

# TITLE 20

## SEALER OF WEIGHTS AND MEASURES

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### 20-1 Purpose

In every commercial transaction involving the weighing or measuring of a commodity, accurate weighing and measuring devices and proper practices protect both the buyer and seller. The buyer has a right to equity; the seller has a right to fair value. The livelihoods of those who produce, transport or purchase products and materials depend on accurate measurement of the weights and volumes of those goods. The Sealer of Weights & Measures is responsible for seeing that scales, meters and other measuring devices in commercial use perform properly, and that business practices protect the interests of all parties, thereby promoting an atmosphere conducive to equity in the marketplace and fair business competition.

In accordance with Chapter 98, section 34 of the General Laws of the Commonwealth of Massachusetts, the City of Woburn does establish the position of Sealer of Weights and Measures.

### 20-2 Appointment

The Sealer of Weights & Measures shall be appointed by the Mayor for a term of two years, during which time the appointee shall enforce the laws pertaining to weighing and measuring devices and shall have the power to issue fines and warnings, under MGL Ch.98, Section 29A, for the giving of false or insufficient measure.

The Sealer of Weights and Measures shall be a part of the Engineering Department and report to the City Engineer.

The sealer shall receive a salary as determined by the City Council and shall also receive an additional allowance for transportation and other necessary expenses. The sealer shall account for and pay into the City Treasurer monthly all fees received and shall make an annual report to the City Council.

### 20-3 Qualifications

The sealer shall be certified by the Commonwealth within one year of assuming the powers and duties of office. Failure to become certified within one year shall be cause for termination. A sealer who has passed a Civil Service examination for the position of sealer of weights and measures shall be exempt from certification requirements. Notwithstanding any certification exemption, the sealer appointee shall participate in continuing training and education programs, the cost of which shall be paid by the City.

- Must be certified by the Commonwealth of Massachusetts within one year of initial appointment as a weights and measures official, unless appointed under Civil Service.
- Must attain thirty hours of approved continuing education every two years after receiving initial certification as a weights and measures official.
- Must have considerable knowledge of the State laws, rules and regulations governing established standards pertaining to weights and measures.
- Must have a working knowledge of the methods, procedures and legal metrology requirements pertaining to the testing, inspection, certification and accuracy requirements of commercial devices.
- Must have a working knowledge of the principles, methods of construction and operation of all types of commercial weighing and measuring devices.
- Must have the ability to advise businesses, government agencies and consumers concerning applicable laws, rules and regulations pertaining to the office of Sealer.
- Must have the ability to deal effectively with others, retaining their support and cooperation whenever necessary.
- Must have the ability to write clear and concise reports regarding inspections and investigations.

- Must have a working knowledge of all safety requirements pertaining to the testing of devices, as well as the proper and safe handling of all volatile materials, chemicals and petroleum products, including propane and natural gas.

#### 20-4 Duties and Responsibilities

The Sealer of Weights and Measures shall undertake the following duties and responsibilities:

- Inspect all commercial weighing and measuring devices designated as “legal for trade” to assure that they are maintained within acceptable tolerances as defined by State and federal law. These devices include: mechanical and electronic weighing devices found

in supermarkets, delicatessens, bakeries, groceries and eating places, computerized retail scanning devices, reverse vending machines (can & bottle returns), apothecary scales, balances and weights, taximeters, retail fuel pumps dispensing gasoline and diesel, oil truck meters, wire, rope, cordage, linear measures such as yardsticks and tape.

- Perform routine price verification in retail establishments having computerized scanning devices.
- Collect all appropriate fees due the City and deposits receipts with the City Treasurer.
- Serve as a consumer advocate by investigating any concerns or complaints relative to questionable selling practices.
- Maintain accurate and detailed records for all of the above, and reports annually to the City Council.
- Perform other related duties as required by the City and the Commonwealth.

#### 20-5 Sealer Standards

The City shall keep the following standard weights, measures and balances:

- A set of avoirdupois weights consisting of fifty, twenty-five, twenty, ten, five, four, two and one pounds, and eight, four, two, one, one half, one quarter, one eighth and one sixteenth ounces.

- A set of dry measures consisting of one half-bushel, one eight-quart, one four-quart, one two-quart, one one-quart, one pint and one half-pint.
- A set of liquid measures consisting of one gallon, one half-gallon, one quart, one pint, one half-pint and one gill.
- One balance and one yard measure

The City shall be furnished by the Commonwealth with a set of the above referenced standards and shall keep the meter and kilogram and the standard troy weights designated by the Commonwealth. The City shall provide accessible places for the safe and suitable keeping and preservation of the standards supplied by the Commonwealth, which shall be used only as standards. The sealer of weights and measures shall have the care and oversight of said standards, shall see that they are kept in good order and repair and, if any are lost, destroyed or damaged beyond repair, shall see that they are replaced, at the City's expense.

The sealer of weights and measures may, upon request to the State Director of Standards, obtain a duplicate set of apothecaries' weights and apothecaries' liquid measures to be used as standards. Such duplicate set will be obtained at the expense of the City.

The sealer of weights and measures shall receive from the City a set of standards and a seal, and shall give a receipt therefore, stating their condition when received and shall be accountable for the preservation in like condition.

## 20-6 Enforcement and Penalties

The sealer of weights and measures shall annually give public notice, by advertisement or by posting notices in one or more public places in the City, to all inhabitants or persons having usual places of business in the City, using weighing or measuring devices for the purpose of buying or selling goods, wares or merchandise, for public weighing, to bring those devices in to be tested, adjusted and sealed.

After giving said notice, the sealer of weights and measures shall go to the houses, shops, stores, vehicles or other commercial premises, during normal business hours, of a person not complying therewith, and shall test and adjust, seal or condemn in accordance with the results of such tests, the weighing and measuring devices of such person. No person shall use for weighing and/or measuring any device which has not been so tested and sealed. Devices used for the measuring of leather shall be tested semi-annually. When a vehicle tank used in the sale of

commodities by liquid measure has once been sealed, it shall not be necessary to seal that tank again while it remains in the same condition as when first sealed.

Any person who hinders, obstructs or in any way interferes with the sealer of weights and measures in the performance of duty shall be punished by a fine of not more than five hundred dollars for the first offence and a fine of not more than one thousand dollars for each subsequent offence, or shall be subject to a civil citation or order.

The sealer of weights and measures shall test all weighing or measuring devices having a device for indicating or registering the price as well as the weight or measure of a commodity offered for sale as to the correctness of both weights or measures and values indicated by such devices.

All devices used upon vehicles for determining the cost of transportation shall be tested as to the correctness of measures and values indicated by them. Any owner or operator of a taxicab or other vehicle who refuses or neglects to comply with any rule or regulation so made shall be punished by a fine of one hundred dollars or shall be subject to a civil citation.

Apothecaries and other persons dealing in or dispensing drugs, medicines or merchandise sold, dispensed or given away by apothecaries' liquid measure, shall, at least annually, cause the weights and measures so used to be tested by the sealer of weights and measures. A graduated glass measure, once sealed by the sealer of weights and measures or manufacturer, need not be again sealed while remaining in the same condition as when first sealed. Whoever sells or dispenses drugs, medicines or merchandise requiring the use of apothecaries' weights or apothecaries' liquid measures or in the sale of which they are commonly used, and does not have such weights and measures tested and sealed shall be punished by a fine of not more than fifty dollars or shall be subject to a civil citation.

The sealer of weights and measures shall go at least once a year to each hay and coal scale and other weighing or measuring device in the City that is not easily or conveniently removed, and shall test, adjust and seal or condemn them.

The sealer of weights and measures shall, in every 24-month period, examine and test the operation of all automated retail checkout systems, in all establishments with three or more cash registers, and shall upon complaint examine and test the operation of any automated retail checkout system to determine whether the price for which an item is offered or advertised for sale, including any advertised special price offered to a customer with a store-issued discount card, conforms to the unit and/or net prices displayed to the customer on the visual display and conforms to the price for which a purchaser is charged by such automated retail checkout

system to determine whether the total price for items purchased is correctly represented. If such examination and test reveals that there is evidence of price misrepresentation, or misleading or deception of the purchaser of items, the owner, manager or designee of the owner or manager of the retail establishment using such automatic checkout system shall be punished for the first offense by a fine of one hundred dollars, for the second offense by a fine of two hundred fifty dollars, and for a subsequent offense by a fine of five hundred dollars. Notwithstanding the method for determining the amount of civil fines, a civil citation may be issued for one hundred dollars for each violation, up to a maximum of two thousand five hundred dollars per inspection. An automated retail checkout system shall mean a cash register, computer, terminal, or other device capable of interpreting the universal product code, or any other code which is on an item offered for sale to consumers used to determine the price of the item being purchased, regardless of whether the code entry is accomplished manually or automatically by a machine.

Whoever uses any weighing or measuring devices may have them tested by the sealer of weights and measures at any time upon request and the sealer of weights and measures shall seal or condemn the same in accordance with the results of said tests.

If a person informs the sealer that he has reasonable cause to believe, or if the sealer has reasonable cause to believe, that any weighing or measuring device used in the sale of a commodity in the City is incorrect, the sealer shall go where it is and shall test and mark it according to the result of the test. If the device is incorrect and cannot be adjusted, the sealer shall attach thereto a notice of that fact forbidding its use until it conforms to the authorized standard. If the sealer has reasonable cause to believe that any weighing or measuring device has been altered since last adjusted and sealed, he shall enter the premises where the device is kept or used and examine it. Whoever uses a weighing or measuring device after refusing permission to the sealer to test it or who has in his possession any weighing or measuring device that has been altered for fraudulent purposes since last adjusted and sealed shall be punished by a fine of not less than five hundred nor more than one thousand dollars.

If the sealer of weights and measures cannot seal any weighing or measuring device in the usual manner, he may mark it with a stencil or by other suitable means, showing that it has been inspected. If a weighing or measuring device is so small as to render it impracticable to seal it in the usual manner, he shall give a certificate in a form approved by the commonwealth, specifying each weighing or measuring device so tested. He shall in no case seal or mark as correct any weighing or measuring device not conforming to the standards. If such a weighing or measuring device can be readily adjusted by means at hand, the sealer may adjust and seal it; but if not, he shall affix thereto a notice forbidding its use until he is satisfied that it conforms to the standards. Whoever removes said notice without

the consent of the sealer of weights and measures shall be liable to a fine of not more than five hundred dollars.

The sealer of weights and measures may seize without a warrant any weighing or measuring devices necessary to be used as evidence in cases of violation of the ordinances relative to the sealing thereof, and they shall be returned to the owners or forfeited, as the court directs.

The sealer of weights and measures may seize weighing or measuring devices not conforming to legal standards or not sealed as required by law. A person having in his possession such weighing or measuring devices, with intent to use them in violation of law, shall be punished by a fine of not more than five hundred dollars or shall be subject to a civil citation, and such devices, upon order of the court, shall be destroyed. Possession thereof shall be prima facie evidence of intention to use them in violation of law.

The City shall annually, between January 1 and January 31, submit to the commonwealth a written report that describes the City's weights and measures program, including, but not limited to, an inventory of all weighing and measuring devices and equipment and the date of the most recent certification for each device or piece of equipment, inspection results by category, results of tests performed, total number of citations issued by category, the net loss restore to merchants and consumers as a result of the enforcement program, and any other information required by the state director.

Whoever places a scale or weighing device when used in weighing food sold at retail by weight in the presence of the purchaser so that the weight indicator may not be read and the weighing operations be observed by the purchaser shall be punished by a fine of fifty dollars or be subject to a civil citation.

Whoever being engaged in the business of selling prepackaged meat, poultry or edible fish at retail refuses or neglects to provide each outlet where said products are sold with a computing scale or refuses to reweigh a prepackaged item of meat, poultry or edible fish in the presence of a prospective purchaser, when so requested, shall be punished by a fine of not less than one hundred dollars and shall be subject to a civil citation. A computing scale shall be deemed one that indicates the money values of a commodity weighed at predetermined unit prices throughout all or part of the weighing range of the scale. Prepackage meat, poultry or edible fish shall not include canned meat, poultry or edible fish, prepackaged cold cuts or other processed meats, or poultry or fish packaged off the premises and labeled with the net quantity of contents.

Whoever maintains a cash register or other mechanical device at a counter for totaling the monetary value of customer purchases at retail which is so hidden or in

such a position that the total cannot be observed by the customer shall be punished by a fine of fifty dollars or be subject to a civil citation.

Violations of this ordinance may be enforced by the Sealer of Weights and Measures and the City Engineer of the City of Woburn, by any available means in law or equity, including but not limited to enforcement by non-criminal disposition pursuant to G.L. c. 40, §21D and Sections 1-17 and 1-18 of the City Ordinances. Each day a violation exists shall constitute a separate violation.

When enforced through non-criminal disposition, the penalties shall be as follows:

First violation:	\$100.00
Second violation:	\$500.00
Third and subsequent violations:	\$1,000.00

20-7 Fees of Sealers:

The City Council shall periodically review and adopt fees for the various items required to be performed by the Sealer of Weights and Measures. The fees established by the City Council are as follows:

**Balances & Scales**

over 10,000 Lbs	\$125.00
5,000 - 10,000 Lbs	\$100.00
1,000 - 5,000 Lbs	\$100.00
100 - 1,000 Lbs	\$ 75.00
10 - 100 Lbs	\$ 75.00
under 10 Lbs	\$ 25.00

**Weight**

Avoirdupois (each)	\$2.00
Metric (each)	\$2.00
Apothecary (each)	\$2.00
Troy (each)	\$2.00

**Capacity Measures**

Vehicle tanks (each indicator)	\$15.00
" (each 100 gal. of fraction)	\$10.00
Liquid (1 gallon or less)	\$5.00
" (over 1 gallon)	\$10.00

**Liquid Measuring Meters  
Except water meters**

Meter (1/2" or less)	\$15.00
Meter (1/2" - 1")	\$25.00
Meter (over 1") vehicle tank - pump	\$100.00
Meter (over 1") vehicle tank - gravity	\$100.00
Bulk Storage	\$125.00
Bulk Storage with prover cert.	\$100.00
Gasoline pumps - each grade	\$ 25.00
Oil Truck	\$ 20.00

**Linear or Area**

Each device	\$15.00
Yard Sticks	\$10.00
Tapes	\$10.00

**Scanners**

1-3 registers/terminals	\$75.00
4-11 registers/terminals	\$150.00
More than 11 registers/terminals	\$250.00

**Other Devices**

Taximeter	\$65.00
Reverse vending machines	\$45.00
Odometer/Hubometer	\$35.00
Wire/Rope/Cordage	\$40.00
Fabric measuring	\$40.00
Leather measuring (semi- annual)	\$40.00
Timing devices	\$40.00
Mass flow meter - gaseous	\$100.00

Amended 10/19/2007

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