

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 Cortland

Local Law No. 18 _____ of the year 2014 _____

A local law Regulating Secondhand Dealers
(Insert Title)

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

County City Town Village
(Select one.)

of Cortland

as follows:

See Attached

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

(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. 18 of 2014 of the (County)(City)(Town)(Village) of Cortland Legislature was duly passed by the on November 20 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) *(Name of Legislative Body)* (repassed after disapproval) by the _____ and was deemed duly adopted *(Elective Chief Executive Officer*)* on 20 , in accordance with the applicable provisions of law.

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) *(Name of Legislative Body)* (repassed after disapproval) by the _____ on _____ 20____. *(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) *(Name of Legislative Body)* (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.

Jerry D. Balon
Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

Date: 12-2-14

(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 Cortland

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.

Karen L. Howe
Signature
Cortland Co. Attorney
Title

County _____
City of Cortland
Town _____
Village _____

Date: 12/2/14

ON MOTION OF RICHARD BUSHNELL


RESOLUTION NO. 339-14

**Adopt Local Law "T" of 2014 -A Local Law Regulating Second Hand Dealers
(See Attached)**

**STATE OF NEW YORK) SS:
COUNTY OF CORTLAND)**

This is to certify that I, the undersigned, Clerk of the Cortland County Legislature, have compared the foregoing copy with the original now on file in this office, and that the above actions were passed by the Cortland County Legislature on the 20th day of November, 2014 and that the same is a correct and true transcript of such actions taken.

IN WITNESS WHEREOF I have hereunto set my hand
and the official seal of the CORTLAND COUNTY
LEGISLATURE, this 20th day of November, 2014.



**Jeremy D. Boylan, Clerk of the Legislature
Cortland County**

COUNTY OF CORTLAND

Local Law No.18 of the year 2014

A LOCAL LAW REGULATING SECONDHAND DEALERS

Be it enacted by the Cortland County Legislature of the County of Cortland as follows:

Section 1. Legislative Finding & Purpose.

The purpose of this local law is to protect the residents of the County of Cortland by discouraging the theft, sale and purchase of stolen goods. Those secondhand dealers engaged in the sale of secondhand goods often serve a legitimate function, but may also be used by thieves to dispose of stolen goods. This Local Law will regulate those commercial outlets by requiring Secondhand Dealers to register their businesses, to maintain records of transactions and to provide such records to any police agency operating within the confines of Cortland County. These requirements will serve to assist in the recovery of stolen items, assist in the detection and apprehension of thieves and discourage Secondhand Dealers from taking in articles that they suspect may be stolen, thereby reducing the market for stolen goods and discouraging theft.

Section 2. Definitions.

In addition to their ordinary meaning, the following terms as used herein shall be defined as:

- 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. Pawnbrokers, precious metal dealers, transient merchants and scrap processors shall be classified as secondhand dealers.

"Pawnbroker" means any person or business establishment who holds goods as collateral on short term, high interest loans or a person who qualifies as a "Collateral Loan Broker" pursuant to section 52 of the New York General Business Law.

"Precious Metal Dealer" means any person, company, corporation, partnership, association, limited liability corporation, and the agents, associates or employees thereof operating from a fixed location who engage in the sale, purchase, or exchange of precious metals and/or jewelry or other objects of precious metal, jewelry, United States Currency, bank drafts, other negotiable instruments as defined in the Uniform Commercial Code or any other object or thing of value.

"Transient Merchant" means a business conducted in a store, hotel, building or other structure, whether temporary or permanent in nature and however zoned, for the purchase and sale of "Secondhand Articles" as defined herein, and which is intended to be conducted for a temporary period of time and not permanently. If the place in which a business is conducted is rented or leased for a period of six months or less, such fact shall be presumptive evidence that the business carried on therein is a transient business.

"Scrap Processor" means any person, company, corporation, partnership, association, limited liability corporation, and the agents, associates or employees thereof operating from a fixed location where machinery and equipment are used for processing scrap metals of all kinds including auto wreckage yards.

- b. **"Secondhand Article"** means any article or object that has previously been bought or sold at retail and /or which has been previously used and /or is not in a new condition. This shall include any "gift card" or other electronic payment device that is usable at a single merchant or an affiliated group of merchants that share the same names mark, or logos is issued in a specific amount, and may or may not be increased in value or reloaded, or as otherwise defined in Article 26, Section 396(1) or Article 13, Section 1315 of the New York State General Business Law.
- 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 document 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 January 1, 2015, no person, corporation, partnership, association, Limited Liability Corporation or other entity shall operate in Cortland County as a Secondhand Dealer or hold themselves out as a Secondhand Dealer without first being licensed by the Cortland County Clerk Office as provided for herein.

Section 4. Exemption from Licensing Requirement.

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

- a. The sale 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 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
 - 2. The items offered for sale are owned by the seller, and/or the seller is authorized by the owner to sell said items; and
 - 3. The garage sale does not exceed a period of ninety-six (96) consecutive hours; and
 - 4. The seller does not conduct more than three (3) garage sales in any consecutive twelve month period; and
 - 5. 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 or charitable organization or on property occupied by any non-profit or charitable organization that is exempt from taxation under 501(c)(3) or 501(c)(4) of the Internal Revenue Code.
- c. The sale of Secondhand Articles at an auction held by a licensed auctioneer.

- d. The sale of used furniture, used clothing or used infant/children's items.
- e. 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.
- f. Internet sales or purchases by private individuals, who are not engaged in a business as a "Secondhand Dealer".
- g. Any transaction involving the purchase or sale of merchandise already regulated by New York State involving the recording of each transaction, such as motor vehicles, recreational vehicles, motorcycles, and snowmobiles, where specific documentation is mandated and filed with the New York State Department of Motor Vehicles.
- h. The sale of Secondhand Articles at antique shows or trade shows, where such shows are advertised and/or promoted as such.
- i. Antique dealers, who operate their corporation, partnership, association, limited liability corporation as a full-time business, with 80% of the income resulting from the buying and selling of antiques.

Section 5. License Application.

Applicants for a license pursuant to this Local Law must file with the Cortland County Clerk's Office 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. Names and telephone numbers for owners, officers, principals, and employees who should be notified outside normal business hours in case of emergency, such as damage to the property, burglary, alarms, and unsecured business.
- f. A certification that the applicant, including its principals and officers, have not been convicted within the immediately preceding ten years of a crime contained within New York State Penal Law Sections: 140, 155, 160, 165, 170 or 175, or any other section of law, which demonstrates a history of theft or other fraudulent dealing.

Section 6. License Fee.

Upon original application for a license to operate as a Secondhand Dealer, applicant shall pay to the Cortland County Clerk Office a fee in the amount of \$50.00.

- a. A license shall remain valid until such time the corporation, partnership, association, Limited Liability Corporation or other entity terminates business, changes ownership, the license is voluntarily surrendered, or the license is revoked for violation of this law.
- b. Any corporation, partnership, association, Limited Liability Corporation or other entity, currently established as a "Secondhand Dealer" at the time of enactment of this local law, shall be exempt from paying the application fee, providing they submit their application within 90 days of the passage of this law.

Section 7. Licensing.

Upon filing of an application for a license, if any police agency operating within the confines of Cortland County shall be satisfied that the application complies with the provisions of this Local Law, the Cortland County Clerk Office shall issue a license to operate as a Secondhand Dealer. The license shall remain in effect for the lifetime of the corporation, partnership, association, Limited Liability Corporation or other entity, unless voluntarily surrendered or revoked. Any police agency operating within the confines of Cortland County 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 Cortland County Clerk Office in writing. If there are changes among the principles, officers or operators of such business, licensee shall notify the Cortland County Clerk Office and shall reapply for a new license.

Section 8. Grounds for Denial or Revocation of License.

- a. Any police agency operating within the confines of Cortland County 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. Any police agency operating within the confines of Cortland County may revoke any license granted herein in the following situations:
 - 1. Where the Secondhand Dealer is convicted of a crime involving theft, larceny, burglary, possession of stolen property, or other fraudulent dealing or of a violation of this Local Law, as provided for in Section 14. Voidance;
 - 2. Where the Secondhand Dealer has made a false statement in connection with its application;
 - 3. Where the Secondhand Dealer revokes the consent to examine such records and Secondhand Articles, as provided for in Section 12. Requirement to Hold Secondhand Articles Prior to Disposal, Resale or Alteration, and Additional Requirements; and
 - 3. Where the Secondhand Dealer fails to apply for a new license upon the change of any principles, officers or operators of the business or fails to notify Cortland County Clerk in writing of the change in location of the business.

- c. Notice of denial or revocation of a license issued pursuant to this Local Law shall be given by a n y police agency operating within the confines of Cortland County or their 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 or personal service. 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 Secondhand Dealer.

Section 9. Expiration and Renewal of Licenses.

A license issued pursuant to this Local Law shall remain in effect for the lifetime of the corporation, partnership, association, Limited Liability Corporation or other entity, unless voluntarily surrendered or revoked.

Section 10. Display of License.

Every Secondhand Dealer shall cause the Secondhand Dealer license to be prominently displayed at said Secondhand Dealer's place of business.

Section 11. Records to be maintained by Secondhand Dealer.

- a. Seller Information. Except as otherwise provided herein no Secondhand Dealer operating within Cortland County shall acquire any Secondhand Article unless such Secondhand Dealer has obtained and recorded the following information. The information obtained shall be recorded on a written receipt, which receipt shall be numbered in consecutive order and maintained in the Secondhand Dealers records as provided for herein.

1. The amount paid, advanced, or loaned for the article;
2. A detailed and accurate description of the article including manufacturer, size, color, style, any other pertinent information so as to render the item readily identifiable.
3. The serial, owner applied numbers/marks, inscriptions, make, and model number (if any);
4. In the case of precious metals, jewelry, and gems a photograph of the article and manufacturer, size, color, style, any other pertinent information so as to render the item readily identifiable.

If a purchase is made based upon weight, said weight and all calculations must be documented and recorded in "Troy Ounce" and all scales utilized for such purchases shall be approved by standards contained within New York State Ag & Markets Law, with said scales being calibrated and certified annually by the Office of Cortland County Weights and Measures.

5. The seller's Identification information as required in subparagraph b of this section 11. Records to be maintained by Secondhand Dealer.
6. The date, time and place of the acquisition.

7. The date, time, location and identification of purchaser of any sale of the items, as well as the selling price.

- 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. No secondhand dealer may purchase any secondhand property from any person who appears to be under the influence of alcohol or drugs, any person under the age of 18 years or any person obviously providing false information

- d. Records Retention/Inspection.
 1. Every Secondhand Dealer shall maintain a legible, organized, chronological written log of all purchases for a period of five (5) years all of the information required in subparagraphs a and b of this Section 12. Requirement to Hold Secondhand Articles Prior to Disposal, Resale or Alteration, and Additional Requirements. Computerized records may be used to supplement the requirements of this Local Law, provided that such records include the required information, have a backup file to prevent unrecoverable loss, and are available upon reasonable request for inspection in printed format. A computerized purchase log shall not replace the need to maintain a written log.

 2. 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 any police agency operating within the confines of Cortland County, or any other police department or law enforcement agency. Consent to such examination shall be a condition of obtaining and retaining the Secondhand Dealer license. In the event that a Secondhand Dealer revokes the consent to examine such records and Secondhand Articles, the license granted herein shall be revoked by any police agency operating within the confines of Cortland County. Nothing in this Local Law shall diminish or obviate the need for voluntary consent or a warrant to search a residence or other location not open to the public.

 3. Every Secondhand Dealer licensed to do business in Cortland County shall forward to Any police agency operating within the confines of Cortland County, either an electronic copy or a paper copy of the Seller Information required by subparagraphs a and b of this Section 12. Requirement to Hold Secondhand Articles Prior to Disposal, Resale or Alteration, and Additional Requirements, for each Secondhand Article acquired in the immediately preceding seventy-two (72) hours, and shall cause such

information to be transmitted to the Sheriff at the designated address. Photographs of precious metals, jewelry and gems shall not be required to be transmitted with these forms, but will be provided for investigative purposes if requested.

4. If the Secondhand Dealer or employee of any establishment covered by this Local Law has reason to believe from the circumstances presented that an item has been stolen or acquired by dishonest means, it shall be his or her duty to immediately report same to Any police agency operating within the confines of Cortland County or local law enforcement agency covering their geographical jurisdiction.

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

- a. As a condition of licensing, the Secondhand Dealer shall agree to hold, for a period of fourteen (14) 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:
 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 Secondhand Dealer shall agree to hold, for a period of seventy-two (72) hours, any Secondhand Article for sale in the business, 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:
 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.
- 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 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.
- d. As a condition of licensing, the Secondhand Dealer shall agree to relinquish to any law enforcement agency any item in the dealer's possession when:

1. The item is established to be stolen; and
 2. The owner of the item or the victim of a theft has positively identified the item and provided an affidavit of ownership and has made a report of the theft to a law enforcement agency; and
 3. The stolen property report describes the item by one or more of the following date, initials, an insurance record, a photograph, a sales receipt, a serial number, specific damage, or a statement of facts that show the item is one of a kind or a unique engraving; and
 4. The Secondhand Dealer is given a receipt for the item released.
- e. Any Secondhand Dealer covered by this Local Law, who is required to relinquish an item pursuant to this provision, is not entitled to demand or condition the release upon any reimbursement from the Law Enforcement Agency, the owner of the item, or the victim of the theft. A dealer who is himself or herself a victim of a crime may seek restitution or reparation in accordance with the New York State Penal Law.

Section 13. Penalty.

Any violation of the provisions of this Chapter shall constitute an offense and shall be punished as follows:

- a. Any Secondhand Dealer, who fails to comply with any of the provisions of this Local Law, shall 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. Upon conviction thereof, shall be punished by a fine no less than \$1,000 and *I* or a one month suspension of their Secondhand Dealer license for the first offense; a fine no less than \$2,000 and *I* or a two month suspension of their Secondhand Dealer License for the second offense, and a fine no less than \$3,000 and *I* or a six month suspension of their Secondhand Dealer License for each subsequent offense. Every violation of any provision of this local law shall constitute a separate and distinct offense.
- b. Any Secondhand Dealer who is convicted of three violations of this Local Law within a 36 month period shall have their Secondhand Dealer License revoked immediately and shall not be allowed to reapply for a new Secondhand Dealer License for a period of two years.

Section 14. Voidance.

This law shall be null and void on the day that statewide 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 Cortland. The county legislature may determine by resolution whether or not identical or substantially similar statewide legislation or pertinent preempting state or federal regulations have been enacted for the purposes of triggering the provisions of this section.

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 of the remaining provisions, sentences or clauses of their application to persons and circumstances.

Section 16. Application.

This Local Law shall apply to all Secondhand Dealers operating in Cortland 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.

The Local Law shall become effective January 1, 2015, and shall be filed, pursuant to the provisions of the Municipal Home Rule.



CORTLAND COUNTY

60 Central Avenue
Cortland NY 13045

Susan Briggs (LD-11)
Chair of the Legislature

Jeremy Boylan
Clerk of the Legislature

December 2, 2014

NYS Department of State
Division of Corporations and State Records
One Commerce Plaza, 99 Washington Ave.
Albany, NY 12231-0001

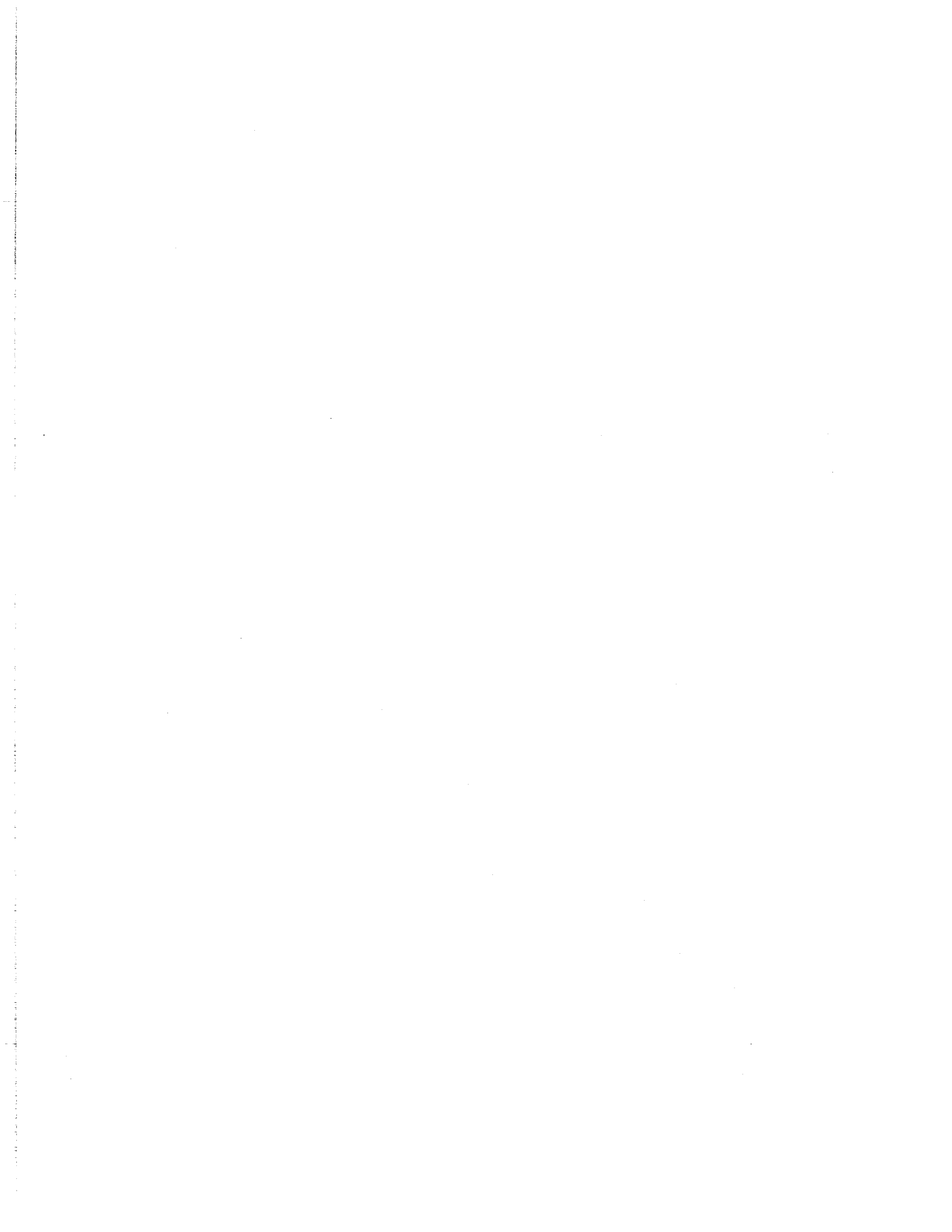
To Whom It May Concern:

Please find enclosed the required filing documents for Cortland County Local Law No. 18 of 2014 – “A Local Law Regulating Secondhand Dealers.”

Any and all correspondence regarding the filing of this local law can be send to:
Jeremy Boylan, Clerk
Cortland County Legislature
60 Central Ave.
Cortland, NY 13045

Sincerely

Jeremy Boylan





STATE OF NEW YORK
DEPARTMENT OF STATE
ONE COMMERCE PLAZA
99 WASHINGTON AVENUE
ALBANY, NY 12231-0001

ANDREW M. CUOMO
GOVERNOR

CESAR A. PERALES
SECRETARY OF STATE

December 10, 2014

Jeremy Boylan
Clerk
60 Central Avenue
Cortland NY 13045

RE: County of Cortland, Local Law 18 2014, filed on December 9, 2014

Dear Sir/Madam:

**The above referenced material was filed by this office as indicated.
Additional local law filing forms can be obtained from our website,
www.dos.ny.gov.**

**Sincerely,
State Records and Law Bureau
(518) 473-2492**

