

City of Lowell, MA
Thursday, February 12, 2015

Chapter 185. JUNK AND SECONDHAND DEALERS

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

GENERAL REFERENCES

Hawkers and peddlers — See Ch. **167**.

Health and sanitation — See Ch. **171**.

Pawnbrokers — See Ch. **218**.

Waste and recycling — See Ch. **270**.

§ 185-1. License required; application procedure.

[Amended 2-14-1995]

- A. The Lowell License Commission may, upon petition, license such persons as it deems suitable to be dealers in junk, precious and/or old metals or secondhand articles and keepers of shops for the purchase, sale or barter of such articles pursuant to law within the City. Such licenses shall not be valid to protect the holders thereof in a building or place other than that designated in the license, unless consent to removal is granted by the Lowell License Commission, nor shall any license authorize the licensee to bring or allow to remain upon the licensed premises any rags, old paper, or other refuse material gathered or recovered from any source. All licenses thus granted shall contain a clause that the person thus licensed agrees to abide by and be subject to all the provisions of this chapter or any ordinance which may be adopted by the City Council relating to dealers in or keepers of shops licensed for the above purposes.
- B. Applications for such licenses shall be examined and reported upon by the Superintendent of Police or his designee(s). The Superintendent of Police shall report whether or not the applicant wishes to engage in a general junk, precious and/or old metals or secondhand business or a special stated line and whether or not he is of good reputation, can read and write the English language intelligibly (but inability to do so shall not be grounds for denial of said license) has ever held a similar license and, if such license was revoked, suspended or surrendered, the reason therefor.
- C. Applications for new licenses under this chapter may be filed at any time. Applications for the reissuance of licenses already existing should be filed at least 30 days before the expiration of such license. All licenses issued under this rule shall expire annually on the first day of May, except that licenses may be issued in April to be valid for 12 months beginning the next succeeding first day of May. Persons whose licenses have expired and have not been reissued will be liable to prosecution for engaging in any business for which the license is required.
- D. When a licensee has failed to use his license for a period of 30 days in the business and at the place for which he was licensed, the Superintendent of Police through his designee will so report with such reasons for the failure as the licensee may give.

§ 185-2. Definitions.

[Added 2-14-1995]

As used in this chapter, the following terms shall have the meanings indicated:

JUNK

Old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber debris, waste, or junked, dismantled, or wrecked automobiles, or parts thereof, iron, steel, and other old or scrap ferrous or nonferrous material as defined by MGL c. 140B, § 1, as amended.

PRECIOUS METALS

Any object constructed of or electroplated with gold, silver or platinum, regardless of its form, weight or appearance.

§ 185-3. Records; inspections; signs; hours of operation.

[Amended 2-14-1995]

- A. Every such shopkeeper shall keep a book in which shall be written, at the time of every purchase of any such article, a particular description thereof and the name, date of birth, and residence of the person from whom, and the day and hour when, such purchase was made. The shopkeeper shall also require positive (picture) identification to confirm that the above information is accurate. The shop of such shopkeeper, and all articles of merchandise therein, and such book shall at all times during business hours be open to inspection of the Lowell License Commission, police officers of the City of Lowell or any persons authorized by the Commission.
- (1) Every such shopkeeper shall require a person from whom he makes a purchase to provide positive identification ("positive identification" shall mean any picture identification card issued by a governmental agency) and to sign his name, date of birth and address on a card, the style and size of which shall be approved by the Lowell License Commission. In those transactions where precious metals and/or gems, regardless of form, weight or appearance, are purchased, said positive identification together with the items of precious metal and/or gems and each transaction sheet shall be photocopied. In the event that such person is unable to write, the shopkeeper shall fill in the name, date of birth and address obtained from the positive identification required above on such card, together with a notation stating that such person was unable to do so.
 - (2) Such card shall be retained permanently in an alphabetical index file by the licensed dealer/shopkeeper in junk, precious and/or old metals and/or secondhand articles. Every such shopkeeper shall, at the time of making any purchases, attach a number to each article bought, traded or bartered and shall make entry of such number in the book described above.
 - (3) If the articles obtained by the junk, precious and/or old metals or secondhand shopkeeper through purchase, trade or barter are of precious metals or gems, the shopkeeper shall also list in said book as described above and on said card as described above the weight and current market value of each article obtained.
- B. Any police officer of the City of Lowell, as a designee of the Lowell License Commission, may, during business hours, enter upon any premises used by a licensed junk, precious and/or old metals or secondhand articles dealer/shopkeeper to ascertain how he conducts his business and examine any and all articles taken in trade or kept or stored in or upon said premises and all books and inventories relating thereto, and all such articles, books and inventories shall be exhibited to any such officer whenever a demand shall be made for such exhibition. Refusal to permit said viewing shall constitute a violation of this chapter. The officer's actions shall at all times conform to the established policy and procedures of the Lowell Police Department pertaining to inspections of licensed premises.
- (1) Such book shall be of a size and style to be approved by the Lowell License Commission, shall be legibly written in the English language, and shall show the amount paid for each article and the number attached to each article in accordance with the above requirements. No entry in such book shall be erased, obliterated or defaced.
 - (2) Every such shopkeeper (except those business enterprises which deal exclusively in junk as defined under MGL c. 140B, § 1, as amended) shall make out and deliver to the commanding officer of the

Investigative Services Bureau, Lowell Police Department, every business day before the hour of 10:00 a.m. a legible and correct list containing an accurate and detailed description of all articles purchased during the preceding business day, the respective numbers of such articles as required above, the prices paid therefor, and the time when such articles were purchased, and with regards to the purchase of items containing precious metal and/or gems, either the original photocopy or a copy thereof which shows the positive identification legibly, the items purchased and the transaction sheet, as described above. The above exemption of junk dealers/shopkeepers shall not relieve the need for compliance with the requirements of MGL c. 140, §§ 60 through 69.

- (3) The commanding officer of the Investigative Services Bureau will designate an officer of his command who will review each police report received listing lost/stolen property and also ensure that a report is received from all junk, precious and/or old metals and secondhand articles shopkeepers/dealers for the purpose of identifying any article that is like or similar to one which has been reported lost or stolen. Should this situation occur, a stop order shall be issued by the Superintendent of Police or his designee to the shopkeeper/dealer prohibiting the resale of the particular article(s) until it can be determined whether the particular piece(s) is in fact that which has been reported lost/stolen. If it is determined that the particular article is not reported lost/stolen, the stop order shall be lifted forthwith.
 - (4) The possession by anyone licensed under this chapter of certain registered vessels without the written consent of or purchase from the owner thereof shall be prima facie evidence of unlawful use, possession of or traffic in the same.
- C. Every such shopkeeper shall post in a conspicuous place in his shop a copy of the statutes, ordinances and License Commission regulations relating to dealers in junk, precious and/or old metals and secondhand articles, to be furnished by the Police Department, and shall put in some suitable and conspicuous place on his shop a sign having his name and occupation legibly inscribed thereon in large letters.
 - D. No such shopkeeper shall place or maintain any signs or devices upon or in connection with his licensed premises indicating or tending to indicate that any form of business is conducted therein which he is not legally authorized to pursue.
 - E. No such shopkeeper shall have his shop open for the transaction of business, nor shall he purchase any junk, precious and/or old metals or secondhand articles, except between sunrise and 9:00 p.m. of any weekday except Saturday, on which day such shop may be kept open and such articles purchased from sunrise until 10:00 p.m.
 - F. No such shopkeeper shall permit to be displayed any secondhand furniture or household effects in any open area surrounding or appurtenant to the premises occupied by said licensee.

§ 185-4. Purchases from minors; time limit on resale.

[Amended 2-14-1995]

- A. No person licensed under this chapter shall, directly or indirectly, either purchase or receive by way of barter or exchange any junk, precious and/or old metals, gems or secondhand articles from a minor or apprentice knowing or having reasonable cause to believe him to be such.
- B. No such shopkeeper holding a license as a dealer in precious and/or old metals, gems and/or secondhand articles shall permit to be sold any article purchased or received by him until at least a period of 30 days from the date of its purchase or receipt has elapsed, nor shall any dealer in or keeper of a shop for the purchase, sale or barter of junk permit to be sold any article purchased or received by him until at least one week from the date of its purchase or receipt has elapsed.

§ 185-5. Licensing of collectors; marking of vehicles.

- A. Every person owning or having the care or driving of any motor vehicle, truck, wagon, dray, cart, handcart, sleigh, sled, hand sled or other vehicle which shall be used in the City for the collection of junk, old metals or secondhand articles shall, before using the same, be licensed by the License Commission, and all of the vehicles shall have placed upon the outside and upon each side of the same the number of the license in plain, legible figures of not less than three inches in size and so the same may be distinctly seen and read. Any person owning, having the care of or driving of any of the vehicles described above shall also wear a badge on his hat or cap, with the number of his license thereon, in brass or plated figures of not less than one inch in size, and so placed that the number may be distinctly seen and read.
- B. Any person who shall collect junk, old metals or secondhand articles without a motor vehicle, truck, wagon, dray, cart, handcart, sleigh, sled, hand sled or other vehicle shall, before collecting the same, be licensed by the License Commission and shall wear a badge as described in this section.

§ 185-6. Dealers in secondhand books, prints, coins and stamps.

[Amended 2-14-1995]

All persons who buy, sell or barter secondhand books, prints, coins or postage stamps shall be deemed exempt from the provisions of this chapter, except the license and fee requirement, under MGL c. 140, §§ 54 and 55, as amended, relating to the licensing of dealers of secondhand articles.

§ 185-7. Terms of license; revocation of license.

[Amended 2-14-1995]

All the provisions of this chapter shall be incorporated into each license which shall be granted under it, and the License Commission shall have the power at all times to revoke any license granted under this chapter.

§ 185-8. Violations and penalties.

[Amended 2-14-1995]

Any person who acts as a dealer in or keeper of a shop for the purchase, sale or barter of junk, precious and/or old metals or secondhand articles without a license, or in any other place or manner than that designated in his license or after notice to him that his license has been revoked, or violates any such rule, regulation or restriction of this chapter, shall forfeit \$200 for each such violation.

§ 185-9. License fee.

For every license granted under this chapter there shall be paid to the License Commission a fee as set by the License Commission.

§ 185-10. Yard sale.

[Added 5-4-2010]

Any display of merchandise for sale or barter at a residential location not otherwise regularly used or specifically designated for the sale or exchange of merchandise. For the purpose of this section, yard sales include similar events also known as "garage sales," "tailgate sales," "flea markets," "house sales" and "moving sales."

- A. Permit required; limitations.
 - (1) The property owner and/or resident must first obtain a yard sale permit from the City Clerk a minimum of three days prior to the opening day of the event.
 - (2)

Yard sales and/or similar activities may not continue for a time greater than two consecutive calendar days and may only be conducted during the daylight hours between sunrise and sunset.

- (3) Yard sales and/or similar activities may not be conducted more than three times each calendar year on the same property.
 - (4) All items for sale at the event must originate from the home and may not include merchandise such as alcoholic beverages, firearms, fireworks, animals, or any other merchandise that requires proper licensing or authorization from state or local authorities.
 - (5) Promotion of yard sales using loud speakers, amplifiers, or any other noise deemed a nuisance is not permitted. Signage must conform to Section 6.2 of the Zoning Ordinance.
Editor's Note: See Ch. 290, Zoning.
 - (6) The property and/or resident owner must remove all signs advertising the sale hours on the closing day of the event.
 - (7) Property owners and/or residents shall be limited to three permits per calendar year, and further, each permitted yard sale event shall not run longer than two consecutive calendar days.
- B. Violations and penalties. Any property owner and/or resident who fails to obtain a yard sale permit three days prior to the opening day of the yard sale, or otherwise violates this section, shall forfeit \$50 for the first violation of this section, \$100 for the second violation of this section, and \$200 thereafter.
- C. Enforcement. This yard sale § **185-10** shall be enforced by the City of Lowell Police Department, Building Inspectors, Health Inspectors, Trash Inspectors and any other personnel so authorized by the City.