partnership, corporation, association, joint venture, trustee, court-appointed representative or agent thereof which operates a business for profit which buys, sells, possesses on consignment for sale or trades jewelry, stamps, coins or any precious metals which may have been previously owned by a consumer; or which derives more than thirty five percent (35%) of its gross receipts from the sale, consignment for sale, pledge or trade of any goods, wares or merchandise which have previously been owned by a consumer, including but not limited to, furniture, appliances, clothing, automobile accessories, books, magazines and athletic cards and memorabilia or metals, whether in bulk or manufactured state. The term secondhand dealer shall include businesses commonly known as pawnbrokers, swap shop operators, stamp dealers, coin dealers, jewelers and auction houses who purchase and resell items from persons other than dealers and suppliers. The fact that any business does any of the following acts shall be prima facie proof that said business is a secondhand dealership:

A. Advertises in any fashion that it buys or sells secondhand or used items. Such advertisements shall include, but are not limited to, media advertisements, telephone listings, and signs whether on the exterior or interior of the business;

B. Devotes a significant segment or section of the business premises to the purchase or sale of secondhand or used items.

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

SECTION 2: EXEMPTIONS

The following are exempt from the requirements of this Local Law:

- A. Garage Sales: As used in this Section, a garage sale is defined as the sale at retail of used personal property by the lawful residents of residentially zoned property which garage sale is not conducted on a periodic or ongoing basis. A garage sale shall be deemed to be periodic or ongoing if a garage sale is held by the lawful resident of residentially zoned property more than ten (10) days in any consecutive ninety (90) day period;
- B. Sales conducted by governmental, civic, patriotic, fraternal, educational, religious or benevolent organizations which have been in active and continuous existence for at least one year prior to the holding of the sale, or which are incorporated as a not for profit corporation by the State;
- C. Sales or purchases which are regulated by the licensing laws of the State, including automobile dealers, used parts dealers and automotive parts recyclers;
- D. Antique Dealers: As used in this Section, an antique dealer is defined as one who derives 75% of his gross sales each year from the sale of antiques and/or primitives. As used in this Section, an antique or primitive is defined as an old and valuable art object or article no longer in production which is at least fifty (50) years old. As used in this section, the term "sale" does not include an exchange, trade, or swap of items;
- E. Licensed Firearm Dealers.

SECTION 3: PROHIBITED PURCHASES

No secondhand dealer shall purchase or accept any goods, wares, articles, or things under any of the following circumstances:

- A. Where the seller is less than the age of eighteen (18);
- B. Where the seller fails to present at least one (1) form of identification which at least contains the seller's full name, date of birth, a photograph or full physical description, and an identification number.
- C. Where the article to be purchased had an original manufacturer's serial number at the time it was new, but no longer legibly exhibits said number.

SECTION 4: STATE AND FEDERAL LAWS COMPLIED WITH

Secondhand dealers shall comply with all applicable state and federal laws and regulations that govern the same. This Local Law shall not be construed so as to preempt any state or federal laws.

SECTION 5: RECORD OF PURCHASES

Every secondhand dealer shall keep at the business location a register on forms provided or approved by the District Attorney in which shall be entered in a permanent manner the following information: a succinct and accurate description of all property taken, purchased or received in the course of the business licensed under this Local Law, including any number or inscription that may be in or on said property; the full legal name of the person from whom the property is received, including full first name and middle initial, if any; such person's current residential address, date of birth and physical description; the consideration and terms of the transaction; the signature of the employee who received the property; and the signed statement of the person from whom the property was obtained that he/she is over eighteen (18) years of age and the legal owner of same, clear of all attachments and with the legal right to sell. Entries made in the register shall be printed or typed and shall be legible. All entries shall be made immediately upon receipt or purchase of any property. The register shall be

open to inspection by any police agency during normal hours of operation. Records of purchase shall be maintained for at least one (1) year.

No person shall be required to furnish such description of any new property purchased from manufacturers or wholesale dealers having an established place of business, or of any goods purchased at open sale, or from a bankrupt stock. Such goods must be accompanied by a bill of sale or other evidence of open and legitimate purchase and must be shown to police agencies or District Attorney, when demanded.

SECTION 5: INSPECTION OF DEALER PREMISES: SEIZURES:

Every secondhand dealer and every person employed by the secondhand dealer in the conduct of business, shall admit to any and every part of the business premises, during normal business hours, any law enforcement officer to examine any goods, articles, things, pledges, pawns, or books or other records on the premises dealing with purchase or sale of used property and to search for and to take into possession any article known or for which such officer has reasonable grounds to believe to have been stolen. Such law enforcement officer may make any such search or seizure as is provided for in this Section, and property so seized shall be receipted for by such officer, who shall fully describe the seized property and sign the receipt. Should the officer determine the property not to be stolen, the officer shall promptly return same to the secondhand dealer and obtain a receipt therefore, as aforesaid.

SECTION 6: WAITING PERIOD

Every secondhand dealer, except auction houses, shall keep all property purchases or received from an individual for inspection for a period of at least five (5) calendar days before it can be sold or traded.

Every bonafide auction house shall maintain an accurate record of all transactions, listing the full first name, middle initial, and last name of all buyers, residential address or business name and address, date of birth and physical description. The buyer shall sign the record of transaction.

Every auction house operating a regular secondhand store for the sale of merchandise, other than at auction, shall comply with all provisions of this Local Law the same as a secondhand store or a secondhand dealer.

SECTION 7: PENALTY

Any person who shall violate any of the provisions of this Local Law shall upon a civil adjudication be subject to a fine of not less than FIFTY (\$50.00) DOLLARS or more than FIVE HUNDRED (\$500.00) DOLLARS for each offense. Each day any violation of any provision of this Local Law shall continue shall constitute a separate offense. The secondhand dealer shall be fully responsible for any violation of this Local Law occasioned by or with the condonation of the secondhand dealer's partners, officers, shareholders, agents, or employees; any such violation shall be imputed to the secondhand dealer. The County Attorney shall be the presentment agency for said proceedings.

(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. Six of 2014 of the (County)(City)(Town)(Village) of STEUBEN was duly passed by the LEGISLATURE on 12/15 2014, 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____.
(Name of Legislative Body)
(Elective Chief Executive Officer)*

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.

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.

* 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, 1 above.

Brenda K. Hori
Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

Date: 12/24/14

(Seal)