

## **SOMERSET SECOND-HAND DEALERS AND COLLECTORS BY-LAW**

### **Adopted Special Town Meeting**

**February 25, 2013, Article 5 Amended Special Town Meeting October 28, 2013, Article 9**

**Section 1. License Required:** Every second-hand dealer, second-hand collector, and/or keeper of a shop in or for the purchase, sale, or barter of junk, old or precious metals, old or precious gems, or second-hand articles in the Town of Somerset shall be licensed annually effective May 1 of each year by the Board of Selectmen. Licensees are required to pay an annual license fee of Fifty Dollars (\$50.00) for each license so granted. A temporary license will be required for transient and special event dealers, with the fee for and conditions of said special license to be determined by the Board of Selectmen. The Board of Selectmen is authorized to license suitable persons to be dealers in and keepers of shops for the purchase, sale or barter of such items subject to the provisions of Massachusetts General Laws chapter 140, sections 54, 55, 56, and 202-205. Licenses shall be valid only for the location designated in the license.

### **Section 2. Definitions:**

As used in this by-law, the following terms shall have the meanings indicated:

“Acceptable Identification” shall mean either: (1) a current driver’s license that includes the date of birth, photograph and physical description of the person offering the identification; or (2) two other pieces of current identification, at least one of which is issued by a governmental agency or subdivision and includes the date of birth, photograph and physical description of the person offering the identification.

“Board of Selectmen” shall mean the duly-elected Board of Selectmen of the Town of Somerset.

“Police Chief” shall mean the duly-appointed Chief of Police of the Town of Somerset or his or her designee.

“Old or precious metals” shall include, but not be limited to, any metal valued for its character, rarity, beauty, or quality, including gold, silver, copper, platinum, or other metals, whether as a separate item or in combination with other items, regardless of form or amount.

“Old or precious gems” shall include, but not be limited to, any gem valued for its character, rarity, beauty or quality, including diamonds, rubies, emeralds, sapphires, pearls, or other precious or semi-precious gems or stones, whether as a separate item or in combination with other items or as a piece of jewelry.

“Second-hand articles” shall include, but not be limited to, the following: precious metals and gems; watches and jewelry containing precious metals and gems, including but not limited to rings, necklaces, pendants, earrings, brooches, chains, pocket watches, wristwatches, or stopwatches; sterling silver flatware, including but not limited to knives, forks, spoons, candlesticks, coffee and tea sets, or ornamental objects; collectibles including objects of art, autographed items, figurines, coins, currency, cards, stamps, and antiques; electronic audio or video equipment; photographic and optical equipment; computers and computer equipment; power tools or equipment; musical instruments; sporting equipment; bicycles. For purposes of this by-law and except to the extent otherwise regulated by Massachusetts law, “Second-hand articles” shall not include automobiles, auto salvage parts, boats, books, phonograph records, musical tapes and CDs, clothing and footwear, non-antique furniture, and non-antique houseware items such as dishes, pots, pans, cooking utensils, and steel ware or flatware cutlery.

“Second-hand Collector” shall have the same meaning as the term “junk collector” in Massachusetts General Laws chapter 140, section 56.

“Second-hand Dealer” shall have the same meaning as the terms “junk dealer” and “keeper of a shop for the purchase, sale or barter of junk, old metals or second-hand articles” in Massachusetts General Laws chapter 140, section 54.

Section 3. Inspection: The licensed premises shall be subject to inspection by police officers of the Town of Somerset during all hours that the premises are open to the public.

Section 4. Records.

a. Written Records: Every licensee shall keep a detailed record of the name and residence, date of birth, and government identification number of all persons pledging, bartering or selling articles subject to this by-law. In addition, the licensee shall keep a detailed description of all items pledged, bartered, or sold to the licensee, including the serial number and a physical description of each such article (see below), along with the date of such pledge, barter or purchase. The licensee shall furnish to the Police Chief a correct and complete record of such transactions by an approved method once daily or as otherwise determined by the Police Chief. The above-described records shall be transmitted electronically in a specified format along with any other information deemed necessary by the Police Chief. No entry of said records shall be erased, obliterated, defaced, or changed.

b. Accurate Transaction Records Required: The transaction records required hereunder shall accurately describe all items, including but not limited to all distinguishing marks, model names and numbers, and serial numbers. Any etchings or engravings shall be noted. Any jewelry depicting affiliation with any institution or organization shall include the name of the institution or organization and any year indicated, along with any inscribed initials. Jewelry items inventoried shall include a complete description to include, as appropriate for the item, the material, ring size, weight, chain length, shapes, carat weight, and color. Coins, stamps, collectible cards, autographed items, figurines, or other collectibles of any description shall be recorded with complete description, including but not limited to particular identifying features such as name of item, date, denomination, color, size, brand name, vintage, and image(s) represented. In particular instances where appropriate for accurate identification, additional elements of description may be required by the Police Chief upon written notice to the licensee.

c. Photographic Records: Every licensee shall photograph each person pledging, bartering, or selling articles subject to this by-law and keep such photographs with the written record of the transaction required hereunder. The required photographs shall be clear and of such quality that the person pledging, bartering, or selling the items can be clearly identified. A photograph shall be required each time a person makes a separate transaction. Such photographs shall be stored in digitized format and must be retrievable so that a clear copy will be provided to the police upon request.

d. All weighing and measuring devices used by the licensee in the conduct of the licensed business shall be tested and sealed by the Town of Somerset Sealer of Weights and Measures prior to being placed in service.

e. All records required to be maintained by this by-law or by other applicable law shall be maintained for at least the period required by said applicable law, but in no event shall such records be maintained for a period less than two (2) years. Such records shall at all times be open for inspection by the Board of Selectmen or its agents, the Police Chief, and members of the Somerset Police Department.

Section 5. Retention of Articles:

a. Articles subject to this By-law obtained by a licensee shall be retained by said licensee on the business premises occupied by him or her for at least fourteen (14) days after the date of the pledge, barter, or purchase. After the expiration of the applicable time period, the licensee may sell, trade or otherwise dispose of the item as the licensee may see fit.

b. The licensee shall maintain the property so held in substantially the same form as it was in when it was obtained and shall not alter, exchange or commingle the property. During the retention period, the regulated property shall be kept on the business premises during normal business hours and shall be subject to inspection by the Police Chief or his designee.

Section 6. Forbidden Transactions: No licensee shall purchase or take in any item if it appears that such item has had any serial number or any other identifying marks forged, altered, or obliterated. For the purpose of this by-law, identifying marks shall include, but not be limited to, engravings, initials, or similar inscriptions. In addition, any person licensed under this by-law receiving any article under circumstances that would cause a reasonable person in the position of the licensee to question whether the article might be stolen shall immediately report receipt of the article to the Police Chief and shall immediately make the article available to the Police Department for inspection and identification.

Section 7. Posting of License, etc.: All licenses issued hereunder shall be conspicuously posted in an accessible place on the licensed premises, available at all times for inspection by the proper authorities. In addition, licensees shall post the following notice in a form no smaller than 8.5 inches by 11 inches with lettering no smaller than 1/4 of an inch in height, outside each point of entry intended for patron use and at or near each place where the licensee purchases used property in the regular course of business:

NOTICE: The sale or attempted sale of property to a second-hand dealer without consent of the property's owner is punishable under this by-law by a civil or criminal penalty of \$100 for the first violation, \$200 for a second violation, or \$300 for a third or subsequent violation, in addition to and not in lieu of any applicable penalties under the criminal laws of Commonwealth of Massachusetts for violation of said laws. The penalties provided hereunder will apply both to the person selling or attempting to sell such property and to any second-hand dealer who purchases such property having reason to know it is being sold without the consent of the property's owner. Don't sell property without the consent of the property's owner! (amendment STM 10/28/13, art. 9)

If a significant number of the patrons of the licensee regularly use a language other than English as a primary language, the notice shall also be worded in both English and the primary language or languages of the patrons.

Section 8: Licensees hereunder must comply at all times with all other applicable laws, by-laws, and regulations, including but not-limited to the Somerset Pawnbrokers Licensing By-law, the Somerset Zoning By-law, and all applicable Massachusetts laws and regulations.

### Section 9. Violations and Penalties

a. Violation of any provision of this by-law may be prosecuted as a criminal matter, through civil administrative procedures, or by non-criminal disposition pursuant to Massachusetts General Laws chapter 40, section 21D.

b. Whoever violates any provision of this by-law shall be fined or assessed a civil penalty in the amount of \$100 for a first violation, \$200 for a second violation, or \$300 for a third or subsequent violation. Such penalty shall be in addition to any penalties provided under the criminal laws of the Commonwealth of Massachusetts for violation of said laws.

c. In addition to such fines or penalties, the Board of Selectmen may after notice and hearing suspend, revoke or modify any license issued by it hereunder whenever it has reasonable cause to believe that the licensee has violated the terms, conditions, laws, by-law, and regulations pertaining to such license, including this by-law. (amendment STM 10/28/2013, art. 9)

Section 10. Exemptions:

a. This by-law shall not apply to societies, associations or corporations organized solely for religious or charitable purposes and their agents.

b. This by-law shall not apply to persons holding yard sales.

Section 11. Severability: Each provision of this by-law shall be construed as separate and if any part of this by-law shall be held invalid for any reason, the remainder shall continue in full force and effect.

A true copy attest:

Dolores Berge, Town Clerk