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CITY OF GARDNER
MASSACHUSETTS 01440-2630

OFFICE OF THE
CITY COUNCIL



WARD 1 COUNCILLOR
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WARD 2 COUNCILLOR
Dana M. Heath

WARD 3 COUNCILLOR
Paul Tassone

WARD 4 COUNCILLOR
Karen G. Hardern

WARD 5 COUNCILLOR
Aleksander Dernalowicz, Esq.

August 2, 2023

CITY COUNCIL INFORMAL MEETING

Date: Monday, August 7, 2023
Time: 6:30 P.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 City Clerk, pursuant to the Open Meeting and Public Records Law. All documents shall become part of the official record of the meeting.

11023 – Charter Review Committee Final Review Recommendations. *(In the City Council and Referred to Committee of the Whole and Law Department 6/20/2023; More Time 7/3/2023)*

CITY COUNCIL OF GARDNER
Elizabeth J. Kazinskas
ELIZABETH J. KAZINSKAS
Council President

NOTICE: *The listing of Agenda items are those reasonably anticipated by the Chair 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 of Gardner

95 Pleasant St., Gardner, MA 01440

June 12, 2023

Dear Mayor Nicholson and Members of the City Council:

The Charter Review Committee met on February 16, February 23, May 11, and May 22. What follows are the recommendations of the Committee as to suggested changes to the Charter.

In formulating these suggestions, the Committee reviewed the current Charter, the recommendations in the 2015 City Council proposal, the recommendations of the 2015 Charter Review Committee, the 2015 Law Department review and legal analysis, the public comments received at the February 23rd Public Hearing on this matter and correspondence from the Mayor and the City Council President.

As you can see from the following, the Committee took a most conservative approach to its charge and made suggestions that it deemed necessary rather than desired:

Section 6: Strike the phrase “but the city solicitor” and replace it with “all members of the Law Department”.

Section 12: Strike “fourth” and replace with “seventh”.

Section 18: Strike the existing language and replace it with “The City Clerk shall canvas returns from election officers and post them in a conspicuous place in City Hall and in other manners consistent with city practices.”

Section 29: Strike the words “in full” in paragraph one, line two, and replace with “in summary”. In lines two and three, strike “in at least one newspaper of the city” and strike “additional” in line three.

In paragraph 2 insert the phrase “in summary” after “and completed”.

Section 32: In the first paragraph strike all references to “six” and replace with “twelve”. In the fourth paragraph strike the reference to “eighteen” and similarly replace with “twelve”. Add a new last sentence to paragraph four, “In the event that the office of Mayor shall be vacated due to resignation or death prior to the end of the term, the acting Mayor shall be entitled to the compensation as city council President in addition to seventy-five (75%) of the current rate of compensation of the Mayor.”

Section 34: Delete in its entirety.

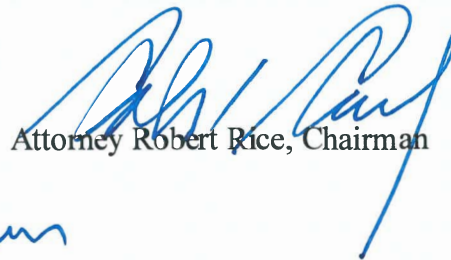
Section 35: Delete in its entirety.

Section 38: Strike the word "elect" and replace with "appoint" in line one.

Section 51: Delete in its entirety.

Thank you for the opportunity to serve the City in this important matter.

Respectfully submitted,



Attorney Robert Rice, Chairman



Attorney Jennifer Pelavin



Alan Agnelli



Neil Janssens



Tina Griffin

CITY OF GARDNER LAW DEPARTMENT

John M. Flick
City Solicitor

Ethan Kolodny
Assistant City Solicitor



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Writer's Email:

August 2, 2023

VIA ELECTRONIC MAIL

Elizabeth Kazinskas, President
City of Gardner, City Council
95 Pleasant Street
Gardner, MA 01440

Re: Home Rule Petition to Amend the City of Gardner City Charter

Dear President Kazinskas:

The Law Department was asked to review the proposed changes to the City of Gardner City Charter, and to put the proposed changes into legislative form. Enclosed with this letter is a proposed vote of the City Council as well as a proposed Petition to the General Court.

The Law Department's review of the proposed changes is as follows:

Section 6: Strike the phrase "but the city solicitor" and replace it with "all members of the Law Department".

Law Department Response: The Law Department recommends that this proposed change be removed from the Petition until further review and study of the Law Department structure has been completed. This change may have unwarranted impacts on the delivery of legal services to the City.

Section 12: Strike "fourth" and replace with "seventh".

Law Department Response: The Law Department has no issues with this proposed amendment.

Section 18: Strike the existing language and replace it with "The City Clerk shall canvas returns from election officers and post them in a conspicuous place in City Hall and in other manners consistent with city practices."

Law Department Response: The Law Department recommends that this

phrase "with city practices" be removed and replaced with the following: "with then current city practices as allowed by law." The term "city practices" by itself is ambiguous and raises questions as to which city practices apply, those in effect at the time the Charter Amendment was passed, or practices in effect at the time the publication is made. In addition, this allows for the proposed amendment to adapt to changing technology and means of communication.

Section 29: Strike the words "in full" in paragraph one, line two, and replace with "in summary". In lines two and three, strike "in at least one newspaper of the city" and strike "additional" in line three.

In paragraph 2 insert the phrase "in summary" after "and completed".

Law Department Response: The Law Department has no issues with this proposed amendment. The Law Department does recommend adding the following, or some similar language: "A copy of the full text of any proposed ordinance shall be available to the public in the office of the City Clerk."

Section 32: In the first paragraph strike all references to "six" and replace with "twelve". In the fourth paragraph strike the reference to "eighteen" and similarly replace with "twelve". Add a new last sentence to paragraph four, "In the event that the office of Mayor shall be vacated due to resignation or death prior to the end of the term, the acting Mayor shall be entitled to the compensation as city council President in addition to seventy-five (75%) of the then current rate of compensation of the Mayor."

Law Department Response: The Law Department has no issues with this proposed amendment.

Section 34: Delete in its entirety.

Law Department Response: The Law Department has no issues with this proposed amendment.

Section 35: Delete in its entirety.

Law Department Response: The Law Department has no issues with this proposed amendment.

Section 38: Strike the word "elect" and replace with "appoint" in line one.

Law Department Response: The Law Department has no issues with this proposed

amendment.

Section 51: Delete in its entirety.

Law Department Response: The Law Department has no issues with this proposed amendment.

In addition to the above, the Law Department recommends that the City Council conduct a line for line review of the Charter and replace any gender specific language with gender neutral language. This is in keeping with the *Massachusetts General Court's Legislative Research and Drafting Manual*, Fifth Edition, 2010.

Please let me know if you have any questions.

Very truly yours,



John M. Flick

Enc.

Cc: Mayor

CITY OF GARDNER

VOTE OF THE CITY COUNCIL

I hereby certify that the following action taken under Item No. _____ of the regularly scheduled meeting of the City of Gardner City Council held on Monday, August _____, 2023 and adjourned on August _____, 2023.

VOTED: That a petition to the General Court, accompanied by a bill for a special law relating to the City of Gardner to be filed with an attested copy of this vote be, and hereby is approved under Clause (1) of Section 8 of Article 2, as amended, of the Amendments to the Constitution of the Commonwealth of Massachusetts, to the end that legislation be adopted precisely as follows, except for clerical or editorial changes of form only.

Section 1. The Charter of the City of Gardner, being c. 119 of the Acts of 1921 as amended, is further amended as follows:

Making the following changes to the City Charter:

Section 6: Strike the phrase "but the city solicitor" and replace it with "all members of the Law Department".

Section 12: Strike "fourth" and replace with "seventh".

Section 18: Strike the existing language and replace it with "The City Clerk shall canvas returns from election officers and post them in a conspicuous place in City Hall and in other manners consistent with city practices."

Section 29: Strike the words "in full" in paragraph one, line two, and replace with "in summary". In lines two and three, strike "in at least one newspaper of the city" and strike "additional" in line three.

In paragraph 2 insert the phrase "in summary" after "and completed".

Section 32: In the first paragraph strike all references to "six" and replace with "twelve". In the fourth paragraph strike the reference to "eighteen" and similarly replace with "twelve". Add a new last sentence to paragraph four, "In the event that the office of Mayor shall be vacated due to resignation or death prior to the end of the term, the acting Mayor shall be entitled to the compensation as city council President in addition to seventy-five (75%) of the then current rate of compensation of the Mayor."

Section 34: Delete in its entirety.

Section 35: Delete in its entirety.

Section 38: Strike the word "elect" and replace with "appoint" in line one.

Section 51: Delete in its entirety.

Section 2 This act shall take effect upon its passage.

Witness my hand and seal of the City of Gardner on this _____ day of August 2023.

Titi Siriphan
City of Gardner City Clerk

CITY OF GARDNER

Home Rule Petition for Special Legislation as below, per the attached certified vote of the City of Gardner City Council taken at the August ____, 2023 City of Gardner City Council Meeting.

“An Act Amending the Charter of the City of Gardner”

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of same, as follows:

Section 1. The Charter of the City of Gardner, being c. 119 of the Acts of 1921 as amended, is further amended as follows:

Making the following changes to the City Charter:

- Section 6: Strike the phrase "but the city solicitor" and replace it with "all members of the Law Department".
- Section 12: Strike "fourth" and replace with "seventh".
- Section 18: Strike the existing language and replace it with "The City Clerk shall canvas returns from election officers and post them in a conspicuous place in City Hall and in other manners consistent with city practices."
- Section 29: Strike the words "in full" in paragraph one, line two, and replace with "in summary". In lines two and three, strike "in at least one newspaper of the city" and strike "additional" in line three.

In paragraph 2 insert the phrase "in summary" after "and completed".
- Section 32: In the first paragraph strike all references to "six" and replace with "twelve". In the fourth paragraph strike the reference to "eighteen" and similarly replace with "twelve". Add a new last sentence to paragraph four, "In the event that the office of Mayor shall be vacated due to resignation or death prior to the end of the term, the acting Mayor shall be entitled to the compensation as city council President in addition to seventy-five (75%) of the then current rate of compensation of the Mayor."
- Section 34: Delete in its entirety.
- Section 35: Delete in its entirety.
- Section 38: Strike the word "elect" and replace with "appoint" in line one.

Section 51: Delete in its entirety.

Section 2 This act shall take effect upon its passage.

Note that the City of Gardner vote also included the following, which is not part of the Home Rule Petition but relates thereto.

A. The General Court may make clerical or editorial changes of form only to the bill unless the Gardner City Council approves amendments to the bill before enactment by the General Court.

If there are any questions or concerns, please contact John M. Flick, Esq., City Solicitor at 978-632-7948, jflick@flicklawgroup.com