

Flammables - Q & A's

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- **What statute governs the licensing and registration of flammables?**

MGL c. 148 §13

- **What types of materials are generally defined as 'flammables' and at what capacity must a license be obtained?**

In accordance with the provisions of M.G.L. c. 148 § 13, the following amounts of flammable and combustible liquids, flammable solids or flammable gases may be kept, stored, manufactured or sold without obtaining a license from the local licensing authority.

Flammable & Combustible Items	Capacity/Volume
Class I liquids	793 gallons [†]
Class I liquids	10,000 gallons [‡]
Class II liquids	10,000 gallons
Class IIIA liquids	10,000 gallons
Class IIIB liquids	10,000 gallons
Flammable gases (within a building)	3,000 cubic feet
Flammable gases (outside a building)	10,000 cubic feet
Flammable solids	100 pounds
[†] small quantity/portable containers	[‡] fixed tank over 60 gallon capacity

(527 CMR 14.00: Flammable and Combustible Liquids, Flammable Solids or Flammable Gases)

- **At what size/capacity are parking garages required to be licensed?**

Garages with space for storing 4 or more vehicles, not belonging to the garage/property owner, must be licensed.

- **What is the responsibility of the license holder regarding registration?**

Keepers of flammables must obtain a license from the city/town. Filing an annual registration is the responsible of the holder of the license. The onus is on the holder of the license for the Certificate of Registration. Failure to register is grounds for revocation of license.

- **What is the purpose of registering Flammables?**

Registration of flammables is a tool to inform the Fire Department who the responsible party is for the FD to enforce/regulate storage. Proof of filing is with the City/Town Clerk.

- **Does the statute bind public entities, including school and municipal?**

No, cities and towns are not bound to license themselves, nor is the state required to obtain a license from a city or town. However, storage of heating oil and other flammables on public property should apply for and obtain a storage permit from the Fire Department.

- **Who sets the licensing and registration fees?**

Fees are set by by-law or by the licensing and registration authorities. Some municipalities base fees on capacity of flammables and combustibles.

- **Must the Application for License or Certificate of Registration forms developed by the Office of the State Fire Marshal be used for licensing and registration of flammables?** NO. At a minimum, information included on the Fire Marshal's forms should be included on any form developed for use by the city/town. Additional information to be included on the registration form should include original date of license, licensed capacity, types of flammables licensed, location of storage tank, etc. Listing the name of the city/town (letterhead) and appropriate contact information more clearly identifies with whom holders of flammable licenses should communicate.
- **What is the responsibility of the Town Clerk in regards to Flammables?**
The Town Clerk processes annual registration of facilities that are issued a license to maintain flammable liquids, gases or solids. The registration process gathers the information needed for the Fire Department to carry out responsibilities. A receipt issued to confirm registration is proof the licensed facility/property has filed completed registration requirements.
- **What role does the local Fire Department have with licensing, registering and/or inspecting sites with flammable liquids, gases or solids?**
 - Fire Department reviews Flammable license application and issues certificate of approval or disapproval prior to the issuance of a license by the Licensing Authority.
 - Fire Department issues permits for storage of all flammable and combustible liquids, flammable solids or flammable gases.
 - Fire Department issues permits for the installation/removal of flammable storage facilities.
 - Fire Department inspects flammable storage facilities.
- **Should an amended license include information other than capacity change?**
Amended licenses should include amended total capacity, not just additional volume/capacity, and all dates at which licenses were issued/amended. The amended license should replace any previously issued/amended licenses and should include any changes throughout the duration of the license.
- **What is the proper way to cancel a license?**
License must be revoked by the licensing authority. A public hearing for revocation must be conducted. The license holder must be notified of the reason for the hearing.
- **Must a license be transferred to a new property owner?**
No, the license is a grant attached to the land. Permits from the Fire Department, however, are not transferable.
- **If a storage tank is 'pulled', is the license still in effect?** Yes, pulling a tank does not void the license.

Flammables - MGL c. 148 §13

CHAPTER 148. FIRE PREVENTION

Chapter 148: Section 13 Licenses for land for explosives and inflammable materials; certificate of approval; record; certificate of registrations; fees; replacements and alterations of, and regulations for buildings; explosion hazard; appeals to marshal

Section 13. No building or other structure shall, except as provided in section fourteen, be used for the keeping, storage, manufacture or sale of any of the articles named in section nine, unless the local licensing authority shall have granted a license to use the land on which such building or other structure is or is to be situated for the aforementioned uses, after a public hearing, notice of the time and place of which hearing shall have been given, at the expense of the applicant, by the clerk of the city or of the local licensing authority, by publication, not less than seven days prior thereto, in a newspaper published in the English language in the city or town wherein said land is situated, if there is any so published therein, otherwise in the county in which such city or town lies, and also by the applicant by registered mail, not less than seven days prior to such hearing, to all owners of real estate abutting on said land or directly opposite said land on any public or private street as they appear on the most recent local tax list at the time the application for such license is filed, and unless the application for such license shall have endorsed thereon the certificate of approval or disapproval of the head of the fire department. Such license shall be recorded in the office of the city or town clerk, and it shall, from the time of the granting thereof by the licensing authority, be deemed a grant attaching to the land described therein and as an incident of ownership thereof running with the land and shall not be deemed to be merely a personal privilege. Any license granted hereunder, or any license for the keeping, storage, manufacture or sale of any of the articles named in section nine, granted prior to July first, nineteen hundred and thirty-six, including any license reinstated and continued by the marshal as herein provided, shall remain in force unless and until revoked as hereinafter provided. Any such license granted hereunder shall be subject to such conditions and restrictions as may be prescribed in the license by the local licensing authority, which may include a condition that the license be exercised to such extent and within such period as may be fixed by such authority.

The owner or occupant of said land licensed as herein provided, and the holder of any license for the keeping, storage, manufacture or sale of any of the articles named in section nine, granted prior to July first, nineteen hundred and thirty-six, including any license reinstated and continued by the marshal as herein provided, shall annually, on or before April thirtieth, file with the clerk of the city or town where such license is to be or has been exercised, or in Boston, with the fire commissioner, or in Cambridge, with the board of license commissioners, a certificate of registration setting forth the name and address of the holder of such license; provided, that no certificate of registration shall be required for any building used as a garage for storing not more than three vehicles, when once used under such a license. The board may by regulation prescribe the amount of any of the articles named in section nine that may be kept in a building or other structure without a license and registration, or either of them. Such fee as may be established from time to time by ordinance or by-law may be charged for any such license, registration or certificate of the head of the fire department, respectively.

Every license granted under this section, and every certificate of registration filed under this section, shall be deemed to be granted or filed upon condition that if the land described in the license ceases to be used for the aforementioned uses, the holder of the license shall within three weeks after such cessation eliminate, in accordance with rules and regulations of the board, all hazardous conditions incident to such cessation. If the holder of the license fails so to eliminate such conditions, the local licensing authority may eliminate such conditions; and a claim for the expense incurred by the local licensing authority in so doing shall constitute a debt due the city or town upon the completion of the work and the rendering of an account therefor to the holder of the license, and shall be recoverable from such holder in an action of contract. Said debt,

together with interest thereon at the rate of six per cent per annum from the date said debt becomes due, shall constitute a lien on said land if a statement of claim, signed by the local licensing authority, setting forth the amount claimed without interest is filed, within ninety days after the debt becomes due, with the register of deeds for record or registration, as the case may be, in the county or in the district, if the county is divided into districts, where the land lies. Such lien shall take effect upon the filing of the statement aforesaid and shall continue for two years from the first day of October next following the date of such filing. Such lien may be dissolved by filing with the register of deeds for record or registration, as the case may be, in the county or in the district, if the county is divided into districts, where the land lies, a certificate from the collector of the city or town that the debt for which such lien attached, together with interest and costs thereon, has been paid or legally abated. Such collector shall have the same powers and be subject to the same duties with respect to such claim as in the case of the annual taxes upon real estate; and the provisions of law relative to the collection of such annual taxes, the sale or taking of land for the non-payment thereof, and the redemption of land so sold or taken shall apply to such claim.

The marshal may, upon application and after a public hearing, reinstate and continue in force and effect any license granted prior to July first, nineteen hundred and thirty-six, for the keeping, storage, manufacture or sale of any of the articles named in said section nine, irrespective of the extent of the use and occupancy of buildings or other structures made or had under said license prior to the date of such reinstatement and continuance, anything in the provisions of this chapter to the contrary notwithstanding, unless prior to such reinstatement and continuance said license has been revoked for cause or the marshal shall have determined that a fire or explosion hazard would result from the exercise of such license. The marshal shall give written notice of such application, and of the date of the hearing thereon, to the head of the fire department of the city or town wherein is situated the land to which such application relates and shall, after such hearing, notify in like manner the clerk of such city or town of the action taken on such application.

Any license granted hereunder between July first, nineteen hundred and thirty-six and August seventeenth, nineteen hundred and fifty-one, both dates inclusive, not exercised for a period of at least three years, may be revoked by the local licensing authority after notice and hearing given to the owner or occupant of the land licensed.

When a fire or explosion hazard exists or is liable to exist due to the exercise of such license, the marshal or the head of the fire department, shall issue an order to the licensee to cease and desist in the exercise of such license and said marshal or said head of the fire department shall direct that reasonable measures to insure safety to the public be undertaken at the expense of the holder of such license.

Any license granted hereunder or any license for the keeping, storage, manufacture or sale of any of the articles named in section nine, granted prior to July first, nineteen hundred and thirty-six, including any license reinstated and continued by the marshal as herein provided, may be revoked for cause, after notice and a hearing given to such owner or occupant, by the local licensing authority or by the marshal. Any building or structure erected or maintained under any of the aforementioned licenses shall always be subject to such replacements and alterations in construction and to such regulations of its use in respect to protection against fire or explosion as the board may prescribe.

Any person aggrieved by the granting of a license hereunder on the ground that the exercise thereof would constitute a fire or explosion hazard may, within ten days after the granting thereof, appeal to the marshal who, after notice and hearing, shall finally determine whether such a hazard would result. If, in his opinion, such a hazard would result, he shall notify the authority granting the license, and such notice when received by such authority shall constitute a revocation of such license and no further license for the same or similar use of the same land shall be granted within one year after the receipt by such authority of such notice.