

GUIDE TO CLOSING OUT SALE PERMITS

Pursuant to MGL Chapter 93 Section 28A, a permit must be obtained before conducting a “closing out” or “going out of business” sale. The permit is valid for sixty days following the opening of the sale. The nonrefundable filing fee is \$10.00 for the first page and \$2.00 each additional page.

To complete the application:

1. Fill in all information requested. Sign the Acknowledgement. Fill in and sign the top half of the Certificate of Good Standing. Fill in and sign the Workers’ Compensation Insurance Affidavit (If you have workers’ compensation insurance, be sure to include the name of the insurance company and the policy number).
2. Attach a complete inventory of all items to be included in the sale.
3. Attach a bond in the penal sum of \$1,000, payable to the City of Gardner, conditioned upon compliance with MGL c93 s28A.
4. Proceed to the Treasurer to confirm that all taxes and fees have been paid and obtain a sign-off on the Certificate of Good Standing, as follows:

Treasurer
95 Pleasant Street, Room 116
978-630-4008

Monday–Thursday, 8:00 AM – 4:30 PM
Friday, 8:00 A.M. – 1:00 PM

5. Submit the application and the fee to the City Clerk’s Office, 95 Pleasant Street, Room 121, Gardner, MA 01440, 978-630-4058.

APPLICATION FOR A CLOSING OUT SALE

City of Gardner, Commonwealth of Massachusetts

Nonrefundable Filing Fee: The fee is \$10.00 for the first page and \$2.00 for each additional page.

FOR CITY CLERK'S OFFICE ONLY	
Date Recorded	_____
Amount Paid	_____

Date _____

The undersigned respectfully prays that he/she may be granted permission to operate a Closing-Out Sale. This permission will only be valid in Gardner, and will be subject to all of the terms, conditions, and limitations set forth under any applicable State and Federal laws.

Business (DBA) Name: _____ Phone: _____

Business Location in Gardner (with Zip Code): _____

Applicant's Federal Employer Identification Number: _____

Applicant's Legal Name: _____

Applicant's Email Address: _____

Mailing Name (where we should send correspondence to): _____

Mailing Address (with Zip Code): _____

Attach a complete inventory of items to be included in the sale.

Attach a bond in the penal sum of \$1,000, payable to the City of Gardner, conditioned upon compliance with MGL c93 s28A.

Opening date of sale _____

ACKNOWLEDGEMENT

I hereby state that all information provided on this application is true and accurate, and I understand that any information that is found to be false or misleading will result in the forfeiture of this permit, and that I may be subject to criminal prosecution pursuant to MGL c101. I also understand that any violation of MGL c93 s28A regulating closing out sales, or the City's rules and regulations, could subject me to arrest, fine, and/or loss of this permit. I certify under the penalties of perjury that I, to my best knowledge and belief, have filed all State tax returns and paid all State taxes required under law.

Signature of Applicant _____ Date _____

Print Name _____ Phone _____



City of Gardner Treasurer/Tax Collector

95 Pleasant Street, Gardner, MA 01440 (978) 630-4016

PERMIT/APPLICATION GOOD STANDING CERTIFICATION

License/Permit Applicant Name: _____

Address: _____

License/Permit for which you are applying: _____

Applicants for Building Permits, Site Plan Review, Special Permits, Variances, Conservation Permits, and Water or Sewer Connection Permits must include the following information:

Property Owner Name: _____

Property Address: _____

For City of Gardner Use Only:

- The above named applicant and/or property owner *is* in good standing with all municipal taxes, assessments, betterments, and other municipal fees and/or fines.

City Collector

Health Department/Liquor License Commission

Civil Enforcement Officer

- The above named applicant and/or property owner has entered into a payment plan with the City for all past due municipal taxes, assessments, betterments, and other municipal fees. A copy of said payment plan is attached.

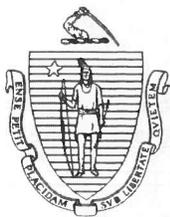
City Collector

- The above named applicant and/or property owner *is not* in good standing with all municipal taxes, assessments, betterments, and other municipal fees.

City Collector

Health Department/Liquor License Commission

Civil Enforcement Officer



The Commonwealth of Massachusetts
 Department of Industrial Accidents
 1 Congress Street, Suite 100
 Boston, MA 02114-2017
 www.mass.gov/dia

Workers' Compensation Insurance Affidavit: General Businesses.
 TO BE FILED WITH THE PERMITTING AUTHORITY.

Applicant Information

Please Print Legibly

Business/Organization Name: _____

Address: _____

City/State/Zip: _____ Phone #: _____

<p>Are you an employer? Check the appropriate box:</p> <p>1. <input type="checkbox"/> I am a employer with _____ employees (full and/ or part-time).*</p> <p>2. <input type="checkbox"/> I am a sole proprietor or partnership and have no employees working for me in any capacity. [No workers' comp. insurance required]</p> <p>3. <input type="checkbox"/> We are a corporation and its officers have exercised their right of exemption per c. 152, §1(4), and we have no employees. [No workers' comp. insurance required]**</p> <p>4. <input type="checkbox"/> We are a non-profit organization, staffed by volunteers, with no employees. [No workers' comp. insurance req.]</p>	<p>Business Type (required):</p> <p>5. <input type="checkbox"/> Retail</p> <p>6. <input type="checkbox"/> Restaurant/Bar/Eating Establishment</p> <p>7. <input type="checkbox"/> Office and/or Sales (incl. real estate, auto, etc.)</p> <p>8. <input type="checkbox"/> Non-profit</p> <p>9. <input type="checkbox"/> Entertainment</p> <p>10. <input type="checkbox"/> Manufacturing</p> <p>11. <input type="checkbox"/> Health Care</p> <p>12. <input type="checkbox"/> Other _____</p>
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*Any applicant that checks box #1 must also fill out the section below showing their workers' compensation policy information.

**If the corporate officers have exempted themselves, but the corporation has other employees, a workers' compensation policy is required and such an organization should check box #1.

I am an employer that is providing workers' compensation insurance for my employees. Below is the policy information.

Insurance Company Name: _____

Insurer's Address: _____

City/State/Zip: _____

Policy # or Self-ins. Lic. # _____ Expiration Date: _____

Attach a copy of the workers' compensation policy declaration page (showing the policy number and expiration date).

Failure to secure coverage as required under Section 25A of MGL c. 152 can lead to the imposition of criminal penalties of a fine up to \$1,500.00 and/or one-year imprisonment, as well as civil penalties in the form of a STOP WORK ORDER and a fine of up to \$250.00 a day against the violator. Be advised that a copy of this statement may be forwarded to the Office of Investigations of the DIA for insurance coverage verification.

I do hereby certify, under the pains and penalties of perjury that the information provided above is true and correct.

Signature: _____ Date: _____

Phone #: _____

<p>Official use only. Do not write in this area, to be completed by city or town official.</p>	
City or Town: _____	Permit/License # _____
<p>Issuing Authority (circle one): 1. Board of Health 2. Building Department 3. City/Town Clerk 4. Licensing Board 5. Selectmen's Office 6. Other _____</p>	
Contact Person: _____	Phone #: _____

Information and Instructions

Massachusetts General Laws chapter 152 requires all employers to provide workers' compensation for their employees. Pursuant to this statute, an **employee** is defined as "...every person in the service of another under any contract of hire, express or implied, oral or written."

An **employer** is defined as "an individual, partnership, association, corporation or other legal entity, or any two or more of the foregoing engaged in a joint enterprise, and including the legal representatives of a deceased employer, or the receiver or trustee of an individual, partnership, association or other legal entity, employing employees. However, the owner of a dwelling house having not more than three apartments and who resides therein, or the occupant of the dwelling house of another who employs persons to do maintenance, construction or repair work on such dwelling house or on the grounds or building appurtenant thereto shall not because of such employment be deemed to be an employer."

MGL chapter 152, §25C(6) also states that "**every state or local licensing agency shall withhold the issuance or renewal of a license or permit to operate a business or to construct buildings in the commonwealth for any applicant who has not produced acceptable evidence of compliance with the insurance coverage required.**" Additionally, MGL chapter 152, §25C(7) states "Neither the commonwealth nor any of its political subdivisions shall enter into any contract for the performance of public work until acceptable evidence of compliance with the insurance requirements of this chapter have been presented to the contracting authority."

Applicants

Please fill out the workers' compensation affidavit completely, by checking the boxes that apply to your situation and, if necessary, supply your insurance company's name, address and phone number along with a certificate of insurance. Limited Liability Companies (LLC) or Limited Liability Partnerships (LLP) with no employees other than the members or partners, are not required to carry workers' compensation insurance. If an LLC or LLP does have employees, a policy is required. Be advised that this affidavit may be submitted to the Department of Industrial Accidents for confirmation of insurance coverage. **Also be sure to sign and date the affidavit.** The affidavit should be returned to the city or town that the application for the permit or license is being requested, **not** the Department of Industrial Accidents. Should you have any questions regarding the law or if you are required to obtain a workers' compensation policy, please call the Department at the number listed below. Self-insured companies should enter their self-insurance license number on the appropriate line.

City or Town Officials

Please be sure that the affidavit is complete and printed legibly. The Department has provided a space at the bottom of the affidavit for you to fill out in the event the Office of Investigations has to contact you regarding the applicant. Please be sure to fill in the permit/license number which will be used as a reference number. In addition, an applicant that must submit multiple permit/license applications in any given year, need only submit one affidavit indicating current policy information (if necessary). A copy of the affidavit that has been officially stamped or marked by the city or town may be provided to the applicant as proof that a valid affidavit is on file for future permits or licenses. A new affidavit must be filled out each year. Where a home owner or citizen is obtaining a license or permit not related to any business or commercial venture (i.e. a dog license or permit to burn leaves etc.) said person is NOT required to complete this affidavit.

The Department's address, telephone and fax number:

The Commonwealth of Massachusetts
Department of Industrial Accidents

1 Congress Street
Boston, MA 02114-2017

Tel. # 617-727-4900 ext. 7406 or 1-877-MASSAFE

Fax # 617-727-7749

www.mass.gov/dia

CHAPTER 93 - REGULATION OF TRADE AND CERTAIN ENTERPRISES

Section 28A - Removal or termination sales

Section 28A. (1) The following words, as used in this section, shall have the following meanings: "Person" shall include any natural person, corporation, trust, partnership, incorporated or unincorporated association, assignees under voluntary assignments for the benefit of creditors or insurers, persons required by law to sell personal property, or any other legal entity, but shall not include any executors, administrators, guardians, conservators, receivers, sheriffs, deputy sheriffs, constables, collectors of taxes, or those persons conducting a sale in accordance with sections eighteen to twenty-one, inclusive, of chapter one hundred, all acting in their capacity as such.

"Removal sale" shall include any sale by any person of a stock of goods, wares, or merchandise under the designation of "lost our lease", "must vacate", "forced out", or any designation signifying cessation of the business by such person only at the sale location.

"Termination sale" shall include any sale by any person of a stock of goods, wares, or merchandise under the designation of "closing out", "going out of business", "discontinuing business", "selling out", "retirement sale", or any designation signifying cessation of business by such person at all locations within the commonwealth, provided that a seller may use the words "manufacturer's closeout" where there has been an actual discontinuance by a manufacturer of a model or line of merchandise and where a seller is not otherwise engaged in a removal or termination sale.

(2) No person shall conduct a removal or termination sale in any city or town at any place, without having first paid the fee provided by clause (69) of section thirty-four of chapter two hundred and sixty-two and filed with the clerk of any such city or town with a copy thereof to the attorney general at least three days prior to the opening of such sale the following:

(a) A complete and detailed inventory, signed by the owner under the penalties of perjury, which inventory shall include:

(i) A list of all items to be included in such sale which shall consist of only the goods, wares and merchandise actually in the place of business wherein or whereat such sale is to be conducted, at the opening of such sale, describing same by name or kind and the quantity of each thereof, and

(ii) Whether or not previously listed, a listing separately in the same manner of any goods, wares and merchandise to be included in such sale which had been purchased during a sixty day period immediately prior to the filing of the inventory, and

(b) A good and sufficient bond, payable to the city or town, in the penal sum of one thousand dollars, with sureties approved by the mayor or selectmen or by a justice of the district court in whose judicial district is situated the city, town or ward in which such sale is to be conducted, conditioned upon compliance with this section. Every bond given in connection with any such sale shall be kept by the clerk of the city or town until

the expiration of three years from the final date of such sale as filed as aforesaid, and shall then be surrendered to the principal if he has so requested, otherwise to one of the sureties; provided, however, that if at the expiration of said three years such clerk has reason to believe a pending action relates to such bond, he shall retain such bond until final disposition of such action.

(3) No person shall advertise a removal or termination sale unless such sale is for the purpose designated in the advertising of such sale.

(4) No person, in the course of a removal or termination sale, shall offer any goods, wares, or merchandise purchased on consignment or not in the usual course of business for resale on bona fide orders without cancellation privileges, nor shall such stock of goods include any items purchased for the purpose of selling same at such sale or any items not listed in the inventory for such sale. Any unusual addition to the stock made within sixty days prior to the filing of the inventory shall be prima facie evidence that such addition was made in contemplation of such sale and for the purpose of selling same at such sale.

(5) No person shall conduct a removal or termination sale if the owner, or partnership or corporation with which he is associated in such business, has conducted a removal sale at the same location within two years prior to the date of the subsequent sale or has conducted a termination sale at the same location or elsewhere in the commonwealth within two years prior to the date of the subsequent sale.

(6) No person shall conduct a removal sale if any means have been established by the owner for continuation of the business at the same location at the conclusion of such sale.

(7) No person shall conduct a termination sale if any means have been established by the owner for continuation of the business by the same owner, directly or indirectly, by partnership, corporation or otherwise under the same name or under a different name, at the same location, or elsewhere within the commonwealth.

(8) No person shall conduct a removal or termination sale for a period of more than sixty days from the opening of such sale.

(9) No person shall advertise a removal or termination sale without prominently stating the final date of said sale and that the sale includes no goods other than those listed in the inventory as required by this section, and all such advertising shall be confined to or refer only to the address and place of business specified in the inventory which is to be discontinued.

(10) No person shall make a sale of any of the goods, wares and merchandise previously offered in the course of a removal or termination sale except in bulk to a new owner.

(11) Every inventory and all other records required by this section to be filed with the city or town clerk and the attorney general shall be a public record as provided in clause Twenty-sixth of section seven of chapter four.