

City of Lowell, MA
Thursday, February 12, 2015

Chapter 167. HAWKERS AND PEDDLERS

[HISTORY: Adopted by the City Council of the City of Lowell 4-26-1988 as Ch. 11, Art. VI of the 1988 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Advertising — See Ch. **91**.

Canvassers and solicitors — See Ch. **125**.

Fees — See Ch. **150**.

Junk and secondhand dealers — See Ch. **185**.

Noise — See Ch. **204**.

Streets and sidewalks — See Ch. **243**.

§ 167-1. Fruit, vegetables and fish.

[Amended 8-23-1988]

- A. No person who is not engaged in the pursuit of agriculture shall hawk or peddle fruit or vegetables until he has been duly licensed by and has recorded his name and residence with the License Commission of the City and has been assigned a number by the Commission, to be worn in such a manner as the Commission may prescribe. The fee for such license shall be as set in Chapter **150**, Fees, and the license shall continue in force for one year from the date thereof.
- B. No person shall hawk or peddle fish until he has been duly licensed by and has recorded his name and residence with the License Commission of the City and has been assigned a number by the Commission to be worn in such a manner as the Commission may prescribe. The fee for such license shall be as set in Chapter **150**, Fees, and the license shall continue in force for one year from the date thereof.

§ 167-2. Crying wares; transportation of goods; marking of vehicles.

- A. No person hawking, peddling or selling or exposing for sale any of the articles enumerated in MGL c. 101, § 17 shall cry his wares to the disturbance of the peace and comfort of the inhabitants of the City.
- B. No hawker or peddler shall carry or convey any of the articles enumerated in MGL c. 101, § 17 in any manner that will tend to injure the public health or disturb the public peace or comfort, nor otherwise than in vehicles and receptacles which have printed on them in letters and figures at least two inches in height the name of the person selling and the number, if any, given him by the License Commission.

§ 167-3. Selling in vicinity of Lowell High School and annex.

- A. No person shall offer for sale or sell articles of confection, sandwiches, lunches or any other articles of food in the vicinity of the Lowell High School and the annex to the Lowell High School on any day from 8:00 a.m. to 2:00 p.m., when the school is in session.
- B.

It is the intent and purpose of this section to prohibit hawkers and peddlers, and vendors, from engaging in their business or occupation in the vicinity of the Lowell High School and the annex to the Lowell High School on the days and between the hours referred to in Subsection **A**.

- C. This section shall not prohibit hawkers and peddlers, or vendors who are engaged in the business or occupation of selling produce, necessities of life or other articles of food, from selling their products to householders, persons in charge of boardinghouses and to business establishments in the vicinity of the Lowell High School and the annex to the Lowell High School.

§ 167-4. Restricted vendor areas.

[Added 4-12-1994]

- A. No person shall offer for sale or sell any articles on the public ways designated on plans filed with the Special Events Coordinator during the following periods:
 - (1) Annual Family Fair.
 - (2) Lowell Folk Festival.
 - (3) Veterans' Memorial Services.
 - (4) Boarding House Park Concerts.
 - (5) Other events approved by the City Council.
- B. It is the intent and purpose of this section to prohibit hawkers, peddlers, and vendors from engaging in their business in the vicinity of the activities referred to above. Sales during said festivals are restricted to nonprofit, volunteer-supported organizations which annually support the festivals and ethnic activities of the City.
- C. The Special Events Coordinator shall review each application for a special event permit with the applicant to determine whether a restricted area shall be designated for the event. Should a restricted area be needed, the plan of the proposed area shall be submitted to the City Council for a vote prior to the issuance of a special event permit.
- D. This section shall not prohibit hawkers, peddlers, or vendors from selling their products on the public ways of the City during any period not designated above or in any area outside the area designated on the plans referred to above.

§ 167-5. Temporary vendors.

[Added 4-14-1998 *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*]

- A. Declaration of policy. In order to protect public health and safety and to compliment and promote the business environment and the atmosphere of the Lowell National Park, to encourage visitors to the City and to foster the attraction of the new civic arena and new civic stadium, it is declared that it is a reasonable exercise of the police powers of the City of Lowell to establish a license process for temporary vendors and to reasonably limit and restrict vendors, hawkers and peddlers in certain designated areas of the downtown, the civic arena and the civic stadium.
- B. Temporary vendors; license required. Any person who engages in business in the Commonwealth of Massachusetts selling goods, wares or merchandise who is not required to be licensed as a temporary vendor under MGL c. 101, § 3 or as a hawker or peddler under MGL c. 101, § 22 shall be required, before transacting business, to apply to the License Commission for a license to conduct such business as a temporary vendor under the same terms and upon the same restrictions applicable to temporary vendors under this section.

- C. Definitions. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

CENTRAL BUSINESS DISTRICT

That area of downtown bounded as shown on the map on file at the office of the City Clerk.

CIVIC ARENA DISTRICT

That area in the vicinity of the Paul E. Tsongas Arena as shown on the map on file at the office of the City Clerk.

CIVIC STADIUM DISTRICT

That area in the vicinity of the Edward LaLacheur Civic Stadium as shown on the map on file at the office of the City Clerk.

TEMPORARY VENDOR

Any exhibition and/or sale of goods, wares or merchandise which is carried on in any public place within the City of Lowell.

- D. Exception; special license. The License Commission may, upon application by a charitable or nonprofit organization, grant, under such terms and conditions as it may deem appropriate, a special license to conduct under its control such activities as would otherwise be subject to the provisions of this section.
- E. Fixed vendor locations. Notwithstanding the foregoing provisions of this section, no person, except those specifically licensed to do so at fixed vendor locations by the City acting through the License Commission, may transact business as a hawker, peddler or temporary vendor on any public property within the following defined districts within the City of Lowell:
- (1) Central Business District.
 - (2) Civic Arena District.
 - (3) Civic Stadium District.
- F. License required. It shall be unlawful for any temporary vendor to sell, attempt to sell, or exhibit any food, beverage, goods, wares or merchandise without first applying for and obtaining a license from the License Commission. The License Commission shall consider, and if an applicant's application is substantially complete, render a decision within 30 days of receipt of such application.
- G. Application. The application for a temporary vendor's license shall contain all information necessary and relevant to determine whether a particular license may be issued. Such application shall be obtained from and shall be on a form prescribed by the License Commission. Such application shall include, but not be limited to, the following:
- (1) Proof that the applicant has complied with all applicable Massachusetts General Laws, including but not limited to MGL c. 101, §§ 1 to 12A.
 - (2) Proof of the identity and business address of the applicant and any other proof of identification which any state or federal agency may require the City to obtain.
 - (3) A brief description of the nature, character and quality of the food, beverages, wares, goods, or merchandise to be sold or exhibited.
 - (4) A description of the proposed location of the vending business and the length of time during which it is proposed that the business shall be conducted.
 - (5) Anticipated days of the week (Sunday through Saturday) and hours of operation (within the hourly limits of Subsection L of this section).
 - (6) Any other factors relating to the application or applicant which the License Commission may deem relevant in determining whether approval of such license is consistent with the best interests of the City.

- H. License display.
- (1) Temporary vendor licenses issued under this section and MGL c. 101, § 5 and pursuant to MGL c. 101, § 3 shall be carried on the licensee's person at all times while the licensee is conducting business.
 - (2) The License Commission shall also issue an identification badge upon approval of an application for a temporary vendor license. Such temporary vendor shall wear such identification badge in a conspicuous place on his or her person, so that it may be easily read while conducting business. If the identification badge becomes lost, damaged or abused or is otherwise unusable, the licensee shall apply to the License Commission for the issuance of a duplicate identification badge at a cost as provided in Chapter **150**, Fees.
Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).
 - (3) Licenses and identification badges shall be used by the individual to whom they were granted and are not transferable to any other person.
 - (4) Any licensee who fails, neglects or refuses to appropriately display or exhibit a license granted under the provisions of this section and MGL c. 101, § 5 and pursuant to MGL c. 101, § 3 when requested by any member of the License Commission, designated agents of the Health Department, members of the Board of Health, or a police officer shall be subject to the same penalty as if the person had no license.
- I. Granting license. The License Commission shall not issue more than five full season temporary vendor licenses per year. The License Commission may issue any number of temporary vendor licenses for special events that occur within the City as defined by the License Commission as the public interest may determine, which licenses shall be called "special temporary vendor licenses."
- J. Fees. An applicant for a full season temporary vendor's license under this section shall pay an annual license fee as provided in Chapter **150**, Fees, for the season. An applicant for a special temporary vendor's license shall pay a fee as provided in Chapter **150**, Fees, for each day at the special event for which the license is valid.
Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).
- K. Insurance. No license shall be issued under this section to an applicant unless the applicant furnishes proof to the City of a public liability insurance policy in an amount not less than \$100,000/300,000 for personal injury, including injuries resulting in death, caused by the operation of the temporary vendor business, which policy shall name the City of Lowell as additional insured. The licensee shall also be required to carry property damage insurance of \$100,000.
- L. General restrictions.
- (1) Vendor stands shall not exceed six feet in length, three feet in width, or three feet in height.
 - (2) Vendor stands shall not impede access to the entrance of any adjacent building or driveway.
 - (3) Vendors shall be allowed to engage in business only between 10:00 a.m. and 10:00 p.m. All vending stands must be removed from public property during nonvending hours.
 - (4) All licenses granted under this section shall be valid for the period commencing March 1 and terminating the last day of February of the year following which the license is issued.
 - (5) No vendor shall conduct business within 25 feet of any handicapped parking space or access ramp.
 - (6) All trash or debris accumulating within 25 feet of any vending stand and resulting from the activity thereof shall be collected and removed by the vendor on a daily basis.
- M. Suspension or revocation of license.
- (1) Any license issued under this section may be suspended or revoked by the License Commission after notice and hearing for any of the following reasons:

- (a) Fraud or misrepresentation in the application for the license.
 - (b) Fraud or misrepresentation in the course of conducting the business of vending.
 - (c) Conducting the business of vending in such a manner as to create a public nuisance or constitute a danger to the public health, safety or welfare.
 - (d) Violation of any law, ordinance, rule or regulation applicable to vendors.
- (2) Upon suspension or revocation, the License Commission shall deliver written notice to the license holder stating the action taken and the reasons supporting such action. The written notice shall be delivered to the license holder's place of business or mailed to the license holder's last known address.
- N. Appeals. Persons who are denied a license under this section or whose license has been suspended or revoked may appeal to the Middlesex Superior Court. The appeal must be filed within 30 days after receipt of the notice of denial, suspension or revocation.
- O. Renewals. Application for renewal of a license issued under this section shall be received between January 1 and January 31. Applications received after the last day in January shall be processed as new applications. The License Commission shall review each application for renewal to determine that:
- (1) The applicant is in full compliance with the provisions of this section.
 - (2) The applicant has a currently effective insurance policy in the minimum amount provided for in this section.
- P. Penalties. Any person who violates any provision of this section shall be punished, upon conviction, by a fine not exceeding \$200 for each such conviction.

§ 167-6. Sale of small articles for charitable purposes.

Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II). This section appeared in the 1988 Code as § 11-20, which section was repealed 11-28-2006.

- A. The Superintendent of Police is hereby designated, in accordance with MGL c. 101, § 33, as the officer authorized on behalf of the City to grant a special license to an organization hereafter specified, and upon the conditions hereinafter specified, authorizing such organization, upon a particular day and for a charitable purpose named in such license, to sell, through the accredited agents of such organization, in the designated streets and other designated public places within the City named in such license, the articles enumerated in Subsection **B**.
- B. The articles authorized to be sold under such special license as may be granted under Subsection **A** are flags, badges, medals, buttons, flowers, souvenirs and similar small articles as may be designated by the Superintendent of Police.
- C. The term "organization" as used in Subsection **A** shall be limited to any organization engaged exclusively in charitable work or to a post of any incorporated organization of veterans who have served in the military or naval service of the United States in time of war or insurrection.
- D. The conditions upon which such special license may be granted by the Superintendent of Police are:
- (1) The applicant organization must satisfy the Superintendent of Police that it qualifies under Subsection **C**.
 - (2) Articles to be sold must satisfy the Superintendent of Police that such qualify under Subsection **B**.
 - (3) Streets and public places where such articles may be sold shall be determined by the Superintendent of Police and incorporated in such license.
 - (4)

No person under 16 years of age shall be accredited as an agent of any authorized organization under Subsection **A**.

- (5) Each agent shall wear in plain sight while engaged in selling such articles a badge provided by such organization or post and approved by the Superintendent of Police. Such badge shall bear the name of the organization or post and the date on which the license is to be exercised.
 - (6) No agent shall be authorized to make or attempt to make any sale in front of any private business against the objection of the owner or occupant thereof.
 - (7) The exercise of the license hereby provided for shall be subject to the provisions of all statutes, ordinances, rules and regulations not inconsistent herewith.
 - (8) The Superintendent of Police shall, in the exercise of reasonable discretion, have the right to determine the qualifications of any applicant under this section and may impose any reasonable additional conditions or limitations upon any license granted hereunder deemed to be in the best interest of the City.
- E. Violations of this section shall be punishable by fine of \$20 for each offense or subject to any penalty as may be applicable under MGL c. 101, or both.