	<p>THE CORPORATION OF THE TOWN OF COBOURG</p>
	<p>BY-LAW NUMBER <u>049-2012</u></p>

BY-LAW TO REGULATE SECOND-HAND GOODS, SALVAGE AND OLD GOLD IN THE TOWN OF COBOURG

WHEREAS pursuant to Section 10(8) of the *Municipal Act, 2001*, as amended, provides that the council of a local municipality may pass by-laws respecting matters within the sphere of jurisdiction of protection of persons and property, including consumer protection;

AND WHEREAS the regulation of the sale of second-hand goods is a form of consumer protection and assists with establishing, maintaining and promoting legitimate sales transactions in the marketplace through a process of ensuring the genuine marketability of goods to the consumer;

AND WHEREAS Council is desirous to protect the public interest by regulating Second-Hand Goods in the Town of Cobourg;

AND WHEREAS the purpose of the By-law is not to interfere or impede legitimate business operations;

AND WHEREAS the collection of personal information is intended to be well represented to the public and given in proportion and balance to the goods presented and to only be made available when there is appropriate approval and warrant in doing so;

NOW THEREFORE the Municipal Council of the Corporation of the Town of Cobourg enacts as follows:

1.0 INTERPRETATION

In this by-law,

“Antique” shall mean a collectible object such as a piece of furniture or work of art that has a high value because of its considerable age;

“Appliances” shall mean major home appliances to the inclusion of but not limited to washers, dryers, stoves and fridges;

“Auction” shall mean a public sale in which goods or property are sold to the highest bidder;

“Buyer” shall mean a person who carries on the business of selling goods that have previously been used for the purpose for which such goods were designed and includes any person who travels from place to place to sell second-hand goods;

“Charitable” shall mean not for profit;

“Chief of Police” shall mean the Chief of Police of the Town of Cobourg or designate;

“**Clerk**” shall mean the Municipal Clerk for the Corporation of the Town of Cobourg or designate;

“**Consignment**” shall mean placing any material in the hand of another (consignee), but retaining ownership until the goods are sold, transferred or returned;

“**Council**” shall mean the Council of the Corporation of the Town of Cobourg;

“**Garage Sale**” or “**Yard Sale**” shall mean a sale of goods from a residential premise where the sale lasts no longer than two days, the sale from that premise occurs no more than two times per year and the second hand vendor is either the user of the goods sold, or is one of not more than three households conducting a sale of goods used by the members of those households or is a tenant or condominium association relating to a residential building;

“**Jewellery**” shall mean personal ornaments, such as necklaces, rings, or bracelets, that are typically made from or contain jewels and precious metal;

“**Licence**” shall mean a licence issued under the authority of this by-law;

“**Licensee**” shall mean a person holding a licence under the authority of this by-law;

“**Old Gold**” shall be inclusive of “precious metals” and refers to resale items that are therefore second-hand;

“**Patriotic**” shall mean for purposes of benefit to the immediate or larger community and/or country;

“**Person**” shall mean an individual, firm, corporation, partnership or association;

“**Police Officer**” shall mean the same as defined in the *Police Services Act* R.S.O. 1990 c. P.15

“**Precious Metals**” shall include but are not limited to: gold, silver, platinum, iridium, rhodium and palladium;

“**Premises**” shall mean any place that is used by a second-hand vendor to carry on the business of a second-hand vendor, and includes any areas where such goods are stored and any area where records relating to such business are stored and “premises” includes any booth or stall used by a second-hand vendor for the sale of second hand goods;

“**Purchaser**” shall mean the person whom the second hand dealer sells the goods to in the resale transaction;

“**Recyclables**” shall include recyclable mixed paper, including but not limited to; newsprint, newspaper, magazines, catalogs, telephone books, paperboard, office paper, colored paper, computer paper, stationary, letterheads, business forms, tablet sheets, tab cards, envelopes (with & without windows), file folders, NCR Paper, fax paper, calendars, junk mail, Post-it Notes, greeting cards and copy paper including staples & paper clips and paper cups, clear, green and brown glass containers, tin/steel containers, aluminum containers, poly-laminated paper beverage

containers, spiral cans (potato chip, coffee and nut cans), and plastic containers;

“Retention Period” shall mean the period of time where the second-hand dealer must ensure that the second-hand good purchased or taken in exchange is not sold, exchanged, altered, melted, repaired, disposed of, or in any way parted with until after the expiration of **fifteen (15) days** from the date of obtaining exclusive ownership of the said good;

“Salvage” shall mean any destroyed, deteriorated or damaged goods or property, or any part thereof, including but not limited to metal, damaged or inoperable vehicles, vehicle parts and bicycles;

“Salvage yard” shall mean any place where the business of selling salvage is carried on, and includes any place upon which salvage is collected for the purposes of resale;

“Scrap Metal” shall include any metal or alloy, including, without limitation to,

- (a) aluminum,
- (b) copper, including brass and bronze,
- (c) lead,
- (d) magnesium,
- (e) nickel,
- (f) zinc,
- (g) a prescribed metal or alloy,
- (h) iron, and
- (i) steel

but does not include gold, platinum or silver;

“Scrap Metal Depository” shall mean a location where a person allows or solicits individuals to deposit scrap metal;

“Second-hand good” shall mean any article that has been used for the purpose for which it was designed and which is offered to or taken by a second-hand vendor for resale;

“Second-Hand Goods Register” shall mean the book where the vendor maintains all information required by this by-law about the seller of goods, the goods themselves upon receipt of the item(s) and the purchase information upon sale, exchange or disposal;

“Second-hand vendor” shall mean a person who carries on the business of selling goods by way of retail that have previously been used for the purpose for which such goods were designed and “second-hand vendor” includes any person who travels from place to place to sell second hand goods;

“Seller” shall mean a person who sells or who offers to sell any second-hand goods to a second-hand vendor.

2.0 LICENCE REQUIRED

- 2.1** A separate licence shall be obtained in respect of each second-hand goods shop in which a person who owns or operates a second-hand goods shop carries on his or her business;
- 2.2** No person shall carry on business as a dealer in second hand goods within the Town of Cobourg unless and until that person has obtained from the Clerk a licence authorizing him or her to do so, and shall have paid the annual fee as per the Town of Cobourg Fees and Charges Schedule with respect to such licences; and no licence shall be issued until the fee has been paid.

3.0 EXEMPTIONS

- 3.1** Despite any other provision of this by-law, no licence shall be required by:
- (a) persons engaged in the sale of second-hand goods for patriotic or charitable purposes;
 - (b) vendors engaged in the collecting, purchase or sale of recyclables or used tires;
 - (c) consignment shops, dealing in mostly clothing, books and small trinkets;
 - (d) persons engaged in the sale of digital video display recordings or video games that were originally purchased by the person and were rented out as part of the person's digital video display recording or computer game rental business;
 - (e) persons engaged in the trading of sporting good items against the value of similar new items, i.e.) skates;
 - (f) persons engaged in the sale of donated items;
 - (g) persons engaged in the trading or sale of major home appliances;
 - (h) persons engaged in the sale of antique furniture;
 - (i) an auction;
 - (j) persons trading coins or cards;
 - (k) persons engaged in the salvaging of vehicles;
 - (l) the municipality.
- 3.2** Despite any other provision of this by-law, no licence shall be required by a person, a tenant association, or a community association that holds a garage or yard sale of personal household effects that are owned by the person or persons who are members of the association provided that,
- (a) the sale is for a period no longer than two (2) days, and
 - (b) no more than two (2) sales are held by that person or association in a single calendar year.

4.0 CONDITIONS FOR ISSUANCE

- 4.1** No licence shall be issued to an applicant unless,
- (a) the applicant is eighteen (18) years of age or older
 - (b) the applicant has paid the fees outlined in the Municipal Fees and Charges Schedule
 - (c) the premises complies with zoning, building and property standards and the appropriate compliance letters are received from the Police, Fire and Building Department

5.0 RESPONSIBILITIES OF LICENSEES

- 5.1** No licensee shall fail to post the licence in a prominent location on the licenced premises so as to be clearly visible to the public.
- 5.2** No licensee shall fail to ensure that his or her employees understand and comply with the provisions of this by-law.
- 5.3** Every licensee shall be responsible for the act or acts of any employees in the carrying on of the business of selling second-hand goods in the same manner and to the same extent as though such act or acts were done by the licensee.
- 5.4** No licensee shall fail to comply with the terms and responsibilities of this by-law and in doing so may have their licence revoked by the Clerk.
- 5.5** No licensee shall fail to post at the front entrance to their store, shop or place of business licenced under this by-law, a sign as detailed in Schedule "A" and approved by the Chief of Police indicating that upon presenting the goods the person(s) will be subject to the collection of personal information.

6.0 ACQUISITION OF SECOND-HAND GOODS

- 6.1** No licensee shall purchase or exchange any second-hand good either directly or indirectly with:
- (a) any person under the age of eighteen (18) years, unless with written authority from a parent or guardian of such minor in accordance with the *Pawnbroker's Act, R.S.O 1990, Chapter P. 6, Section 8(a)*;
 - (b) any person appearing to be under the influence of alcohol or drugs.
- 6.2** No licensee shall purchase or take in exchange any second-hand good without receiving from the seller the identification prescribed in Section 6.4 of this by-law.
- 6.3** No licensee shall fail to first obtain from the seller a signed consent/waiver as indicated in Schedule "A" acknowledging that the seller is aware that their personal information is being collected and maintained by the licensee.
- 6.4** Every licensee shall ensure that the seller presents one (1) of the following types of identification provided that it is integrated with a photograph of the seller and that a record of which is maintained in the appropriate Second—Hand Goods Register as indicted by this by-law:
- (a) Valid Driver's Licence,
 - (b) Passport issued by the government of origin,
 - (c) B.Y.I.D. (Bring Your Identification) Card issued by the Liquor Control Board of Ontario,
 - (d) Certificate of Indian Status issued by the Government of Canada,
 - (e) Certificate of Canadian Citizenship issued by the Government of Canada, or
 - (f) Conditions of Release Card issued by Correctional Services of Canada.

7.0 TRANSACTION RECORDS

- 7.1** No licensee shall fail to maintain a book known as the “Second-Hand Goods Register”, into which shall be entered in the English written language, written in ink in a plain, legible hand, or via electronic entry a record of all goods purchased, either at a licensee’s place of business or elsewhere. The entry must be made at the time the goods are received or immediately thereafter, and shall include:

Transaction Details

- (a) Entry number;
- (b) The date on which and the hour at which the goods are received;
- (c) Description of the second-hand goods; and
- (d) If available, any brand name, model number and serial numbers;
- (e) Any engraving, inscription or unique marks;
- (f) Name and position of person who made the entry for acquiring the second-hand goods;

Owner Details

- (g) Name of person from whom goods were purchased or otherwise acquired;
- (h) Address of person from whom goods were purchased or otherwise acquired;
- (i) Verification of name and address by one of the forms of identification indicated in section 6.4 (type and number);

Specifications

- (j) In the case of bicycles, the name of the maker and the manufacturer’s number thereof shall, in every case, be recorded, if known or ascertainable;
- (k) In the case of goods delivered or conveyed by motor vehicle licenced by any Province of Canada or any State of the United States of America, the provincial or state licence number of the motor vehicle delivering or conveying the goods;

Purchaser Details

If purchased or otherwise disposed of,

- (l) Date sold;
- (m) Amount paid;
- (n) Name of purchaser
- (o) Exchange of property (description and date);
- (p) Method of disposal of property by other means (description and date);
- (q) Name and position of person who made the entry for the sale/exchange or disposal of the second-hand goods.

- 7.2** A sample Register is included in Schedule “C” to this by-law.

- 7.3** Despite clause 7.1(c), for the purpose of identifying coins, the licensee shall ensure that a record is made of the exact number of coins received, and the dates and description of each coin or of the ten (10) most valuable coins if more than ten (10) coins are received.

- 7.4** Despite clause 7.1(c), for the purpose of identifying collector cards that are to be sold and not traded, the licensee shall ensure that a record is made of the exact number of cards received, and the dates and description of the subject of each card or of the ten (10) most valuable cards if more than ten (10) cards are received.
- 7.5** No licensee who deals in gold, silver and precious metal jewellery shall fail to maintain a record book in accordance with this by-law.
- 7.6** No owner or operator of a salvage yard or scrap metal depository shall fail to maintain a Second-Hand Goods Register in accordance with this by-law.
- 7.7** No licensee and no person acting under the auspices of the licensee shall upon any person offering to him or her goods or articles of any kind, which he or she has cause to suspect have been stolen or otherwise unlawfully obtained, fail to report said facts to the nearest police station or police officer.
- 7.8** No licensee shall fail to produce, when requested by the Chief of Police at any time during business hours, that portion of the Second-Hand Goods Register contained in Section 7.1(a-f) and/or any second-hand good.
- 7.9** No licensee shall fail to:
- (a) ensure that, the Second-Hand Goods Register is not mutilated or destroyed;
 - (b) deliver, or cause to be delivered, to such place as the Chief of Police or designate requires, no later than 9:00 a.m. every Monday morning or other time as may be prescribed by the Chief of Police: a copy of the information required to be entered in the Register by section 7.1, with relation to the goods received on the previous week;
 - (c) permit the inspection of the Second-Hand Goods Register by the Chief of Police or Officer of the Cobourg Police Services where a court of competent jurisdiction has so ordered said inspection and in accordance with the process established by the court and the respective legislation;
 - (d) permit the removal of the Second-Hand Goods Register by the Chief of Police or Officer of Cobourg Police Services where a court of competent jurisdiction has so ordered said removal and in accordance with the process established by the court and the respective legislation.
- 7.10** All premises to which a licence applies may be inspected for adherence to this by-law at any reasonable time by the Chief of Police or an Officer of the Cobourg Police Services.
- 7.11** This by-law may be enforced by the Cobourg Police Services and the Town of Cobourg.

8.0 RETENTION PERIODS

- 8.1** No licensee shall fail to ensure that any second-hand good purchased or taken in exchange is sold, exchanged, altered, melted, repaired, disposed of, or in any way parted with until after the expiration of fifteen (15) days from the date of obtaining exclusive ownership of the said good.
- 8.2** No licensee shall fail to ensure that during the fifteen (15) day retention period the good so obtained shall be kept apart from goods previously purchased or taken in exchange.
- 8.3** All goods retained by the licensee shall be subject to an inspection at any time during business hours by the Chief of Police, who may be accompanied by such other person or persons as may be necessary for the identification of goods reported or suspected of having been stolen.
- 8.4** For the purpose of completing an investigation, the Chief of Police may request that a second-hand good suspected of having been stolen be retained for an additional period of time beyond the fifteen (15) days and, when so requested, the licensee shall ensure that the said good is not sold, exchanged, altered, melted, repaired, disposed of or in any way parted with until after the expiration of the additional period of time, but in any event the additional period of time shall not exceed fourteen (14) days.
- 8.5** Despite Section 8.1, a licensee may dispose of any good(s) purchased or taken in exchange before the expiration of fifteen (15) days from the date of obtaining exclusive ownership of the said good provided that the Chief of Police has authorized in writing the release of such good(s).

9.0 TRANSFERS

- 9.1** No Second-Hand Goods Licence shall be transferable. |

10.0 FEES

- 10.1** No licence shall be issued to a dealer in second-hand goods unless the applicable licensing fees as listed in Schedule "B" to this By-law have been paid.

11.0 PENALTY

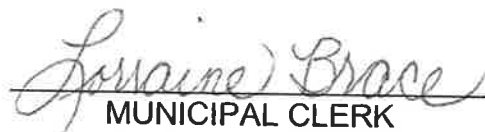
- 11.1** Any person who contravenes any portion of this By-law is guilty of an offence and upon conviction is liable to:
- (a) Such fines and other penalties as provided for under the *Provincial Offences Act*, R.S.O. 1990, c. P.33 as amended; or
 - (b) Suspension or revocation of any licence as issued under the By-law; or
 - (c) Both (a) and (b).

12.0 SEVERABILITY

If any section, clause or provision of this By-law, is for any reason declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of this By-law as a whole or any part thereof other than the section, clause or provision so declared to be invalid and it is hereby declared to be the intention of Council for the Town that all remaining sections, clauses or provisions of this By-law shall remain in full force and effect until repealed, notwithstanding that one or more provisions thereof may have been declared invalid.

READ a first, second and third time and finally passed in Open Council
this 25th day of June, 2012.


MAYOR


MUNICIPAL CLERK

SCHEDULE "A"
SIGNAGE AND PUBLIC NOTICE TO BE GIVEN BY ANY LICENCED PERSON(S)
ENGAGED IN THE SALE OF SECOND-HAND GOODS
(Sample Waiver/Consent included)

Sample Signage and Waiver/Consent (wording):

- (1) Please be advised that person(s) are required to provide photo identification and additional personal information as defined under the *Municipal Freedom and Protection of Privacy Act*. The information is required pursuant to the terms of the *Municipal Act* and the Corporation of the Town of Cobourg's Second-Hand Goods by-law. Information collected will be used to assist the Town and the Cobourg Police Department in the exercise of consumer protection and law enforcement purposes. Questions regarding this collection should be forwarded to:

Lorraine Brace, Municipal Clerk
55 King Street West, Cobourg, ON
K9A 2M2

Telephone: 905-372-430, Ext.4401
Email: lbrace@cobourg.ca

- (2) I, _____ (*name*) hereby consent to the collection of my personal information as defined by the *Municipal Freedom Protection of Privacy Act* for the purposes of consumer protection and law enforcement under the authority of The Corporation of the Town of Cobourg's Second-Hand Goods By-law; I am aware that with approval of a court of competent jurisdiction this information is available to the Cobourg Police Department for purposes of the same. This information is required pursuant to the terms of the *Municipal Act*.

Dated the ____ day of _____, 20__

Print Name

Signature

Witness (Print Name)

Signature

**SCHEDULE "B"
FEES**

Classification	Initial Fee	Annual Renewal
Existing Second-Hand Dealer	<u>\$50.00</u>	<u>\$50.00</u>
*New Second-Hand Dealer	\$500.00	<u>\$50.00</u>

*Second-Hand Dealer applied for a licence after the passing of this by-law and did not operate in the Town of Cobourg as a dealer of second-hand goods prior to this time.

