

PRESIDENT
Elizabeth J. Kazinskas

COUNCILLORS AT LARGE
James S. Boone
Craig R. Cormier
Ronald F. Cormier
Judy A. Mack
George C. Tyros

CITY OF GARDNER
MASSACHUSETTS 01440-2630

OFFICE OF THE
CITY COUNCIL



WARD 1 COUNCILLOR
James M. Walsh, Esq.

WARD 2 COUNCILLOR
Dana M. Heath

WARD 3 COUNCILLOR
Nathan R. Boudreau

WARD 4 COUNCILLOR
Karen G. Hardern

WARD 5 COUNCILLOR
Aleks Dernalowicz, Esq.

October 6, 2022

FINANCE COMMITTEE MEETING NOTICE

Date: Wednesday, October 12, 2022
Time: 8:00 A.M.
Location: City Council Chambers, Room 219, City Hall

ANNOUNCEMENT - Any person may make a video or audio recording of an open session of a meeting, or may transmit the meeting through any medium, subject to reasonable requirements of the chair as to the number, placement and operation of equipment used so as not to interfere with the conduct of the meeting. Any person intending to make such recording shall notify the Chair forthwith. All Documents referenced or used during the meeting must be submitted in duplicate to the Chair, pursuant to the Open Meeting and Public Records Law. All documents shall become part of the official record of the meeting.

SCHEDULE OF BUSINESS
(Agenda attached)

1. Acceptance/Corrections to Minutes of Prior Meeting(s).
2. Budget and Orders (Money orders, loan orders, revolving funds, other financial).
3. Vacancies and other personnel matters.
4. Ordinances and Acceptance of General Laws and Special Acts.
5. Authorizations Required by Statute (Contracts, Election Orders, Grants, etc.).
6. Land Acceptance, Disposal, Easements, etc.
7. Claims, Legal, Rules and Salaries.
8. Departmental Management and organizational matters.
9. Report from the Mayor on the State of the City.

NOTICE: The listing of Agenda items are those reasonably anticipated by the Chairman which may be discussed at the meeting. Not all items listed may in fact be discussed and other items not listed may also be brought up for discussion to the extent permitted by law.

CITY COUNCIL OF GARDNER
Elizabeth J. Kazinskas
ELIZABETH J. KAZINSKAS
Chair, Finance Committee

**CITY OF GARDNER, MASSACHUSETTS
CITY COUNCIL FINANCE COMMITTEE MEETING
Wednesday – October 12, 2022 –8:00 AM**

AGENDA

CALL TO ORDER

ANNOUNCEMENT OF OPEN MEETING RECORDINGS

Any person may make a video or audio recording of an open session of a meeting, or may transmit the meeting through any medium, subject to reasonable requirements of the chair as to the number, placement and operation of equipment used so as not to interfere with the conduct of the meeting. Any person intending to make such recording shall notify the Chair forthwith. All Documents and exhibits used or referenced at the meeting must be submitted in duplicate to the City Clerk, as they become part of the Meeting Minutes.

- 5-1 A Measure Relative to the November 8, 2022 State Election.

- 6-1 A Measure Declaring Surplus for the Purpose of Disposal of Land and Buildings at 14 Leamy Street.

- 6-2 A Measure Declaring Surplus for the Purpose of Disposal of Land and Buildings at 177 West Street.

- 9-1 A Correspondence Regarding Municipal Finances and Free Cash Regulations.

ADJOURNMENT

Items listed on the Agenda are those reasonably anticipated by the Chair to be discussed at the meeting. Not all items listed may in fact be discussed and other items not listed may also be brought up for discussion to the extent permitted by law.

Commonwealth of Massachusetts
CITY OF GARDNER
STATE ELECTION ORDER
NOVEMBER 8, 2022

VOTED: That meetings of the citizens of this City qualified to vote in the State Election shall be held on TUESDAY, the 8th DAY OF NOVEMBER 2022, FROM 7:00 A.M. TO 8:00 P.M. for the purpose of casting their votes in the State Election for the candidates of political parties for the following offices and questions:

GOVERNOR.....FOR THIS COMMONWEALTH
 LIEUTENANT GOVERNOR.....FOR THIS COMMONWEALTH
 ATTORNEY GENERAL.....FOR THIS COMMONWEALTH
 SECRETARY OF STATEFOR THIS COMMONWEALTH
 TREASURER AND RECEIVER GENERAL.....FOR THIS COMMONWEALTH
 AUDITOR.....FOR THIS COMMONWEALTH
 REPRESENTATIVE IN CONGRESS.....THIRD DISTRICT
 COUNCILLOR.....SEVENTH DISTRICT
 SENATOR IN GENERAL COURT.....WORCESTER & MIDDLESEX DISTRICT
 REPRESENTATIVE IN GENERAL COURT.....SECOND WORCESTER DISTRICT
 DISTRICT ATTORNEY.....MIDDLE DISTRICT
 SHERIFF.....WORCESTER COUNTY

QUESTION 1

PROPOSED CONSTITUTIONAL AMENDMENT

Do you approve of the adoption of an amendment to the constitution summarized below, which was approved by the General Court in joint sessions of the two houses on June 12, 2019 (yeas 147 – nays 48); and again on June 9, 2021 (yeas 159 – nays 41)?

SUMMARY

This proposed constitutional amendment would establish an additional 4% state income tax on that portion of annual taxable income in excess of \$1 million. This income level would be adjusted annually, by the same method used for federal income-tax brackets, to reflect increases in the cost of living. Revenues from this tax would be used, subject to appropriation by the state Legislature, for public education, public colleges and universities; and for the repair and maintenance of roads, bridges, and public transportation. The proposed amendment would apply to tax years beginning on or after January 1, 2023.

A YES VOTE would amend the state Constitution to impose an additional 4% tax on that portion of incomes over one million dollars to be used, subject to appropriation by the state Legislature, on education and transportation.

A NO VOTE would make no change in the state Constitution relative to income tax.

QUESTION 2

LAW PROPOSED BY INITIATIVE PETITION

Do you approve of a law summarized below, on which no vote was taken by the Senate or the House of Representatives on or before May 3, 2022?

SUMMARY

This proposed law would direct the Commissioner of the Massachusetts Division of Insurance to approve or disapprove the rates of dental benefit plans and would require that a dental insurance carrier meet an annual aggregate medical loss ratio for its covered dental benefit plans of 83 percent. The medical loss ratio would measure the amount of premium dollars a dental insurance carrier spends on its members' dental expenses and quality improvements, as opposed to administrative expenses. If a carrier's annual aggregate medical loss ratio is less than 83 percent, the carrier would be required to refund the excess premiums to its covered individuals and groups. The proposed law would allow the Commissioner to waive or adjust the refunds only if it is determined that issuing refunds would result in financial impairment for the carrier.

The proposed law would apply to dental benefit plans regardless of whether they are issued directly by a carrier, through the connector, or through an intermediary. The proposed law would not apply to dental benefit plans issued, delivered, or renewed to a self-insured group or where the carrier is acting as a third-party administrator.

The proposed law would require the carriers offering dental benefit plans to submit information about their current and projected medical loss ratio, administrative expenses, and other financial information to the Commissioner. Each carrier would be required to submit an annual comprehensive financial statement to the Division of Insurance, itemized by market group size and line of business. A carrier that also provides administrative services to one or more self-insured groups would also be required to file an appendix to their annual financial statement with information about its self-insured business. The proposed law would impose a late penalty on a carrier that does not file its annual report on or before April 1.

The Division would be required to make the submitted data public, to issue an annual summary to certain legislative committees, and to exchange the data with the Health Policy Commission. The Commissioner would be required to adopt standards requiring the registration of persons or entities not otherwise licensed or registered by the Commissioner and criteria for the standardized reporting and uniform allocation methodologies among carriers.

The proposed law would allow the Commissioner to approve dental benefit policies for the purpose of being offered to individuals or groups. The Commissioner would be required to adopt regulations to determine eligibility criteria.

The proposed law would require carriers to file group product base rates and any changes to group rating factors that are to be effective on January 1 of each year on or before July 1 of the preceding year. The Commissioner would be required to disapprove any proposed changes to base rates that are excessive, inadequate, or unreasonable in relation to the benefits charged. The Commissioner would also be required to disapprove any change to group rating factors that is discriminatory or not actuarially sound.

The proposed law sets forth criteria that, if met, would require the Commissioner to presumptively disapprove a carrier's rate, including if the aggregate medical loss ratio for all dental benefit plans offered by a carrier is less than 83 percent.

The proposed law would establish procedures to be followed if a proposed rate is presumptively disapproved or if the Commissioner disapproves a rate.

The proposed law would require the Division to hold a hearing if a carrier reports a risk-based capital ratio on a combined entity basis that exceeds 700 percent in its annual report.

The proposed law would require the Commissioner to promulgate regulations consistent with its provisions by October 1, 2023. The proposed law would apply to all dental benefit plans issued, made effective, delivered, or renewed on or after January 1, 2024.

A YES VOTE would regulate dental insurance rates, including by requiring companies to spend at least 83% of premiums on member dental expenses and quality improvements instead of administrative expenses, and by making other changes to dental insurance regulations.

A NO VOTE would make no change in the law relative to the regulations that apply to dental insurance companies.

QUESTION 3

LAW PROPOSED BY INITIATIVE PETITION

Do you approve of a law summarized below, on which no vote was taken by the Senate or the House of Representatives on or before May 3, 2022?

SUMMARY

This proposed law would increase the statewide limits on the combined number of licenses for the sale of alcoholic beverages for off-premises consumption (including licenses for “all alcoholic beverages” and for “wines and malt beverages”) that any one retailer could own or control: from 9 to 12 licenses in 2023; to 15 licenses in 2027; and to 18 licenses in 2031.

Beginning in 2023, the proposed law would set a maximum number of “all alcoholic beverages” licenses that any one retailer could own or control at 7 licenses unless a retailer currently holds more than 7 such licenses.

The proposed law would require retailers to conduct the sale of alcoholic beverages for off-premises consumption through face-to-face transactions and would prohibit automated or self-checkout sales of alcoholic beverages by such retailers.

The proposed law would alter the calculation of the fine that the Alcoholic Beverages Control Commission may accept in lieu of suspending any license issued under the State Liquor Control Act. The proposed law would modify the formula for calculating such fee from being based on the gross profits on the sale of alcoholic beverages to being based on the gross profits on all retail sales.

The proposed law would also add out-of-state motor vehicle licenses to the list of the forms of identification that any holder of a license issued under the State Liquor Control Act, or their agent or employee, may choose to reasonably rely on for proof of a person’s identity and age.

A YES VOTE would increase the number of licenses a retailer could have for the sale of alcoholic beverages to be consumed off premises, limit the number of “all-alcoholic beverages” licenses that a retailer could acquire, restrict use of self-checkout, and require retailers to accept customers’ out-of-state identification.

A NO VOTE would make no change in the laws governing the retail sale of alcoholic beverages.

QUESTION 4

REFERENDUM ON AN EXISTING LAW

Do you approve of a law summarized below, which was approved by the House of Representatives and the Senate on May 26, 2022?

SUMMARY

This law allows Massachusetts residents who cannot provide proof of lawful presence in the United States to obtain a standard driver's license or learner's permit if they meet all the other qualifications for a standard license or learner's permit, including a road test and insurance, and provide proof of their identity, date of birth, and residency. The law provides that, when processing an application for such a license or learner's permit or motor vehicle registration, the registrar of motor vehicles may not ask about or create a record of the citizenship or immigration status of the applicant, except as otherwise required by law. This law does not allow people who cannot provide proof of lawful presence in the United States to obtain a REAL ID.

To prove identity and date of birth, the law requires an applicant to present at least two documents, one from each of the following categories: (1) a valid unexpired foreign passport or a valid unexpired Consular Identification document; and (2) a valid unexpired driver's license from any United States state or territory, an original or certified copy of a birth certificate, a valid unexpired foreign national identification card, a valid unexpired foreign driver's license, or a marriage certificate or divorce decree issued by any state or territory of the United States. One of the documents presented by an applicant must include a photograph and one must include a date of birth. Any documents not in English must be accompanied by a certified translation. The registrar may review any documents issued by another country to determine whether they may be used as proof of identity or date of birth.

The law requires that applicants for a driver's license or learner's permit shall attest, under the pains and penalties of perjury, that their license has not been suspended or revoked in any other state, country, or jurisdiction.

The law specifies that information provided by or relating to any applicant or license-holder will not be a public record and shall not be disclosed, except as required by federal law or as authorized by Attorney General regulations, and except for purposes of motor vehicle insurance.

The law directs the registrar of motor vehicles to make regulations regarding the documents required of United States citizens and others who provide proof of lawful presence with their license application.

The law also requires the registrar and the Secretary of the Commonwealth to establish procedures and regulations to ensure that an applicant for a standard driver's license or learner's permit who does not provide proof of lawful presence will not be automatically registered to vote.

The law takes effect on July 1, 2023.

A YES VOTE would keep in place the law, which would allow Massachusetts residents who cannot provide proof of lawful presence in the United States to obtain a driver's license or permit if they meet the other requirements for doing so.

A NO VOTE would repeal this law.

It is further ordered that the following polling places are designated by the City Council:

WARD 1, PRECINCT A – Elk's Home, 31 Park Street
 WARD 1, PRECINCT B – Elk's Home, 31 Park Street
 WARD 2, PRECINCT A – Levi Heywood Memorial Library, 55 West Lynde Street
 WARD 2, PRECINCT B – Levi Heywood Memorial Library, 55 West Lynde Street
 WARD 3, PRECINCT A – City Hall, Perry Auditorium, 95 Pleasant Street
 WARD 3, PRECINCT B – City Hall, Perry Auditorium, 95 Pleasant Street
 WARD 4, PRECINCT A – Police Headquarters, 200 Main Street
 WARD 4, PRECINCT B – Police Headquarters, 200 Main Street
 WARD 5, PRECINCT A – Polish American Club, 171 Kendall Pond Road W
 WARD 5, PRECINCT B – Polish American Club, 171 Kendall Pond Road W

It is further directed that his Order be posted in accordance with the provisions of Section 63 of Chapter 54 of the General Laws.

BY ORDER OF THE CITY COUNCIL

A handwritten signature in cursive script that reads "Titi Siriphan".

TITI SIRIPHAN
City Clerk



City of Gardner - *Executive Department*

Mayor Michael J. Nicholson

October 6, 2022

Hon. Elizabeth J. Kazinskas, Council President
 And City Councilors
 Gardner City Hall, Rm 121
 95 Pleasant St
 Gardner, MA 01440

RE: Declaration of Surplus- 14 Leamy St

Dear Madam President and Councilors,

Over the past two years, the City has undertaken substantial work to revitalize neighborhoods, remove vacant and abandoned buildings, prevent blight, and get problem properties back on the tax rolls.

Earlier this year, utilizing Community Development Block Grant (CDBG) funds, the City was able to demolish the old factory at 14 Leamy Street after it was sighted for a public safety and public health hazard.

I respectfully request that the City Council vote to declare this property surplus, so that the Administration can begin the process of marketing the property for sale.

The amount requested for a minimum value is the price that the property is currently assessed at by the City Assessor.

Respectfully Submitted,

Michael J. Nicholson
 Mayor, City of Gardner

RECEIVED
 2022 OCT -6 AM 10:16
 CITY CLERK'S OFFICE
 GARDNER, MA

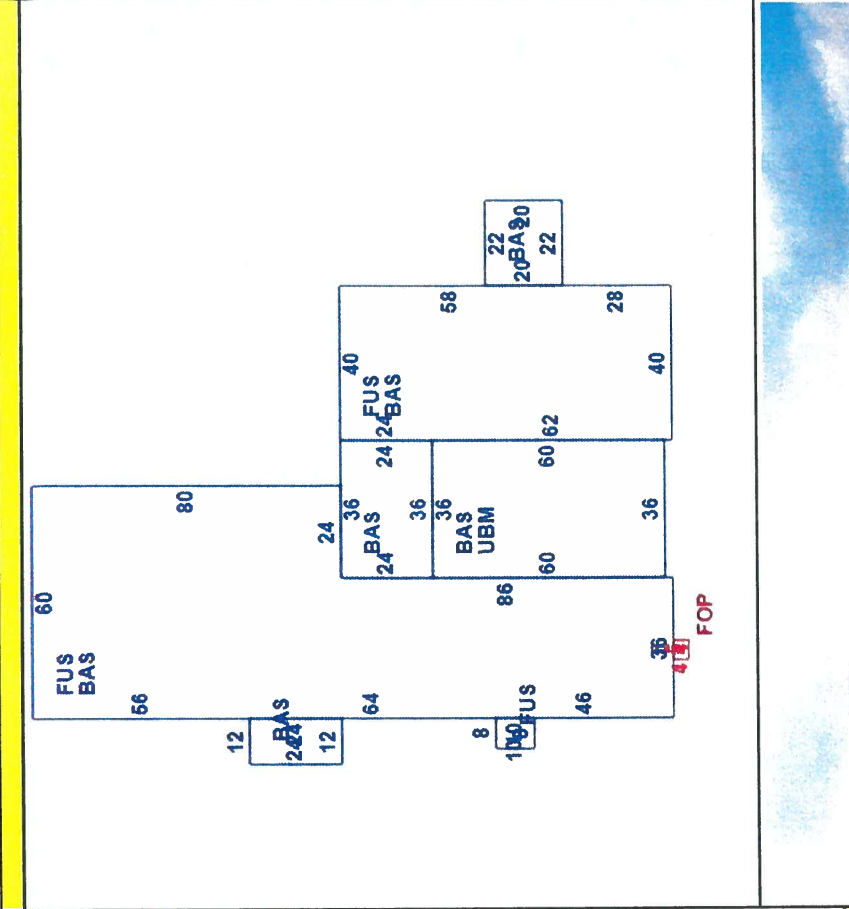
**DECLARING SURPLUS FOR PURPOSE OF DISPOSAL
LAND AND BUILDINGS AT 14 LEAMY STREET**

VOTED: To declare surplus for the purpose of disposal, in accordance with prevailing General Laws, all land and buildings at 14 Leamy Street, further identified on the City of Gardner Assessor's Map as M22-00007-00032, to establish as a minimum amount of \$51,000.00 to be paid for any conveyance of said property, and to authorize the Mayor to convey said land, or part thereof, for such amount or a larger amount, and upon such other terms as the Mayor shall consider proper in accordance with this Vote.

CONSTRUCTION DETAIL		Element	Description	Cd	Element	Cd	Description
Style:	401	Light Industrial					
Model	96	Industrial					
Grade	02	Below Average					
Stories:	2						
Occupancy	1.00						
Exterior Wall 1	25	Vinyl Siding					
Exterior Wall 2	18	Asphalt					
Roof Structure	03	Gable/Hip					
Roof Cover	12	Rubber					
Interior Wall 1	01	Minim/Masonry					
Interior Wall 2							
Interior Floor 1	12	Hardwood					
Interior Floor 2							
Heating Fuel	02	Oil					
Heating Type	06	Steam					
AC Type	01	None					
Bldg Use	4000	Factory					
Total Rooms	00						
Total Bedrms	2						
Total Baths	00						
Heat/AC	02	NONE					
Frame Type	02	WOOD FRAME					
Baths/Plumbing	02	AVERAGE					
Ceiling/Wall	02	CEILING ONLY					
Rooms/Prtns	02	AVERAGE					
Wall Height	14.00						
% Conn Wall	0.00						
1st Floor Use:	4000						

OB - OUTBUILDING & YARD ITEMS(L) / XF - BUILDING EXTRA FEATURES(B)											
Code	Description	L/B	Units	Unit Price	Yr Bilt	Cond.	Cd	% Good	Grade	Grade Adj	Appr. Value
SPR1	Sprinklers Wet	B	26,504	1.75	1943			5		0.00	2,300
PAV1	Paving Aspha	L	8,400	1.80	1985			50		0.00	7,600

BUILDING SUB-AREA SUMMARY SECTION						
Code	Description	Living Area	Floor Area	Eff Area	Unit Cost	Undeprac Value
BAS	First Floor	15,088	15,088	15,088	34.58	521,668
FOP	Porch, Open, Finished	0	20	5	8.64	173
FUS	Upper Story, Finished	11,416	11,416	11,416	34.58	394,708
UBM	Basement, Unfinished	0	2,160	540	8.64	18,671
Ttl Gross Liv / Lease Area					26,504	28,684
					27,049	935,220





City of Gardner - *Executive Department*

Mayor Michael J. Nicholson

October 6, 2022

Hon. Elizabeth J. Kazinskas, Council President
 And City Councilors
 Gardner City Hall, Rm 121
 95 Pleasant St
 Gardner, MA 01440

RE: Amendment to Declaration of Surplus- 177 West Street

Dear Madam President and Councilors,


On February 22, 2022, the City Council voted to declare the City's property at 177 West Street as surplus for the purpose of disposition for a minimum value of \$43,200.

Since that time, the City has issued a request for proposals ("RFP") for the property – as required by Massachusetts General Law, Chapter 30B – twice on this property; once on March 16, 2022, and again on June 29, 2022.

In both of those instances, no proposals were submitted.

At the advice of the City's Purchasing Department, I respectfully request that the City Council vote to declare the property as surplus for the purpose of disposition for the minimum value of \$20,000, so that the City is able to sell the property and get it back on the tax rolls.

Respectfully Submitted,


 Michael J. Nicholson
 Mayor, City of Gardner

RECEIVED
 2022 OCT -6 AM 10:16
 CITY OF GARDNER MA

**DECLARING SURPLUS FOR PURPOSE OF DISPOSAL OF
LAND AND BUILDINGS AT 177 WEST STREET**

VOTED: To declare surplus for the purpose of disposal, in accordance with prevailing General Laws, all land and buildings at 177 West Street, further identified on the City of Gardner Assessor's Map as M27-00023-00023, to establish as a minimum amount of \$20,000 to be paid for any conveyance of said property, and to authorize the Mayor to convey said land, or part thereof, for such amount or a larger amount, and upon such other terms as the mayor shall consider proper in accordance with this Vote.

CITY OF GARDNER
PURCHASING DEPARTMENT

Room 217 - City Hall
95 Pleasant Street
Gardner, MA 01440-2687



Joshua Cormier, Director
jcormier@gardner-ma.gov
Telephone (978) 632-0426

October 5, 2022

Mayor Michael Nicholson
Gardner City Hall
95 Pleasant Street
Gardner, MA 01440

Re: Surplus Property Disposition – 177 West Street

Dear Mayor Nicholson,

Following the City Council's vote, and your subsequent approval, declaring the land located at 177 West Street (M27/23/23) surplus for the purpose of disposal, the Purchasing Department completed the required public disposition process as required by MGL Ch. 30B, twice, and received no proposals as a result of the process. This process mandates that we advertise the proper documents for a minimum of thirty days including in the local newspaper for two consecutive weeks a minimum of eight days prior to the due date. The advertisement process also requires us to post in the State's Central Register and COMMBUYS system as well as on the City's website.

We used a Request for Proposal (RFP) process that was first initiated on March 16, 2022, with a proposal deadline of April 15, 2022. After advertising the property for disposition, my office received several phone calls and in-person questions related to this property; and the others proposed for disposition. Along with the questions, we did receive a few comments that the minimum price was too high for the property. After receiving no responses, we issued a second RFP on June 29, 2022, with a proposal deadline of July 29, 2022. This time we received fewer questions and zero proposals again.

At this time, I would recommend that the process not be initiated, again, at the existing minimum disposal price. Given the advertisement costs, as well as the requirement to advertise twice within the thirty days, the cost would be approximately \$350 to initiate a public process that does not address the price issue commonly stated by those showing interest. I would strongly recommend the minimum price be lowered with the goal of receiving a responsible and responsive proposal that benefits the city as a whole prior to issuing another RFP.

If you should have any questions, please, do not hesitate to contact me.

Thank you,

Joshua Cormier
Director of Purchasing & Civil Enforcement



City of Gardner - *Executive Department*
 Mayor Michael J. Nicholson

October 6, 2022

Hon. Elizabeth J. Kazinskas, Council President
 And City Councilors
 Gardner City Hall, Rm 121
 95 Pleasant St
 Gardner, MA 01440

RE: Correspondence regarding Municipal Finances and Free Cash Regulations

Dear Madam President and Councilors,

At the meeting of the City Council on October 3, 2022, during new business, Councilor James Boone stated the following:

“The second thing I wanted to mention, in our Public Safety meeting the Board of Health Director, Lauren Saunders, mentioned she's going to need about \$200,000 to fix the pumps at the landfill and she was hoping to get money from our free cash. But last I heard, we spent almost all of our free cash, so I'm hoping that the Finance Committee can deliberate on this and the Mayor and figure out what needs to be done for the landfill”

And,

“Follow-up: Mr. Mayor, if I'm not mistaken, that Leominster used to keep tons of free cash available and they had all this excess funds and we're down I think last I saw \$60,000.”

And,

“Last follow-up if I may Madam President, Mr. Mayor, so there will be money in case it's needed to spend at the landfill?”

As a reminder to the Council, as I have stated in the past on several occasions, the regulations regarding the use of Free Cash, issued by the Massachusetts Department of Revenue state that free cash **cannot be used** between the period from June 30th of any given year until the Division of Local Services Director of Accounts certifies a community's free cash from the previous fiscal year.

Furthermore, free cash is a one-time funding source, not a revolving account, therefore it renews with a different amount every year, as it is solely based on the amounts certified from the previous fiscal year.

As such, statements like, “we spent almost all of our free cash,” are misleading, as free cash is different every year. The Department of Revenue does recommend that municipalities spend their certified free cash amounts down to as close to \$0 annually as they can, as it is a one-time revenue source. However, any remaining balances at the end of the fiscal year do carry over into the next year. Though any carry-over amounts are still restricted to not be used or appropriated until the full aggregate amount is certified by the Commonwealth's Division of Local Services Director of Accounts.

Attached, please find the guidance and regulations issued by the Commonwealth on these matters, previous correspondence I have sent to the City Council regarding this matter, and the City's free cash history from 2015 to present showing 1) how much the City has had certified in free cash each year, 2) how much of that year's free cash was expended, 3) the amount of free cash that was carried over to the next year (listed as “remainder”), and 4) where that free cash amount came from in that year's certification calculation.

Respectfully Submitted,

Michael J. Nicholson
 Mayor, City of Gardner

RECEIVED
 2022 OCT -6 AM 11:04
 CITY OF GARDNER OFFICE

City of Gardner

Free Cash History

	2022 Estimated	2021	2020	2019	2018	2017	2016	2015
Prior Year Free Cash Use (Council Orders)	\$3,611,634	\$2,301,969	\$3,098,475	\$1,482,830	\$2,274,137	\$2,436,499	\$2,129,083	\$1,568,800
	<u>\$3,546,634</u>	<u>\$2,301,969</u>	<u>\$3,023,475</u>	<u>\$1,482,201</u>	<u>\$2,274,020</u>	<u>\$2,413,343</u>	<u>\$2,129,022</u>	<u>\$1,565,032</u>
Remainder:	\$65,000	\$0	\$75,000	\$629	\$117	\$23,156	\$61	\$3,768
Revenue Variance (from Budget)								
Local Receipts	\$946,382	\$1,103,290	\$1,417,536	\$952,253	\$921,321	\$1,101,043	\$705,121	
Cherry Sheet	(\$130,802)	(\$179,689)	\$128,664	\$135,221	\$102,205	\$107,320	(\$185,325)	
Other	<u>\$75,176</u>	<u>\$412,023</u>	<u>\$213,310</u>	<u>\$100,538</u>	<u>\$333,898</u>	<u>\$175,219</u>	<u>\$417,248</u>	
Total Revenue Increase /(Decrease)	\$890,757	\$1,335,624	\$1,759,510	\$1,188,012	\$1,357,424	\$1,383,582	\$937,044	
Expense Variance (from Budget)								
General	\$213,459	\$141,381	\$160,151	\$187,001	\$147,788	\$138,773	\$148,915	
Public Safety	\$334,415	\$163,174	\$139,700	\$160,503	\$145,103	\$114,089	\$135,204	
Education	\$320,938	\$55	\$0	\$341	\$200,927	\$270,420	\$303,394	
Public Works	\$172,161	\$67,321	\$106,645	\$114,986	\$136,756	\$73,086	\$73,463	
Human Services	\$385,772	\$53,562	\$58,351	\$68,355	\$68,355	\$10,616	\$27,289	
Culture/Recreation	\$25,111	\$40,790	\$35,978	\$10,609	\$57,364	\$35,893	\$16,883	
Other (DEBT, BENEFITS & INSURANCE)	<u>\$1,473,955</u>	<u>\$361,171</u>	<u>\$343,876</u>	<u>\$133,603</u>	<u>\$410,452</u>	<u>\$442,291</u>	<u>\$524,890</u>	
Total Expense Increase /(Decrease)	\$2,925,811	\$827,453	\$844,701	\$679,113	\$1,166,745	\$1,085,168	\$1,230,038	
Fund Deficits	(\$297,934)	(\$66,108)	(\$101,827)	(\$104,782)	(\$336,188)	(\$84,692)	(\$134,547)	
Other Miscellaneous	\$93,000	\$130,000	\$595,462	\$279,630	\$63,000	\$52,380	\$92,780	
Free Cash	\$3,611,634	\$2,301,969	\$3,098,475	\$1,482,830	\$2,274,137	\$2,436,499	\$2,129,083	
Free Cash Certification	\$0	\$0	\$0	(\$0)	(\$0)	\$0	(\$0)	\$0

FREE CASH February 2016



Free cash is a revenue source that results from the calculation, as of July 1, of a community's remaining, unrestricted funds from its operations of the previous fiscal year based on the balance sheet as of June 30. It typically includes actual receipts in excess of revenue estimates and unspent amounts in departmental budget line items for the year just ending, plus unexpended free cash from the previous year. Free cash is offset by property tax receivables and certain deficits, and as a result, can be a negative number.

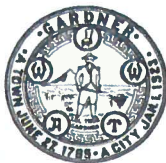
Cities and towns generally use free cash to support current-year operations or to provide a revenue source for the ensuing year's budget. However, free cash is not available for use until after the accountant, auditor, or comptroller submits a prior-year balance sheet to the Division of Local Services (DLS) and the Director of Accounts certifies the free cash. The DLS certification protects communities from relying on free cash that might not materialize due to inaccurate local estimates.

The Technical Assistance Bureau (TAB) recommends that communities understand the role free cash plays in sustaining a strong credit rating and encourages them to adopt policies on its use. Under sound financial policies, a community strives to generate free cash in an amount equal to three to five percent of its annual budget. This goal helps deter free cash from being depleted in any particular year, which enables the following year's calculation to begin with a positive balance. To do this, the community would orchestrate conservative revenue projections and departmental appropriations to produce excess income and departmental turn backs.

As a nonrecurring revenue source, free cash should be restricted to paying one-time expenditures, funding capital projects, or replenishing other reserves. When a community incorporates free cash into revenue source projections for next-year operational expenses, it is prudent to place a percentage restriction on the total free cash to be used.

Overall, TAB recommends that communities adopt a free cash policy that avoids supplementing current-year departmental operations. By eliminating the expectation of additional resources later in the fiscal year to backfill budgets, department heads will produce more accurate and realistic annual appropriation requests.

Any free cash use requires an appropriation approved by the city council on the mayor's recommendation or by town council or by town meeting but only after DLS has certified the free cash total. The same rules apply to DLS's certification of retained earnings, which is the enterprise fund equivalent of free cash.



City of Gardner - Executive Department
Mayor Michael J. Nicholson

RECEIVED
 2022 JUN 13 AM 11:17
 CITY OF GARDNER OFFICE
 85 STATE ST. GARDNER, MA

July 12, 2022

Hon. Elizabeth J. Kazinskas, Council President
 And City Councilors
 Gardner City Hall, Rm 121
 95 Pleasant St
 Gardner, MA 01440

RE: FY2021 Free Cash Review

Dear Madam President and Councilors,

As we close out the previous fiscal year, I wanted to provide you with a full list of free cash expenditures that were made in the previous fiscal year.

As you are aware, per the General Laws and the Code of Massachusetts Regulations (CMR), cities and towns are not able to make any free cash expenditures between July 1st and when the Massachusetts Department of Revenue (DOR) certifies free cash from the previous fiscal year.

As a reminder, Free Cash is a one-time funding source that is comprised of revenue that came in over budget and expenditures that came in under budget. As such, the money from the attached list came from revenue that came in over budget and expenses that came in under budget in FY2021. We will not know the free cash totals for FY2022 until approximately November of this year.

Any remaining balances are carried over from fiscal year to the next fiscal year, but again this cannot be used until free cash is certified in the fall and just becomes part of that aggregate number. There was approximately \$65,000 carried over from FY21 to FY22. While any left-over balance does carry over from year to year, DOR does issue guidance that the amount should be lowered as close to \$0 every year as a primary funding source for capital projects for municipalities- as again this is legally considered one-time money. This is the same reason the DOR Guidance states that free cash should not be used as budgetary revenue when setting the budget and the tax rate, due to its variable nature with amounts differing from year to year.

Respectfully Submitted,

Michael J. Nicholson
 Mayor, City of Gardner

10555

City of Gardner, *Executive Department*

Michael J. Nicholson, Mayor



November 3, 2021

Hon. Elizabeth J. Kazinskas, Council President
And City Councilors
Gardner City Hall, Rm 121
95 Pleasant St
Gardner, MA 01440

RE: FY 2021 Free Cash Memorandum

Dear Madam President and Councilors,

The City received notification from the Department of Revenue on October 18, 2021 that the City's Free Cash and Retained Earnings from FY2021 had been certified. (see attached email).

As you are aware, free cash and retained earnings come from funding left over from the previous fiscal year due to revenues coming in over budget and expenses coming in under budget. The term "free cash" is used for the general fund, and "retained earnings" are used for enterprise funds. The Department of Revenue states that the best practice for municipal budgeting should be planning for Free Cash to be certified at approximately five percent (5%) of the municipality's annual operating budget.

The majority of the City's Free Cash for FY2021 came from salaries that were not fully paid out due to vacancies that occurred or anticipated retirements not yet being taken. Following that reason came expenses from the School Department that either were not paid due to students being remote for the majority of the last school year or were covered by federal grant funding given in response to the COVID-19 Pandemic.

The guidance on the use of Free Cash, issued by the Department of Revenue states:

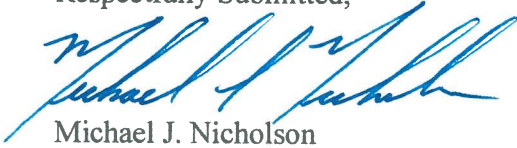
"Cities and towns generally use free cash to support current-year operations or to provide a revenue source for the ensuing year's budget. As a nonrecurring revenue source, free cash should be restricted to paying one-time expenditures, funding capital projects, or replenishing other reserves." (emphasis added)

In accordance with this guidance, it is the administration's plan to submit proposals for this year's free cash appropriations for one-time expenditures due to the fluctuation of the amount of free cash we receive each year. Furthermore, this allows us to make sure we have an adequate reserve should unexpected expenditures arise during the fiscal year that are not budgeted for.

Whereas we seem to continue to have a long list of needs in the city from capital equipment, road repair, maintenance of facilities and equipment, and other items, it is my plan to put forth proposals that are either inline with the City's Administrative Financial Policies that have been

developed by the Administration in conjunction with the City's outside auditing firm or to cover the cost of items that the City has had to put aside due to funding restraints in the past.

Respectfully Submitted,

A handwritten signature in blue ink, appearing to read "Michael J. Nicholson", written in a cursive style.

Michael J. Nicholson
Mayor, City of Gardner

10555

Mayor

From: dlsgateway@dor.state.ma.us
Sent: Monday, October 18, 2021 10:21 AM
To: Celia Jornet; Jennifer Dymek; rivard-diane@montytech.net; Mayor; John Richard; dlsgateway@dor.state.ma.us
Cc: guzmanda@dor.state.ma.us
Subject: Notification of free cash approval - Gardner
Attachments: FreeCashCertification.PDF

CAUTION: This email originated from a sender outside of the City of Gardner mail system. Do not click on links or open attachments unless you verify the sender and know the content is safe.

Massachusetts Department of Revenue Division of Local Services

Geoffrey E. Snyder, Commissioner

Sean R. Cronin, Senior Deputy Commissioner of Local Services

10/18/2021

NOTIFICATION OF FREE CASH APPROVAL - City of Gardner

Based upon the un-audited balance sheet submitted, I hereby certify that the amount of available funds or "free cash" as of July 1, 2021 for the City of Gardner is:

General Fund	\$3,611,634.00
Enterprise Fund SEWER	\$6,215,788.00
Enterprise Fund WATER	\$1,513,732.00
Enterprise Fund GOLF COURSE	\$373,749.00
Enterprise Fund LANDFILL	\$123,858.00
Enterprise Fund SOLID WASTE	\$427,806.00

This certification is in accordance with the provisions of G. L. Chapter 59, §23, as amended.

Certification letters will be emailed to the mayor/manager, board of selectmen, prudential committee, finance director and treasurer immediately upon approval, provided an email address is reported in DLS' Local Officials Directory. Please forward to other officials as you deem appropriate.

Sincerely,



Deborah A. Wagner
 Director of Accounts
 Massachusetts Department of Revenue

CHAPTER 14 – THE CALCULATION OF FREE CASH

Free cash is the amount of funds in a city, town or special purpose district which is unrestricted and available for appropriation in accordance with G.L. c. 59, § 23, after certification by the Director of Accounts.

At the end of the fiscal year, the Accountant will close the books of the governmental entity and prepare a balance sheet. In the past, some Accountants relied upon the entity's audit firm to perform the closing. In recent years, changes in Government Auditing Standards now prohibit Certified Public Accountants from performing certain functions they once performed for the governmental entity.

Every city, town and special purpose district should submit the balance sheet with supporting documentation to the Bureau of Accounts for determination of "free cash." Every regional school district should do the same for determination of "excess and deficiency."

The Director of Accounts certifies free cash based upon the governmental entity's balance sheet for the fiscal year ended June 30. The balance sheet, consisting of assets, liabilities and fund balances, is prepared by the Accountant with a target submission date of September 15 to allow for possible appropriation of such funds during the fall season. A combined balance sheet with backup documentation is required from each entity. Backup documentation includes:

- Combined Balance Sheet and Combining Balance Sheets for each fund type including individual fund balances;
- Detailed analysis of undesignated fund balance/surplus revenue;
- Completed year end checklist;
- Cash reconciliation form;
- Treasurer's quarterly cash report;
- Schedule of outstanding receivables;
- Statement of indebtedness;
- Snow and Ice annual report;
- Audited financial statements if required by the Director;
- Other information as requested by the Bureau.

Cities, towns and districts that have authorized debt or had a federal or state grant approved may expend for those purposes from available unrestricted funds in anticipation of the borrowing or receipt of grant funds. Any co-called inter-fund or internal borrowing or advances must be repaid during the same fiscal year and be made according to rules, regulations and guidelines promulgated by the Director of Accounts (G.L. c.44, §20A). *Illustrative journal entries regarding inter-fund or internal borrowings are found in Appendix J to this Manual.*

Uniform Massachusetts Accounting System – July 2013

The Basic Free Cash Calculation

BEGIN	Undesignated Fund Balance
MINUS	Accounts Receivable
PLUS	Deferred Revenue
MINUS	Debit balances in other funds
MINUS	Illegally overspent appropriations (appropriations not allowed by General or Special law(s) to be overspent)
MINUS	Prepaid Items
MINUS	Amounts appropriated from free cash
PLUS	60 day collections from the date of mailing, net of refunds, if property tax bills were issued after May 1
PLUS	Late Payments
EQUALS	Free Cash

Free Cash Calculation in Detail

BEGIN – Undesignated Fund Balance: Undesignated Fund Balance – General Fund (001-3590). This is the amount of available expendable financial resources, neither reserved nor designated. Note: Overlay surplus, Fund Balance Reserved for Overlay Released by the Assessors for Expenditures (001-3220), must be closed out at the end of each fiscal year.

MINUS – Accounts Receivable: All receivables, except for property taxes, should be fully deferred. Otherwise, the amount of receivable outstanding in excess of the deferred revenue is deducted from free cash. The reason for this is that in a governmental fund, revenue is considered available only when received.

If the commitment for the succeeding fiscal year is made prior to the end of the fiscal year being examined on the balance sheet, the property tax receivable should be fully reserved. If cash is received for taxes of the subsequent fiscal year, revenue should not be recognized in the current fiscal year.

PLUS – Deferred Revenue: Property taxes are deferred until collected. This means that they will not be recognized until the funds are received. However, deferred property taxes are added back into the free cash calculation because the property tax will be eventually accounted for either through payment, abatement, property sale or an “Overlay” deficit raised by taxation in a subsequent fiscal year.

MINUS – Debit Balances in Other Funds: If a fund has a deficit fund balance that is the result of anticipated other governmental reimbursements or long term borrowing, the deficit is deducted from free cash because it represents a “loan” from the General Fund

Uniform Massachusetts Accounting System – July 2013

to the fund in deficit. However, if the governmental entity borrows funds (BAN, GAN, SAN) by June 30 that equals or exceeds the amount of the deficit, the deficit will not reduce free cash.

MINUS – Illegally overspent appropriations (appropriations not allowed by General or Special law(s) to be overspent): If an entity overspends an appropriation, it should only be:

- a. an account which by law may be overspent (e.g. overlay, snow and ice with certain conditions);
- b. an account which gains the approval of the Director of Accounts to overspend (e.g. final court judgments, emergencies).

Legally overspent accounts can either be funded by appropriation or raised on the following fiscal year's Tax Rate Recap. Illegally overspent accounts such as ordinary operating appropriations, certain capital project expenditures and expenditure driven grants will reduce free cash and must also be raised on the following fiscal year's Tax Rate Recap.

MINUS – Prepaid Items: Free cash is reduced for prepaid items such as vacations and insurance. Prepaying an item means that the entity is using some of its resources today for tomorrow's obligations. If a city or town adopts G.L. c. 44, § 65, vacation advances will not be deducted from free cash.

MINUS – Amounts appropriated from Free Cash: Appropriations from free cash prior to the end of the fiscal year for the following fiscal year should be reserved on the balance sheet. This reservation will reduce the undesignated Fund Balance. Free cash cannot be appropriated until it is certified by the Director of Accounts. In addition, free cash cannot be appropriated to an amount greater than the amount so certified.

PLUS – 60 day Accruals: Only for governmental entities that issued a tax bill after May 1, of the fiscal year, the Bureau allows an increase to fund balance by real and personal property tax collections, net of refunds, received 60 days from the date of mailing.

PLUS – Late Payments: Other reimbursements received through September 30 for expenditures made in the prior fiscal year that resulted in deficit fund balances as of June 30 may be accrued or may be requested of the Director of Accounts that the payment be considered toward the deficit payment.