

Move to amend Division II, Article II of the Town By-Laws by striking Sections 1 to 3 and inserting the following:

Preamble: It is the intent of Sections 1 to 3 of this Town By-Law to provide a mechanism for allowing, subject to reasonable and appropriate controls, certain types of activities having to do with the collection, consignment, purchase, sale and bartering of Second Hand Articles in the Town of Wareham. Massachusetts General Laws (M.G.L.) Chapter 140, Section 54 allows the Town of Wareham to make rules and regulations regarding the issuance of licenses and to provide for the supervision thereof. Article II regulates Auctions, Auction Houses, Collection Containers, Flea Markets and Second Hand Dealers and Vendors operating in the Town of Wareham. It does not regulate Auto Salvage Yards, Auto Recyclers, Junk Yards, Pawn Shops or Pawn Brokers, Recycling Centers, Yard, Garage or Estate Sales, and Yard Waste or Compost Facilities and does not supersede any provision of the Town Zoning By-Law

Section 1.

A. General License Conditions:

1. No person(s) business, entity or organization shall solicit for, be a collector of, consign, purchase, sell or barter Second Hand Articles unless duly licensed by the Board of Selectmen and unless such person(s), business, entity or organization complies with all license conditions applicable to Second Hand Articles.
2. Licenses shall be granted by the Wareham Board of Selectmen on such conditions and according to fee schedules determined by the Board of Selectmen. Licenses granted by the Board of Selectmen shall be signed by the Town Clerk upon pre-payment of the required fee. Annual Licenses shall run from May first (May 1) to April thirtieth (April 30) of the following year. Renewal applications are to be filed with the Selectmen's Office on or before April first (April 1).
3. Any person(s), business, entity or organization issued a License hereunder shall display the License in a conspicuous place upon the premises at which Second Hand Articles are sold.
4. Hours of operation for Licensees shall be limited to the hours between 7 AM and 9 PM unless the License expressly so provides.
5. The premises at which Second Hand Articles are sold and all portions thereof and all Articles shall be open and accessible to all persons authorized to enforce this Town By-Law.
6. No Articles shall be stored, displayed or offered for sale outside the premises in which the business is conducted or on a sidewalk or public way unless the License expressly so provides.
7. No Licensee hereunder shall purchase or otherwise acquire Second Hand Articles from a person under eighteen (18) years of age.

8. No Licensee hereunder shall purchase Second Hand Articles on their business premises from a private party until the seller provides a driver's license as a positive identification or, if the seller has no driver's license, then other suitable photo identification. For purposes of this section, a private party is defined as a person(s), business, entity or organization that has no valid State Sales and Use Tax Registration Number.

9. A Licensee shall retain on the Licensee's premises for a minimum of thirty (30) days all Second Hand Articles purchased on the premises from a private party and make them available for inspection by the Police Chief, Health Agent or Code Enforcement Officer or their designees, at any time. All Licensees shall keep a report or record book in which the following information shall be recorded for each transaction with a private party by which a Licensee purchases or otherwise acquires any Second Hand Articles:

1. the date and time of purchase,
2. the name and address of the seller,
3. the type of identification given by the seller,
4. any identification number provided by the seller,
5. a description of the Article(s) purchased by the Licensee which may include, where applicable, size, brand name, model, serial number, inspection number if any, and
6. the purchase price paid by the Licensee.

No entry in such record or book shall be changed, erased, obliterated or defaced.

B. Additional requirements: Collection Containers

1. Any person(s), business, entity or organization operating or storing Collection Containers in the Town of Wareham shall be required to obtain a License. Licenses shall only be granted for Collection Containers located in the Strip Commercial or General Commercial Districts as defined by the Wareham Zoning By-Law, as amended, or located on property owned by a charitable or religious entity or the Town of Wareham.

2. Each Collection Container shall have on its exterior surface the name, address and valid phone number of the owner/operator and a permit decal granted and issued by the Board of Selectmen and issued by the Selectmen's Office. Replacement of missing or defaced permit decals shall be the responsibility of the License holder. The fee for each decal shall be set by the Wareham Board of Selectmen.

3. The owner/operator of the Collection Container and the property owner where the Collection Container is located shall not permit Articles or any other items to be deposited or stored outside Collection Containers. The owner/operator of a Collection Container and the property owner where the Collection Container is located are each jointly and severally responsible for removal of all Articles and

other items deposited in or around the Collection Container. Failure to remove Articles deposited outside a Collection Container after five (5) business days notification by the Chief of Police, Health Agent or Code Enforcement Officer or their designees, shall result in a fine to the owner/operator and/or property owner, disposal fees, and/ or removal of the Collection Container at the owner/operator's and/or property owner's expense. Fines and disposal fees shall be determined by the Wareham Board of Selectmen, but in no event shall they exceed the maximum penalty permitted by M.G.L.Ch 40, Section 21.

C. Additional Requirements: Flea Markets

1. The owner(s), business, entity or organization operating a Flea Market (the "Operator") is required to have a License. Vendors in a flea market shall be acting under the Operator's License and are not required to have a separate License.
2. The Operator shall display the License in a conspicuous place at the Flea Market premises.
3. Outdoor Flea Markets shall not store or display Articles overnight unless the License issued to the Flea Market operator expressly so provides.
4. Flea Market Operators must provide access to sanitary facilities for all patrons.
5. Flea Market Operators must provide access to a receptacle for disposal of refuse for all Vendors.

Section 2. Enforcement.

1. The Board of Selectman, at its pleasure, may suspend or revoke a License issued under this Town By-Law if it finds that the Licensee has violated or permitted a violation of any provision(s) of this Town By-Law or any other provision of the Town of Wareham applicable to the operation of a Licensee's business or any condition of the License or if it finds that the Licensee's continued operation will derogate from the public health, safety or welfare.
2. The Wareham Board of Selectmen, Wareham Chief of Police, the Wareham Code Enforcement Officer and the Wareham Health Agent and their designees, are authorized to enforce this Town By-Law.
3. A violation of any conditions of this Town By-Law shall result in a fine of not less than two-thirds (2/3) the cost of the License for each offense and each day that the violation continues shall constitute a separate offense.
4. The provisions of this Town By-Law may be enforced by non-criminal disposition as set out in M.G.L. Ch 40, Section 21D.

Section 3. Definitions.

For the purposes of this Article II, the following words and terms shall have and include the following respective meanings.

1. **Auction** - A public sale in which Second Hand Articles are sold to the highest bidder.

2. Auto Salvage, Auto Recycler or Junk Yard – An entity engaged in the business of acquiring, storing, and owning, junk or salvaged automobiles or vehicles for re-sale, in their entirety or as parts for repair, rebuilding or restoration or for metals recycling.

3. Collection Container - A mobile, portable or stationary container or structure used solely for the short term collection or acquisition of Second Hand Articles and which is not used for storage or refuse.

4. Flea Market – A permanent or temporary site or activity where Second Hand Articles are sold and there are multiple Vendors.

5. Junk –Articles that are considered useless in their original intended form or are of little value, some of which may be recyclable. (Examples: Used mattress, non-functioning electronic devices or appliances)

6. License - A business operating license required within the Town of Wareham and granted by the Board of Selectmen, to a person(s), business, entity or organization that collects, consigns, purchases, sells or barter Second Hand Articles.

7. Pawn Shop or Pawn Broker – A person(s) business, entity or organization which lends money at a specified rate of interest on the security of moveable personal property which can be sold if the loan is not repaid within a specified period.

8. Recycling Center – A site where recyclable waste (i.e. metals, plastic, glass, paper and paperboard) is collected, sorted, or prepared for processing and/or sale.

9. Second Hand Articles – Items which have been previously used and can still be used in their original intended form. (Examples: antiques, furniture, used clothing) Pursuant to M.G.L. Ch 140, Section 55 the collection, purchase, sale, or barter of books, prints, coins, or postage stamps shall not be considered to be the collection, purchase, sale or barter of Second Hand Articles.

10. Second Hand Dealer – Any person(s), business, entity or organization that collects, consigns, purchases, sells, auctions, or barter Second Hand Articles in the Town of Wareham.

11. Vendor - A person(s), business, entity or organization selling Second Hand Articles at a Flea Market under the License issued to a Flea Market Operator.

12. Yard, Garage, or Estate Sale - The sale of new or Second Hand Articles upon residential property where the Articles are personal property of the resident or where the seller is acting on behalf of such individual(s). Individuals or entities holding a License are prohibited from selling merchandise at yard, garage or estate sales, unless the License expressly so provides.