



**City of Gardner, Massachusetts  
Office of the City Council**

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**CALENDAR FOR THE MEETING**

*of*

**MONDAY, OCTOBER 16, 2023**

**CITY COUNCIL CHAMBER**

**7:30 P.M.**

**ORDER OF BUSINESS**

**I. CALL TO ORDER**

**II. CALL OF THE ROLL OF COUNCILLORS**

**III. OPENING PRAYER**

**IV. PLEDGE OF ALLEGIANCE**

**V. 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.

**VI. READING OF MINUTES OF PRIOR MEETING(S)**

- August 7, 2023, Regular Meeting
- August 29, 2023, Special Meeting
- September 5, 2023, Informal Meeting
- September 5, 2023, Regular Meeting

**VII. PUBLIC HEARINGS**

**VIII. COMMUNICATIONS FROM THE MAYOR**

**IX. PETITIONS, APPLICATIONS, COMMUNICATIONS, ETC.**

**11074** – A Ruling from the Attorney General relative to an Open Meeting Law  
Complaint Filed by Paul DeMeo.

## **X. REPORTS OF STANDING COMMITTEES**

### **FINANCE COMMITTEE**

**11061** – An Ordinance to Amend the Code of the City of Gardner by Adding a New Chapter to be Entitled, Chapter 504: Wage Theft Protection, Which Shall Provide for Protections for Workers and Employees of Contractors Working on City Projects. *(Submitted by Councillor Aleksander Dernalowicz; In the City Council and Referred to Finance Committee 9/18/2023; More Time 10/2/2023)*

### **SERVICE COMMITTEE**

**11053** – A Petition by National Grid and Verizon New England, Inc., Park Street - to relocate 5 Jointly Owned Poles on Park Street beginning at a point approximately 150 feet west of the centerline of the intersection of Park Street and Lake Street and continuing approximately 720 feet in a west direction. Moving Poles 3, 4, 5, 6, 7 and associated Anchors back ~5' for City's Park Street Project. *(In the City Council and Referred to Public Service Committee 9/5/2023; More Time 9/18/2023, 10/2/2023)*

### **SAFETY COMMITTEE**

**11044** – An Ordinance to Amend the Code of the City of Gardner, Chapter 306 thereof, entitled “Alcoholic Beverages,” to Add a New Section 5 thereof, entitled “Marijuana Retail Establishments” to Increase the Quota Allowed and Change the Method for Amending the Quota Allowed by the Code of the City of Gardner. *(Submitted by Councillor Dana Heath; In the City Council and Referred to Public Safety Committee 8/7/2023; More Time 9/5/2023, 9/18/2023, 10/2/2023)*

## **XI. UNFINISHED BUSINESS AND MATTERS FOR RECONSIDERATION**

## **XII. NEW BUSINESS**

## **XIII. COUNCIL COMMENTS AND REMARKS**

## **XIV. CLOSING PRAYER**

## **XV. ADJOURNMENT**

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Items listed on the Council Calendar are those reasonably anticipated by the Council President 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.



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**REGULAR MEETING OF AUGUST 7, 2023**

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Regular Meeting of the City Council was held in the Council Chambers, Room 219, City Hall, on Monday evening, August 7, 2023.

**CALL TO ORDER**

Council President Elizabeth Kazinskas called the meeting to order at 7:30 o'clock p.m.

**CALL OF THE ROLL**

City Clerk Titi Siriphan called the Roll of Members. Eleven (11) Councillors were present including Councillors James Boone, Craig Cormier, Ronald Cormier, Aleksander Dernalowicz, Karen Hardern, Dana Heath, Elizabeth Kazinskas, Judy Mack, Paul Tassone, George Tyros, and James Walsh.

**OPENING PRAYER**

President Kazinskas led the Council in reciting the Opening Prayer.

**PLEDGE OF ALLEGIANCE**

President Kazinskas led the Council in reciting the "Pledge of Allegiance".

**OPEN MEETING RECORDING & PUBLIC RECORDS ANNOUNCEMENT**

President Elizabeth Kazinskas announced to the assembly that the Open Meeting Recording and Public Records 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 recordings shall notify the Chair forthwith. All documents and exhibits used or referenced at the meeting must be submitted in duplicate to the chair as they become part of the meeting minutes pursuant to General Law Chapter 38 Section 20.

**READING & ACCEPTANCE OF MINUTES**

On a motion made by Councillor Ronald Cormier and seconded by Councillor James Walsh, it was voted viva voce, eleven (11) yeas, President Elizabeth Kazinskas and Councillors James Boone, Craig Cormier, Ronald Cormier, Aleksander Dernalowicz, Karen Hardern, Dana Heath, Judy Mack, Paul Tassone, George Tyros and James Walsh to waive the reading and accept the MINUTES of:

- June 20, 2023, Regular Meeting

REGULAR MEETING OF AUGUST 7, 2023

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- June 20, 2023, Informal Meeting
- July 3, 2023, Regular Meeting

President Elizabeth Kazinskas announce she is taking item #**11048** – A Measure Confirming the Mayor’s Appointment of Mr. Sullivan Hulette to the Permanent Position of Fire Department Therapy Dog, out of order.

**#11048**

On a motion made by Councillor Georg Tyros and seconded by Councillor Judy Mack, it was voted viva voce eleven (11) yeas, President Elizabeth Kazinskas and Councillors James Boone, Craig Cormier, Ronald Cormier, Aleksander Dernalowicz, Karen Hardern, Dana Heath, Judy Mack, Paul Tassone, George Tyros and James Wals to confirm the Fire Chief’s Appointment:

A Measure Confirming the Mayor’s Appointment of **Mr. Sullivan Hulette** to the Permanent Position of Fire Department Therapy Dog.

A recess was called to administer the oath of office, 7:34 PM.

Meeting resumed at 7:36 PM.

President Elizabeth Kazinskas announce she is taking item #**11043** – An Ordinance to Amend the Code of the City of Gardner, Chapter 675 Thereof, entitled “Zoning,” to Change the Classification of Certain Parcels of Land Along Route 140; #**11045** – An Ordinance to Amend the Code of the City of Gardner, Chapter 675 thereof, entitled “Zoning,” to Amend Section 1070 thereof, entitled, “Marijuana Establishments” to Change the Method to Increase the Quota Allowed by the Code of the City of Gardner; and item #**11046** – An Ordinance to Amend the Code of the City of Gardner, Chapter 675 thereof, entitled “Zoning,” to Add “Sports Betting” to the Zoning Table of Uses; out of order. There is an executive session on the calendar and the public will have to leave. The President is aware that many of the public that are present are here for these 3 items. The executive session is not related to the 3 items taken out of order. The President announced that the only action the Council can legally take on these 3 items is to refer them to the Planning Board and schedule a Joint Public Hearing with the Planning Board and City Council, because it is the first time on the agenda. That is the process for zoning amendments.

**#11043**

Councillor James Walsh mentioned that this zoning amendment submitted is incomplete because it does not include any maps as stated in the zoning ordinance.



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Councillor Dana Heath responded that this is his first time submitting an ordinance to the Council. He will attach the maps later.

Councillor James Walsh stated that he has received an email back in May from Linda Tocci, a public relation firm called Dewey Square, in Boston. The email read that she is working on a possible project for the city parcel on route 140 and they wanted to meet with him about the project. Councillor Walsh declined to meet because there was nothing on the council about this matter. Mrs. Tocci's client was Bay State racing, the developer for these parcels on city land and the rezoning of the land on 140. He would like to get some additional information.

Councillor Dana Heath responded that his ordinance submitted was to change parcels from residential to commercial. Bay State Racing is one of many businesses that would like to go in that location. There were some words taken out of context with a conversation he had with Mrs. Kamuda. It is on record how he feels about this ordinance change. He can't speak for the other Councillors.

On a motion made by Councillor Judy Mack and seconded by Councillor Dana Heath, it was voted viva voce ten (10) yeas, President Kazinskas and Councillors James Boone, Craig Cormier, Ronald Cormier, Aleksander Dernalowicz, Karen Hardern, Dana Heath, Judy Mack, Paul Tassone, and George Tyros; one (1) nay, Councillor James Walsh, to refer *An Ordinance to Amend the Code of the City of Gardner, Chapter 675 Thereof, entitled "Zoning," to Change the Classification of Certain Parcels of Land Along Route 140 to the Planning Board for further study and report and schedule a Joint Public Hearing.*

**#11045**

On a motion made by Councillor Judy Mack and seconded by Councillor Dana Heath, it was voted viva voce eleven (11) yeas, President Kazinskas and Councillors James Boone, Craig Cormier, Ronald Cormier, Aleksander Dernalowicz, Karen Hardern, Dana Heath, Judy Mack, Paul Tassone, George Tyros and James Walsh to refer *An Ordinance to Amend the Code of the City of Gardner, Chapter 675 thereof, entitled "Zoning," to Amend Section 1070 thereof, entitled, "Marijuana Establishments" to Change the Method to Increase the Quota Allowed by the Code of the City of Gardner to the Planning Board for further study and report and schedule a Public Hearing.*

**#11046**

On a motion made by Councillor Judy Mack and seconded by Councillor Dana Heath, it was voted viva voce eleven (11) yeas, President Elizabeth Kazinskas and Councillors James Boone, Craig Cormier, Ronald Cormier, Aleksander Dernalowicz, Karen Hardern, Dana Heath, Judy

**REGULAR MEETING OF AUGUST 7, 2023**

Mack, Paul Tassone, George Tyros and James Walsh to refer *An Ordinance to Amend the Code of the City of Gardner, Chapter 675 thereof, entitled "Zoning," to Add "Sports Betting" to the Zoning Table of Uses to the Planning Board for further study and report and schedule a Public Hearing.*

Recess 7:49 PM.

Meeting resumed at 7:49 PM.

**PUBLIC HEARING****#11026**

President Elizabeth Kazinskas opened the Public Hearing on A Petition by National Grid, Manca Drive – to install 1 Single Owned Pole on Manca Drive beginning at a point approximately 640' feet west of the centerline of the intersection of W Broadway and Manca Drive. Install 1 Single Owned Pole to bring 3 ph power to new EV charging stations at Car dealership.

The President called for persons wishing to testify in favor of the Petition.

Will Fontaine of National Grid spoke in favor of the petition. He mentioned that a pole is being installed to supply electricity to a car dealership.

The President again called for persons wishing to testify in favor of the Petition.

There being none, the President thrice called for persons wishing to testify in opposition.

There being none, President Kazinskas closed the Hearing at 7:52 PM.

**EXECUTIVE SESSION**

Entered under Exemption 3 of the Open Meeting Law: "To discuss strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the bargaining or litigating position of the public body and the chair so declares," (MGL c.30A, §21(3)) and Exemption 6 of the Open Meeting Law: "To consider the purchase, exchange, lease or value of real property if the chair declares that an open meeting may have a detrimental effect on the negotiating position of the public body." MGL c.30A, §21(6) and to approve the Executive Session meeting minutes of April 3, 2023. The City Council will reconvene an open session at the conclusion of the executive session for the remainder of the meeting.



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On a motion made by Councillor George Tyros and seconded by Aleksander Dernalowicz, it was voted on call of the roll, eleven (11) yeas, President Elizabeth Kazinskas and Councillors James Boone, Craig Cormier, Ronald Cormier, Aleksander Dernalowicz, Karen Hardern, Dana Heath, Judy Mack, Paul Tassone, George Tyros and James Walsh to enter into executive session at 7:52 PM.

The Executive session concluded, and the City Council Meeting resumed at 8:46 PM.

**COMMUNICATIONS FROM THE MAYOR**  
**COMMUNICATIONS**

**#11033**

On a motion made by Councillor Ronald Cormier and seconded by Aleksander Dernalowicz, it was voted viva voce, eleven (11) yeas, President Elizabeth Kazinskas and Councillors James Boone, Craig Cormier, Ronald Cormier, Aleksander Dernalowicz, Karen Hardern, Dana Heath, Judy Mack, Paul Tassone, George Tyros and James Walsh, to ADOPT the following MEASURE:

ACCEPTANCE OF DONATIONS AND GIFTS – MAYOR’S DEPT.

*VOTED:* That the City of Gardner is authorized to accept certain donations and gifts for use by the Mayor’s Dept. – Summer Celebration Account, said acceptance in accordance with the provisions of Chapter 44, Section 53A ½ of the General Laws.

**#11034**

On a motion made by Councillor Ronald Cormier and seconded by Aleksander Dernalowicz, it was voted viva voce, eleven (11) yeas, President Elizabeth Kazinskas and Councillors James Boone, Craig Cormier, Ronald Cormier, Aleksander Dernalowicz, Karen Hardern, Dana Heath, Judy Mack, Paul Tassone, George Tyros and James Walsh, to ADOPT the following MEASURE:

ACCEPTANCE OF DONATIONS AND GIFTS – MAYOR’S DEPT.

*VOTED:* That the City of Gardner is authorized to accept certain donations and gifts for use by the Mayor’s Dept. – Summer Celebration Account, said acceptance in accordance with the provisions of Chapter 44, Section 53A ½ of the General Laws.

**#11035**

On a motion made by Councillor Ronald Cormier and seconded by Aleksander Dernalowicz, it was voted viva voce, eleven (11) yeas, President Elizabeth Kazinskas and Councillors James



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Boone, Craig Cormier, Ronald Cormier, Aleksander Dernalowicz, Karen Hardern, Dana Heath, Judy Mack, Paul Tassone, George Tyros and James Walsh, to ADOPT the following MEASURE:

ACCEPTANCE OF DONATIONS AND GIFTS – MAYOR’S DEPT.

*VOTED:* That the City of Gardner is authorized to accept certain donations and gifts for use by the Mayor’s Dept. – Summer Celebration Account, said acceptance in accordance with the provisions of Chapter 44, Section 53A ½ of the General Laws.

**#11036**

On a motion made by Councillor Ronald Cormier and seconded by Aleksander Dernalowicz, it was voted viva voce, eleven (11) yeas, President Elizabeth Kazinskas and Councillors James Boone, Craig Cormier, Ronald Cormier, Aleksander Dernalowicz, Karen Hardern, Dana Heath, Judy Mack, Paul Tassone, George Tyros and James Walsh, to ADOPT the following MEASURE:

ACCEPTANCE OF DONATIONS AND GIFTS

WELCOME TO GARDNER SIGN DONATION

*VOTED:* That the City of Gardner is authorized to accept certain donations and gifts, namely a welcome to Gardner sign, with an estimated value of \$8,600, said acceptance in accordance with the provisions of Chapter 44, Section 53A ½ of the General Laws.

**#11038**

On a motion made by Councillor Aleksander Dernalowicz and seconded by Ronald Cormier, it was voted viva voce, eleven (11) yeas, President Elizabeth Kazinskas and Councillors James Boone, Craig Cormier, Ronald Cormier, Aleksander Dernalowicz, Karen Hardern, Dana Heath, Judy Mack, Paul Tassone, George Tyros and James Walsh, to ADOPT the following MEASURE:

ACCEPTANCE OF DONATIONS AND GIFTS

GARDNER WATERFORD STREET BUILDING DONATIONS

*VOTED:* That the City of Gardner is authorized to accept certain donations and gifts four use by the City of Gardner, said acceptance in accordance with the provisions of Chapter 44, Section 53A ½ of the General Laws.

**#11042**

On a motion made by Councillor James Walsh and seconded by Aleksander Dernalowicz, it was voted viva voce, eleven (11) yeas, President Elizabeth Kazinskas and Councillors James Boone, Craig Cormier, Ronald Cormier, Aleksander Dernalowicz, Karen Hardern, Dana Heath, Judy Mack, Paul Tassone, George Tyros and James Walsh, to PLACE ON FILE, *A Memorandum from the Director of Public Works Regarding Staffing Levels.*





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COMMUNICATIONS FROM THE MAYOR  
ORDERS

**#11037**

On a motion made by Councillor Aleksander Dernalowicz and seconded by Dana Heath, it was voted on call of the roll, eleven (11) yeas, President Elizabeth Kazinskas and Councillors James Boone, Craig Cormier, Ronald Cormier, Aleksander Dernalowicz, Karen Hardern, Dana Heath, Judy Mack, Paul Tassone, George Tyros and James Walsh, that the following ORDER ought to pass:

AN ORDER TRANSFERRING FY23 APPROPRIATIONS FROM VARIOUS DPW SALARIES & WAGES TO FY23 VARIOUS OPERATING EXPENDTURES.

*ORDERED:* That there be and is hereby transferred the appropriations sum of Thirty-Nine Thousand Dollars, Six Hundred, Forty-Three and 48/100 Cents (\$39,643.48) from DPW Various Salaries & Wages Accounts to Various Operating Expenditures.

**#11039**

On a motion made by Councillor James Walsh and seconded by Aleksander Dernalowicz, it was voted on call of the roll, eleven (11) yeas, President Elizabeth Kazinskas and Councillors James Boone, Craig Cormier, Ronald Cormier, Aleksander Dernalowicz, Karen Hardern, Dana Heath, Judy Mack, Paul Tassone, George Tyros and James Walsh, to TABLE the following ORDER:

BOND ORDER NO. \_\_\_\_\_

IN CITY COUNCIL \_\_\_\_\_, 2023

A BOND ORDER TO PAY COSTS OF REMODELING AND EQUIPPING AN EXISTING CITY BUILDING FOR USE BY THE COUNCIL ON AGING AND VARIOUS OTHER COMMUNITY ORGANIZATIONS

BE IT ORDERED, BY THE CITY COUNCIL OF THE CITY OF GARDNER AS FOLLOWS:

That there be raised and appropriated the sum of Five Hundred Fifty Thousand Dollars (\$550,000) to pay costs of remodeling and equipping an existing City-owned building for use by the Council on Aging and various other community organizations, and for the payment of all other costs incidental and related thereto, and to meet this appropriation, the City Treasurer, with the approval of the Mayor, be and hereby is authorized to borrow said

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amount under and pursuant to M.G.L. c. 44, §7(1), or pursuant to any other enabling authority, and to issue bonds or notes of the City therefor. The Mayor is authorized to accept and expend any federal or state grants that may be available for the City on account of the projects described above. The amount authorized to be borrowed pursuant to this loan order shall be reduced to the extent of any federal or Commonwealth grants received by City on account of the project approved by this vote.

**#11040**

On a motion made by Councillor Aleksander Dernalowicz and seconded by George Tyros, it was voted on call of the roll, eleven (11) yeas, President Elizabeth Kazinskas and Councillors James Boone, Craig Cormier, Ronald Cormier, Aleksander Dernalowicz, Karen Hardern, Dana Heath, Judy Mack, Paul Tassone, George Tyros and James Walsh, that the following ORDER ought to pass:

AN ORDER APPROPRIATING A SUM OF MONEY FROM AVAILABLE FUNDS-SALE OF CITY PROPERTY RESERVED.

ORDERED: That there be and is hereby appropriated the sum of ONE HUNDRED FIFTEEN THOUSAND DOLLARS 00/100 CENTS (\$115,000.00) from Available Funds-Sale of City Property Reserved to GRA Rear Main Street Capital Project.

**COMMUNICATIONS FROM THE MAYOR**  
**APPOINTMENTS**

**#11029**

On a motion made by Councillor George Tyros and seconded by James Walsh, it was voted viva voce, eleven (11) yeas, President Elizabeth Kazinskas and Councillors James Boone, Craig Cormier, Ronald Cormier, Aleksander Dernalowicz, Karen Hardern, Dana Heath, Judy Mack, Paul Tassone, George Tyros and James Walsh, to refer to the Appointments Committee, *A Measure Confirming the Mayor's Appointment of Jane Clabaugh to the Position of Disability Commission Member, for term expiring July 6, 2026.*

**#11030**

On a motion made by Councillor George Tyros and seconded by James Walsh, it was voted viva voce, eleven (11) yeas, President Elizabeth Kazinskas and Councillors James Boone, Craig Cormier, Ronald Cormier, Aleksander Dernalowicz, Karen Hardern, Dana Heath, Judy Mack, Paul Tassone, George Tyros and James Walsh, to refer to the Appointments Committee, *A Measure Confirming the Mayor's Appointment of Francine Pera to the Position of Disability Commission Member, for term expiring July 6, 2026.*

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**#11031**

On a motion made by Councillor George Tyros and seconded by James Walsh, it was voted viva voce, eleven (11) yeas, President Elizabeth Kazinskas and Councillors James Boone, Craig Cormier, Ronald Cormier, Aleksander Dernalowicz, Karen Hardern, Dana Heath, Judy Mack, Paul Tassone, George Tyros and James Walsh, to refer to the Appointments Committee, *A Measure Confirming the Mayor's Appointment of Stephen Hirons to the Position of Sealer of Weights and Measures, for term expiring July 11, 2024.*

**#11032**

On a motion made by Councillor George Tyros and seconded by James Walsh, it was voted viva voce, eleven (11) yeas, President Elizabeth Kazinskas and Councillors James Boone, Craig Cormier, Ronald Cormier, Aleksander Dernalowicz, Karen Hardern, Dana Heath, Judy Mack, Paul Tassone, George Tyros and James Walsh, to refer to the Appointments Committee, *A Measure Confirming the Mayor's Appointment of Robert O'Keefe to the Position of Information Technology Director, for term expiring July 11, 2026.*

**#11047**

On a motion made by Councillor George Tyros and seconded by James Walsh, it was voted viva voce, eleven (11) yeas, President Elizabeth Kazinskas and Councillors James Boone, Craig Cormier, Ronald Cormier, Aleksander Dernalowicz, Karen Hardern, Dana Heath, Judy Mack, Paul Tassone, George Tyros and James Walsh, to refer to the Appointments Committee, *A Measure Confirming the Mayor's Appointment of Darrell Sweeney to the Position of Electrical Inspector, for term expiring August 6, 2026.*

**PETITIONS, APPLICATIONS, COMMUNICATIONS, ETC.****#11041**

On a motion made by Councillor George Tyros and seconded by James Walsh, it was voted viva voce, eleven (11) yeas, President Elizabeth Kazinskas and Councillors James Boone, Craig Cormier, Ronald Cormier, Aleksander Dernalowicz, Karen Hardern, Dana Heath, Judy Mack, Paul Tassone, George Tyros and James Walsh, to refer to the Appointments Committee, *A Measure Confirming the City Clerk's Appointment of Elizabeth Doiron to the Position of Assistant City Clerk, for term expiring July 25, 2026.*

REGULAR MEETING OF AUGUST 7, 2023

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**#11044**

On a motion made by Councillor Craig Cormier and seconded by Paul Tassone, it was voted viva voce, eleven (11) yeas, President Elizabeth Kazinskas and Councillors James Boone, Craig Cormier, Ronald Cormier, Aleksander Dernalowicz, Karen Hardern, Dana Heath, Judy Mack, Paul Tassone, George Tyros and James Walsh, to refer to the Safety Committee, *An Ordinance to Amend the Code of the City of Gardner, Chapter 306 thereof, entitled "Alcoholic Beverages," to Add a New Section 5 thereof, entitled "Marijuana Retail Establishments" to Increase the Quota Allowed and Change the Method for Amending the Quota Allowed by the Code of the City of Gardner*, for further study and report.

**#11049**

On a motion made by Councillor Aleksander Dernalowicz and seconded by Paul Tassone, it was voted viva voce, eleven (11) yeas, President Elizabeth Kazinskas and Councillors James Boone, Craig Cormier, Ronald Cormier, Aleksander Dernalowicz, Karen Hardern, Dana Heath, Judy Mack, Paul Tassone, George Tyros and James Walsh, to schedule an informal meeting, *A Communication from Economic Development Coordinator Requesting an Informal Meeting Regarding District Improvement Financing (DIF)*.

**REPORTS OF STANDING COMMITTEES**  
**PUBLIC SERVICE COMMITTEE**

**#10993**

Councillor James Walsh Requested more time on *A Petition by National Grid and Verizon New England Inc., Elm Street – to install 1, Remove 1 and Relocate 1 Jointly Owned Pole on Elm Street beginning at a point approximately 360 feet southeast of the centerline of the intersection of Elm Street and Cross Street and continuing approximately 500 feet in a south direction. P6-80 Replace and Relocate +/- 30' West. Install anchor guy on West of Pole. P7-99 is being removed. P10-99 is installing Push Brace on West side of P10.*

There were no objections. More time was granted.

**#11026**

On a motion made by Councillor James Walsh and seconded by Councillor Craig Cormier, it was voted viva voce, eleven (11) yeas, President Elizabeth Kazinskas and Councillors James Boone, Craig Cormier, Ronald Cormier, Aleksander Dernalowicz, Karen Hardern, Dana Heath, Judy Mack, Paul Tassone, George Tyros and James Walsh to GRANT, *A Petition by National Grid, Manca Drive – to install 1 Single Owned Pole on Manca Drive beginning at a*



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*point approximately 640' feet west of the centerline of the intersection of W Broadway and Manca Drive. Install 1 Single Owned Pole to bring 3 ph power to new EV charging stations at Car dealership.*

REPORTS OF STANDING COMMITTEESCOMMITTEE OF THE WHOLE**#11023**

On a motion made by Councillor James Walsh and seconded by Councillor James Boone, it was voted on call of the roll, eleven (11) yeas, President Elizabeth Kazinskas and Councillors James Boone, Craig Cormier, Ronald Cormier, Aleksander Dernalowicz, Karen Hardern, Dana Heath, Judy Mack, Paul Tassone, George Tyros and James Walsh, to refer the *Charter Review Committee Final Review Recommendations*, back to the Law Department for further review, amend the legislation to exclude section 6, and change the language to gender neutral.

**#11024**

President Elizabeth Kazinskas announced that she will schedule an Informal Meeting on, *A Communication from the Community Development & Planning Director Relative to an Update to the Open Space and Recreation Plan*

The President requested more time on.

There were no objections. More time was granted.

## RESOLUTION

## OPEN SPACE AND RECREATION PLAN

## 2022 UPDATE

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GARDNER AS FOLLOWS:

WHEREAS, the City Council has reviewed the proposals prepared by the Open Space and Recreation Committee for inclusion within the Open Space and Recreation Plan (OSRP) 2022 Update: and

WHEREAS, the OSRP proposal docs not seek nor require funding directly, but simply makes recommendations for preservation, maintenance, and for expansion of open space and recreation activity within City boundaries; and

REGULAR MEETING OF AUGUST 7, 2023

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WHEREAS, the Open Space and Recreation Committee performed or reviewed all matters relating to the OSRP update at numerous publicly posted meetings, and further sponsored a city-wide survey and conducted two advertised public meetings for the primary purpose of soliciting public input regarding matters appropriate to the OSRP: and

WHEREAS, the OSRP has been developed and updated in accordance with requirements of the Massachusetts Executive Office of Energy and Environmental Affairs, Division of Conservation Services; and

WHEREAS, the City Council supports the activity as being consistent with the City's goal of promoting quality programs for its citizens;

NOW THEREFORE, the City Council hereby extends its support and endorses the City's Open Space and Recreation Plan 2022 Update to be submitted to the Commonwealth of Massachusetts, Division of Conservation Services.

**CLOSING PRAYER**

President Elizabeth Kazinskas led the Council in the Closing Prayer.

**ADJOURNMENT**

On a motion made by Councillor James Walsh and seconded by Councillor James Boone, it was voted viva voce, eleven (11) yeas, President Elizabeth Kazinskas and Councillors James Boone, Craig Cormier, Ronald Cormier, Aleksander Dernalowicz, Karen Hardern, Dana Heath, Judy Mack, Paul Tassone, George Tyros and James Walsh to adjourn at 9:09 p.m.

**Accepted by the City Council:**



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**SPECIAL MEETING OF AUGUST 29, 2023**

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Special Meeting of the City Council was held in the City Council Chamber, Room 219, City Hall, on Tuesday evening, August 29, 2023.

**CALL TO ORDER**

Council President Elizabeth Kazinskas called the meeting to order at 6:30 o'clock p.m.

**ATTENDANCE**

City Clerk Titi Siriphan called the Roll of Members. Eleven (11) Councillors present were present including President Elizabeth Kazinskas and Councillor James Boone, Craig Cormier, Ronald Cormier, Aleksander Dernalowicz, Karen Hardern, Dana Heath, Judy Mack, Paul Tassone, George Tyros, and James Walsh.

Also in attendance, Mayor Michael Nicholson and City Solicitor John Flick.

**OPEN MEETING RECORDING & PUBLIC RECORDS ANNOUNCEMENT**

President Elizabeth Kazinskas announced to the assembly that the Open Meeting Recording and Public Records 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 recordings shall notify the Chair forthwith. All documents and exhibits used or referenced at the meeting must be submitted in duplicate to the chair as they become part of the meeting minutes pursuant to General Law Chapter 38 Section 20.

Stephen Landry of The Gardner News announced he was recording.

Mayor Nicholson gave a timeline of the Charter Review Process:

**August 23, 2022:** Mayor Filed legislation with the City Council to create a Special Act Charter Drafting Committee.

**September 7, 2022:** Mayor's legislation appears in front of the City Council for the first time as Item # 10781: An Act to Establish a Special Act Charter Drafting Committee, posted by City Clerk's Office on Thursday, Sept 1, 2022.



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**SPECIAL MEETING OF AUGUST 29, 2023**

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**September 14, 2022:** Informal Meeting of the City Council scheduled by the City Council President and Posted by the City Clerk's Office for Monday, Oct 3, 2022.

**October 3, 2022:** City Council holds Informal meeting with Mayor Nicholson to discuss the merits of creating a Special Act Charter Drafting Committee and potential changes to the City Charter. Make up and appointing authority of membership of the committee also discussed.

**December 5, 2022:** The City Council votes to approve of the Mayor's proposal, amending it to add additional members appointed by the City Council President rather than just three appointed by Mayor.

**December 15, 2022:** Mayor Nicholson and Council President Kazinskas file appointment certificates with the City Clerk's Office for appointees to serve on the Special Act Charter Drafting Committee for City Council Consideration.

**December 19, 2022:** The City Council votes to refer the five appointees to the City Council's Appointment Standing Committee for Study and Report.

**January 4, 2023:** Appointment Standing Committee meeting posted for January 6, 2023.

**January 6, 2023:** The Appointment Standing Committee holds its confirmation consideration meeting with four of the five appointees. The Appointment Standing unanimously votes to recommend confirmation of all four considered appointees.

**January 12, 2023:** Appointment Standing Committee meeting posted for January 17, 2023, to meet for final appointee confirmation consideration. City Council Meeting posted to vote on confirmation of all five appointees.

**January 17, 2023:** Appointment Standing Committee unanimously votes to recommend confirmation for the final appointee to the Special Act Drafting Committee.

**January 17, 2023:** All 5 appointees to the Special Act Charter Drafting Committee are confirmed by unanimous vote of the City Council.

**February 16, 2023:**

- Charter Review Committee has first meeting. Reviews proposals submitted by Mayor Nicholson, the 2015 proposals done by the City Council, the 2015 Charter Review Committee Proposal, and the 2015 Law Department Analysis of the City Charter. Votes to schedule a public hearing on the matter on February 23, 2023 at 4pm in the City Council Chamber.



SPECIAL MEETING OF AUGUST 29, 2023

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- City Clerk's Office Posts Public Hearing for Feb 23, 2023 at 4pm in City Council Chamber
- Mayor Nicholson emails Department Heads to notify them of the public hearing and ask if they had any input on potential amendments to the City Charter.

**February 21, 2023:** Public Hearing Posting for the Charter Review Committee is published in the Gardner News.

**February 23, 2023:** Charter Review Committee holds public hearing on proposed amendments to the City Charter.

**May 11, 2023:** Charter Review Committee holds meeting to discuss potential amendments to the City Charter based on testimony received at the public hearing of February 23, 2023. Meeting posted May 3, 2022.

**May 22, 2023:** Charter Review Committee votes on changes and requests Mayor's Office draft letter on behalf of the Committee regarding the voted upon amendments to submit to the City Council. Meeting posted May 12, 2023.

**June 7, 2023:** Charter Review Committee holds final meeting and votes on final submission to the City Council. Meeting Posted May 23, 2023.

**June 15, 2023:** City Council Meeting posted with recommendations from the Charter Review Committee listed as Item #11023: Charter Review Committee Final Review Recommendations.

**June 20, 2023:** City Council votes to refer the item to the Committee of the Whole and schedule an informal meeting and refer the document to the Law Department to place the recommendations in legislative format.

**August 7, 2023:** City Council holds informal meeting on the Charter Review committee recommendations. Requests that the Law Department remove any amendments to Section 6 of the Charter and add language to make the Charter gender neutral throughout the document. Meeting posted August 3, 2023.

**August 29, 2023:** City Council holds Special Meeting to vote on final recommendations submitted by the Special Act Charter Drafting Committee and the Law Department now that final language has been received.

SPECIAL MEETING OF AUGUST 29, 2023

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On a motion made by Councillor James Walsh and seconded by Councillor Ronald Cormier, it was voted on call of the roll, five (5) yeas, Councillors James Boone, Craig Cormier, Ronald Cormier, Paul Tassone, and James Walsh; six (6) nays, President Elizabeth Kazinskas and Councillors Aleksander Dernalowicz, Karen Hardern, Dana Heath, Judy Mack and George Tyros, to *Amend a motion to place the proposal on the November 7, 2023 municipal election ballot as a **binding** question for the voters to determine if the City Council should send this home rule petition to the legislature for enactment.*

The motion to amend was defeated.

On a motion made by Councillor Aleksander Dernalowicz and seconded by Councillor George Tyros, it was voted on call of the roll, nine (9) yeas, President Elizabeth Kazinskas and Councillors James Boone, Craig Cormier, Ronald Cormier, Aleksander Dernalowicz, Dana Heath, Judy Mack, Paul Tassone and George Tyros; two (2) nays, Councillors Karen Hardern and James Walsh, to *place the proposal on the November 7, 2023 municipal election ballot as a **non-binding** question for the voters to determine if the City Council should send this home rule petition to the legislature for enactment.*

On a motion made by Councillor James Walsh and seconded by Councillor George Tyros, it was voted viva voce, eleven (11) yeas, President Elizabeth Kazinskas and Councillors James Boone, Craig Cormier, Ronald Cormier, Aleksander Dernalowicz, Karen Hardern, Dana Heath, Judy Mack, Paul Tassone, George Tyros, and James Walsh to adjourn at 7:24 p.m.

**Accepted by the City Council:**

INFORMAL MEETING OF SEPTEMBER 5, 2023

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Informal Meeting of the City Council was held in the City Council Chamber, Room 219, City Hall, on Tuesday evening, September 5, 2023.

**CALL TO ORDER**

Council President Elizabeth Kazinskas called the meeting to order at 6:30 o'clock p.m.

**ATTENDANCE**

City Clerk Titi Siriphan called the Roll of Members. Nine (9) Councillors present were present including President Elizabeth Kazinskas and Councillors James Boone, Craig Cormier, Ronald Cormier, Aleksander Dernalowicz, Karen Hardern, Dana Heath, Paul Tassone, and George Tyros. Councillors Judy Mack and James Walsh were absent.

Also in attendance and participating was Economic Development Coordinator, Jessica DeRoy; and Community Development and Planning Director, Trevor Beauregard.

**I. A Communication from Economic Development Coordinator Requesting an Informal Meeting Regarding District Improvement Financing (DIF).**

President Kazinskas announced that the Informal session was called for a presentation by Camoin Associates regarding a district improvement financing study (DIF).

Rachel Selsky, vice president at Camoin Associates presented the following presentation to the City Council regarding an update of project status.

**II. 11024 – A Communication from the Community Development & Planning Director Relative to an Update to the Open Space and Recreation Plan.**

Councillor Dana Heath questioned if there have been any changes made since the June 20<sup>th</sup> plan.

Community Development Director Trevor Beauregard informed the Council that there have been no changes since the last time the plan was in front of the Council. It's an reiteration of the previous plan and all they are doing is update the goals and objectives so that all the projects have completed their own plans. They eliminate and create new projects. The Community Development and Conservation Commission is looking for the City Council to endorse the plan.

INFORMAL MEETING OF SEPTEMBER 5, 2023

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Councillor Ronald Cormier mentioned that endorsements by the City Council are “asked for” but not necessarily required from a variety of sources. There are endorsements required to receive certain grants feasible and acceptable.

President Elizabeth questioned that the plans being updated. She would like to know if it’s consistent number of years that it’s updated or are they updated by requested.

Director Trevor Beauregard responded that it’s a seven-year plan and the city’s expired back in August of last year. The project started in April of last year. There have been two public hearings to get where they are now with the final plan.

The Informal Meeting concluded at 7:06 p.m.

**Accepted by the City Council:**

# City of Gardner DIF City Presentation

City of Gardner, MA  
September 5, 2023



# AGENDA

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- Update on Project Status
- What is District Increment Financing
- Gardner DIF Master Plan
- Questions & Discussion

# PROJECT UPDATE

# WHAT HAS BEEN DONE SO FAR

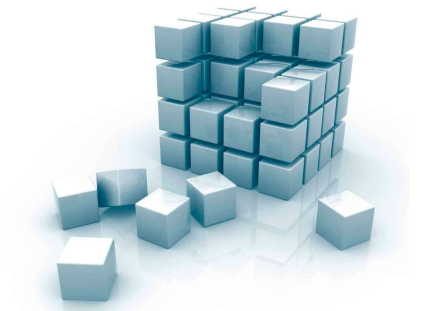
- Establishment of two districts
  - Downtown Development District
  - Mill Street Development District
- Camoin Associates hired to assist with DIF Documents, including:
  - Build Out Scenario – what projects are in the pipeline
  - DIF Revenue Modeling – how much revenue could be generated
  - DIF Expense Modeling – what public projects will be funded
  - DIF Master Plan – outline of where, what, why of DIF



**WHAT IS DIF?**

# WHAT IS DISTRICT IMPROVEMENT FINANCING (DIF)?

- Financing method to catalyze economic development
- Allows some or all of future property tax revenues from development to be dedicated to support infrastructure, projects, and programs related economic development
- Property tax increment can be used to help finance public development costs
- Portion of incremental revenues not dedicated for DIF can be transferred to General Fund and once DIF expires, all revenues go to general fund





It is ***not*** a new tax or a special assessment on top of the existing property tax.



It ***is*** a tool that enables a community to identify and capture tax revenue from new private investment that has been *catalyzed* by public investment.

# KEY DIF TERMS

## Development District

A specified area within the corporate limits of a city or town which is to be developed by the municipality under a Development Program. Also referred to as a **DIF District**.

## Development Program

A statement of means and objectives designed to improve the quality of life, the physical facilities and structures and the quality of pedestrian and vehicular traffic control and transportation within a Development District.

## New Growth

Increases to the assessed value of a property, as a result of development or other changes.

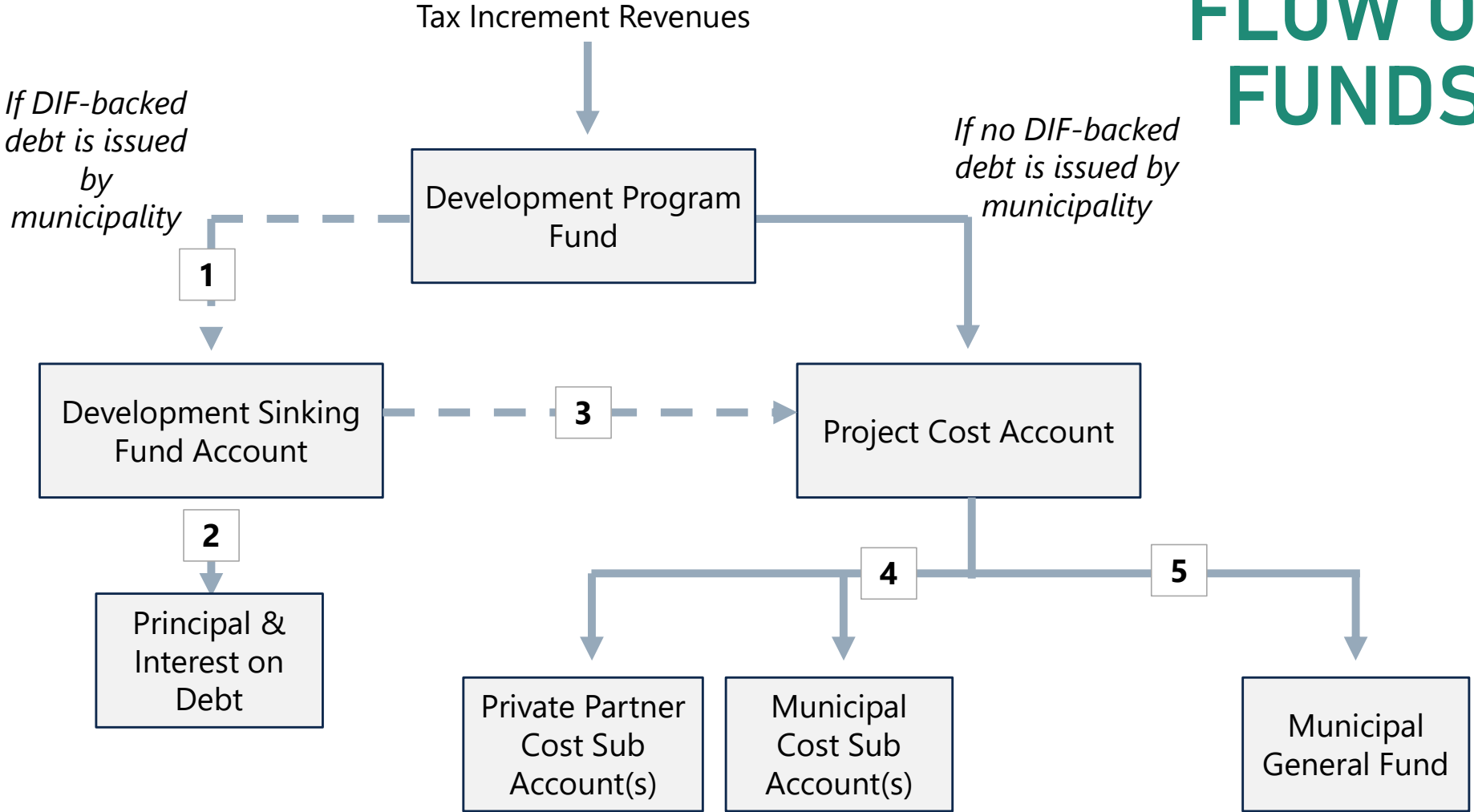
New Growth generates new tax revenue, and enables you to raise your tax levy limit.

## Tax Increment Revenue

All annual increases in the municipality's limit on total taxes assessed that are attributable to parcels within the DIF District.

*Tax Increment Revenue* is additional revenue that is collected because of New Growth in the DIF District.

# FLOW OF FUNDS



# **GARDNER DIF MASTER PLANS**

# PARTS OF THE DIF MASTER PLAN

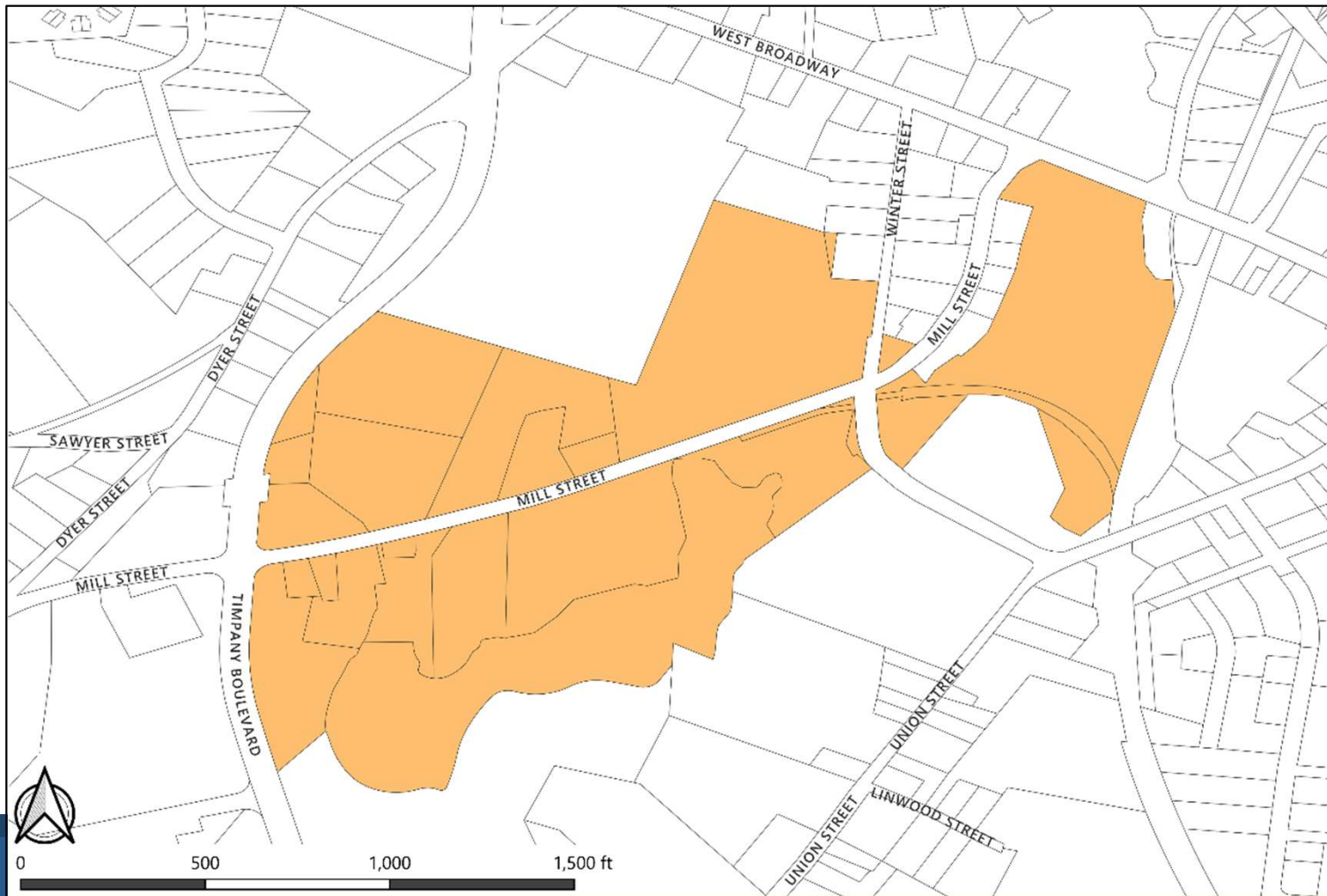
- Establish the DIF District parcels
- Determine the DIF revenue to be generated (from build out scenario)
- Define the DIF Development Program and expenses
- Compare the DIF Revenue to the Development Program expenses
- Establish processes and protocols for DIF management



# DOWNTOWN DEVELOPMENT DISTRICT



# MILL STREET DEVELOPMENT DISTRICT



# GARDNER DIF DEVELOPMENT DISTRICTS

| Use Category           | # of       |               | Total                | Taxable              |
|------------------------|------------|---------------|----------------------|----------------------|
|                        | Parcels    | Acres         | Assessed Value       | Assessed Value       |
| Commercial             | 153        | 46.66         | \$68,067,400         | \$68,067,400         |
| Commercial/Residential | 1          | 0.65          | \$629,700            | \$629,700            |
| Industrial             | 15         | 46.58         | \$24,269,700         | \$24,269,700         |
| Residential            | 66         | 15.84         | \$18,946,700         | \$18,946,700         |
| Rural Residential      | 1          | 1.25          | \$45,900             | \$45,900             |
| Tax Exempt, Any Use    | 31         | 31.09         | \$17,122,700         |                      |
| <b>Totals</b>          | <b>267</b> | <b>142.07</b> | <b>\$129,082,100</b> | <b>\$111,959,400</b> |

| Use Category        | # of      |              | Total              | Taxable            |
|---------------------|-----------|--------------|--------------------|--------------------|
|                     | Parcels   | Acres        | Assessed Value     | Assessed Value     |
| Commercial          | 10        | 13.55        | \$837,300          | \$837,300          |
| Industrial          | 7         | 23.72        | \$670,700          | \$670,700          |
| Tax Exempt, Any Use | 7         | 19.61        | \$590,100          | \$190,600          |
| <b>Totals</b>       | <b>24</b> | <b>56.88</b> | <b>\$2,098,100</b> | <b>\$1,698,600</b> |

City of Gardner Total Acres

**14,145**

Downtown DIF District Total  
Acres

**142.07**

Mill Street DIF District Total  
Acres

**56.88**

DIF District Share of City Total

**1.41%**

# GARDNER DIF DEVELOPMENT DISTRICTS – KNOWN PROJECT BUILDOUT

| Project                                      | A<br>New<br>Taxable<br>Land Value | B<br>Demolition of<br>Existing Taxable<br>Improv. | C<br>New<br>Buildout<br>(units or SF) | D<br>Estimated<br>AV per unit<br>or SF | E<br>New Taxable<br>Improv. Value<br>(C x D) | F<br>New Growth<br>(A + B + E) | Estimated<br>Completion<br>Date |
|----------------------------------------------|-----------------------------------|---------------------------------------------------|---------------------------------------|----------------------------------------|----------------------------------------------|--------------------------------|---------------------------------|
| <b>Downtown District</b>                     |                                   |                                                   |                                       |                                        |                                              |                                |                                 |
| Rear Main Apartments                         | \$ 72,086                         | \$ -                                              | 56                                    | \$ 100,000                             | \$ 5,600,000                                 | \$ 5,672,086                   | 2025                            |
| School Street<br>Redevelopment               | \$ 263,700                        | \$ -                                              | 25                                    | \$ 100,000                             | \$ 2,500,000                                 | \$ 2,763,700                   | 2026                            |
| Parker Street Apartments                     | \$ 146,200                        | \$ -                                              | 28                                    | \$ 100,000                             | \$ 2,800,000                                 | \$ 2,946,200                   | 2023                            |
| Price Chopper Expansion                      | \$ -                              | \$ -                                              | 60,000                                | \$ 100                                 | \$ 6,000,000                                 | \$ 6,000,000                   | 2027                            |
| Dental Office                                | \$ 83,900                         | \$ (184,200)                                      | 5,000                                 | \$ 100                                 | \$ 500,000                                   | \$ 399,700                     | 2025                            |
| Old Gardner News Building                    | \$ -                              | \$ -                                              | 5 units<br>3,511 SF                   |                                        | \$ 851,100                                   | \$ 851,100                     | 2025                            |
| Bank of America Building                     | \$ -                              | \$ (380,088)                                      | 6,336                                 | \$ 100                                 | \$ 633,600                                   | \$ 253,512                     | 2024                            |
| Garbose Building                             | \$ -                              | \$ (235,795)                                      | 8 units<br>3,500 SF                   |                                        | \$ 1,150,000                                 | \$ 914,205                     | 2025                            |
| Flat Iron Building                           | \$ -                              | \$ (174,942)                                      | 10,036                                | \$ 100                                 | \$ 1,003,600                                 | \$ 828,658                     | 2024                            |
| 14–24 Parker Street                          | \$ -                              | \$ (152,918)                                      | 8                                     | \$ 100,000                             | \$ 800,000                                   | \$ 647,082                     | 2024                            |
| <b>Downtown District Total</b>               | <b>\$ 565,886</b>                 | <b>\$ (1,127,943)</b>                             |                                       |                                        | <b>\$ 18,251,100</b>                         | <b>\$ 17,689,042</b>           |                                 |
| <b>Mill Street District</b>                  |                                   |                                                   |                                       |                                        |                                              |                                |                                 |
| Relocation of Superior<br>Kitchens Warehouse | \$ 105,300                        | \$ (60,000)                                       | 10,000                                | \$ 50                                  | \$ 500,000                                   | \$ 545,300                     | 2026                            |
| 155 Mill Street                              | \$ 190,600                        | \$ (281,300)                                      | 110,000                               | \$ 50                                  | \$ 5,500,000                                 | \$ 5,409,300                   | 2027                            |
| <b>Mill Street District Total</b>            | <b>\$ 295,900</b>                 | <b>\$ (341,300)</b>                               |                                       |                                        | <b>\$ 6,000,000</b>                          | <b>\$ 5,954,600</b>            |                                 |

# GARDNER DIF BUILD OUT SCENARIO

| Category                                    | Downtown District |              | Mill Street District |             | Total, Both Districts |              |
|---------------------------------------------|-------------------|--------------|----------------------|-------------|-----------------------|--------------|
|                                             | Parcels           | Acres        | Parcels              | Acres       | Parcels               | Acres        |
| <b>Limited Future Development Potential</b> |                   |              |                      |             |                       |              |
| Public Facility/Project                     | 7                 | 12.0         | 3                    | 1.0         | 10                    | 13.0         |
| Parking Lot - Current or Future             | 13                | 8.4          |                      |             | 13                    | 8.4          |
| Not Physically Developable                  |                   |              | 1                    | 8.1         | 1                     | 8.1          |
| Residential Zoning                          | 70                | 18.3         |                      |             | 70                    | 18.3         |
| Currently Utilized to Potential             | 105               | 64.5         | 4                    | 13.6        | 109                   | 78.0         |
| <b>Future Development Likely</b>            |                   |              |                      |             |                       |              |
| Known Private Project                       | 14                | 26.7         | 8                    | 19.9        | 22                    | 46.6         |
| Mid-Term Dev. Potential                     | 20                | 6.6          | 8                    | 14.4        | 28                    | 20.9         |
| Long-Term Dev. Potential                    | 38                | 5.7          |                      |             | 38                    | 5.7          |
| <b>Total</b>                                | <b>267</b>        | <b>142.1</b> | <b>24</b>            | <b>56.9</b> | <b>291</b>            | <b>198.9</b> |

# GARDNER DIF BUILD OUT SCENARIO

|                          | Downtown             |                      | Mill Street         |                      | Timeframe           |
|--------------------------|----------------------|----------------------|---------------------|----------------------|---------------------|
|                          | Low                  | High                 | Low                 | High                 |                     |
| Known Private Projects   | \$ 17,689,042        | \$ 17,689,042        | \$ 5,954,600        | \$ 5,954,600         | 2023–2027           |
| Mid-Term Dev. Potential  | \$ 381,250           | \$ 7,514,200         | \$ 3,129,630        | \$ 9,380,490         | 2028–2032           |
| Long-Term Dev. Potential | \$ 5,705,572         | \$ 11,965,144        | \$ -                | \$ -                 | 2033–2037           |
| <b>Total New Growth</b>  | <b>\$ 23,775,864</b> | <b>\$ 37,168,386</b> | <b>\$ 9,084,230</b> | <b>\$ 15,335,090</b> | <b>Through 2037</b> |

# GARDNER DIF DEVELOPMENT PROGRAMS

| Project Name                    | Anticipated Costs   |
|---------------------------------|---------------------|
| Greenwood Memorial Pool         | \$7,700,000         |
| City Plaza and Parking Lot      | \$6,000,000         |
| North Central Pathway Extension | \$6,000,000         |
| Visitors' Center                | \$500,000           |
| Maki Park                       | \$425,000           |
| Park Street Park                | \$338,000           |
| <b>Total</b>                    | <b>\$20,963,000</b> |

Source: City of Gardner

## Downtown Assumptions

- 15 Year Municipal Bond
- 5% Interest
- 75% of DIF revenue to bond
- Other sources of revenue needed

| Project Name                                               | Anticipated Costs  |
|------------------------------------------------------------|--------------------|
| Mill Street Bridge                                         | \$2,000,000        |
| 155 Mill Street Sewer Relocation, Water,<br>Gas, Utilities | \$1,500,000        |
| Recreation Trail                                           | \$1,000,000        |
| <b>Total</b>                                               | <b>\$4,500,000</b> |

Source: City of Gardner

## Mill Street Assumptions

- 30 Year Municipal Bond
- 5% Interest
- 75% of DIF revenue to pay bond
- Other sources of revenue needed

# COMPARE TAX INCREMENT TO DMO EXPENSES

# DOWNTOWN DISTRICT

| FY<br>Ending  | New Growth<br>Revenue to<br>DIF | Low-Growth Scenario |                    |                       | High-Growth Scenario |                     |                       |                    |
|---------------|---------------------------------|---------------------|--------------------|-----------------------|----------------------|---------------------|-----------------------|--------------------|
|               |                                 | DIF<br>Revenues     | Gap/Excess         | To General<br>Fund    | DIF<br>Revenues      | Gap/Excess          | To General<br>Fund    |                    |
| 6/30/2024     | \$0                             | 75%                 | \$0                | \$0                   | \$0                  | \$0                 | \$0                   | \$0                |
| 6/30/2025     | \$2,019,623                     | 75%                 | \$35,642           | (\$1,983,982)         | \$11,881             | \$35,642            | (\$1,983,982)         | \$11,881           |
| 6/30/2026     | \$2,019,623                     | 75%                 | \$57,771           | (\$1,961,852)         | \$19,257             | \$57,771            | (\$1,961,852)         | \$19,257           |
| 6/30/2027     | \$2,019,623                     | 75%                 | \$152,580          | (\$1,867,043)         | \$50,860             | \$152,580           | (\$1,867,043)         | \$50,860           |
| 6/30/2028     | \$2,019,623                     | 75%                 | \$186,014          | (\$1,833,609)         | \$62,005             | \$186,014           | (\$1,833,609)         | \$62,005           |
| 6/30/2029     | \$2,019,623                     | 75%                 | \$258,599          | (\$1,761,024)         | \$86,200             | \$258,599           | (\$1,761,024)         | \$86,200           |
| 6/30/2030     | \$2,019,623                     | 75%                 | \$259,522          | (\$1,760,102)         | \$86,507             | \$276,780           | (\$1,742,844)         | \$92,260           |
| 6/30/2031     | \$2,019,623                     | 75%                 | \$260,444          | (\$1,759,179)         | \$86,815             | \$294,960           | (\$1,724,663)         | \$98,320           |
| 6/30/2032     | \$2,019,623                     | 75%                 | \$261,366          | (\$1,758,257)         | \$87,122             | \$313,141           | (\$1,706,482)         | \$104,380          |
| 6/30/2033     | \$2,019,623                     | 75%                 | \$262,289          | (\$1,757,335)         | \$87,430             | \$331,322           | (\$1,688,302)         | \$110,441          |
| 6/30/2034     | \$2,019,623                     | 75%                 | \$263,211          | (\$1,756,412)         | \$87,737             | \$349,502           | (\$1,670,121)         | \$116,501          |
| 6/30/2035     | \$2,019,623                     | 75%                 | \$277,016          | (\$1,742,607)         | \$92,339             | \$378,452           | (\$1,641,172)         | \$126,151          |
| 6/30/2036     | \$2,019,623                     | 75%                 | \$290,821          | (\$1,728,803)         | \$96,940             | \$407,401           | (\$1,612,222)         | \$135,800          |
| 6/30/2037     | \$2,019,623                     | 75%                 | \$304,625          | (\$1,714,998)         | \$101,542            | \$436,351           | (\$1,583,272)         | \$145,450          |
| 6/30/2038     | \$2,019,623                     | 75%                 | \$318,430          | (\$1,701,194)         | \$106,143            | \$465,301           | (\$1,554,323)         | \$155,100          |
| 6/30/2039     | \$2,019,623                     | 75%                 | \$332,234          | (\$1,687,389)         | \$110,745            | \$494,250           | (\$1,525,373)         | \$164,750          |
| 6/30/2040     | \$0                             | 75%                 | \$332,234          | \$332,234             | \$110,745            | \$494,250           | \$494,250             | \$164,750          |
| 6/30/2041     | \$0                             | 75%                 | \$332,234          | \$332,234             | \$110,745            | \$494,250           | \$494,250             | \$164,750          |
| 6/30/2042     | \$0                             | 75%                 | \$332,234          | \$332,234             | \$110,745            | \$494,250           | \$494,250             | \$164,750          |
| 6/30/2043     | \$0                             | 75%                 | \$332,234          | \$332,234             | \$110,745            | \$494,250           | \$494,250             | \$164,750          |
| 6/30/2044     | \$0                             | 75%                 | \$332,234          | \$332,234             | \$110,745            | \$494,250           | \$494,250             | \$164,750          |
| 6/30/2045     | \$0                             | 75%                 | \$332,234          | \$332,234             | \$110,745            | \$494,250           | \$494,250             | \$164,750          |
| 6/30/2046     | \$0                             | 75%                 | \$332,234          | \$332,234             | \$110,745            | \$494,250           | \$494,250             | \$164,750          |
| 6/30/2047     | \$0                             | 75%                 | \$332,234          | \$332,234             | \$110,745            | \$494,250           | \$494,250             | \$164,750          |
| 6/30/2048     | \$0                             | 75%                 | \$332,234          | \$332,234             | \$110,745            | \$494,250           | \$494,250             | \$164,750          |
| 6/30/2049     | \$0                             | 75%                 | \$332,234          | \$332,234             | \$110,745            | \$494,250           | \$494,250             | \$164,750          |
| 6/30/2050     | \$0                             | 75%                 | \$332,234          | \$332,234             | \$110,745            | \$494,250           | \$494,250             | \$164,750          |
| 6/30/2051     | \$0                             | 75%                 | \$332,234          | \$332,234             | \$110,745            | \$494,250           | \$494,250             | \$164,750          |
| 6/30/2052     | \$0                             | 75%                 | \$332,234          | \$332,234             | \$110,745            | \$494,250           | \$494,250             | \$164,750          |
| 6/30/2053     | \$0                             | 75%                 | \$332,234          | \$332,234             | \$110,745            | \$494,250           | \$494,250             | \$164,750          |
| 6/30/2054     | \$0                             | 75%                 | \$332,234          | \$332,234             | \$110,745            | \$494,250           | \$494,250             | \$164,750          |
| <b>Totals</b> | <b>\$30,294,351</b>             |                     | <b>\$8,504,080</b> | <b>(\$21,790,270)</b> | <b>\$2,834,693</b>   | <b>\$11,851,823</b> | <b>(\$18,442,527)</b> | <b>\$3,950,608</b> |



# COMPARE TAX INCREMENT TO DMO EXPENSES

# MILL STREET DISTRICT

| FY<br>Ending  | FY Expense         | New Growth<br>Revenue to<br>DIF | Low-Growth Scenario |                      |                    | High-Growth Scenario |                      |                    |
|---------------|--------------------|---------------------------------|---------------------|----------------------|--------------------|----------------------|----------------------|--------------------|
|               |                    |                                 | DIF<br>Revenues     | Gap/Excess           | To General<br>Fund | DIF<br>Revenues      | Gap/Excess           | To General<br>Fund |
| 6/30/2024     | \$0                | 75%                             | \$0                 | \$0                  | \$0                | \$0                  | \$0                  | \$0                |
| 6/30/2025     | \$302,051          | 75%                             | \$0                 | (\$302,051)          | \$0                | \$0                  | (\$302,051)          | \$0                |
| 6/30/2026     | \$302,051          | 75%                             | \$0                 | (\$302,051)          | \$0                | \$0                  | (\$302,051)          | \$0                |
| 6/30/2027     | \$302,051          | 75%                             | \$0                 | (\$302,051)          | \$0                | \$0                  | (\$302,051)          | \$0                |
| 6/30/2028     | \$302,051          | 75%                             | \$6,597             | (\$295,455)          | \$2,199            | \$6,597              | (\$295,455)          | \$2,199            |
| 6/30/2029     | \$302,051          | 75%                             | \$72,036            | (\$230,016)          | \$24,012           | \$72,036             | (\$230,016)          | \$24,012           |
| 6/30/2030     | \$302,051          | 75%                             | \$79,608            | (\$222,443)          | \$26,536           | \$94,732             | (\$207,320)          | \$31,577           |
| 6/30/2031     | \$302,051          | 75%                             | \$87,180            | (\$214,871)          | \$29,060           | \$117,428            | (\$184,623)          | \$39,143           |
| 6/30/2032     | \$302,051          | 75%                             | \$94,752            | (\$207,299)          | \$31,584           | \$140,124            | (\$161,927)          | \$46,708           |
| 6/30/2033     | \$302,051          | 75%                             | \$102,324           | (\$199,727)          | \$34,108           | \$162,820            | (\$139,231)          | \$54,273           |
| 6/30/2034     | \$302,051          | 75%                             | \$109,896           | (\$192,155)          | \$36,632           | \$185,516            | (\$116,535)          | \$61,839           |
| 6/30/2035     | \$302,051          | 75%                             | \$109,896           | (\$192,155)          | \$36,632           | \$185,516            | (\$116,535)          | \$61,839           |
| 6/30/2036     | \$302,051          | 75%                             | \$109,896           | (\$192,155)          | \$36,632           | \$185,516            | (\$116,535)          | \$61,839           |
| 6/30/2037     | \$302,051          | 75%                             | \$109,896           | (\$192,155)          | \$36,632           | \$185,516            | (\$116,535)          | \$61,839           |
| 6/30/2038     | \$302,051          | 75%                             | \$109,896           | (\$192,155)          | \$36,632           | \$185,516            | (\$116,535)          | \$61,839           |
| 6/30/2039     | \$302,051          | 75%                             | \$109,896           | (\$192,155)          | \$36,632           | \$185,516            | (\$116,535)          | \$61,839           |
| 6/30/2040     | \$302,051          | 75%                             | \$109,896           | (\$192,155)          | \$36,632           | \$185,516            | (\$116,535)          | \$61,839           |
| 6/30/2041     | \$302,051          | 75%                             | \$109,896           | (\$192,155)          | \$36,632           | \$185,516            | (\$116,535)          | \$61,839           |
| 6/30/2042     | \$302,051          | 75%                             | \$109,896           | (\$192,155)          | \$36,632           | \$185,516            | (\$116,535)          | \$61,839           |
| 6/30/2043     | \$302,051          | 75%                             | \$109,896           | (\$192,155)          | \$36,632           | \$185,516            | (\$116,535)          | \$61,839           |
| 6/30/2044     | \$302,051          | 75%                             | \$109,896           | (\$192,155)          | \$36,632           | \$185,516            | (\$116,535)          | \$61,839           |
| 6/30/2045     | \$302,051          | 75%                             | \$109,896           | (\$192,155)          | \$36,632           | \$185,516            | (\$116,535)          | \$61,839           |
| 6/30/2046     | \$302,051          | 75%                             | \$109,896           | (\$192,155)          | \$36,632           | \$185,516            | (\$116,535)          | \$61,839           |
| 6/30/2047     | \$302,051          | 75%                             | \$109,896           | (\$192,155)          | \$36,632           | \$185,516            | (\$116,535)          | \$61,839           |
| 6/30/2048     | \$302,051          | 75%                             | \$109,896           | (\$192,155)          | \$36,632           | \$185,516            | (\$116,535)          | \$61,839           |
| 6/30/2049     | \$302,051          | 75%                             | \$109,896           | (\$192,155)          | \$36,632           | \$185,516            | (\$116,535)          | \$61,839           |
| 6/30/2050     | \$302,051          | 75%                             | \$109,896           | (\$192,155)          | \$36,632           | \$185,516            | (\$116,535)          | \$61,839           |
| 6/30/2051     | \$302,051          | 75%                             | \$109,896           | (\$192,155)          | \$36,632           | \$185,516            | (\$116,535)          | \$61,839           |
| 6/30/2052     | \$302,051          | 75%                             | \$109,896           | (\$192,155)          | \$36,632           | \$185,516            | (\$116,535)          | \$61,839           |
| 6/30/2053     | \$302,051          | 75%                             | \$109,896           | (\$192,155)          | \$36,632           | \$185,516            | (\$116,535)          | \$61,839           |
| 6/30/2054     | \$302,051          | 75%                             | \$109,896           | (\$192,155)          | \$36,632           | \$185,516            | (\$116,535)          | \$61,839           |
| <b>Totals</b> | <b>\$9,061,542</b> |                                 | <b>\$2,750,323</b>  | <b>(\$6,311,219)</b> | <b>\$916,774</b>   | <b>\$4,489,578</b>   | <b>(\$4,571,964)</b> | <b>\$1,496,526</b> |

# DIF MANAGEMENT

## **DIF Advisory Committee**

- Economic Development Coordinator,
- Director of Community Development and Planning,
- Gardner Assessor,
- Representative from the Department of Public Works,
- Gardner Treasurer or Auditor.

## **Responsibilities**

- Administering capital projects
- Overseeing public/private partnerships
- Overseeing Tax Increment and DIF Revenues are correctly calculated

## **Timeline**

- Starts from date of DIF Adoption
- 30 years from that date

# QUESTIONS & DISCUSSION

Rachel Selsky, *Project Manager*  
*Camoin Associates*

518 899-2608  
[Rachel@camoinassociates.com](mailto:Rachel@camoinassociates.com)



**REGULAR MEETING OF SEPTEMBER 5, 2023**

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Regular Meeting of the City Council was held in the Council Chambers, Room 219, City Hall, on Tuesday evening, September 5, 2023.

**CALL TO ORDER**

Council President Elizabeth Kazinskas called the meeting to order at 7:30 o'clock p.m.

**CALL OF THE ROLL**

City Clerk Titi Siriphan called the Roll of Members. Nine (9) Councillors were present including Councillors James Boone, Craige Cormier, Ronald Cormier, Aleksander Dernalowicz, Karen Hardern, Dana Heath, Elizabeth Kazinskas, and George Tyros; Two (2) absent, Councillors Judy Mack and James Walsh.

**OPENING PRAYER**

President Kazinskas led the Council in reciting the Opening Prayer.

**PLEDGE OF ALLEGIANCE**

President Kazinskas led the Council in reciting the "Pledge of Allegiance".

**OPEN MEETING RECORDING & PUBLIC RECORDS ANNOUNCEMENT**

President Elizabeth Kazinskas announced to the assembly that the Open Meeting Recording and Public Records 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 recordings shall notify the Chair forthwith. All documents and exhibits used or referenced at the meeting must be submitted in duplicate to the chair as they become part of the meeting minutes pursuant to General Law Chapter 38 Section 20.

Steven Landry of the Gardner News announce he was recording the meeting.

**READING & ACCEPTANCE OF MINUTES**

On a motion made by Councillor Ronald Cormier and seconded by Councillor Paul Tassone, it was voted viva voce, nine (9) yeas, President Elizabeth Kazinskas and Councillors James Boone, Craig Cormier, Ronald Cormier, Aleksander Dernalowicz, Karen Hardern, Dana Heath, Paul Tassone and George Tyros to waive the reading and accept the MINUTES of August 7, 2023, Informal Meeting.



## REGULAR MEETING OF SEPTEMBER 5, 2023

COMMUNICATIONS FROM THE MAYOR  
ORDERS

**#11050**

On a motion made by Councillor Ronald Cormier and seconded by Councillor George Tyros, it was voted on call of the roll, eight (8) yeas, President Elizabeth Kazinskas and Councillors James Boone, Craig Cormier, Ronald Cormier, Karen Hardern, Dana Heath, Paul Tassone, and George Tyros; Councillor Aleksander Dernalowicz abstained; that the following ORDER ought to pass:

## AUTHORIZING PAYMENT OF PRIOR YEAR SALARY EXPENDITURE

*ORDERED:* To authorize payment of prior year BUILDING, GOLF AND VETERANS DEPT salary expenditure account for prior year, as follows:

|        |                      |          |
|--------|----------------------|----------|
| FY2023 | BUILDING DEPT SALARY | \$ 96.57 |
| FY2023 | GOLF DEPT SALARY     | 3,783.73 |
| FY2023 | VETERANS DEPT SALARY | 540.27   |

COMMUNICATIONS FROM THE MAYOR  
APPOINTMENTS

**#11051**

On a motion made by Councillor George Tyros and seconded by Councillor Aleksander Dernalowicz, it was voted viva voce, nine (9) yeas, President Elizabeth Kazinskas and Councillors James Boone, Craig Cormier, Ronald Cormier, Aleksander Dernalowicz, Karen Hardern, Dana Heath, Paul Tassone, and George Tyros to CONFIRM the Mayor's Appointment:

A Measure Confirming the Mayor's Appointment of **Elijah Williams** to the Position of Police Officer, Permanent

PETITIONS, APPLICATIONS, COMMUNICATIONS, ETC.

**#11052**

On a motion made by Councillor Aleksander Dernalowicz and seconded by Councillor George Tyros, it was voted viva voce nine (9) yeas, President Elizabeth Kazinskas and Councillors James Boone, Craig Cormier, Ronald Cormier, Aleksander Dernalowicz, Karen

REGULAR MEETING OF SEPTEMBER 5, 2023

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Hardern, Dana Heath, Paul Tassone, and George Tyros to refer *A Petition by National Grid, Park Street – to install 1 Single Owned Pole and Relocate 1 Single Owned Pole on Park Street beginning at a point approximately 100’ feet west of the centerline of the intersection of Park Street and Vernon Street and continuing approximately 150 feet in a west direction. Install 1 Single Owned Stub Pole (12-84) to replace old stub pole in back yard of apartment (will remove old stub pole 12-84). Relocating P9 and associated guy wires back ~10 in accordance with the City’s Park Street Project*, to the Public Service Committee for further study and report.

**#11053**

On a motion made by Councillor Aleksander Dernalowicz and seconded by Councillor George Tyros, it was voted viva voce nine (9) yeas, President Elizabeth Kazinskas and Councillors James Boone, Craig Cormier, Ronald Cormier, Aleksander Dernalowicz, Karen Hardern, Dana Heath, Paul Tassone, and George Tyros to refer *A Petition by National Grid and Verizon New England, Inc., Park Street - to relocate 5 Jointly Owned Poles on Park Street beginning at a point approximately 150 feet west of the centerline of the intersection of Park Street and Lake Street and continuing approximately 720 feet in a west direction. Moving Poles 3, 4, 5, 6, 7 and associated Anchors back ~5’ for City’s Park Street Project*, to the Public Service Committee for further study and report.

**#11054**

On a motion made by Councillor George Tyros and seconded by Councillor Aleksander Dernalowicz, it was voted viva voce, nine (9) yeas, President Elizabeth Kazinskas and Councillors James Boone, Craig Cormier, Ronald Cormier, Aleksander Dernalowicz, Karen Hardern, Dana Heath, Paul Tassone, and George Tyros to PLACE ON FILE, the Fire Chief Appointment of **Justin Calderon**, to the Position Firefighter of the Gardner Fire Department.

**#11055**

On a motion made by Councillor George Tyros and seconded by Councillor Aleksander Dernalowicz, it was voted viva voce, nine (9) yeas, President Elizabeth Kazinskas and Councillors James Boone, Craig Cormier, Ronald Cormier, Aleksander Dernalowicz, Karen Hardern, Dana Heath, Paul Tassone, and George Tyros to PLACE ON FILE, the Fire Chief Appointment of **Matias Pietropinto** to the Position Firefighter of the Gardner Fire Department.

**#11056**

On a motion made by Councillor George Tyros and seconded by Councillor Aleksander Dernalowicz, it was voted viva voce, nine (9) yeas, President Elizabeth Kazinskas and

REGULAR MEETING OF SEPTEMBER 5, 2023

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Councillors James Boone, Craig Cormier, Ronald Cormier, Aleksander Dernalowicz, Karen Hardern, Dana Heath, Paul Tassone, and George Tyros to PLACE ON FILE, the Fire Chief Appointment of **Jonathan Rodriguez** to the Position Firefighter of the Gardner Fire Department.

**#11057**

On a motion made by Councillor George Tyros and seconded by Councillor Aleksander Dernalowicz, it was voted viva voce, nine (9) yeas, President Elizabeth Kazinskas and Councillors James Boone, Craig Cormier, Ronald Cormier, Aleksander Dernalowicz, Karen Hardern, Dana Heath, Paul Tassone, and George Tyros to PLACE ON FILE, the Fire Chief Appointment of **Cole Reilly** to the Position Firefighter of the Gardner Fire Department.

**REPORTS OF STANDING COMMITTEES****FINANCE COMMITTEE****#11039**

President Elizabeth informed the Council that this appropriation was in the City Council and tabled on August 7<sup>th</sup>. The Law Department requested more time based on the receipt of requested information from third parties, received late in the day. The President plans to schedule an executive session at the next City Council meeting.

The President requested MORE TIME on *An Order Authorizing the City to Borrow \$550,000.00 for Waterford Street School Renovations.*

There were no objections. More time was granted.

**REPORTS OF STANDING COMMITTEES****APPOINTMENTS COMMITTEE****#11029**

On a motion made by Councillor George Tyros and seconded by Councillor Aleksander Dernalowicz, it was voted viva voce, nine (9) yeas, President Elizabeth Kazinskas and Councillors James Boone, Craig Cormier, Ronald Cormier, Aleksander Dernalowicz, Karen Hardern, Dana Heath, Paul Tassone, and George Tyros to confirm the Mayor's Appointment:

A Measure Confirming the Mayor's Appointment of **Jane Clabaugh** to the Position of Disability Commission Member, for term expiring July 6, 2026.



REGULAR MEETING OF SEPTEMBER 5, 2023

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**#11030**

On a motion made by Councillor George Tyros and seconded by Councillor Aleksander Dernalowicz, it was voted viva voce, nine (9) yeas, President Elizabeth Kazinskas and Councillors James Boone, Craig Cormier, Ronald Cormier, Aleksander Dernalowicz, Karen Hardern, Dana Heath, Paul Tassone, and George Tyros to confirm the Mayor's Appointment:

A Measure Confirming the Mayor's Appointment of **Francine Pera** to the Position of Disability Commission Member, for term expiring July 6, 2026.

**#11031**

On a motion made by Councillor George Tyros and seconded by Councillor Aleksander Dernalowicz, it was voted viva voce, nine (9) yeas, President Elizabeth Kazinskas and Councillors James Boone, Craig Cormier, Ronald Cormier, Aleksander Dernalowicz, Karen Hardern, Dana Heath, Paul Tassone, and George Tyros to confirm the Mayor's Appointment:

A Measure Confirming the Mayor's Appointment of **Stephen Hiron** to the Position of Sealer of Weights and Measures, for term expiring July 11, 2024.

**#11032**

On a motion made by Councillor George Tyros and seconded by Councillor Aleksander Dernalowicz, it was voted viva voce, nine (9) yeas, President Elizabeth Kazinskas and Councillors James Boone, Craig Cormier, Ronald Cormier, Aleksander Dernalowicz, Karen Hardern, Dana Heath, Paul Tassone, and George Tyros to confirm the Mayor's Appointment:

A Measure Confirming the Mayor's Appointment of **Robert O'Keefe** to the Position of Information Technology Director, for term expiring July 11, 2026.

**#11047**

On a motion made by Councillor George Tyros and seconded by Councillor Aleksander Dernalowicz, it was voted viva voce, nine (9) yeas, President Elizabeth Kazinskas and Councillors James Boone, Craig Cormier, Ronald Cormier, Aleksander Dernalowicz, Karen Hardern, Dana Heath, Paul Tassone, and George Tyros to confirm the Mayor's Appointment:

A Measure Confirming the Mayor's Appointment of **Darrell Sweeney** to the Position of Electrical Inspector, for term expiring August 6, 2026.

REGULAR MEETING OF SEPTEMBER 5, 2023

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**#11041**

On a motion made by Councillor George Tyros and seconded by Councillor Aleksander Dernalowicz, it was voted viva voce, nine (9) yeas, President Elizabeth Kazinskas and Councillors James Boone, Craig Cormier, Ronald Cormier, Aleksander Dernalowicz, Karen Hardern, Dana Heath, Paul Tassone, and George Tyros to confirm the City Clerk's Appointment:

A Measure Confirming the City Clerk's Appointment of **Elizabeth Doiron** to the Position of Assistant City Clerk, for term expiring July 25, 2026.

**REPORTS OF STANDING COMMITTEES**  
**PUBLIC SERVICE COMMITTEE**

**#10993**

Councillor Aleksander Dernalowicz informed the Council that National Grid requested to withdraw their petition.

On a motion made by Councillor George Tyros and seconded by Councillor Aleksander Dernalowicz, it was voted viva voce, nine (9) yeas, President Elizabeth Kazinskas and Councillors James Boone, Craig Cormier, Ronald Cormier, Aleksander Dernalowicz, Karen Hardern, Dana Heath, Paul Tassone, and George Tyros to WITHDRAW the following petition:

*A Petition by National Grid and Verizon New England Inc., Elm Street – to install 1, Remove 1 and Relocate 1 Jointly Owned Pole on Elm Street beginning at a point approximately 360 feet southeast of the centerline of the intersection of Elm Street and Cross Street and continuing approximately 500 feet in a south direction. P6-80 Replace and Relocate +/- 30' West. Install anchor guy on West of Pole. P7-99 is being removed. P10-99 is installing Push Brace on West side of P10.*

**REPORTS OF STANDING COMMITTEES**  
**PUBLIC SAFETY COMMITTEE**

**#11044**

Councillor Craig Cormier informed the Council that the committee have not met on this item and requested more time.

REGULAR MEETING OF SEPTEMBER 5, 2023

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*An Ordinance to Amend the Code of the City of Gardner, Chapter 306 thereof, entitled "Alcoholic Beverages," to Add a New Section 5 thereof, entitled "Marijuana Retail Establishments" to Increase the Quota Allowed and Change the Method for Amending the Quota Allowed by the Code of the City of Gardner.*

There were no objections. More time was granted.

**REPORTS OF STANDING COMMITTEES**  
**COMMITTEE OF THE WHOLE**

**#11024**

On a motion made by Councillor George Tyros and seconded by Councillor Dana Heath, it was voted viva voce, nine (9) yeas, President Elizabeth Kazinkas and Councillors James Boone, Craig Cormier, Ronald Cormier, Aleksander Dernalowicz, Karen Hardern, Dana Heath, Paul Tassone, and George Tyros, to ENDORSE the Open Space and Recreation Plan:

## RESOLUTION

## OPEN SPACE AND RECREATION PLAN 2023 UPDATE

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GARDNER AS FOLLOWS:  
WHEREAS, the City Council has reviewed the proposals prepared by the Open Space and Recreation Committee for inclusion within the Open Space and Recreation Plan (OSRP) 2023 Update: and

WHEREAS, the OSRP proposal does not seek nor require funding directly, but simply makes recommendations for preservation, maintenance, and for expansion of open space and recreation activity within City boundaries; and

WHEREAS, the Open Space and Recreation Committee performed or reviewed all matters relating to the OSRP update at numerous publicly posted meetings, and further sponsored a city-wide survey and conducted two advertised public meetings for the primary purpose of soliciting public input regarding matters appropriate to the OSRP: and

WHEREAS, the OSRP has been developed and updated in accordance with requirements of the Massachusetts Executive Office of Energy and Environmental Affairs, Division of Conservation Services; and

REGULAR MEETING OF SEPTEMBER 5, 2023

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WHEREAS, the City Council supports the activity as being consistent with the City's goal of promoting quality programs for its citizens;

NOW THEREFORE, the City Council hereby extends its support and endorses the City's Open Space and Recreation Plan 2023 Update to be submitted to the Commonwealth of Massachusetts, Division of Conservation Services.

**UNFINISHED BUSINESS AND MATTERS FOR RECONSIDERATION**

**#11043**

Councillor Dana Heath requested that his petition be withdrawn,

On a motion made by Councillor Dana Heath and seconded by Councillor George Tyros, it was voted viva voce, nine (9) yeas, President Elizabeth Kazinskas and Councillors James Boone, Craig Cormier, Ronald Cormier, Aleksander Dernalowicz, Karen Hardern, Dana Heath, Paul Tassone, and George Tyros to WITHDRAW, and request from the Law Department and explanation of conservation options of the parcels, *An Ordinance to Amend the Code of the City of Gardner, Chapter 675 Thereof, entitled "Zoning," to Change the Classification of Certain Parcels of Land Along Route 140.*

**#11045**

President Elizabeth Kazinskas informed the Council that this item is currently with the Planning Board. The President requested MORE TIME on, *An Ordinance to Amend the Code of the City of Gardner, Chapter 675 thereof, entitled "Zoning," to Amend Section 1070 thereof, entitled, "Marijuana Establishments" to Change the Method to Increase the Quota Allowed by the Code of the City of Gardner.*

There were no objections. More time was granted.

**#11046**

President Elizabeth Kazinskas informed the Council that this item is currently with the Planning Board. The President requested MORE TIME on, *An Ordinance to Amend the Code of the City of Gardner, Chapter 675 thereof, entitled "Zoning," to Add "Sports Betting" to the Zoning Table of Uses.*

REGULAR MEETING OF SEPTEMBER 5, 2023

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**NEW BUSINESS**

On a motion made by Councillor James Boone and seconded by Councillor Paul Tassone it was voted viva voce, nine (9) yeas, President Elizabeth Kazinskas and Councillors James Boone, Craig Cormier, Ronald Cormier, Aleksander Dernalowicz, Karen Hardern, Dana Heath, Paul Tassone, and George Tyros to propose an amendment to the City Charter and place the item on the next City Council meeting:

SECTION 43. IF a vacancy occurs in the school committee by failure to elect or otherwise the city council and the remaining members of the school committee shall meet in joint convention to elect a suitable person to fill the vacancy until the next regular city election. The mayor, if present, shall preside at the convention.

Change as follows:

SECTION 43. IF a vacancy occurs in the school committee by failure to elect or otherwise ~~the city council~~ and the remaining members of the school committee shall meet in ~~joint~~ convention to elect a suitable person to fill the vacancy until the next regular city election. The mayor, ~~if present~~, shall preside at the convention.

**CLOSING PRAYER**

President Elizabeth Kazinskas led the Council in the Closing Prayer.

**ADJOURNMENT**

On a motion made by Councillor Aleksander Dernalowicz and seconded by Councillor George Tyros, it was voted viva voce, nine (9) yeas, President Elizabeth Kazinskas and Councillors James Boone, Craig Cormier, Ronald Cormier, Aleksander Dernalowicz, Karen Hardern, Dana Heath, Paul Tassone, and George Tyros to adjourn at 8:07 p.m.

**Accepted by the City Council:**

**From:** [Elizabeth Kazinskas](#)  
**To:** [Titi Siriphan](#)  
**Cc:** [John Flick](#)  
**Date:** Tuesday, October 3, 2023 5:47:20 PM  
**Attachments:** [OML 2023-167 - Gardner City Council.pdf](#)

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Dear Clerk Siriphan,

Please place this on the next City Council agenda as a notification. Please include in the packet as supporting documentation:

1. The email below from the AG's office and attached decision.
2. The City Council's response to Mr. Demeo's complaint.
3. The Open Meeting Law complaints filed by Mr. DeMeo that are referenced in the attached decision.

Thank you for your assistance.

Best,  
Lizzy

Elizabeth Kazinskas  
City Council President  
Finance Committee Chair  
Councillor at-Large  
City of Gardner  
(978) 337-1533  
[ekazinskas@gardner-ma.gov](mailto:ekazinskas@gardner-ma.gov)

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**From:** OpenMeeting (AGO) <OpenMeeting@MassMail.State.MA.US>  
**Sent:** Tuesday, October 3, 2023 12:41 PM  
**To:** Elizabeth Kazinskas <ekazinskas@gardner-ma.gov>  
**Cc:** PAUL DEMEO <ryanrealty@comcast.net>; Titi Siriphan <tsiriphan@gardner-ma.gov>  
**Subject:** [EXTERNAL] Open Meeting Law determination

**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.**

Dear President Kazinskas,

Please see the attached Open Meeting Law determination.

Sincerely,

**Natalie Arellano (she/her/hers)**

Paralegal

Division of Open Government

Massachusetts Office of the Attorney General



THE COMMONWEALTH OF MASSACHUSETTS  
OFFICE OF THE ATTORNEY GENERAL  
ONE ASHBURTON PLACE  
BOSTON, MASSACHUSETTS 02108

ANDREA JOY CAMPBELL  
ATTORNEY GENERAL

(617) 727-2200  
www.mass.gov/ago

October 3, 2023

OML 2023 – 167

VIA EMAIL

Elizabeth J. Kazinskas  
President, Gardner City Council  
ekazinskas@gardner-ma.gov

**RE: Open Meeting Law Complaints**

Dear President Kazinskas:

This letter addresses two complaints from Paul DeMeo alleging that the Gardner City Council (the “Council”) violated the Open Meeting Law, G.L. c. 30A, §§ 18-25. The first complaint was originally filed with the Council on or about May 1; you responded on behalf of the Council by letter dated May 22; and the complaint was filed with our office for review on May 10.<sup>1</sup> The first complaint alleges that five Councilors deliberated outside of a posted meeting by coordinating to draft a letter and then sending the letter to the remaining Councilors expressing their views on proposed zoning amendments. The second complaint was originally filed with the Council on or about June 6; you responded on behalf of the Council by letter dated June 27; and the complaint was filed with our office for review on June 29. The second complaint alleges that the notice for the Council’s June 5 meeting was insufficiently specific and that the Council voted on agenda items with little or no discussion.

Following our review, we find that five Councilors violated the Open Meeting Law as alleged in the first complaint by sending a letter containing their opinions on proposed zoning amendments to the remaining Councilors. We find that the Council did not violate the Law in the other ways alleged. In reaching a determination, we reviewed the original complaints, the Council’s responses to the complaints, and the complaints filed with our office requesting further review. We also reviewed the April 19 letter from the five Councilors. Finally, we reviewed the notice and minutes for the Council’s June 5 meeting as well as a video recording of that meeting.<sup>2</sup>

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<sup>1</sup> All dates refer to the year 2023.

<sup>2</sup> A video recording of the council’s June 5 meeting is available online at <https://www.youtube.com/watch?v=Hw4yCL9044I>.



### *Deliberation Outside of a Posted Meeting*

The Open Meeting Law requires that, except in an emergency, “a public body shall post notice of every meeting at least 48 hours prior to such meeting, excluding Saturdays, Sundays and legal holidays.” G.L. c. 30A, § 20(b). A “meeting” is defined, in relevant part, as “a deliberation by a public body with respect to any matter within the body’s jurisdiction.” G.L. c. 30A, § 18. The Law defines “deliberation” as “an oral or written communication through any medium, including electronic mail, between or among a quorum of a public body on any public business within its jurisdiction.” *Id.* However, there is a narrow exception to the definition of “deliberation” for “the distribution of a meeting agenda, scheduling information or distribution of other procedural meeting [sic] or the distribution of reports or documents that may be discussed at a meeting, provided that no opinion of a member is expressed.” G.L. c. 30A, § 18, see also OML 2017-17; OML 2016-172.<sup>3</sup>

For the purposes of the Open Meeting Law, a “quorum” is a simple majority of the members of a public body. *Id.* A one-way communication from one public body member to a quorum on matters within the body’s jurisdiction constitutes deliberation for purposes of the Open Meeting Law, even if no other public body member responds. See OML 2016-104; OML 2015-33; OML 2012-73.

The first complaint alleges that Councilors James Boone, Karen Hardern, Dana Heath, Paul Tassone, and Gorge Tyros violated the Open Meeting Law when they coordinated, drafted, and sent a letter to the remaining Councilors expressing their views on proposed zoning amendments. We find that coordinating and drafting of the letter did not violate the Open Meeting Law, as these five Councilors did not constitute a quorum of the Council. However, as the Council has acknowledged, when the five Councilors sent the letter containing their opinions on proposed zoning ordinances to the remaining Councilors outside of a posted meeting, thus reaching a quorum, they violated the Open Meeting Law. We note that the Open Meeting Law violation was raised by another Councilor and discussed during the Council’s May 1 meeting, before this complaint was filed, and the council itself referred the matter to the Gardner Law Department for guidance. Ultimately, the matter at issue was withdrawn from consideration; the Council self-reported the violation to the Attorney General’s Office; and the Gardner Law Department reminded the Council of its obligations under the Open Meeting Law. We commend the Council for proactively taking these corrective measures.

### *Specificity of the June 5 Meeting Notice and Conduct of Meeting*

The Open Meeting Law requires a public body to post notice 48 hours in advance of a meeting and include a “listing of topics that the chair reasonably anticipates will be discussed at the meeting.” G.L. c. 30A, § 20(b). Public bodies are required to list topics in a meeting notice with “sufficient specificity to reasonably advise the public of the issues to be discussed

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<sup>3</sup> Open Meeting Law determinations may be found at the Attorney General’s website, <https://www.mass.gov/the-open-meeting-law>.

at the meeting.” 940 CMR 29.03(1)(b). We generally consider a topic to be sufficiently detailed when a reasonable member of the public could read the topic and understand the anticipated nature of the public body's discussion. See OML 2015-35. A public body need not list each and every detail about a topic in order to comply with the Law’s requirements. See OML 2022-98; OML 2020-132; OML 2019-134. When reviewing a meeting notice for sufficiency, unless it is clearly insufficient on its face, we do not review a meeting notice standing alone. See OML 2015-109; OML 2014-155. Rather, we review what was actually discussed at the meeting to determine if the notice was sufficiently detailed to make the public aware of the discussion topics. See OML 2021-22; OML 2020-137; OML 2019-64.

The second complaint alleges that fourteen separate agenda topics out of the 25 included on the notice for the Council’s June 5 meeting were listed with insufficient specificity. The 25 topics were orders or resolutions for the Council’s approval. As examples, the complaint alleges that several topics failed to specify what the funds were being used for or the purpose of the transfers: “**11009** - An Order Authorizing \$300.09 Payment of Prior Year Expenditure for Police Salary Expenditure. (*Finance Committee*)”; “**11011** - An Order Transferring \$10,500.00 from Building Inspector Department, Department Head Salaries to Professional Services Expenditures. (*Finance Committee*)”; “**11003** -An Order appropriating the sum of \$400,000 from Available Funds- Bond Proceeds Reserved to Interest-Outside Debt for the Fiscal Year Beginning July 1, 2023 to June 30, 2024. (*In the City Council and Referred to Committee of the Whole 5/15/2023*).” The complaint alleges that the following topic failed to identify the issue: “**11017** - A Notification from City Solicitor John Flick Regarding City of Gardner Open Meeting Law (OML) Self Report.” The complaint alleges that some topics failed to identify which enterprise accounts were involved and how much would be transferred to each account, for example, “**10997** - A Measure Authorizing FY2024 Revolving Funds for the City pursuant to Massachusetts General Laws, Chapter 44, Section 53E ½. (*In the City Council and Referred to Committee of the Whole 5/15/2023*).”

After reviewing the meeting notice in conjunction with the video recording of the Council’s June 5 meeting, we are satisfied that the meeting notice satisfied the Open Meeting Law’s specificity requirement. We note that the Council did not engage in substantive discussion regarding any of the 25 topics on the agenda on which it took action; in fact, the Council approved 25 separate matters—including a reading of the item, sometimes a brief introduction or overview by a Councilor, a motion, a second, and a roll call vote on each item—in approximately 23 minutes. Although including additional detail on the notice on some of the items may have been helpful to the public, for example, including a property address or location description on item 11016 in addition to the case number, we are satisfied that the topics as listed was sufficient to reasonably advise the public of the issues to be discussed at the meeting. See G.L. c. 30A, § 20(b); see also OML 2013-152.

Finally, the second complaint alleges that the Council engaged in little or no discussion before voting on matters during its June 5 meeting. The Open Meeting Law does not require that a public body discuss any particular matter nor that it discuss a matter in any particular depth. Rather, the Law requires that if a quorum of a public body discusses a matter within its jurisdiction it must do so only during a meeting for which notice was posted and

that is open to the public, unless a permissible reason exists to discuss the topic in executive session. See G.L. c. 30A, § 20(a); OML 2023-47; OML 2020-75; OML 2017-53. Therefore, the Council did not violate the Open Meeting Law by voting on matters without first engaging in discussion.

For the reasons stated above, we find that the Council did not violate the Open Meeting Law. We now consider the complaints addressed by this determination to be resolved. This determination does not address any other complaints that may be pending with our office or the Council. Please feel free to contact our office at (617) 963-2540 if you have any questions regarding this letter.

Sincerely,



Carrie Benedon  
Assistant Attorney General  
Division of Open Government

cc: Paul DeMeo (via email: ryanrealty@comcast.net)  
Gardner City Clerk (via email: tsiriphan@gardner-ma.gov)

**This determination was issued pursuant to G.L. c. 30A, § 23(c). A public body or any member of a body aggrieved by a final order of the Attorney General may obtain judicial review through an action filed in Superior Court pursuant to G.L. c. 30A, § 23(d). The complaint must be filed in Superior Court within twenty-one days of receipt of a final order.**

**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**  
Paul Tassone

**WARD 4 COUNCILLOR**  
Karen G. Hardern

**WARD 5 COUNCILLOR**  
Alek Dernalowicz, Esq.

May 22, 2023

**VIA ELECTRONIC MAIL**

Mr. Paul DeMeo  
9 Willis Rd  
Gardner, MA 01440

Re: Open Meeting Law Complaint

Dear Mr. Demeo:

The Gardner City Council is in receipt of your Open Meeting Law Complaint dated May 1, 2023, and received on May 2, 2023. The Gardner City Council met on May 15, 2023, within fourteen days of receipt of your complaint as required. This letter serves as notice to you, pursuant to M.G.L. c. 30A, § 23 of action taken.

The substance of your complaint concerns a letter signed by five (5) members of the City Council in which those Councilors voice their opinion regarding a proposal to change the City of Gardner Zoning Map.

The City Council has concluded that the letter in question, specifically Item 10974, constitutes an open meeting law violation in that the letter is a communication from a member of a public body to a quorum of the same public body and is made outside of an open meeting.

In response to this conclusion, the City Council is taking the following remedial action. First, a motion to withdraw the Item in question was made by one of its proponents and passed by the Council. Second, the City Council elected to self-report the violation to the Commonwealth of Massachusetts Attorney General's office. Third, the Council has been reminded by the City of Gardner Law Department that no member of the Council may communicate an opinion to a quorum of the members, in writing or otherwise except in the context of a duly noticed open public meeting.

Based on the remedial action taken by the City Council, as described above, your complaint is considered to be resolved.

Very truly yours,

A handwritten signature in cursive script that reads "Elizabeth J. Kazinskas". The signature is written in black ink on a white background.

Elizabeth J. Kazinskas  
City Council President

Cc:

Michael Nicholson, Mayor

Titi Siriphan, City Clerk

Commonwealth of Massachusetts Attorney General's Office

City of Gardner Law Department



# OPEN MEETING LAW COMPLAINT FORM

11074

Office of the Attorney General  
One Ashburton Place  
Boston, MA 02108

Please note that all fields are required unless otherwise noted.

## Your Contact Information:

First Name: Paul Last Name: DeMeo

Address: 9 Willis Road

City: Gardner State: MA Zip Code: 01440

Phone Number: 9786321300 Ext. \_\_\_\_\_

Email: ryanrealty@comcast.net

Organization or Media Affiliation (if any): \_\_\_\_\_

Are you filing the complaint in your capacity as an individual, representative of an organization, or media?

(For statistical purposes only)

Individual  Organization  Media

## Public Body that is the subject of this complaint:

City/Town  County  Regional/District  State

Name of Public Body (including city/town, county or region, if applicable): City of Gardner, City Council and Mayor Nicholson

Specific person(s), if any, you allege committed the violation: Mayor Michael Nicholson, City Clerk Siriphan, Dana Heath, George Tyros, Paul Tassone, James Boone, Karen Hardern, Elizabeth Kazinskas

Date of alleged violation: April 19, 2023

**Description of alleged violation:**

Describe the alleged violation that this complaint is about. If you believe the alleged violation was intentional, please say so and include the reasons supporting your belief.

Note: This text field has a maximum of 3000 characters.

In a letter dated April 19, 2023 Gardner City Councilors Karen Hardern, Dana Heath, George Tyros, James Boone, and Paul Tassone met outside of an Open Public Meeting to co-conspire, draft and execute a letter to the entire Gardner City Council which is attached.

In the minutes and Audio/Visual Recording of the City Council Meeting on May 1st. 2023, Councilor James Walsh questioned the five councilors as to how the letter came to exist outside of an Open Public Meeting.

It is the duty of each city councilor to hold the other councilors accountable in the compliance of the Massachusetts Open Meeting Law and when it does occur, it should be the fiduciary responsibility of a sitting city councilor to file an Open Meeting Complaint.

What action do you want the public body to take in response to your complaint?

Note: This text field has a maximum of 500 characters.

Councilors Hardern, Tyros, Boone, Heath, and Tassone need to publicly state who created the letter, who asked them to sign it, and who typed it on Official City of Gardner Stationary. City Council president Kazinskas, Mayor Nicholson, and Clerk Siriphan were also aware of the existance of the letter and the violation of the Open Meeting law.

It is evident with the numerous violations of the Open Meeting Law this past year, that remedial education on the law has had no effect.

**Review, sign, and submit your complaint****I. Disclosure of Your Complaint.**

**Public Record.** Under most circumstances, your complaint, and any documents submitted with your complaint, is considered a public record and will be available to any member of the public upon request.

**Publication to Website.** As part of the Open Data Initiative, the AGO will publish to its website certain information regarding your complaint, including your name and the name of the public body. The AGO will not publish your contact information.

**II. Consulting With a Private Attorney.**

The AGO cannot give you legal advice and is not able to be your private attorney, but represents the public interest. If you have any questions concerning your individual legal rights or responsibilities you should contact a private attorney.

**III. Submit Your Complaint to the Public Body.**

The complaint must be filed first with the public body. If you have any questions, please contact the Division of Open Government by calling (617) 963-2540 or by email to openmeeting@state.ma.us.

By signing below, I acknowledge that I have read and understood the provisions above and certify that the information I have provided is true and correct to the best of my knowledge.

Signed: \_\_\_\_\_



Date: \_\_\_\_\_

5/1/2023

For Use By Public Body

Date Received by Public Body:

For Use By AGO

Date Received by AGO:



April 19, 2023

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

RE: Submission of Zoning Amendment Proposal- An Ordinance to Amend The Code Of The City Of Gardner, Chapter 675 Thereof, Entitled "Zoning," add "Sports Betting" to the Zoning Table of Uses.

Dear Madam President and Colleagues,

At the April 18<sup>th</sup>, 2023 Meeting of the City Council, we voted to grant the Mayor Leave to withdraw Item 10892 due to concerns regarding the process outlined in Chapter 40A, Section 5 of the General Laws.

We believe this proposal to have been in the best interest of the City of Gardner, as a way to build our economic base, provide for our residents, and plan for our future. We cannot stay stagnant as a City and must continue to do everything we can to better Gardner for ourselves and future generations of Gardnerites – which is what we believe this original proposal provided for the City.

Whereas Section 5 of Chapter 40A of the General Laws states that the City Council may initiate Zoning Amendments, we, as City Councilors, working in the best interest of the City and our Constituents, propose this ordinance and request that the City Council refer this Item to the Planning Board and schedule a joint public hearing.

We have attached the relevant section of the General Laws and the original proposal submitted by Mayor Nicholson that was formally withdrawn and removed by the City Council to this correspondence for supporting materials.

Respectfully submitted,

Dana Heath  
 Ward 2 Councilor

Karen Hardern  
 Ward 4 Councilor

George Tyros  
 Councilor At-Large

James Boone  
 Councilor At-Large

Paul Tassone  
 Ward 3 Councilor



**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.  
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Dana M. Heath  
**WARD 3 COUNCILLOR**  
Paul Tassone  
**WARD 4 COUNCILLOR**  
Karen G. Hardern  
**WARD 5 COUNCILLOR**  
Alek Dernalowicz, Esq.

June 27, 2023

**VIA ELECTRONIC MAIL**

Mr. Paul DeMeo  
9 Willis Rd  
Gardner, MA 01440

Re: Open Meeting Law Complaint

Dear Mr. Demeo:

The Gardner City Council is in receipt of your Open Meeting Law Complaint dated June 5, 2023, and received on June 6, 2023. Whereas the deadline to respond to your Complaint is June 27, 2023, this response to your Complaint is timely.

The substance of your complaint concerns the sufficient specificity of agenda items 11009, 11011, 11012, 11014, 11016, 11017, 10997, 11002, 11003, 11004, 11005, 11006, 11007, and 10861, as listed on the City Council's regular meeting agenda from June 5, 2023.

In response to your Complaint, the City Council states as follows. The City Council met on June 20, 2023, within fourteen days of receipt of your complaint as required. The City Council determined that the topics listed in your Complaint have sufficient specificity to reasonably advise the public of the issues to be discussed at the meeting.

Based on the foregoing, the City Council has concluded that no violation of the Open Meeting Law occurred and will not be taking any further action in regard to your Complaint.

Very truly yours,

Elizabeth J. Kazinskas  
City Council President

Cc:  
Michael Nicholson, Mayor  
Titi Siriphan, City Clerk  
Commonwealth of Massachusetts Attorney General's Office  
City of Gardner Law Department



## OPEN MEETING LAW COMPLAINT FORM

Office of the Attorney General  
One Ashburton Place  
Boston, MA 02108

Please note that all fields are required unless otherwise noted.

### Your Contact Information:

First Name: Paul Last Name: DeMeo

Address: 9 Willis Road

City: Gardner State: MA Zip Code: 01440

Phone Number: 9786321300 Ext. \_\_\_\_\_

Email: ryanrealty@comcast.net

Organization or Media Affiliation (if any): \_\_\_\_\_

Are you filing the complaint in your capacity as an individual, representative of an organization, or media?

(For statistical purposes only)

Individual  Organization  Media

### Public Body that is the subject of this complaint:

City/Town  County  Regional/District  State

Name of Public Body (including city/town, county or region, if applicable): City of Gardner

Specific person(s), if any, you allege committed the violation: City Clerk Titi Siriphan, Council president Elizabeth Kazinskas

Date of alleged violation: June 5th, 2023

**Description of alleged violation:**

Describe the alleged violation that this complaint is about. If you believe the alleged violation was intentional, please say so and include the reasons supporting your belief.

Note: This text field has a maximum of 3000 characters.

Gardner's City Clerk and Gardner City Council in their agenda for June 5th, 2023 failed to explain the agenda items so that the general public could read the topic and understand the anticipated nature of the public body's discussion.(agenda attached and topics checked off) Agenda items 11009, 11011, 11012, 11014 what is the money being used for, 11016 case number pertaining to what property, 11017 Open Meeting Law Self Report pertaining to what issue, 10997, 11002 what enterprise accounts and how much to each account, 11003, 11004, 11005, 11006, 11007, 10861 what street. None of these agenda items are sufficiently specific when a reasonable member of the public could not read the topic and understand the anticipated nature of the public body's discussion. Public body had little to no discussion before voting on these agenda items. Gardner's City Council has a habit of not discussing agenda items before voting and races through the meetings without the general public having any clue what was voted on.

"The Open Meeting Law was enacted " to eliminate much of the secrecy surrounding deliberations and decisions on which public policy is based." Ghiglione v. School Committee of Southbridge, 376 Mass. 70, 72 (1978). To that end, a public body must post notice of every meeting at least 48 hours in advance, not including Saturdays, Sundays, and legal holidays. G.L. c. 30A, § 20(b). Notices must include " a listing of topics that the chair reasonably anticipates will be discussed at the meeting." Id. The listing of topics shall have sufficient specificity to reasonably advise the public of the issues to be discussed at the meeting. 940 CMR 29.03(1)(b). We generally consider a topic to be sufficiently specific when a reasonable member of the public could read the topic and understand the anticipated nature of the public body's discussion."

What action do you want the public body to take in response to your complaint?

Note: This text field has a maximum of 500 characters.

1. For the Gardner City Council to be sufficiently specific in the agenda items so a reasonable member of the public can read the topic and understand the anticipated nature of the public body's discussion.
2. For city councilors to discuss each and every agenda item before a vote is taken.
3. For item #10861 VOTE to be null and void due to the failure of the City Clerk to identify the street in the Public Agenda before the city council took a vote.

**Review, sign, and submit your complaint****I. Disclosure of Your Complaint.**

**Public Record.** Under most circumstances, your complaint, and any documents submitted with your complaint, is considered a public record and will be available to any member of the public upon request.

**Publication to Website.** As part of the Open Data Initiative, the AGO will publish to its website certain information regarding your complaint, including your name and the name of the public body. The AGO will not publish your contact information.

**II. Consulting With a Private Attorney.**

The AGO cannot give you legal advice and is not able to be your private attorney, but represents the public interest. If you have any questions concerning your individual legal rights or responsibilities you should contact a private attorney.

**III. Submit Your Complaint to the Public Body.**

The complaint must be filed first with the public body. If you have any questions, please contact the Division of Open Government by calling (617) 963-2540 or by email to [openmeeting@state.ma.us](mailto:openmeeting@state.ma.us).

By signing below, I acknowledge that I have read and understood the provisions above and certify that the information I have provided is true and correct to the best of my knowledge.

Signed: 

Date: 6/5/2023



**City of Gardner, Massachusetts**  
**Office of the City Council**

~~~~~  
**CALENDAR FOR THE MEETING**

*of*

**MONDAY, JUNE 5, 2023**  
**CITY COUNCIL CHAMBER**  
**7:30 P.M.**

**ORDER OF BUSINESS**  
**\*AMENDED**

- I. CALL TO ORDER**
- II. CALL OF THE ROLL OF COUNCILLORS**
- III. OPENING PRAYER**
- IV. PLEDGE OF ALLEGIANCE**
- V. 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.

- VI. READING OF MINUTES OF PRIOR MEETING(S)**
  - March 20, 2023, Joint Public Hearing with Planning Board Meeting
  - April 3, 2023, Joint Public Hearing with Planning Board Meeting
  - April 3, 2023, City Council Regular Meeting

- VII. PUBLIC HEARINGS**
- VIII. COMMUNICATIONS FROM THE MAYOR**

**ORDERS**

- ✓ **11009** – An Order Authorizing \$300.09 Payment of Prior Year Expenditure for Police Salary Expenditure. (*Finance Committee*)
- ✓ **11011** – An Order Transferring \$10,500.00 from Building Inspector Department, Department Head Salaries to Professional Services Expenditures. (*Finance Committee*)
- ✓ **11012** – An Order Transferring \$5,000.00 from Human Resource Department, Department Head Salaries to Pool Department Professional Services Expenditure. (*Finance Committee*)

✓ 11014 – An Order Transferring \$307,000.00 from Sewer Surplus/Retained Earnings to Sewer Department Operating Expenditures. (*Finance Committee*)

11015 – An Order Transferring \$39,348.00 from Sewer Surplus/Retained Earnings to DPW Department New Equipment. (*Finance Committee*)

### COMMUNICATIONS

✓ 11016 – A Measure Authorizing the Mayor to Execute the Subordination for case number#11-293 for the Purpose of the Community Development Housing Rehabilitation Program. (*Finance Committee*)

## IX. PETITIONS, APPLICATIONS, COMMUNICATIONS, ETC.

11010 – A Resolution to Seek Membership in the AARP Network of Age-Friendly Communities. (*Welfare Committee*)

✓ 11017 – A Notification from City Solicitor John Flick Regarding City of Gardner Open Meeting Law (OML) Self Report.

## X. REPORTS OF STANDING COMMITTEES

### FINANCE COMMITTEE

10990 – An Order Appropriating \$14,925.00 from Free Cash to the IT Department City Hall Copy Machine Account. (*In the City Council and Referred to Finance Committee 5/1/2023; Referred back to Finance Committee 5/15/2023*)

### SERVICE COMMITTEE

10993 – A Petition by National Grid and Verizon New England Inc., Elm Street – to install 1, Remove 1 and Relocate 1 Jointly Owned Pole on Elm Street beginning at a point approximately 360 feet southeast of the centerline of the intersection of Elm Street and Cross Street and continuing approximately 500 feet in a south direction. P6-80 Replace and Relocate +/- 30' West. Install anchor guy on West of Pole. P7-99 is being removed. P10-99 is installing Push Brace on West side of P10. (*In the City Council and Referred to Public Service Committee 5/15/2023; Public Hearing 6/20/2023*)

### SAFETY COMMITTEE

10971 – An Ordinance to Amend the Code of the City of Gardner, Chapter 306, thereof, entitled “Alcoholic Beverages,” to add a new section 5 thereof, entitled, “Marijuana Retail Establishments” to Increase the Quota Allowed and Change the Method for Amending the Quota Allowed by the Code of the

City of Gardner. *(In the City Council and Referred Safety Committee 5/1/2023; More Time 5/15/2023)*

- 10991** – An Application by Gardner Ten Pins, Inc, for a Bowling Alley License located at 560 West Broadway. *(In the City Council and Referred Safety Committee 5/1/2023; More Time 5/15/2023)*

**COMMITTEE OF THE WHOLE**

- 10996** – A Memorandum from Mayor Nicholson Regarding the FY2024 City Budget. *(In the City Council and Referred to Committee of the Whole 5/15/2023)*

- 10997** – A Measure Authorizing FY2024 Revolving Funds for the City pursuant to Massachusetts General Laws, Chapter 44, Section 53E ½. *(In the City Council and Referred to Committee of the Whole 5/15/2023)*

- 10998** – An Order to Raise and Appropriate the sum of \$27,880,707.10 for the Various Departments of the City for the Expense Budget for the Fiscal Year Beginning July 1, 2023 to June 30, 2024. *(In the City Council and Referred to Committee of the Whole 5/15/2023)*

- 10999** – An Order to Raise and Appropriate the sum of \$13,499,627.36 for the Various Departments of the City for the Salary and Labor Budget for the Fiscal Year Beginning on July 1, 2023 to June 30, 2024. *(In the City Council and Referred to Committee of the Whole 5/15/2023)*

- 11000** – An Order Appropriating the sum of \$31,319,046.00 for the School Department Budget for the Fiscal Year Beginning July 1, 2023 to June 30, 2024. *(Adopted by the School Committee 5/8/2023) (In the City Council and Referred to Committee of the Whole 5/15/2023)*

- 11001** – An Order Appropriating the sum of \$197,220.22 from Available Funds- Cable Commission Fees Reserved to Cable Commission Budget for the Fiscal Year Beginning July 1, 2023 to June 30, 2024. *(In the City Council and Referred to Committee of the Whole 5/15/2023)*

- 11002** – An Order Appropriating the sum of \$10,391,444.00 from Available Enterprise Funds – Various Receipts Reserved to Various Enterprise Accounts for the Fiscal Year Beginning July 1, 2023, to June 30, 2024. *(In the City Council and Referred to Committee of the Whole 5/15/2023)*

- 11003** – An Order appropriating the sum of \$400,000 from Available Funds- Bond Proceeds Reserved to Interest-Outside Debt for the Fiscal Year Beginning July 1, 2023 to June 30, 2024. *(In the City Council and Referred to Committee of the Whole 5/15/2023)*

✓ **11004** – An Order Authorizing a Transfer of the sum of \$212,349.74 from Sewer Retained Earnings/Surplus to Fund the FY2024 Revenue Budget. *(In the City Council and Referred to Committee of the Whole 5/15/2023)*

✓ **11005** – An Order authorizing the transfer of the sum of \$68,712.11 from Solid Waste Retained Earnings/Surplus to fund the FY2024 Revenue Budget. *(In the City Council and Referred to Committee of the Whole 5/15/2023)*

✓ **11006** – An Order authorizing the transfer of the sum of \$96,725.00 from Landfill Retained Earnings/Surplus to fund the FY2024 Revenue Budget. *(In the City Council and Referred to Committee of the Whole 5/15/2023)*

✓ **11007** – An Ordinance to Amend the Code of the City of Gardner, Chapter 171, thereof entitled “Personnel” to Change the Compensation Schedule, Exhibit E- Non-Union Personnel. *(In the City Council and Referred to Committee of the Whole 5/15/2023)*

## **XI. UNFINISHED BUSINESS AND MATTERS FOR RECONSIDERATION**

✓ **10861** – An Ordinance to Amend the Code of the City of Gardner, Chapter 600, Entitled “Vehicles and Traffic,” Section 42, Entitled “One Way Street.” *(In the City Council and Referred to Safety Committee 12/5/2022; More Time 12/19/2022, 01/03/2023, 1/17/2023; More Time 2/6/2023, 2/21/2023, 3/6/2023, 3/20/2023, 4/3/2023, 4/18/2023, 5/1/2023; Ordered to First Printing 5/15/2023; First Printing Published 5/20/2023)*

## **XII. NEW BUSINESS**

## **XIII. COUNCIL COMMENTS AND REMARKS**

## **XIV. CLOSING PRAYER**

## **XV. ADJOURNMENT**

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Items listed on the Council Calendar are those reasonably anticipated by the Council President 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.

\***Amended** – Removed “Announcements and Recognition.” Replaced with “Council Comments and Remarks”; New Item #**11017** – A Notification from City Solicitor John Flick Regarding City of Gardner Open Meeting Law (OML) Self Report.

AN ORDINANCE TO AMEND THE CODE OF THE CITY OF GARDNER BY ADDING A NEW CHAPTER TO BE ENTITLED, CHAPTER 504: WAGE THEFT PROTECTION, WHICH SHALL PROVIDE FOR PROTECTIONS FOR WORKERS AND EMPLOYEES OF CONTRACTORS WORKING ON CITY PROJECTS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GARDNER AS FOLLOWS:

SECTION 1: That a new Chapter 504, entitled “Wage Theft Protection,” be added to the City Code as follows:

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**Section 1. DEFINITIONS**

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A. “Gardner Resident” means any person for whom the principal place of residence is within the City of Gardner during the entirety of time the person works on a Public Construction Project within the City of Gardner. Proof of such residence may include, but is not limited to, the following: a valid Massachusetts Driver's License or Massachusetts Identification Card, utility bills, proof of voter registration, or such other proof acceptable to the City of Gardner.

B. “Tax Relief” means any issuance of tax relief provided under a Tax Increment Financing Agreement, a Housing Development Exemption Agreement or any other provision of law or regulation authorizing the issuance of tax relief, or any form of municipality-funded grant (regardless of whether the source is tax revenues or otherwise) provided under the Community Preservation Act or any other provision of law or regulation authorizing the issuance of municipality-funded grants.

C. “Tax Relief Agreement” means any Agreement or other form of document governing the terms and conditions of the issuance of Tax Relief by the City of Gardner.

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**Section 2. MUNICIPAL CONSTRUCTION CONTRACTS**

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Whenever the City of Gardner is procuring construction services subject to the provisions of M.G.L. Chapter 149, Chapter 149A or Chapter 30, §39M, the following shall be incorporated into the procurement documents and made part of the specifications and contract. Any person, company or corporation shall acknowledge, in writing, receipt of said requirements with their bid or proposal.

A. All bidders or proposers, contractors, and subcontractors and trade contractors, including subcontractors of any tier that are not subject to M.G.L. Chapter 149, §44F, (the “Contractor”) under the bidder, shall as a condition for bidding, contracting, or subcontracting verify under oath and in writing at the time of bidding or submittal in response to an RFP or in any event prior to entering into a contract or subcontract at any tier, that they comply with the following conditions for bidding,



contracting or subcontracting and, for the duration of the project, shall comply with the following requirements and obligations:

1. The Contractor shall not have been debarred or suspended from performing construction work by any federal, state or local government agency or authority in the past five years;
2. The Contractor shall not have been found within the past five years by a court or governmental agency in violation of any law relating to providing workers compensation insurance coverage, misclassification of employees as independent contractors, payment of employer payroll taxes, employee income tax withholding, earned sick time, wage and hour laws, prompt payment laws, or prevailing wage laws;
3. The Contractor shall maintain appropriate industrial accident insurance sufficient to provide coverage for all the employees on the project in accordance with M.G.L. Chapter 152 and provide documentary proof of such coverage included with the contractor's submitted bid to the Purchasing Department to be maintained as a public record;
4. The Contractor shall properly classify employees as employees rather than independent contractors and treat them accordingly for purposes of prevailing wages and overtime, workers' compensation insurance coverage, unemployment taxes, social security taxes and state and federal income tax withholding. (M.G.L. Chapter 149, §148B on employee classification).
5. The Contractor shall comply with M.G.L. Chapter 151, §1A and M.G.L. Chapter 149, § 148 with respect to the payment of wages;
6. The Contractor must make arrangements to ensure that each employee of every contractor and subcontractor of any tier entering or leaving the project individually completes the appropriate entries in a daily sign-in/out log. The sign in/out log shall include: the location of the project; current date; printed employee name; signed employee name; name of employee's employer and the time of each entry or exiting. The log shall contain a prominent notice that employees are entitled under state law to receive the prevailing wage rate for their work on the project. Such sign-in/out logs shall be provided to the City of Gardner on a weekly basis with the certified payrolls and shall be a public record.
7. The contractor, prior to bidding or, if not subject to bidding requirements, prior to performing any work on the project, shall sign under oath and provide to the City of Gardner a certification that they are not debarred or otherwise prevented from bidding for or performing work on a public project in the Commonwealth of Massachusetts or in the City of Gardner.

8. The contractor must be in compliance with the health and hospitalization requirements of the Massachusetts Health Care Reform law established by Chapter 58 of the Acts of 2006, as amended, and regulations promulgated under that statute by the Commonwealth Health Insurance Connector Authority; and

9. The Contractor must submit weekly to City Director of Purchasing certified payrolls for all employees. A certified payroll format will be provided by the City that includes the employees full name, address, identifying number, and gender. Each contractor shall provide a copy of the OSHA 10 card for every employee attached to the first certified payroll they submit on which the employee appears.

B. A proposal or bid submitted by any general bidder or by any trade contractor or subcontractor, at any tier, under the general bidder or proposer that does not comply with any of the foregoing conditions for bidding shall be rejected, and no subcontract for work outside the scope of M.G.L. Chapter 149, §44F shall be awarded to a subcontractor of any tier that does not comply with the forgoing conditions.

C. All bidders or proposers and all trade contractors and subcontractors under the bidder or proposer who are awarded or who otherwise obtain contracts on projects subject to M.G.L. c.149, §44A(2), c 149A, or c.30, §39M shall comply with each of the obligations set forth in paragraph A above for the entire duration of their work on the project. An officer of each contractor or subcontractor shall certify under oath and in writing in connection with each requisition or request for payment that it is in compliance with such obligations.

D. Any proposer, bidder, trade contractor or subcontractor under the bidder or proposer that fails to comply with any one of obligations set forth in Paragraph A above or any other requirements in bid or contract documents for any period of time shall be, at the sole discretion of the City of Gardner, subject to one or more of the following sanctions: (1) cessation of work on the project until compliance is obtained; (2) withholding of payment due under any contract or subcontract until compliance is obtained; (3) permanent removal from any further work on the project; (4) liquidated damages payable to the City of Gardner in the amount of 5% of the dollar value of the contract.

E. In addition to the sanctions outlined in Paragraph D above, a proposer, general bidder or contractor shall be equally liable for the violations of its subcontractor with the exception of violations arising from work performed pursuant to subcontracts that are subject to M.G.L. c.149, §44F. Any contractor or subcontractor that has been determined by the City/Town or by any court or agency to have violated any of the obligations set forth in Paragraphs A and C above shall be barred from performing any work on any future projects for six months for a first violation, three years for a second violation and permanently for a third violation.

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**Section 3. TAX RELIEF AGREEMENTS**

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Minimum Mandatory Conditions. In addition to any other conditions that may be required in connection with the issuance of any Tax Relief issued or granted by the City of Gardner, each Tax Relief Agreement entered into between the City of Gardner and the recipient of such Tax Relief shall be subject to and shall include the following set of mandatory conditions:

A. It shall be a special and material condition of this Agreement that any construction manager, general contractor or other lead or prime contractor, or any entity functioning in any such capacity, and any other contractor or subcontractor of any tier or other person that is engaged to perform the construction work during the term of this Agreement on the property that is the subject of this Agreement (hereinafter, collectively and individually, the “Contractor”) shall comply with the following qualifications and conditions at all times during their performance of work on the property:

(1) The Contractor has not been debarred or suspended from performing construction work by any federal, state or local government agency or authority in the past five years;

(2) The Contractor has not been found within the past five years by a court or governmental agency in violation of any law relating to providing workers compensation insurance coverage, misclassification of employees as independent contractors, payment of employer payroll taxes, employee income tax withholding, earned sick time, wage and hour laws, prompt payment laws, or prevailing wage laws;

(3) The Contractor must maintain appropriate industrial accident insurance sufficient to provide coverage for all the employees on the project in accordance with G.L. c.152 and provide documentary proof of such coverage as part of the application process, or prior to commencing any work to the City Purchasing Department to be maintained as a public record;

(4) The Contractor must properly classify employees as employees rather than independent contractors and treat them accordingly for purposes of minimum wages and overtime, workers’ compensation insurance coverage, unemployment taxes, social security taxes and state and federal income tax withholding. (G.L. c.149, §148B on employee classification);

(5) The Contractor must comply with G.L. c. 151, §1A and G.L. c. 149, § 148 with respect to the payment of wages;

(6) The Contractor must be in compliance with the health and hospitalization requirements of the Massachusetts Health Care Reform law established by Chapter 58 of the Acts of 2006, as amended, and regulations promulgated under that statute by the Commonwealth Health Insurance Connector Authority; and

(7) The applicant shall submit to the City of Gardner as part of the applicant's request for Tax Relief a list of all the expected contractors to work on the project. The list shall include the name of the primary contact, the Contractor's address and either a phone number or email address. The applicant will provide a final all-inclusive list to the City of Gardner within 30 days of the conclusion of the project.

(8) The applicant and/or the Contractor must submit monthly to the City Director of Purchasing certified payrolls for all contractors. A certified payroll format will be provided by the City of Gardner that includes the employees full name, address, identifying number, and gender. Each contractor shall provide a copy of the OSHA 10 card for every employee attached to the first certified payroll they submit on which the employee appears.

(9) The Contractor must make arrangements to ensure that each employee of every contractor and subcontractor of any tier entering or leaving the project individually completes the appropriate entries in a daily sign-in/out log. The sign in/out log shall include: the location of the project; current date; printed employee name; signed employee name; name of employee's employer and the time of each entry or exiting. Such sign-in/out logs shall be provided to the City/Town on a weekly basis with the certified payrolls and shall be a public record.

B. If any person or entity subject to the foregoing qualifications and conditions fails to comply with any of them with respect to work on the property, the parties agree that such an event materially frustrates the public purpose for which the Tax Relief Agreement (and any certification or other form of approval that may have been granted by the state) was intended to advance. In such an event, the recipient of the Tax Relief shall be subject to the following penalty schedule:

- a. First Offense- the recipient shall pay the City of Gardner an amount equal to twenty-five (25%) of the total Tax Relief granted.
- b. Second Offense- the recipient shall pay the City of Gardner an amount equal to fifty (50%) of the total Tax Relief granted.
- c. Third Offense- Tax Relief granted by this Agreement shall be terminated upon written notice to the property owner, and the property owner shall pay to the City of Gardner an amount equal to the total value of any tax relief or grant that was received prior to the termination of the Tax Relief Agreement.

Where required, the City of Gardner shall petition the appropriate state agency or body for revocation of the certification or approval and, upon such revocation, the tax relief provided by this Agreement shall be terminated and the property owner shall pay to the City an amount equal to the value of the tax relief or grant that was received prior to the termination of the Tax Relief Agreement.

The above penalties are the only penalties that may be imposed in the event of a violation of the foregoing qualifications and conditions. However, the City Council

of the City of Gardner may, at its own discretion, impose a more severe penalty for a first or second offense from among those listed above.

C. In the event the owner of the property or any other person challenges the termination of the tax relief provided by this Agreement and/or the revocation by the state of any certification or approval, the owner shall set aside in an escrow account an amount equal to the full amount of the tax savings that previously would have accrued under this Agreement while any such challenge remains pending. The owner of the property shall have a continuing obligation to contribute to the escrow account amounts equal to any additional tax savings that accrue under this Agreement while its challenge remains pending. The owner shall promptly provide to the City of Gardner with documentation of its compliance with this obligation. The conditions of the escrow account shall provide that, in the event the owner or such other person is unsuccessful in its challenge, the funds in the account shall be paid to the City of Gardner. The owner's obligations under this subsection shall be judicially enforceable. It is the intent of the parties that the residents of this municipality are third party beneficiaries of this Agreement, and that it may be enforced in a civil proceeding brought by not less than 10 taxable inhabitants.

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#### **Section 4. BUILDING PERMITS**

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**Minimum Mandatory Conditions.** In addition to any other conditions that may be required in connection with the issuance of building permits under the provisions of the Code of the City of Gardner, each building permit issued in connection with the construction, reconstruction, installation, demolition, maintenance or repair of any commercial building estimated to cost not less than \$1,000,000 or in connection with a residential building with one-hundred-twenty-five (125) or more units shall be subject to and shall include the following set of mandatory permit conditions:

A. It shall be a material condition of this Permit that any construction manager, general contractor or other lead or prime contractor, or any entity functioning in any such capacity, and any other contractor or subcontractor of any tier or other person or entity that is engaged to perform the construction work on the property that is the subject of this Permit (hereinafter, collectively and individually, the "Contractor") shall comply with the following qualifications and conditions at all times during their performance of work on the project:

(1) The Contractor has not been debarred or suspended from performing construction work by any federal, state or local government agency or authority in the past five years;

(2) The Contractor has not been found within the past five years by a court or governmental agency in violation of any law relating to providing workers compensation insurance coverage, misclassification of employees as independent

contractors, payment of employer payroll taxes, employee income tax withholding, wage and hour laws, prompt payment laws, or prevailing wage laws;

(3) The Contractor must maintain appropriate industrial accident insurance sufficient to provide coverage for all the employees on the project in accordance with G.L. c.152 and provide documentary proof of such coverage to the Building Commissioner to be maintained as a public record;

(4) The Contractor must properly classify employees as employees rather than independent contractors and treat them accordingly for purposes of minimum wages and overtime, workers' compensation insurance coverage, unemployment taxes, social security taxes and state and federal income tax withholding. (G.L. c.149, §148B on employee classification);

(5) The Contractor must comply with G.L. c. 151, §1A and G.L. c. 149, § 148 with respect to the payment of wages; and

(6) The Contractor must be in compliance with the health and hospitalization requirements of the Massachusetts Health Care Reform law established by Chapter 58 of the Acts of 2006, as amended, and regulations promulgated under that statute by the Commonwealth Health Insurance Connector Authority.

(7) The Contractor must make arrangements to ensure that each employee of every contractor and subcontractor of any tier entering or leaving the project individually completes the appropriate entries in a daily sign-in/out log. The sign in/out log shall include: the location of the project; current date; printed employee name; signed employee name; name of employee's employer and the time of each entry or exiting. Such sign-in/out logs shall be provided to the City/Town on a weekly basis with the certified payrolls and shall be a public record.

If any person or entity that is subject to the foregoing fails to comply with any of the qualifications and conditions with respect to work on the project, this Permit shall be deemed temporarily suspended and all construction work on the entire project shall cease immediately upon issuance of a stop work order by the Building Commissioner or his/her designee until further notice by him/her.

Remedies. In the event the permit is granted, the applicant for the permit shall be responsible for ensuring that all contractors performing construction work on the property comply with the Minimum Mandatory Conditions required by this Section for the duration of work on the project. If any person or entity that is subject to those Minimum Mandatory Conditions fails to comply with any of the qualifications and conditions with respect to work on the project, and in addition to any other penalties or consequences provided by law, the Building Commissioner or his/her designee shall issue a stop work order with respect to all construction work on the entire project until the violation is remedied. Once the Building Commissioner or his/her designee

determines that the violation has been remedied, he/she shall withdraw the stop work order and construction on the project may proceed.

Appeals. Any person aggrieved by a stop work order issued by the **Building Commissioner** or his/her designee shall have the appeal rights set forth in by the Code of the City of Gardner or any applicable state law.

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#### **Section 5. SUCCESSORS IN INTEREST**

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The requirements of this Ordinance, including any sanctions or limitations imposed, that are applicable to any employer shall also be applicable to, and effective against, any successor employer that (1) has at least one of the same principals or officers as the predecessor employer and (2) is engaged in the same or equivalent trade or activity as the predecessor employer.

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#### **Section 6. SEPARABILITY**

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If any provision of this Ordinance, or the application of such provision to any person or circumstances, shall be enjoined or held to be invalid, the remaining provisions of this Ordinance, or the application of such provisions to persons or circumstances, other than that which is enjoined or held invalid shall be not affected thereby.

SECTION 2: This ordinance shall take effect upon passage and publication as required by law.



October 4, 2023

City of Gardner

To Whom It May Concern:

Enclosed please find a petition of NATIONAL GRID and VERIZON, covering joint NATIONAL GRID-VERIZON pole location(s)

If you have any questions regarding this permit please contact:

Please notify National Grid's Vincent LoGuidice of the hearing date / time.

If this petition meets with your approval, please return an executed copy to each of the above named Companies.

National Grid Contact: Vincent LoGuidice; 1101 Turnpike Street; North Andover, MA 01845. Phone 978-725-1392.

Very truly yours,

Patrick Shea  
Supervisor, Distribution Design

Enclosures



Questions contact – Will Fontaine 508-414-7308

**PETITION FOR JOINT OR IDENTICAL POLE LOCATIONS**

North Andover, Massachusetts

To the City Council  
Of Gardner, Massachusetts

Massachusetts Electric Company d/b/a National Grid and Verizon New England, Inc requests permission to locate poles, wires, and fixtures, including the necessary sustaining and protecting fixtures, along and across the following public way:

Park St - National Grid to relocate 4 JO Poles on Park St beginning at a point approximately 150 feet west of the centerline of the intersection of Park St and Lake St and continuing approximately 720 feet in a west direction. Moving P-4 closer to curb. Moving Poles 5, 6, and 7 and associated anchors back ~5', (on to grass) for City Project.

Location approximately as shown on plan attached

Wherefore it prays that after due notice and hearing as provided by law, it be granted a location for and permission to erect and maintain poles and wires, together with such sustaining and protecting fixtures as it may find necessary, said poles to be erected substantially in accordance with the plan filed herewith marked – Park St - Gardner - Massachusetts.

No. 30791973 October 4, 2023

Also for permission to lay and maintain underground laterals, cables, and wires in the above or intersecting public ways for the purpose of making connections with such poles and buildings as each of said petitioners may desire for distributing purposes.

Your petitioner agrees to reserve space for one cross-arm at a suitable point on each of said poles for the fire, police, telephone, and telegraph signal wires belonging to the municipality and used by it exclusively for municipal purposes.

Massachusetts Electric Company d/b/a  
NATIONAL GRID *Pat Shea*

BY \_\_\_\_\_  
Engineering Department

VERIZON NEW ENGLAND, INC.  
BY \_\_\_\_\_  
Manager / Right of Way

**ORDER FOR JOINT OR IDENTICAL POLE LOCATIONS**

To the City Council - Gardner, Massachusetts

Notice having been given and public hearing held, as provided by law, IT IS HEREBY ORDERED: that Massachusetts Electric Company d/b/a National Grid and VERIZON NEW ENGLAND INC. (formerly known as NEW ENGLAND TELEPHONE AND TELEGRAPH COMPANY) be and they are hereby granted joint or identical locations for and permission to erect and maintain poles and wires to be placed thereon, together with such sustaining and protecting fixtures as said Companies may deem necessary, in the public way or ways hereinafter referred to, as requested in petition of said Companies dated the 4th day of October, 2023.

All construction under this order shall be in accordance with the following conditions:

Poles shall be of sound timber, and reasonable straight, and shall be set substantially at the points indicated upon the plan marked – Park St - Gardner - Massachusetts..

No. 30791973 Dated October 4, 2023. Filed with this order

There may be attached to said poles by Massachusetts Electric Company d/b/a National Grid and Verizon New England Inc. such wires, cables, and fixtures as needed in their business and all of said wires and cables shall be placed at a height of not less than twenty (20) feet from the ground.

The following are the public ways or part of ways along which the poles above referred to may be erected, and the number of poles which may be erected thereon under this order:

Park St - National Grid to relocate 4 JO Poles on Park St beginning at a point approximately 150 feet west of the centerline of the intersection of Park St and Lake St and continuing approximately 720 feet in a west direction. Moving P-4 closer to curb. Moving Poles 5, 6, and 7 and associated anchors back ~5', (on to grass) for City Project.

Also for permission to lay and maintain underground laterals, cables, and wires in the above or intersecting public ways for the purpose of making connections with such poles and buildings as each of said petitioners may desire for distributing purposes.

I hereby certify that the foregoing order was adopted at a meeting of the of the City/Town of \_\_\_\_\_, Massachusetts held on the \_\_\_\_\_ day of \_\_\_\_\_ 20 .

\_\_\_\_\_  
Massachusetts City/Town Clerk.  
20 .

Received and entered in the records of location orders of the City/Town of  
Book \_\_\_\_\_ Page \_\_\_\_\_

Attest:

City/Town Clerk

I hereby certify that on \_\_\_\_\_ 20\_\_\_\_, at \_\_\_\_\_ o'clock, M  
at \_\_\_\_\_ a public hearing was held on the petition of  
Massachusetts Electric Company d/b/a National Grid and VERIZON NEW ENGLAND, INC.

for permission to erect the poles, wires, and fixtures described in the order herewith recorded, and  
that we mailed at least seven days before said hearing a written notice of the time and place of said  
hearing to each of the owners of real estate (as determined by the last preceding assessment for  
taxation) along the ways or parts of ways upon which the Company is permitted to erect  
poles, wires, and fixtures under said order. And that thereupon said order was duly adopted.

City/Town Clerk.

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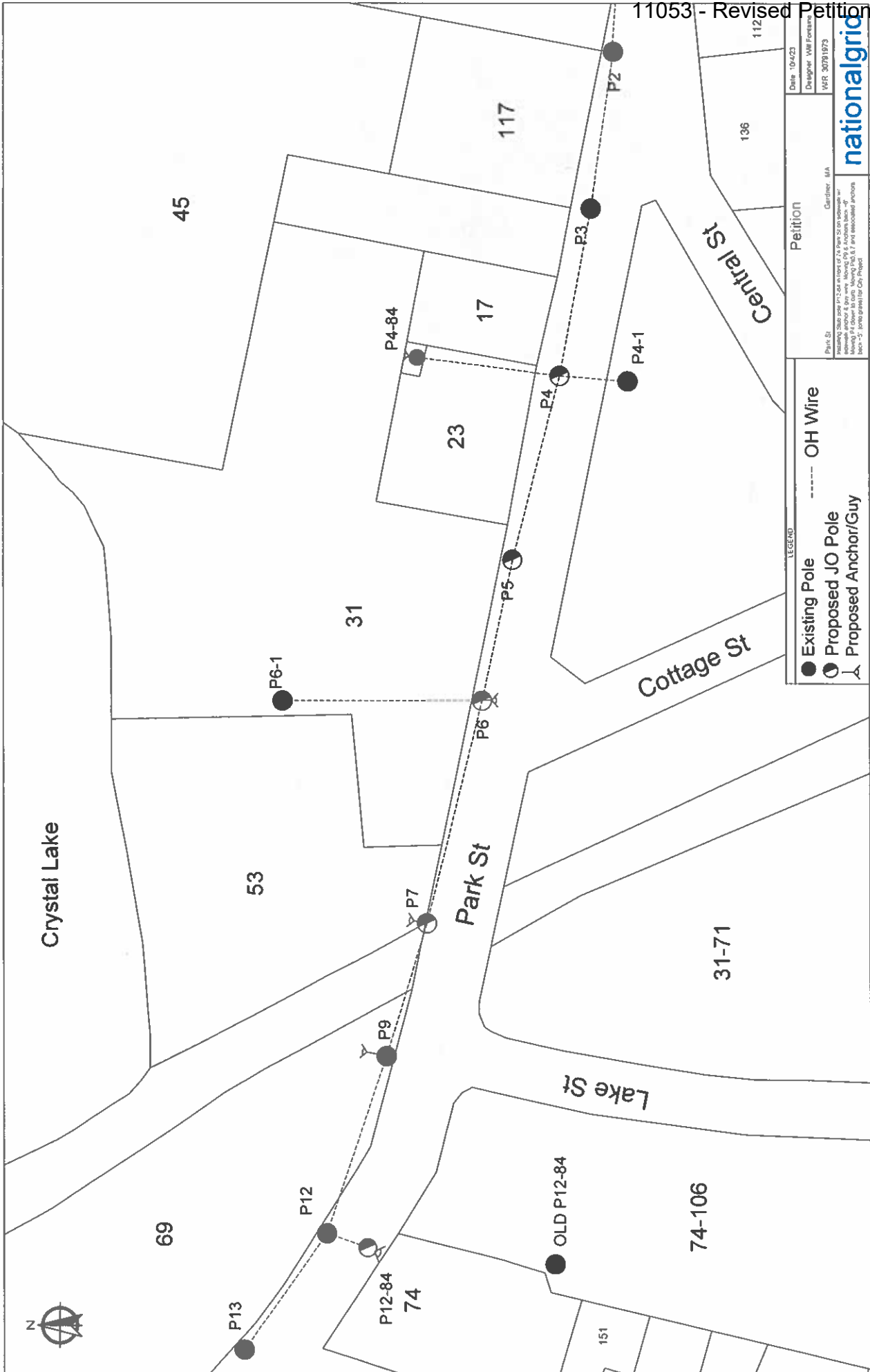
Board or Council of Town or City, Massachusetts

CERTIFICATE

I hereby certify that the foregoing is a true copy of the location order and certificate of  
hearing with notice adopted by the \_\_\_\_\_ of the City of  
Massachusetts, on the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_, and recorded with the  
records of location orders of the said City, Book \_\_\_\_\_, Page \_\_\_\_\_. This certified copy  
is made under the provisions of Chapter 166 of General Laws and any additions thereto or  
amendments thereof.

Attest:

City/Town Clerk



Date 10/4/23  
 Designer VM Forestry  
 WFR 30791973  
 Petition  
 City of  
 Carver, MA  
 This plan shall be used as a guide only. It is not to be used for any other purpose. The user assumes all liability for any and all damages, including attorney's fees, arising from the use of this plan. The user shall be responsible for obtaining all necessary permits and approvals from the appropriate authorities.

**LEGEND**  
 ● Existing Pole  
 ○ Proposed JO Pole  
 ⊗ Proposed Anchor/Guy  
 - - - - - OH Wire





**CITY OF GARDNER**  
**MASSACHUSETTS 01440-2630**

OFFICE OF THE  
**CITY CLERK**

Room 121, City Hall  
Tel (978) 630-4058  
Fax (978) 630-2589

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**NOTICE TO ABUTTERS**

September 7, 2023

TO ABUTTERS AND OTHER INTERESTED PARTIES:

Pursuant to the provisions of M.G.L., c. 166, §22, you are hereby notified that a Public Hearing will be conducted on **MONDAY, SEPTEMBER 18, 2023 at 7:30 o'clock P.M.** on the petition of Massachusetts Electric Company, d/b/a NATIONAL GRID for permission to erect and maintain poles and wires to be placed thereon, together with such sustaining and protecting fixtures as said Companies may deem necessary, in the public way or ways hereinafter referred to, as requested in petition of said Companies:

PARK STREET – A Petition by National Grid and Verizon New England, Inc., Park Street - to relocate 5 Jointly Owned Poles on Park Street beginning at a point approximately 150 feet west of the centerline of the intersection of Park Street and Lake Street and continuing approximately 720 feet in a west direction. Moving Poles 3, 4, 5, 6, 7 and associated Anchors back ~5' for City's Park Street Project.

A sketch of the proposed pole location is attached for your edification.

CITY COUNCIL OF GARDNER

By: TITI SIRIPHAN  
City Clerk



## ENGINEERING DEPARTMENT

### CITY OF GARDNER

50 Manca Drive, Gardner MA 01440

Robert E. Oliva, City Engineer  
 Telephone (978) 630-8195  
 roliva@gardner-ma.gov

### PROJECT REVIEW MEMORANDUM

**To:** Public Service Committee

**Cc:** Dane Arnold, DPW Director  
 Christine Harty, DPW Administrative Asst.  
 Titi Siriphan, City Clerk

**From:** Robert Oliva – City Engineer

**Date:** September 13, 2023

**Project:** National Grid Pole Petitions - City Council Item #11052, #11053

National Grid has submitted pole petitions associated with the City's project at the new Park Street Park and Monument Park. I have inspected the proposed locations, reviewed the petition applications, and have no comments at this time.

<u>Council Item #</u>	<u>Comment</u>
11052	To remove and relocate stub pole (12-84) and relocate pole #9 on Park Street. <i>No comment</i>
11053	To relocate existing poles 3, 4, 5, 6, and 7 and associated anchors on Park Street. <i>No comment</i>

Questions contact – Will Fontaine 508-414-7308

**PETITION FOR JOINT OR IDENTICAL POLE LOCATIONS**

North Andover, Massachusetts

To the City Council  
Of Gardner, Massachusetts

Massachusetts Electric Company d/b/a National Grid and Verizon New England, Inc requests permission to locate poles, wires, and fixtures, including the necessary sustaining and protecting fixtures, along and across the following public way:

Park St - National Grid to relocate 5 JO Poles on Park St beginning at a point approximately 150 feet west of the centerline of the intersection of Park St and Lake St and continuing approximately 720 feet in a west direction. Moving Poles 3, 4, 5, 6, 7 and associated Anchors back ~5' for City's Park St Project.

Location approximately as shown on plan attached

Wherefore it prays that after due notice and hearing as provided by law, it be granted a location for and permission to erect and maintain poles and wires, together with such sustaining and protecting fixtures as it may find necessary, said poles to be erected substantially in accordance with the plan filed herewith marked – Park St - Gardner - Massachusetts.

**No. 30791973** July 11, 2023

Also for permission to lay and maintain underground laterals, cables, and wires in the above or intersecting public ways for the purpose of making connections with such poles and buildings as each of said petitioners may desire for distributing purposes.

Your petitioner agrees to reserve space for one cross-arm at a suitable point on each of said poles for the fire, police, telephone, and telegraph signal wires belonging to the municipality and used by it exclusively for municipal purposes.

Massachusetts Electric Company d/b/a  
NATIONAL GRID *Pat Shea*

BY \_\_\_\_\_  
Engineering Department

VERIZON NEW ENGLAND, INC.

BY \_\_\_\_\_  
Manager / Right of Way

**ORDER FOR JOINT OR IDENTICAL POLE LOCATIONS**

To the City Council - Gardner, Massachusetts

Notice having been given and public hearing held, as provided by law,  
**IT IS HEREBY ORDERED:** that Massachusetts Electric Company d/b/a National Grid and VERIZON NEW ENGLAND INC. (formerly known as NEW ENGLAND TELEPHONE AND TELEGRAPH COMPANY) be and they are hereby granted joint or identical locations for and permission to erect and maintain poles and wires to be placed thereon, together with such sustaining and protecting fixtures as said Companies may deem necessary, in the public way or ways hereinafter referred to, as requested in petition of said Companies dated the 11th day of July, 2023.

All construction under this order shall be in accordance with the following conditions:

Poles shall be of sound timber, and reasonable straight, and shall be set substantially at the points indicated upon the plan marked – Park St - Gardner - Massachusetts..

**No. 30791973** Dated July 11, 2023. Filed with this order

There may be attached to said poles by Massachusetts Electric Company d/b/a National Grid and Verizon New England Inc. such wires, cables, and fixtures as needed in their business and all of said wires and cables shall be placed at a height of not less than twenty (20) feet from the ground.

The following are the public ways or part of ways along which the poles above referred to may be erected, and the number of poles which may be erected thereon under this order:

Park St - National Grid to relocate 5 JO Poles on Park St beginning at a point approximately 150 feet west of the centerline of the intersection of Park St and Lake St and continuing approximately 720 feet in a west direction. Moving Poles 3, 4, 5, 6, 7 and associated Anchors back ~5' for City's Park St Project.

Also for permission to lay and maintain underground laterals, cables, and wires in the above or intersecting public ways for the purpose of making connections with such poles and buildings as each of said petitioners may desire for distributing purposes.

I hereby certify that the foregoing order was adopted at a meeting of the  
of the City/Town of \_\_\_\_\_, Massachusetts held on the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_ .

Massachusetts

City/Town Clerk.

20\_\_

Received and entered in the records of location orders of the City/Town of  
Book \_\_\_\_\_ Page \_\_\_\_\_

Attest:



City/Town Clerk

I hereby certify that on \_\_\_\_\_ 20\_\_\_\_, at \_\_\_\_\_ o'clock, M  
at \_\_\_\_\_ a public hearing was held on the petition of  
Massachusetts Electric Company d/b/a National Grid and VERIZON NEW ENGLAND, INC.

for permission to erect the poles, wires, and fixtures described in the order herewith recorded, and  
that we mailed at least seven days before said hearing a written notice of the time and place of said  
hearing to each of the owners of real estate (as determined by the last preceding assessment for  
taxation) along the ways or parts of ways upon which the Company is permitted to erect  
poles, wires, and fixtures under said order. And that thereupon said order was duly adopted.

City/Town Clerk.

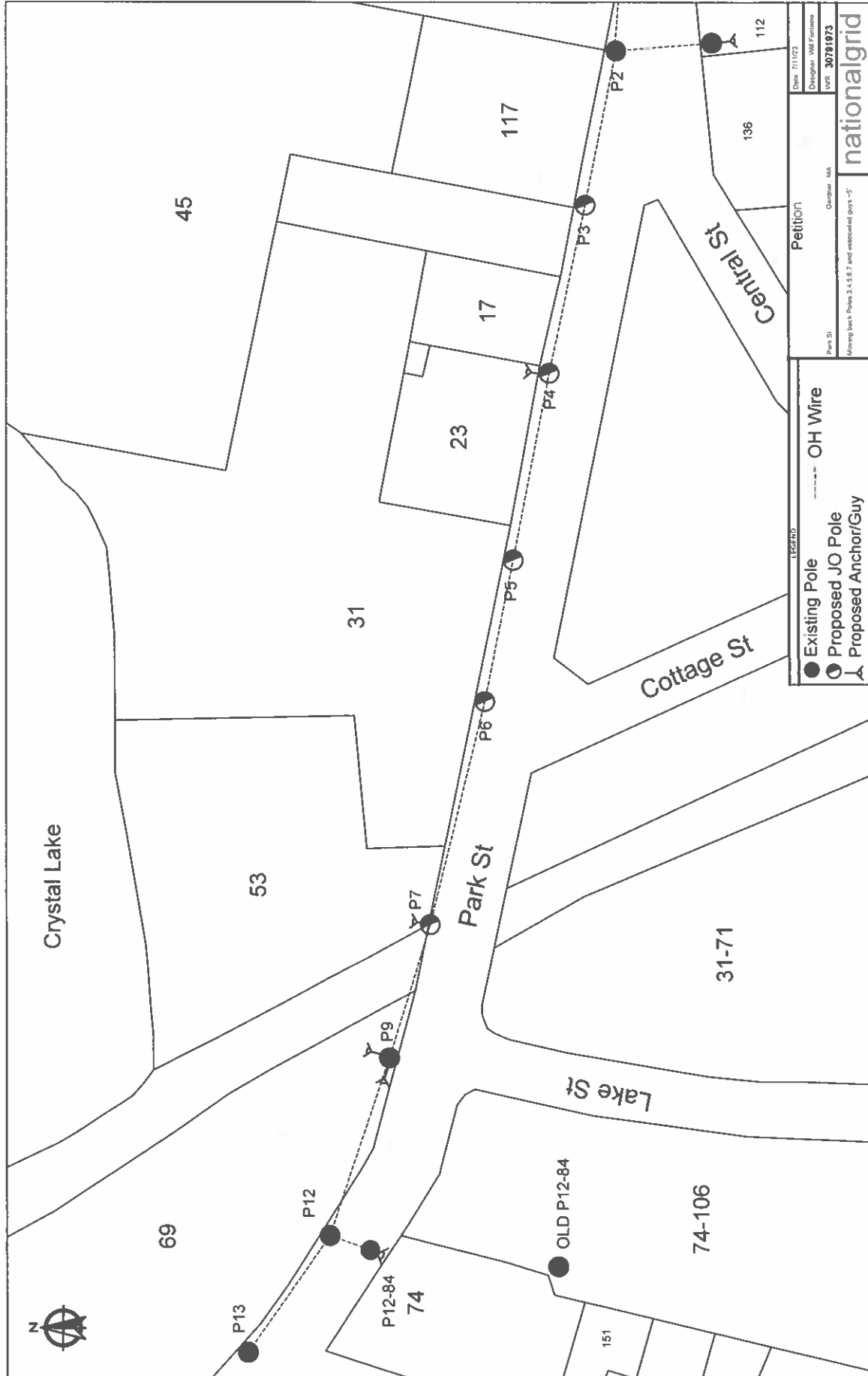
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Board or Council of Town or City, Massachusetts

CERTIFICATE

I hereby certify that the foregoing is a true copy of the location order and certificate of  
hearing with notice adopted by the \_\_\_\_\_ of the City of \_\_\_\_\_  
Massachusetts, on the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_, and recorded with the  
records of location orders of the said City, Book \_\_\_\_\_, Page \_\_\_\_\_. This certified copy  
is made under the provisions of Chapter 166 of General Laws and any additions thereto or  
amendments thereof.

Attest:  
City/Town Clerk



**AN ORDINANCE TO AMEND THE CODE OF THE CITY OF GARDNER, CHAPTER 306 THEREOF, ENTITLED “ALCOHOLIC BEVERAGES,” TO ADD A NEW SECTION 5 THEREOF, ENTITLED, “MARIJUANA RETAIL ESTABLISHMENTS” TO INCREASE THE QUOTA ALLOWED AND CHANGE THE METHOD FOR AMENDING THE QUOTA ALLOWED BY THE CODE OF THE CITY OF GARDNER.**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GARDNER AS FOLLOWS:

**SECTION 1:** That the Title of Chapter 306 of the Code of the City of Gardner shall be amended to state as follows:

Chapter 306. Alcoholic Beverages and Marijuana

**SECTION 2:** That the Chapter 306 of the of the Code of the City of Gardner shall be amended by adding a new Article II, entitled "Marijuana Establishments", and a new Section 5, entitled "Number of Allowed Marijuana Retail Establishments", immediately after the existing Section 4 of Chapter 306, as follows:

Article II. Marijuana Establishments

§306-5. Number of Allowed Marijuana Retail Establishments. The number of marijuana retail establishments shall not exceed 35% of liquor licenses issued in the City of Gardner for retail sale of alcoholic beverages not to be drunk on the premises where sold, said number to be rounded up to the next whole number.

**SECTION 3:** That this ordinance take effect upon passage and publication as required by law.