



City of Gardner, Massachusetts  
Office of the City Council

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CALENDAR FOR THE MEETING  
of  
MONDAY, OCTOBER 2, 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)
- VII. PUBLIC HEARINGS
- VIII. COMMUNICATIONS FROM THE MAYOR

**ORDERS**

**11066** – A Notification from the Mayor Regarding Certified Free Cash and Retained Earnings. (*Finance Committee*)

**11067** – An Order Appropriating \$128,978.00 from Free Cash to Stabilization. (*Finance Committee*)

**11068** – An Order Appropriating \$25,796.00 from Free Cash to Other Post Employment Benefits Liability Trust Fund. (*Finance Committee*)

**11069** – An Order Appropriating \$257,956.00 from Free Cash to Department of Public Works Department – Road Resurfacing Expense Account. (*Finance Committee*)

**ORDERS, continued**

**11070** – An Order Appropriating \$75,000.00 from Free Cash to Landfill Closure Expenditures. *(Finance Committee)*

**11071** – An Order Appropriating \$200,000.00 from Free Cash to Vehicle Stabilization. *(Finance Committee)*

**11072** – An Order Appropriating \$90,072.04 from Free Cash to Mayor Unclassified Department for Opioid Professional Services Expenses. *(Finance Committee)*

**COMMUNICATIONS**

**11073** – A Notification from the Mayor Regarding Voter Information Packet for the 2023 Ballot Question.

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

**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)*

**APPOINTMENTS COMMITTEE**

**11051** – A Measure Confirming the Mayor’s Appointment of Elijah Williams to the Position of Police Officer, Permanent. *(In the City Council and Referred to Appointments Committee 9/5/2023; More Time 9/18/2023)*

**11064** – A Measure Confirming the Mayor’s Appointments of Election Officers for 2023-2024. *(In the City Council and Referred to Appointments Committee 9/18/2023)*

**11065** – A Measure Confirming the Police Officer Assignments to Polling Locations. *(In the City Council and Referred to Appointments Committee 9/18/2023)*

## **SERVICE COMMITTEE**

- 11052** – 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. *(In the City Council and Referred to Public Service Committee 9/5/2023; More Time 9/18/2023)*
- 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)*

## **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)*

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

- 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. *(Submitted by Councillor Dana Heath; In the City Council and Referred to Planning Board 8/7/2023; More Time 9/5/2023, 9/18/2023)*
- 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. *(Submitted by Councillor Dana Heath; In the City Council and Referred to Planning Board 8/7/2023; More Time 9/5/2023, 9/18/2023)*

**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.

\***11060** – A Communication from Councillor George Tyros Regarding Review of the City’s Disaster Response Plans was removed from the City Council Calendar.





City of Gardner - *Executive Department*

Mayor Michael J. Nicholson

RECEIVED

2023 SEP 27 PM 4:13

CITY CLERK'S OFFICE  
GARDNER, MA

September 26, 2023

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

RE: Notification of Certified Free Cash and Retained Earnings

Dear Madam President and Councilors,

As you are aware, following the official closing of every fiscal year, the Massachusetts Department of Revenue certifies general fund free cash and enterprise fund retained earnings.

These funds are comprised of budgetary revenues that came in over budget and expenditures that came in under budget. The Department of Revenue best practice guidelines suggests that cities and towns aim to have a total amount of free cash that is equivalent to approximately three percent (3%) to five percent (5%) of the annual operating budget for the fiscal year in which the amounts are certified.

Our FY2023 Certification of \$2,579,559.00 puts us at 3.45% of our current FY2024 operating budget of \$74,851,851, putting us directly in line with these guidelines.

The official certification notification sent to us by the Commonwealth is attached to this correspondence.

I would like to thank our City Auditor, John Richard, for his work in getting these values certified. This is the earliest that the City has obtained our official certification of these funds and it was one of the cleanest and smoothest certification processes we have had.

Respectfully submitted,

Michael J. Nicholson  
Mayor, City of Gardner

**Mayor**

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**From:** dlsgateway@dor.state.ma.us  
**Sent:** Thursday, September 21, 2023 11:34 AM  
**To:** leblanc37@comcast.net; duncan.burns75@gmail.com; Chris Kumar; Lauren Stinnett; Jennifer Dymek; rivard-diane@montytech.net; Mayor; John Richard; dlsgateway@dor.state.ma.us  
**Cc:** guzmanda@dor.state.ma.us  
**Subject:** [EXTERNAL] Notification of free cash approval - Gardner  
**Attachments:** FreeCashCertification.PDF

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

**Massachusetts Department of Revenue Division of Local Services**

Geoffrey E. Snyder, Commissioner

Sean R. Cronin, Senior Deputy Commissioner of Local Services

9/21/2023

**NOTIFICATION OF FREE CASH APPROVAL - City of Gardner**

Based upon the un-audited balance sheet submitted, I hereby certify that the amount of available funds or "free cash" as of July 1, 2023 for the City of Gardner is:

|                             |                |
|-----------------------------|----------------|
| General Fund                | \$2,579,559.00 |
| Enterprise Fund SEWER       | \$5,603,479.00 |
| Enterprise Fund WATER       | \$1,858,549.00 |
| Enterprise Fund GOLF COURSE | \$620,202.00   |
| Enterprise Fund LANDFILL    | \$144,800.00   |
| Enterprise Fund SOLID WASTE | \$254,526.00   |

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

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

Sincerely,



Deborah A. Wagner  
 Director of Accounts  
 Massachusetts Department of Revenue

MASSACHUSETTS DEPARTMENT OF REVENUE  
DIVISION OF LOCAL SERVICES

**Gardner**

CITY

**Free Cash Certification**  
**Free Cash Calculation - Fiscal Year 2024**

**Begin:**

**Unreserved Undesignated Fund Balance** 2,668,314.00

**Subtract:**

**Personal Property Tax Receivable** 115,146.00

**Real Estate Tax Receivable** 878,011.00

**Other Receivables in Deferred Revenue**

0.00

**Total** 0.00

**Other Receivables, Overdrawn Accounts, Deficits**

**RE neg rec** 3,072.00

**W/H** 260.00

**Shannon grant** 2,429.00

**2019 BG19 grant** 2,251.00

**2020 BG20 grant** 591.00

**Complete street grant** 1,378.00

**Total** 9,981.00

**Free Cash Voted from Town Meeting Not Recorded** 0.00

**Add:**

**Circuit Breaker, Other Closed Accounts, Adjustments:**

0.00

**Total** 0.00

**Deferred Revenue (Credit Balance+, Debit Balance-)** 914,383.00

**Free Cash Calculation for 2023** 2,579,559.00

**Reviewed By:** David Guzman

**Certified On:** 9/21/2023

MASSACHUSETTS DEPARTMENT OF REVENUE  
DIVISION OF LOCAL SERVICES

**Gardner**

CITY

**Free Cash Certification**  
**Retained Earnings Calculation - SEWER - Fiscal Year 2024**

Enterprise Fund Number                   A-2(1ST)  
Type of Enterprise Fund                    Sewer  
Name of Enterprise Fund/Statutory Reference   SEWER

**Part I Cash** **6,515,109.00**

**Current Liabilities, Designations of Fund Balance:**

|                           |            |
|---------------------------|------------|
| Accounts Payable          | 5,598.00   |
| Payroll Payable           | 0.00       |
| Warrants Payable          | 0.00       |
| Encumbrances              | 906,032.00 |
| Expenditures              | 0.00       |
| Continuing Appropriations | 0.00       |

**Other Liabilities**

0.00

**Total** **911,630.00**

**Cash less Current Liabilities** **5,603,479.00**

**Part II Retained Earnings, Undesignated** **5,603,479.00**

**Accounts Receivable (net):**

**User Fees** 0.00

**Other Accounts Receivable**

0.00

**Total** **0.00**

**Undesignated Retained Earnings Less Accounts Receivable** **5,603,479.00**

**Fixed Assets**

**Debits:**

0.00

**Total** **0.00**

**Credits:**

0.00

**Total** **0.00**

**Free Cash Certification**  
**Retained Earnings Calculation - SEWER - Fiscal Year 2024**

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|                                                 |             |
|-------------------------------------------------|-------------|
| <b>Fixed Assets Variance (Debits - Credits)</b> | <u>0.00</u> |
|-------------------------------------------------|-------------|

MASSACHUSETTS DEPARTMENT OF REVENUE  
DIVISION OF LOCAL SERVICES

**Gardner**

CITY

**Free Cash Certification**  
**Retained Earnings Calculation - WATER - Fiscal Year 2024**

Enterprise Fund Number                   A-2(2ND)  
Type of Enterprise Fund                    Water  
Name of Enterprise Fund/Statutory Reference   WATER

Part I Cash 2,902,556.00

**Current Liabilities, Designations of Fund Balance:**

|                           |            |
|---------------------------|------------|
| Accounts Payable          | 52,412.00  |
| Payroll Payable           | 0.00       |
| Warrants Payable          | 0.00       |
| Encumbrances              | 991,595.00 |
| Expenditures              | 0.00       |
| Continuing Appropriations | 0.00       |

**Other Liabilities**

0.00

**Total** 1,044,007.00

**Cash less Current Liabilities** 1,858,549.00

**Part II Retained Earnings, Undesignated** 1,858,549.00

**Accounts Receivable (net):**

**User Fees** 0.00

**Other Accounts Receivable**

0.00

**Total** 0.00

**Undesignated Retained Earnings Less Accounts Receivable** 1,858,549.00

**Fixed Assets**

**Debits:**

0.00

**Total** 0.00

**Credits:**

0.00

**Total** 0.00

**Free Cash Certification**  
**Retained Earnings Calculation - WATER - Fiscal Year 2024**

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|                                                 |                    |
|-------------------------------------------------|--------------------|
| <b>Fixed Assets Variance (Debits - Credits)</b> | <u><u>0.00</u></u> |
|-------------------------------------------------|--------------------|





**Free Cash Certification**

**Retained Earnings Calculation - GOLF COURSE - Fiscal Year 2024**

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**Fixed Assets Variance (Debits - Credits)**

0.00

MASSACHUSETTS DEPARTMENT OF REVENUE  
DIVISION OF LOCAL SERVICES

**Gardner**

CITY

**Free Cash Certification**  
**Retained Earnings Calculation - LANDFILL - Fiscal Year 2024**

Enterprise Fund Number                   A-2(4TH)  
Type of Enterprise Fund                   TrashDisposal  
Name of Enterprise Fund/Statutory Reference    LANDFILL

**Part I Cash** **306,536.00**

**Current Liabilities, Designations of Fund Balance:**

|                           |            |
|---------------------------|------------|
| Accounts Payable          | 597.00     |
| Payroll Payable           | 0.00       |
| Warrants Payable          | 0.00       |
| Encumbrances              | 161,139.00 |
| Expenditures              | 0.00       |
| Continuing Appropriations | 0.00       |

**Other Liabilities**

0.00

**Total** **161,736.00**

**Cash less Current Liabilities** **144,800.00**

**Part II Retained Earnings, Undesignated** **144,800.00**

**Accounts Receivable (net):**

**User Fees** 0.00

**Other Accounts Receivable**

0.00

**Total** **0.00**

**Undesignated Retained Earnings Less Accounts Receivable** **144,800.00**

**Fixed Assets**

**Debits:**

0.00

**Total** **0.00**

**Credits:**

0.00

**Total** **0.00**

**Free Cash Certification**  
**Retained Earnings Calculation - LANDFILL - Fiscal Year 2024**

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|                                                 |                    |
|-------------------------------------------------|--------------------|
| <b>Fixed Assets Variance (Debits - Credits)</b> | <u><u>0.00</u></u> |
|-------------------------------------------------|--------------------|



**Free Cash Certification**

**Retained Earnings Calculation - SOLID WASTE - Fiscal Year 2024**

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**Fixed Assets Variance (Debits - Credits)**

0.00



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

RECEIVED  
 2023 SEP 27 PM 4:43  
 CITY CLERK'S OFFICE  
 GARDNER, MA

September 26, 2023

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

RE: Free Cash Appropriation Request- Stabilization Account

Dear Madam President and Councilors,

The City's Administrative Financial Policies dictate that upon certification of free cash by the Commonwealth's Department of Massachusetts, the Mayor shall submit an appropriation request equivalent to five percent (5%) of certified Free Cash to be appropriated and deposited into the City's Stabilization Account.

On September 21, 2023, the Massachusetts Department of Revenue certified the City's FY2023 Free Cash at \$2,579,559.00.

The attached free cash order for \$128,978 reflects the practices dictated by the City's policies.

The current balance in the City's stabilization account is \$3,403,508.54. This does not include this proposed appropriation request. The Massachusetts Department of Revenue's best practice manual states that cities and towns should aim to have a balance in their stabilization account to an amount equivalent to seven percent (7%) to five percent (5%) of the municipality's operating budget for the year in which Free Cash is certified.

With the City's current operating budget of \$74,851,841.00 for FY2024, this appropriation request would bring our stabilization account to balance equivalent to 4.72% of our operating budget. While this is still under what the Commonwealth recommends, this is the highest amount the City's stabilization fund has been at since at least 2015, mainly due to a more aggressive approach to increasing the balance that the City has undertaken since 2020.

**STABILIZATION TRUST ACCOUNT HISTORY AS OF 9/11/23**

| Description             | 2024 Actual     | 2023 Actual     | 2022 Actual     | 2021 Actual     | 2020 Actual     | 2019 Actual     | 2018 Actual     | 2017 Actual     | 2016 Actual     | 2015 Actual     |
|-------------------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|
| F/B STABILIZATION TRUST | \$ 3,403,508.54 | \$ 3,376,531.97 | \$ 3,188,962.31 | \$ 2,938,257.22 | \$ 2,651,095.74 | \$ 2,284,737.78 | \$ 2,621,830.43 | \$ 2,379,395.86 | \$ 2,225,146.26 | \$ 2,087,842.11 |

Respectfully Submitted,

Michael J. Nicholson  
 Mayor, City of Gardner

AN ORDER APPROPRIATING FROM FREE CASH TO STABILIZATION.

ORDERED:

That there be and is hereby appropriated the sum of One Hundred Twenty-Eight Thousand Nine Hundred Seventy-Eight Dollars and No Cents (\$128,978.00) from Free Cash to Stabilization.



City of Gardner - *Executive Department*

Mayor Michael J. Nicholson

RECEIVED

2023 SEP 27 PM 4:43

CITY CLERK'S OFFICE  
GARDNER, MA

September 26, 2023

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

RE: Free Cash Appropriation- Other Post Employee Benefit (OPEB) Trust Fund

Dear Madam President and Councilors,

The City's Administrative Financial Policies state that upon certification of Free Cash, the Mayor shall submit an appropriation request equivalent to one percent (1%) of certified free cash to be appropriated and deposited into the City's Other Post Employee Benefit (OPEB) Trust Fund.

With the Commonwealth's Department of Revenue certifying Free Cash at \$2,579,559.00, the attached appropriation request of \$25,796.00 reflects what these policies dictate.

Our current OPEB Trust Fund has a balance of \$203,808.53.

While our OPEB Trust Fund is an account that the City is required to contribute to annually under current Department of Revenue regulations, I do want to state my objections and concerns to this requirement. Our OPEB Trust Fund is a fund used to ensure that if the City's government ever ceases to exist we have a fund established to pay our retiree benefits. Even though the City already funds these expenditures in our operating budget, we are legally obligated to maintain this account, from which we will never be able to utilize this funding for anything other than helping our bond rating and making things better for our actuaries.

This request is being submitted so as to not have a negative impact on our bond rating. However, I believe it is imprudent to tie up any more funds than one percent (1%) of certified free cash into an account like this that will likely never be used by the City.

Respectfully Submitted,

Michael J. Nicholson  
Mayor, City of Gardner



AN ORDER APPROPRIATING FROM FREE CASH TO THE OTHER POST-EMPLOYMENT BENEFITS LIABILITY TRUST FUND.

ORDERED:

That there be and is hereby appropriated the sum of Twenty-Five Thousand Seven Hundred Ninety-Six Dollars and No Cents (\$25,796.00) from Free Cash to the Other Post-Employment Benefits Liability Trust Fund.



City of Gardner - *Executive Department*

Mayor Michael J. Nicholson

September 26, 2023

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

RE: Free Cash Appropriation Request- Road Resurfacing Account

Dear Madam President and Councilors,

The City's Administrative Financial Policies state that upon certification of free cash, the Mayor shall submit an appropriation request equivalent to ten percent (10%) of certified free cash to the City Council for road paving.

On September 21, 2023, the Massachusetts Department of Revenue certified the City's Free Cash at \$2,579,559.00. The attached appropriation request for \$257,956 is in line with what these policies dictate.

Since 2020, there have been just over twenty (20) miles of roads re-paved in the City. This is equivalent to twenty percent (20%) of all paved roads in the City being re-done in just a three (3) year time period. While there is always more to be done, this is a significant amount of progress made toward those efforts in just a short period of time.

This funding will supplement the \$604,000 that the City received from the Commonwealth's Chapter 90 Funding Program for the current fiscal year, and the \$150,000 that my administration added to our road paving program from funding we received from the American Rescue Plan Act (ARPA).

Due to increases in costs, the current cost to pave one square foot of road is approximately \$81.12.

Respectfully Submitted,

Michael J. Nicholson  
 Mayor, City of Gardner

RECEIVED  
 2023 SEP 27 PM 1:13  
 CITY OF GARDNER OFFICE  
 GARDNER, MA

AN ORDER APPROPRIATING FROM FREE CASH TO DEPARTMENT OF  
PUBLIC WORKS DEPT. - ROAD RESURFACING EXPENSE ACCOUNT.

ORDERED:

That there be and is hereby appropriated the sum of Two Hundred Fifty-Seven  
Thousand Nine Hundred Fifty-Six Dollars and No Cents (\$257,956.00) from Free Cash  
to Department of Public Works Dept. – Road Resurfacing Expense Account.



City of Gardner - *Executive Department*

Mayor Michael J. Nicholson

September 26, 2023

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

RE: Free Cash Appropriation Request – Landfill Closure Account

Dear Madam President and Councilors,

The City is obligated to maintain and monitor the former West Street Landfill for a period of thirty (30) years from the date of closure. The West Street Landfill closed in 2005.

The fund that was previously set up to maintain and monitor the former landfill will be all but exhausted by the end of the fiscal year. In order to maintain and monitor the landfill going forward, I am requesting the transfer of \$75,000 from Free Cash to the Landfill Closure Fund.

I anticipate this will be an annual request to replenish the account. We anticipate the cost to maintain and monitor the former landfill will be approximately \$50,000 a year. By adding \$75,000 a year for the next eleven (11) years, we anticipate we will be able to re-establish a small cushion for the fund. I've included a sample spreadsheet to show the anticipated appropriations and expenses.

Respectfully,

Michael J. Nicholson  
 Mayor, City of Gardner

RECEIVED  
 2023 SEP 27 PM 4:40  
 CITY OF GARDNER'S OFFICE  
 GARDNER, MA

AN ORDER APPROPRIATING FROM FREE CASH TO LANDFILL  
CLOSURE EXPENDITURES.

ORDERED:

That there be and is hereby appropriated the sum of Seventy-Five Thousand  
Dollars and No Cents (\$75,000.00) from Free Cash to Landfill Closure Expenditures.

| <b>Fiscal Year</b> | <b>Appropriation</b> | <b>Expenses*</b> | <b>End of Year Balance</b> |
|--------------------|----------------------|------------------|----------------------------|
| 2019               | 0                    | \$ 50,000        | \$ 856                     |
| 2020               | \$ 75,000            | \$ 50,000        | \$ 25,856                  |
| 2021               | \$ 75,000            | \$ 51,250        | \$ 49,606                  |
| 2022               | \$ 75,000            | \$ 52,531        | \$ 72,075                  |
| 2023               | \$ 75,000            | \$ 53,845        | \$ 93,230                  |
| 2024               | \$ 75,000            | \$ 55,191        | \$ 113,040                 |
| 2025               | \$ 75,000            | \$ 56,570        | \$ 131,469                 |
| 2026               | \$ 75,000            | \$ 57,985        | \$ 148,484                 |
| 2027               | \$ 75,000            | \$ 59,434        | \$ 164,050                 |
| 2028               | \$ 75,000            | \$ 60,920        | \$ 178,130                 |
| 2029               | \$ 75,000            | \$ 62,443        | \$ 190,687                 |
| 2030               | \$ 75,000            | \$ 64,004        | \$ 201,683                 |
| 2031               | \$ 75,000            | \$ 65,604        | \$ 211,078                 |
| 2032               | \$ 75,000            | \$ 67,244        | \$ 218,834                 |
| 2033               | \$ 50,000            | \$ 68,926        | \$ 199,908                 |
| 2034               | \$ 25,000            | \$ 70,649        | \$ 154,260                 |
| 2035               | \$ -                 | \$ 72,415        | \$ 81,845                  |

\*2 1/2% annual increase



City of Gardner - *Executive Department*

Mayor Michael J. Nicholson

September 26, 2023

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

RE: Free Cash Appropriation Request – Vehicle Stabilization Account

Dear Madam President and Councilors,

At the City Council meeting of August 1, 2022, I presented the Administration's plan regarding the Fire Department Fleet and how we would proceed with a replacement schedule for the vehicles to keep the fleet up to date and avoid any major financial hardships for the City.

At the City Council's Informal Meeting of September 19, 2022, I reiterated that the Administration would be looking to put away certain amounts of free cash on an annual basis to build up a fund in order to purchase a new ladder truck in the next five to ten years.

On November 18, 2019, the City Council voted to create a special purpose stabilization account to assist the City in purchasing vehicles for the City's fleet.

I am requesting that the City Council vote to appropriate \$200,000.00 from Free Cash into this account in order for the City to begin building a fund to purchase a ladder truck within our intended timeframe. This appropriation would put the current balance of the City's Vehicle Stabilization account \$512,413.79.

The current cost of a Fire Ladder Truck is between \$1.7 to \$2 million with a three (3) to four (4) year lead time between order and arrival.

Respectfully Submitted,

Michael J. Nicholson  
 Mayor, City of Gardner.

RECEIVED  
 2023 SEP 27 PM 4:13  
 CITY OF GARDNER  
 95 PLEASANT STREET  
 GARDNER, MA 01440

AN ORDER APPROPRIATING FROM FREE CASH TO VEHICLE STABILIZATION.

ORDERED:

That there be and is hereby appropriated the sum of Two Hundred Thousand Dollars and No Cents (\$200,000.00) from Free Cash to Vehicle Stabilization.





City of Gardner - *Executive Department*

Mayor Michael J. Nicholson

September 26, 2023

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

RE: Free Cash Appropriation Request – Opioid Settlement Fund

Dear Madam President and Councilors,

As you may recall, the City was party to a lawsuit filed by then Attorney General Maura Healey against opioid manufacturers and distributors for the roles these companies played in the creation and furtherance of the opioid epidemic.

The funding received from these settlements must be used toward programing and expenses that directly combat the opioid epidemic.

This appropriation request is being submitted, as required by the Commonwealth, to appropriate the amount of free cash that came solely from these opioid settlement funds after last year's budget had been completed, so that the funds can be used for their intended purpose.

The City is working with GAAMHA, Inc. on a regional collaborative to have a bachelors level clinician work with our local police departments to help those struggling with the disease of addiction connect to the services that are available in the area.

Respectfully submitted,

Michael J. Nicholson  
Mayor, City of Gardner

RECEIVED  
 2023 SEP 27 PM 6:15  
 CITY CLERK'S OFFICE  
 6750123456

AN ORDER APPROPRIATING FROM FREE CASH TO MAYOR UNCLASSIFIED  
DEPT FOR OPIOID PROF SERVICE EXPENSES.

*ORDERED:*

That there be and is hereby transferred the appropriations sum of Ninety  
Thousand Dollars, seventy-two and 4/100 Cents (\$90,072.04) from Free Cash to the  
Mayor Unclassified Dept for Opioid Prof Services Expenses.



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

September 26, 2023

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

RECEIVED  
2023 SEP 28 PM 3:21  
CITY CLERK'S OFFICE  
GARDNER, MA

RE: Notification regarding Voter Information Packet for the 2023 Ballot Question

Dear Madam President and Councilors,

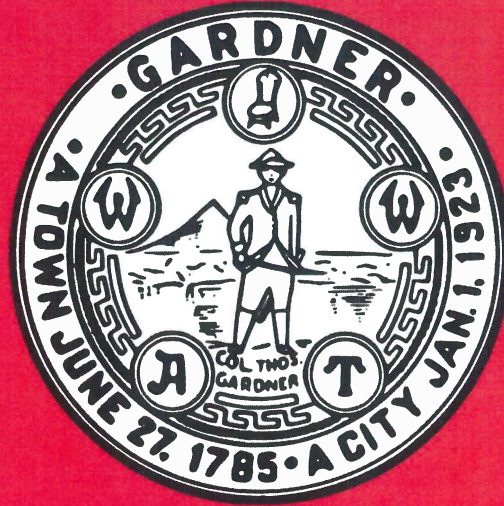
Attached, please find the voter information packet that is being sent out to all registered voters in the City of Gardner regarding the ballot question relating to the City Charter that will appear on the November 7, 2023 regular election ballot.

Additionally, a page has been set up under the "Transparency" tab of the City's website with all of this information.

Respectfully Submitted,

Michael J. Nicholson  
Mayor, City of Gardner





# CITY OF GARDNER

## **INFORMATION FOR VOTERS**

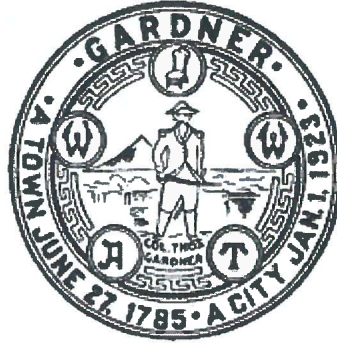
### 2023 Ballot Question

### MUNICIPAL ELECTION

Tuesday, November 7, 2023

Published by  
The City of Gardner  
Office of the Mayor





## 2023 Ballot Question

### Proposed Amendments to the City Charter

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This document has been prepared to help the voters of the City of Gardner understand what the proposed changes are to the City Charter of the City of Gardner that will appear as a question on the ballot at the upcoming November 7, 2023 municipal election.

The purpose of this document is **not** to persuade voters to vote a particular way on the item, but rather to help educate those voting in the upcoming election about what the changes are and what exactly they are being asked to vote on.

Each amendment being proposed has its own pages in this packet to better show the amendments to be made and what impact each individual amendment would have. However, the final product would be all of the amendments together as one and not broken out separately.

A current version of the City Charter is available on the City's website, [www.gardner-ma.gov](http://www.gardner-ma.gov)

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## **SECTION 1: SUMMARY OF PROPOSED CHANGES**

For a detailed breakdown of the changes proposed to the City Charter, please see SECTION 3 of this document on page 7.

### **GENDER NEUTRAL CHANGES**

**Sections 4, 7, 8, 11, 13, 15, 16, 19, 24, 25, 30, 31, 33, & 37**

Amendments to the following sections are being proposed in order to make the City Charter a gender neutral document.

The changes made replace the pronouns (he, his, him, her, she, etc.) with the nouns that they refer to (mayor, city council president, city clerk, candidate, etc.)

**In the detailed breakdown of the proposed changes, these sections have been marked with a star.**

### **SECTIONS TO BE DELETED**

**Sections 34, 35, and 51**

These sections are current in conflict with existing state law. The City cannot have local ordinances (City laws) that are less strict than state law. As such, it is either illegal for the city to follow these current sections of the City Charter, and thus are required to be ignored, or have a process already outlined in state law that is different than the process outlined in the City Charter.

These changes would remove the sections that the City is legally required to ignore otherwise the City would be found to have broken the law.

**In the detailed breakdown of the proposed changes, these sections have been marked with a triangle.**

### **SUBSTANTIVE CHANGES**

#### **Section 12:**

This amendment changes the length of time that would take place between a City preliminary election (the City's version of a primary election) from four (4) weeks before the general election to seven (7) weeks before the general election.

This would mimic the timeline for State and Federal Elections and put all of the City's elections on a consistent schedule.

Additionally, in 2022, former Governor Baker signed the VOTES Act into law as Chapter 92 of the Acts of 2022. This new law requires all cities and towns to have mail-in voting for all municipal elections. With this new law, under the current timeline, the City Clerk would have to create the new ballots no earlier than four (4) weeks before the general election, get the ballots approved by the candidates appearing on them, get the ballot approved by the Secretary of the Commonwealth's Office, and then order the ballots so that they can get in with the remaining timeframe and get mail-in ballots to those who requested them with enough time for those voters to mail them back before the deadline for those votes to be counted, causing areas of concern.

#### **Section 18:**

This amendment removes the requirement that the City Clerk must publish the results of any preliminary election in a newspaper published within Gardner. Please note that the current language requires that the newspaper be published in Gardner, not just sold in Gardner. As such, if Gardner ever lost its local printed newspaper, the City would not be able to follow this section of the Charter for the correct legal way to publish the results of preliminary elections.



This change would allow for greater flexibility in where the City Clerk could post the results, which could very well still mean in a local newspaper, but also allows for other options such as online on the City's website and social media platforms, printed and posted in other locations in the City, and leaves room for easier interpretation as times change to meet what changes may come in the future.

**Section 29:**

This amendment removes the requirement that all ordinances being voted on by the City Council be published completely and in full text in a newspaper and allows the City Clerk's Office to publish the proposed ordinances in summary rather than in full. The City Council meeting information packet and a fully text of any ordinance being considered is always available in the City Clerk's Office for review should a resident request to see the full document.

**Section 32:**

This amendment relates to instances in where the City has an Acting Mayor, because the Mayor has either resigned or left office during the middle of the term for other reasons. Under the current language of the City Charter, the City Council President becomes the Acting Mayor with limited authority when there

is a vacancy in the position of Mayor. However, the Charter only allows there to be an Acting Mayor for a period of not more than six (6) months. This creates a system where if a Mayor resigned during the second year of the term, there could be up to four (4) elections in the same year for the same position – Special Preliminary, Special Election, Regular Preliminary, Regular General Election.

This amendment also creates a pay scale for the position of Acting Mayor. Under the current system an Acting Mayor only receives the stipend for being City Council President. At this time this document was written, the current stipend for the City Council President is \$10,707 and no payment can be given above that for any work done as Acting Mayor.

This this amendment would create a system where the City could have an Acting Mayor for a period of up to a year, the second half of this amendment would compensate the Acting Mayor for the work they would be doing as the City's interim CEO.

**Section 38:**

This amendment clarifies that the Superintendent of Schools is appointed as a contract employee by the School Committee, rather than an elected official of the City.

**LANGUAGE OF QUESTION:**

Do you approve of the proposed Home Rule Petition by the City of Gardner to the General Court, seeking approval of the Amendments to the Charter of the City of Gardner, summarized below, and approved by the City Council on August 29, 2023?

**SUMMARY:** These changes would remove the pronoun "he" with the nouns they refer to, removes three sections that are currently in conflict with state law and are not currently able to be followed, extends the period in which an Acting Mayor would be in place in instances when required from six months to a year, adds a salary for an Acting Mayor at 75% of the Mayor's salary, extends the date of a preliminary reaction from four weeks to seven weeks before a general City election, removes the requirement that the City Clerk publish election results and ordinance proposals in a newspaper printed in the City, and clarifies the appointment procedure for the superintendent of schools.

**A Yes vote** would be a non-binding instruction to the City to submit a Home Rule Petition to the General Court to amend the City of Gardner City Charter in accordance with the August 29, 2023 vote of the City Council.

**A No vote** would be a non-binding instruction to the City to NOT submit a Home Rule Petition to the General Court to amend the City of Gardner City Charter in accordance with the August 29, 2023 vote of the City Council.

## SECTION 2: COMMONLY ASKED QUESTIONS

### What does a non-binding ballot question mean and why was this selected for this question?

A non-binding public policy question is a question presented to voters only in a City/Town asking the voters to give non-binding instructions to their local elected officials on specific topics.

In this case, the City Council is asking the voters of the City whether or not they would like to see the City Council send the proposed amendments to the City Charter as a Home Rule Petition.

The City Council voted to have this question on the ballot as a non-binding question, following the recommendations of the Secretary of the Commonwealth's Office, because the item is something that was not required by law to be on the ballot and because the actual vote that amends the City Charter itself is the vote of the state legislature - the House of Representatives and State Senate - and the signature of the governor, not the vote of the voters in the election. The vote decided by the voters in the election simply gives instructions to the City Council on what the voters would like the City Council to do with the document.

For More information on Non-Binding Ballot Questions, see [Massachusetts General Law, Chapter 53, Section 18A](#)

### What is a Home Rule Petition?

In Massachusetts, cities have limited powers under state law. A Home Rule Petition is a request from a city for a new

type of power from the state legislature—for example, the power to enact a new tax or regulation, or an exemption from an aspect of state law. If a proposed Home Rule Petition is passed locally, the city government sends the bill to its State Representatives and State Senators, who seek to pass it in the legislature as a state law that would only affect the one municipality.

More information on Home Rule Petitions and the process for adopting them is available on the City's website.

### What is the process after the election?

After the election is over, the item will be back before the City Council. The City Council can then vote whether or not to submit the Home Rule Petition to the area's legislative delegation for them to file the Home Rule Petition with the House of Representatives and Senate for them to consider. This would require a vote of eight members of the City Council or a 2/3 majority vote. Since the City's senate seat is currently vacant, it would have to be submitted to State Representative Jon Zlotnik for him to file with the House of Representatives.



If the question is a non-binding question, what if the voters vote no? Can the City Council still vote to send the Home Rule Petition to the State for approval?

Technically, yes. However, there are other safeguards in place to make sure the will of the voters is followed.

Firstly, *IF* the City Council votes to send the Home Rule Petition to the General Court (State Legislature), the Mayor has ten (10) days to decide to either sign their vote or veto it. If the Mayor vetoes the vote to send the item to the General Court, state law does not allow the City Council to override that veto, and it ends the process.

Furthermore, the City's legislative delegation is also under no legal obligation to file the bill with the General Court, whether the question was a binding question or not.

As such, there are certain protections in place, besides just the vote of the City Council to make sure the will of the voters is followed, even though the question is a non-binding question.

When did this process to amend the City Charter begin?

Mayor Nicholson requested that the City Council create a Special Act Charter Drafting Committee in August of 2022. For a full timeline of this process, [CLICK HERE.](#)

Where can I find the public hearing that was held on amending the City Charter?

The Special Act Charter Drafting Committee held a public hearing on amending the City Charter and what, if anything, should be amended on February 23, 2023. A video of that public hearing can be found on the City's YouTube.

What is the process for amending a City Charter?

Massachusetts law outlines two different ways that a City Charter can be amended - one through an elected Charter Commission and one through a Special Act done as a home rule petition. This process is following the Special Act process.

An outline of this process can be found by reviewing the "Special Act" section of the guidance put out by the Commonwealth, please visit the 2023 City Charter Ballot Question page on the City's website.

The proposed changes say Sections 34 and 35 are in conflict with state law. Where can I find what state laws they are in conflict with?

To find a breakdown of the Commonwealth's procurement/contracting laws and their details, please visit the 2023 City Charter Ballot Question page on the City's website.

Further information on this ballot question can be found on the City’s website, [www.gardner-ma.gov](http://www.gardner-ma.gov), under the City Hall Transparency Tab.

The screenshot shows the City of Gardner website's navigation menu. At the top, there is a dark blue header with the City of Gardner logo and navigation tabs for Community, Business, City Services, City Hall (highlighted), and How Do I... Below the header, the main menu is organized into four columns: Elected Officials, Departments A-G, Departments H-Z, and Transparency. A red arrow points to the link '2023 City Charter Ballot Question' under the Transparency column.

| Elected Officials               | Departments A-G                      | Departments H-Z             | Transparency                             |
|---------------------------------|--------------------------------------|-----------------------------|------------------------------------------|
| Mayor's Office                  | Animal Control Facility              | Health Department           | Bids & RFPs                              |
| City Council                    | Assessor                             | Housing Authority           | Election Results                         |
| School Committee                | Auditor                              | Human Resources             | Election Voting Information              |
| <b>Boards &amp; Commissions</b> | Building Department                  | Law Department              | Feedback Form                            |
| A - M                           | Cemeteries                           | Parking & Civil Enforcement | Financial Reports                        |
| N - Z                           | City Clerk                           | Parks & Recreation          | Financial Transparency                   |
| <b>City Staff Directory</b>     | Community Development & Planning     | Police Department           | City Charter & City Code                 |
|                                 | Conservation                         | Public Works                | City Budgets and Annual Reports          |
|                                 | Economic Development                 | Purchasing                  | Weekly Mayor's Update                    |
|                                 | Emergency Management                 | School Department           | <b>2023 City Charter Ballot Question</b> |
|                                 | Engineering / Survey Department      | Senior Center               | <b>Employment Opportunities</b>          |
|                                 | Fire Department                      | Transfer Station            | <b>Lobby Directory</b>                   |
|                                 | Gardner Educational TV               | Treasurer / Collector       | Vestibulo del Directorio en Español      |
|                                 | Geographic Information Systems (GIS) | Veteran's Agent             |                                          |
|                                 | Golf Course                          | Water & Sewer               |                                          |



## SECTION 3: DETAILS OF PROPOSED CHANGES

### Section 4:

**Reasoning:**

This amendment is included to make the City Charter a more inclusive document by replacing all pronouns with the nouns that they refer to.

**CURRENT LANGUAGE:**

*SECTION 4. There shall be a mayor, elected by and from the qualified voters of the city, who shall be the chief executive officer of the city. He shall hold office for the term of two years from the first Monday in January following his election and until his successor is elected and qualified.*

**PROPOSED EDITS:**

SECTION 4. There shall be a mayor, elected by and from the qualified voters of the city, who shall be the chief executive officer of the city. **He The Mayor** shall hold office for the term of two years from the first Monday in January following **his the** election and until **his a** successor is elected and qualified.

**PROPOSED NEW LANGUAGE:**

SECTION 4. There shall be a mayor, elected by and from the qualified voters of the city, who shall be the chief executive officer of the city. The Mayor shall hold office for the term of two years from the first Monday in January following the election and until a successor is elected and qualified.

### Section 7:

**Reasoning:**

This amendment is included to make the City Charter a more inclusive document by replacing all pronouns with the nouns that they refer to.

**CURRENT LANGUAGE:**

*SECTION 7. In making his appointments the mayor shall sign and file with the city clerk a certificate in the following form:*

*CERTIFICATE OF APPOINTMENT*

*I appoint (name of appointee) to the position of (name of office), and I certify that in my opinion he is a recognized expert in the work which will devolve upon him, and that I make the appointment solely in the interest of the city.*

*Mayor.*

*Or the following form, as the case may be:*

*I appoint (name of appointee) to the position of (name of office), and I certify that in my opinion he is a person specially fitted by education, training or experience to perform the duties of said office, and that I make the appointment solely in the interest of the city.*

*Mayor.*

**PROPOSED EDITS:**

SECTION 7. In making his appointments the mayor shall sign and file with the city clerk a certificate in the following form:

CERTIFICATE OF APPOINTMENT

I appoint (name of appointee) to the position of (name of office), and I certify that in my opinion **he (name of appointee)** is a recognized expert in the work which will devolve **upon him in the course of official duties**, and that I make the appointment solely in the interest of the city.

Mayor.

*Or the following form, as the case may be:*

I appoint (name of appointee) to the position of (name of office), and I certify that in my opinion **he (name of appointee)** is a person specially fitted by education, training or experience to perform the duties of said office, and that I make the appointment solely in the interest of the city.

Mayor.

**PROPOSED NEW LANGUAGE:**

SECTION 7. In making appointments, the mayor shall sign and file with the city clerk a certificate in the following form:

CERTIFICATE OF APPOINTMENT

I appoint (name of appointee) to the position of (name of office), and I certify that in my opinion (name of appointee) is a recognized expert in the work which will devolve in the course of official duties, and that I make the appointment solely in the interest of the city.

Mayor.

Or the following form, as the case may be:

I appoint (name of appointee) to the position of (name of office), and I certify that in my opinion (name of appointee) is a person specially fitted by education, training or experience to perform the duties of said office, and that I make the appointment solely in the interest of the city.

Mayor.

**Section 8:**

**Reasoning:**

This amendment is included to make the City Charter a more inclusive document by replacing all pronouns with the nouns that they refer to.

**CURRENT LANGUAGE:**

*SECTION 8. The mayor may, with the approval of a majority of the members of the city council, remove any head of a department or member of a board before the expiration of his term of office, except members of the school committee, officers elected by the city council, officers whose election is provided for by this act, and official appointed by the governor. The person removed shall receive a copy of the reasons for his removal in writing; and he may contest the same at a hearing to be given by the city council, at which he shall have the right to be represented by counsel.*

**PROPOSED EDITS:**

SECTION 8. The mayor may, with the approval of a majority of the members of the city council, remove any head of a department or member of a board before the expiration of **his the appointee's** term of office, except members of the school committee, officers elected by the city council, officers whose election is provided for by this act, and official appointed by the governor. The person removed shall receive a copy of the reasons for **his**

**such** removal in writing; ~~and he and~~ may contest the same at a hearing to be given by the city council, at which ~~he the person~~ shall have the right to be represented by counsel.

**PROPOSED NEW LANGUAGE:**

SECTION 8. The mayor may, with the approval of a majority of the members of the city council, remove any head of a department or member of a board before the expiration of the appointee's term of office, except members of the school committee, officers elected by the city council, officers whose election is provided for by this act, and officials appointed by the governor. The person removed shall receive a copy of the reasons for such removal in writing and may contest the same at a hearing to be given by the city council, at which the person removed shall have the right to be represented by counsel.

**Section 11:**

**Reasoning:**

This amendment is included to make the City Charter a more inclusive document by replacing all pronouns with the nouns that they refer to.

**CURRENT LANGUAGE:**

*SECTION 11. The mayor shall receive for his services such salary as the city council by ordinance shall determine and he shall receive no other compensation from the city. His salary shall not be increased or diminished during the term for which he is elected.*

**PROPOSED EDITS:**

SECTION 11. The mayor shall receive for **his** services such salary as the city council by ordinance shall determine and he shall receive no other compensation from the city. **His The mayor's** salary shall not be increased or diminished during the term for which ~~he the mayor~~ is elected.

**PROPOSED NEW LANGUAGE:**

SECTION 11. The mayor shall receive for services such salary as the city council by ordinance shall determine and shall receive no other compensation from the city. The mayor's salary shall not be



increased or diminished during the term to which the mayor was elected.

## **Section 12:**

### **Reasoning:**

This amendment changes the length of time that would take place between a City preliminary election (the City's version of a primary election) from four (4) weeks before the general election to seven (7) weeks before the general election.

This would mimic the timeline for State and Federal Elections and put all of the City's elections on a consistent schedule.

Additionally, in 2022, former Governor Baker signed the VOTES Act into law as Chapter 92 of the Acts of 2022. This new law requires all cities and towns to have mail-in voting for all municipal elections. With this new law, under the current timeline, the City Clerk would have to create the new ballots no earlier than four (4) weeks before the general election, get the ballots approved by the candidates appearing on them, get the ballot approved by the Secretary of the Commonwealth's Office, and then order the ballots so that they can get in with the remaining timeframe and get mail-in ballots to those who requested them with enough time for those voters to mail them back before the deadline for those votes to be counted, causing areas of concern.

NOTE: According to Section 20 of the City Charter, a preliminary election occurs when the number of candidates running for a particular office are more than double the number of open seats available. This occurs when there are more than two candidates running for either Mayor or a particular Ward Councilor seat, more than twelve candidates running for Councilor At-Large, or more than six candidates for School Committee in any given election.

### **CURRENT LANGUAGE:**

*SECTION 12. On the fourth Tuesday preceding every regular and special city election at which any officer mentioned in this act is to be elected, there shall be held a preliminary election for the purpose of nominating candidates for such offices as, under the provisions of*

*this act, are to be filled at such election. Voters qualified to vote at a regular city election shall be qualified to vote at a preliminary election. No special election for mayor or any officer shall be held after the expiration of forty days from the calling of the preliminary election. (See also G.L. Chap. 54 sec. 103A as amended).*

### **PROPOSED EDITS:**

SECTION 12. On the **fourth seventh** Tuesday preceding every regular and special city election at which any officer mentioned in this act is to be elected, there shall be held a preliminary election for the purpose of nominating candidates for such offices as, under the provisions of this act, are to be filled at such election. Voters qualified to vote at a regular city election shall be qualified to vote at a preliminary election. No special election for mayor or any officer shall be held after the expiration of forty days from the calling of the preliminary election. (See also G.L. Chap. 54 sec. 103A as amended).

### **PROPOSED NEW LANGUAGE:**

SECTION 12. On the seventh Tuesday preceding every regular and special city election at which any officer mentioned in this act is to be elected, there shall be held a preliminary election for the purpose of nominating candidates for such offices as, under the provisions of this act, are to be filled at such election. Voters qualified to vote at a regular city election shall be qualified to vote at a preliminary election. No special election for mayor or any officer shall be held after the expiration of forty days from the calling of the preliminary election. (See also G.L. Chap. 54 sec. 103A as amended).

## **Section 13:**

### **Reasoning:**

This amendment is included to make the City Charter a more inclusive document by replacing all pronouns with the nouns that they refer to.

This amendment also cleans up the language used in nomination papers referring to the individuals who

sign the nomination papers for candidates for public office in Gardner.

**CURRENT LANGUAGE:**

SECTION 13. Any person who is qualified to vote for a candidate for any office mentioned in this act, and who is a candidate for nomination for that office, may have his name as such candidate printed on the official ballot to be used at a preliminary election; provided that, at least twenty-eight (G.L. Chap. 53 sec. 10 as amended) days prior to the preliminary election, he shall file with the city clerk a statement in writing of his candidacy, and with it the petition of at least fifty voters of the city, qualified to vote for a candidate for the said office. Said statement and petition shall be in substantially the following form:

STATEMENT OF CANDIDATE

I (.....), on oath declare that I reside at (number if any) on (name of street) in the city of Gardner; that I am a voter therein, qualified to vote for a candidate for the hereinafter mentioned office; that I am a candidate for nomination for the office of (state the office) for (state the term) to be voted for at the preliminary election for nominations to be held on Tuesday, the ..... day of ..... Nineteen hundred and ..... and I request that my name be printed as such candidate on the official ballots to be used at said preliminary election.

(Signed)

Commonwealth of Massachusetts Worcester, SS  
Subscribed and sworn to this day of , nineteen hundred and , before me,

(Signed)

Justice of the Peace or (Notary Public)  
My Commission Expires

PETITION ACCOMPANYING STATEMENT OF CANDIDATE

Whereas (name of candidate) is a candidate for nomination for the office of (state the office) for (state the term), we the undersigned, voters of the city of Gardner, duly qualified to vote

for a candidate for said office, do hereby request that the name of said (name of candidate) as a candidate for nomination for said office be printed on the official ballots to be used at the preliminary election to be held on the Tuesday of, nineteen hundred and . We further state that we believe him to be of good moral character and qualified to perform the duties of the office.

No acceptance by a candidate for nomination named in the said petition shall be necessary for its validity or for its filing, and the petition need not be sworn to. The petition may be on one or more papers.

**PROPOSED EDITS:**

SECTION 13. Any person who is qualified to vote for a candidate for any office mentioned in this act, and who is a candidate for nomination for that office, may have **his** the name as such candidate printed on the official ballot to be used at a preliminary election; provided that, at least twenty-eight (G.L. Chap. 53 sec. 10 as amended) days prior to the preliminary election, **he** the person shall file with the city clerk a statement in writing of **his** such candidacy, and with it the petition of at least fifty voters of the city, qualified to vote for a candidate for the said office. Said statement and petition shall be in substantially the following form:

STATEMENT OF CANDIDATE

I (.....), on oath declare that I reside at (number if any) on (name of street) in the city of Gardner; that I am a voter therein, qualified to vote for a candidate for the hereinafter mentioned office; that I am a candidate for nomination for the office of (state the office) for (state the term) to be voted for at the preliminary election for nominations to be held on Tuesday, the ..... day of ..... Nineteen hundred and ..... and I request that my name be printed as such candidate on the official ballots to be used at said preliminary election.

(Signed)

Commonwealth of Massachusetts Worcester, SS  
Subscribed and sworn to this day of , nineteen hundred and , before me,



(Signed)  
Justice of the Peace or (Notary Public)  
My Commission Expires

PETITION ACCOMPANYING STATEMENT OF  
CANDIDATE

~~Whereas (name of candidate) is a candidate for nomination for the office of (state the office) for (state the term), we the undersigned, voters of the city of Gardner, duly qualified to vote for a candidate for said office, do hereby request that the name of said (name of candidate) as a candidate for nomination for said office be printed on the official ballots to be used at the preliminary election to be held on the Tuesday of, nineteen hundred and . We further state that we believe him to be of good moral character and qualified to perform the duties of the office.~~

No acceptance by a candidate for nomination named in the said petition shall be necessary for its validity or for its filing, and the petition need not be sworn to. The petition may be on one or more papers.

**PROPOSED NEW LANGUAGE:**

SECTION 13. Any person who is qualified to vote for a candidate for any office mentioned in this act, and who is a candidate for nomination for that office, may have the name as such candidate printed on the official ballot to be used at a preliminary election; provided that, at least twenty-eight (G.L. Chap. 53 sec. 10 as amended) days prior to the preliminary election, the person shall file with the city clerk a statement in writing of such candidacy, and with it the petition of at least fifty voters of the city, qualified to vote for a candidate for the said office. Said statement and petition shall be in substantially the following form:

STATEMENT OF CANDIDATE

I (.....), on oath declare that I reside at (number if any) on (name of street) in the city of Gardner; that I am a voter therein, qualified to vote for a candidate for the hereinafter mentioned office; that I am a candidate for nomination for the office of (state the office) for

(state the term) to be voted for at the preliminary election for nominations to be held on Tuesday, the ..... day of ..... Nineteen hundred and ..... and I request that my name be printed as such candidate on the official ballots to be used at said preliminary election.

(Signed)  
Commonwealth of Massachusetts Worcester, SS  
Subscribed and sworn to this day of , nineteen hundred and , before me,

(Signed)  
Justice of the Peace or (Notary Public)  
My Commission Expires

PETITION ACCOMPANYING STATEMENT OF  
CANDIDATE

We further state that we believe him to be of good moral character and qualified to perform the duties of the office.

No acceptance by a candidate for nomination named in the said petition shall be necessary for its validity or for its filing, and the petition need not be sworn to. The petition may be on one or more papers.

**Section 15:**

**Reasoning:**

This amendment is included to make the City Charter a more inclusive document by replacing all pronouns with the nouns that they refer to.

**CURRENT LANGUAGE:**

*SECTION 15. The name of each persons, and of none other, who has filed a statement and accompanying petition as aforesaid with his residence and the title and term of the office for which he is a candidate for nomination, shall be printed on said ballots under the designation of office in the order in which they may be drawn by the city clerk, whose duty it shall be to make such drawing and to give each candidate an opportunity to be present in person or by one representative. Blank space shall be left at the end of each list of candidates for*



*nomination for the different offices equal to the number to be nominated therefore, in which the voter may insert the name of any person not printed on the ballot for whom he desires to vote for nomination for such office. There shall be printed on said ballots such directions as will aid the voter, as to wit: "vote for one", "vote for not more than two", and the like. (G.L. Chap 54, sec. 42 as amended).*

*To the name of a candidate for a city office who is an elected incumbent thereof there shall be added in the same space the words "candidate for re-election" (see G.L. Chap 54, sec. 41 as amended).*

#### **PROPOSED EDITS:**

SECTION 15. The name of each persons, and of none other, who has filed a statement and accompanying petition as aforesaid with **his the official** residence and the title and term of the office for which **he the individual** is a candidate for nomination, shall be printed on said ballots under the designation of office in the order in which they may be drawn by the city clerk, whose duty it shall be to make such drawing and to give each candidate an opportunity to be present in person or by one representative. Blank space shall be left at the end of each list of candidates for nomination for the different offices equal to the number to be nominated therefore, in which the voter may insert the name of any person not printed on the ballot for whom he desires to vote for nomination for such office. There shall be printed on said ballots such directions as will aid the voter, as to wit: "vote for one", "vote for not more than two", and the like. (G.L. Chap 54, sec. 42 as amended).

To the name of a candidate for a city office who is an elected incumbent thereof there shall be added in the same space the words "candidate for re-election" (see G.L. Chap 54, sec. 41 as amended).

#### **PROPOSED NEW LANGUAGE:**

SECTION 15. The name of each person, and of none other, who has filed a statement and accompanying petition as aforesaid with the official residence and the title and term of the office for which the individual is a candidate for nomination, shall be

printed on said ballots under the designation of office in the order in which they may be drawn by the city clerk, whose duty it shall be to make such drawing and to give each candidate an opportunity to be present in person or by one representative. Blank space shall be left at the end of each list of candidates for nomination for the different offices equal to the number to be nominated therefore, in which the voter may insert the name of any person not printed on the ballot for whom the voter desires to vote for nomination for such office. There shall be printed on said ballots such directions as will aid the voter, as to wit: "vote for one", "vote for not more than two", and the like. (G.L. Chap 54, sec. 42 as amended).

To the name of a candidate for a city office who is an elected incumbent thereof there shall be added in the same space the words "candidate for re-election" (see G.L. Chap 54, sec. 41 as amended).

### **Section 16:**

#### **Reasoning:**

This amendment is included to make the City Charter a more inclusive document by replacing all pronouns with the nouns that they refer to.

#### **CURRENT LANGUAGE:**

*SECTION 16. No ballot used at any preliminary, special or regular city election shall have printed thereon any party or other political designation or mark, and there shall not be appended to the name of any candidate any such party or other political designation or mark, or anything showing how he was nominated, or indicating his views or opinions. (See also G.L. Chap. 53, sec. 34 as amended).*

#### **PROPOSED EDITS:**

SECTION 16. No ballot used at any preliminary, special or regular city election shall have printed thereon any party or other political designation or mark, and there shall not be appended to the name of any candidate any such party or other political designation or mark, or anything showing **how he was nominated method of nomination**, or indicating **his the candidate's** views or opinions. (See also G.L. Chap. 53, sec. 34 as amended).



**PROPOSED NEW LANGUAGE:**

No ballot used at any preliminary, special or regular city election shall have printed thereon any party or other political designation or mark, and there shall not be appended to the name of any candidate any such party or other political designation or mark, or anything showing the method of nomination, or indicating the candidate's views or opinions. (See also G.L. Chap. 53, sec. 34 as amended).

**Section 18:****Reasoning:**

This amendment removes the requirement that the City Clerk must publish the results of any preliminary election in a newspaper published within Gardner. Please note that the current language requires that the newspaper be published in Gardner, not just sold in Gardner. As such, if Gardner ever lost its local printed newspaper, the City would not be able to follow this section of the Charter for the correct legal way to publish the results of preliminary elections.

This change would allow for greater flexibility in where the City Clerk could post the results, which could very well still mean in a local newspaper, but also allows for other options such as online on the City's website and social media platforms, printed and posted in other locations in the City, and leaves room for easier interpretation as times change to meet what changes may come in the future.

**CURRENT LANGUAGE:**

*SECTION 18. On the first day, not being Sunday or a legal holiday, following the preliminary election, the city clerk shall canvass the returns received from the election officers, and shall forthwith determine the result of the canvass and publish the same in one or more newspapers published in the city, and shall post the same in a conspicuous place in city hall.*

**PROPOSED EDITS:**

**SECTION 18. On the first day, not being Sunday or a legal holiday, following the**

**preliminary election,** the city clerk shall canvass the returns received from the election officers, **and shall forthwith determine the result of the canvass and publish the same in one or more newspapers published in the city,** and shall post ~~the same~~ them in a conspicuous place in city hall **and in other manners consistent with city practices.**

**PROPOSED NEW LANGUAGE:**

**SECTION 18. The City Clerk shall canvas returns from election officers and post them in a conspicuous place in City Hall and in other manners consistent with city practices."**

**Section 19:****Reasoning:**

This amendment is included to make the City Charter a more inclusive document by replacing all pronouns with the nouns that they refer to.

**CURRENT LANGUAGE:**

*SECTION 19. The two person receiving at a preliminary election the highest and second highest number of votes respectively, for any office, shall be the candidates and the only candidates for that office whose names shall be printed on the official ballots to be used at the succeeding regular or special city election. If two or more persons are to be elected to the same office at such regular or special city election, the several persons, to a number equal to twice the number so to be elected to such office, receiving the highest number of votes for nomination for that office, or all such persons if less than twice the number of those so to be elected, shall be candidates, and except as otherwise provided herein the only candidates, for that office whose names shall be printed on the official ballots to be used at such regular or special city election.*

*The names shall be printed on the ballots under the designation of the respective offices for which they are candidates in the order in which they may be drawn by the city clerk, as provided in section fifteen. In case two or more persons should receive an equal number of*



*votes for the same office at any preliminary election held under this act and one of such persons would otherwise be entitled to have his name upon the official ballot then the names of all such persons shall be placed on the ballot.*

**PROPOSED EDITS:**

SECTION 19. The two person receiving at a preliminary election the highest and second highest number of votes respectively, for any office , shall be the candidates and the only candidates for that office whose names shall be printed on the official ballots to be used at the succeeding regular or special city election. If two or more persons are to be elected to the same office at such regular or special city election, the several persons, to a number equal to twice the number so to be elected to such office, receiving the highest number of votes for nomination for that office, or all such persons if less than twice the number of those so to be elected, shall be candidates, and except as otherwise provided herein the only candidates, for that office whose names shall be printed on the official ballots to be used at such regular or special city election.

The names shall be printed on the ballots under the designation of the respective offices for which they are candidates in the order in which they may be drawn by the city clerk, as provided in section fifteen. In case two or more persons should receive an equal number of votes for the same office at any preliminary election held under this act and one of such persons would otherwise be entitled to have **his the candidate's** name upon the official ballot then the names of all such persons shall be placed on the ballot.

**PROPOSED NEW LANGUAGE:**

SECTION 19. The two person receiving at a preliminary election the highest and second highest number of votes respectively, for any office , shall be the candidates and the only candidates for that office whose names shall be printed on the official ballots to be used at the succeeding regular or special city election. If two or more persons are to be elected to the same office at such regular or special city election, the several persons, to a number equal to

twice the number so to be elected to such office, receiving the highest number of votes for nomination for that office, or all such persons if less than twice the number of those so to be elected, shall be candidates, and except as otherwise provided herein the only candidates, for that office whose names shall be printed on the official ballots to be used at such regular or special city election.

The names shall be printed on the ballots under the designation of the respective offices for which they are candidates in the order in which they may be drawn by the city clerk, as provided in section fifteen. In case two or more candidates should receive an equal number of votes for the same office at any preliminary election held under this act and one of such candidates would otherwise be entitled to the candidate's name upon the official ballot, then the names of all such persons shall be placed on the ballot.

**Section 24:**

**Reasoning:**

This amendment is included to make the City Charter a more inclusive document by replacing all pronouns with the nouns that they refer to. Particularly in this case, where the current City Clerk is a woman.

**CURRENT LANGUAGE:**

*SECTION 24. Except as provided in this section, the legislative powers of the city council may be exercised as provided by ordinance or rule adopted by it.*

*1. Except as otherwise provided in this act, every member of the council shall have the right to vote on any question coming before it. A majority of the council shall constitute a quorum, and the affirmative vote of a majority of all the members of the council shall be necessary to adopt any motion, resolution or ordinance.*

*2. The city council shall, from time to time, establish rules for its proceedings. Regular and special meetings of the council shall be held at a time and place fixed by ordinance. All legislative sessions shall be open to the public, and every matter coming before the council*



*for action shall be put to vote, the result of which shall be duly recorded. A full and accurate journal of the proceedings of the council shall be kept, and shall be open to the inspection of any registered voter of the city.*

*3. The city clerk shall have such powers and perform such duties as the council may from time to time prescribe, in addition to such duties as may be prescribed by law. He shall keep the records of the meetings of the council.*

#### **PROPOSED EDITS:**

SECTION 24. Except as provided in this section, the legislative powers of the city council may be exercised as provided by ordinance or rule adopted by it.

1. Except as otherwise provided in this act, every member of the council shall have the right to vote on any question coming before it. A majority of the council shall constitute a quorum, and the affirmative vote of a majority of all the members of the council shall be necessary to adopt any motion, resolution or ordinance.

2. The city council shall, from time to time, establish rules for its proceedings. Regular and special meetings of the council shall be held at a time and place fixed by ordinance. All legislative sessions shall be open to the public, and every matter coming before the council for action shall be put to vote, the result of which shall be duly recorded. A full and accurate journal of the proceedings of the council shall be kept, and shall be open to the inspection of any registered voter of the city.

3. The city clerk shall have such powers and perform such duties as the council may from time to time prescribe, in addition to such duties as may be prescribed by law. **He** **The City Clerk** shall keep the records of the meetings of the council.

#### **PROPOSED NEW LANGUAGE:**

SECTION 24. Except as provided in this section, the legislative powers of the city council may be exercised as provided by ordinance or rule adopted by it.

1. Except as otherwise provided in this act, every member of the council shall have the right to vote on any question coming before it. A majority of the council shall constitute a quorum, and the affirmative vote of a majority of all the members of the council shall be necessary to adopt any motion, resolution or ordinance.

2. The city council shall, from time to time, establish rules for its proceedings. Regular and special meetings of the council shall be held at a time and place fixed by ordinance. All legislative sessions shall be open to the public, and every matter coming before the council for action shall be put to vote, the result of which shall be duly recorded. A full and accurate journal of the proceedings of the council shall be kept, and shall be open to the inspection of any registered voter of the city.

3. The city clerk shall have such powers and perform such duties as the council may from time to time prescribe, in addition to such duties as may be prescribed by law. He shall keep the records of the meetings of the council.

#### **Section 25:**

##### **Reasoning:**

This amendment is included to make the City Charter a more inclusive document by replacing all pronouns with the nouns that they refer to.

##### **CURRENT LANGUAGE:**

*SECTION 25. The city council may at any time request from the mayor specific information upon any municipal matter within its jurisdiction, and may request his presence to answer written questions relating thereto at a meeting to be held not earlier than one week after the date of the receipt by the mayor of said questions. The mayor shall personally, or through a head of a department or a member of a board, attend such meeting and publicly answer all such questions. The person so attending shall not be obliged to answer questions relating to any other matter. The mayor at any time may attend and address the city council in person, or through the head of a department or a member of a board, upon any subject. The council, or*



any committee thereof duly authorized by the council so to do, may investigate the financial transactions of any office or department of the city government, and the official acts and conduct of any official, and, by similar investigations, may secure information upon any matter.

#### **PROPOSED EDITS:**

SECTION 25. The city council may at any time request from the mayor specific information upon any municipal matter within its jurisdiction, and may request **his** the mayor's presence to answer written questions relating thereto at a meeting to be held not earlier than one week after the date of the receipt by the mayor of said questions. The mayor shall personally, or through a head of a department or a member of a board, attend such meeting and publicly answer all such questions. The person so attending shall not be obliged to answer questions relating to any other matter. The mayor at any time may attend and address the city council in person, or through the head of a department or a member of a board, upon any subject. The council, or any committee thereof duly authorized by the council so to do, may investigate the financial transactions of any office or department of the city government, and the official acts and conduct of any official, and, by similar investigations, may secure information upon any matter.

#### **PROPOSED NEW LANGUAGE:**

SECTION 25. The city council may at any time request from the mayor specific information upon any municipal matter within its jurisdiction, and may request the mayor's presence to answer written questions relating thereto at a meeting to be held not earlier than one week after the date of the receipt by the mayor of said questions. The mayor shall personally, or through a head of a department or a member of a board, attend such meeting and publicly answer all such questions. The person so attending shall not be obliged to answer questions relating to any other matter. The mayor at any time may attend and address the city council in person, or through the head of a department or a member of a board, upon any subject. The council, or

any committee thereof duly authorized by the council so to do, may investigate the financial transactions of any office or department of the city government, and the official acts and conduct of any official, and, by similar investigations, may secure information upon any matter.

#### **Section 29:**

##### **Reasoning:**

This amendment removes the requirement that all ordinances being voted on by the City Council be published completely and in full text in a newspaper and allows the City Clerk's Office to publish the proposed ordinances in summary rather than in full. The City Council meeting information packet and a fully text of any ordinance being considered is always available in the City Clerk's Office for review should a resident request to see the full document.

##### **CURRENT LANGUAGE:**

*SECTION 29. Every proposed ordinance, except emergency measures, as hereinbefore defined, shall at least ten days before its final passage, be published in full in at least one newspaper of the city, and in any additional manner that may be provided by ordinance.*

*After final passage, it shall, in the same manner as before, again be published once, as amended and completed, except in the case of an emergency ordinance which may be passed as hereinbefore provided and which shall take effect on its passage, and shall so be published at the earliest practicable moment. (Section 29 is given as amended by Chapter 65 of the Acts of 1935.)*

##### **PROPOSED EDITS:**

SECTION 29. Every proposed ordinance, except emergency measures, as hereinbefore defined, shall at least ten days before its final passage, be published **in full in at least one newspaper of the city**, and in any **additional** manner that may be provided by ordinance.

After final passage, it shall, in the same manner as before, again be published once, as

amended and completed **in summary**, except in the case of an emergency ordinance which may be passed as hereinbefore provided and which shall take effect on its passage, and shall so be published at the earliest practicable moment. (Section 29 is given as amended by Chapter 65 of the Acts of 1935.)

**PROPOSED NEW LANGUAGE:**

SECTION 29. Every proposed ordinance, except emergency measures, as hereinbefore defined, shall at least ten days before its final passage, be published and in any manner that may be provided by ordinance.

After final passage, it shall, in the same manner as before, again be published once, as amended and completed, except in the case of an emergency ordinance which may be passed as hereinbefore provided and which shall take effect on its passage, and shall so be published at the earliest practicable moment. (Section 29 is given as amended by Chapter 65 of the Acts of 1935.)

**Section 30:**

**Reasoning:**

This amendment is included to make the City Charter a more inclusive document by replacing all pronouns with the nouns that they refer to.

**CURRENT LANGUAGE:**

*SECTION 30. Every order, ordinance, resolution and vote relative to the affairs of the city, adopted or passed by the city council, shall be presented to the mayor for his approval. If he approves it he shall sign it; if he disapproves it he shall return it, with his objections in writing, to the city council, which shall enter his objections at large on its records, and again consider it. If the city council, notwithstanding such disapproval of the mayor, shall again pass such order, ordinance, resolution or vote by a two thirds vote of all the members of the city council, it shall then be in force, but such vote shall not be taken for seven days after its return to the city council. Every such order, ordinance, resolution or vote shall be in force if it is not returned by the mayor within ten days after it was presented to him. This section shall*

*not apply to budgets submitted under section thirty-two of chapter forty-four of the General Laws or to appropriations by the city council under section thirty-three of said chapter.*

**PROPOSED EDITS:**

SECTION 30. Every order, ordinance, resolution and vote relative to the affairs of the city, adopted or passed by the city council, shall be presented to the mayor for ~~his~~ approval. If ~~he~~ **the mayor** approves it ~~he~~ **the mayor** shall sign it; if ~~he~~ **the mayor** disapproves it ~~he~~ shall ~~be returned it,~~ **with his objections in writing,** to the city council ~~in writing with the mayor's objections, which shall enter his objections~~ **the City Council shall enter at** large on its records, and again consider it. If the city council, notwithstanding such disapproval of the mayor, shall again pass such order, ordinance, resolution or vote by a two- thirds vote of all the members of the city council, it shall then be in force, but such vote shall not be taken for seven days after its return to the city council. Every such order, ordinance, resolution or vote shall be in force if it is not returned by the mayor within ten days after it was presented ~~to him~~. This section shall not apply to budgets submitted under section thirty-two of chapter forty-four of the General Laws or to appropriations by the city council under section thirty-three of said chapter.

**PROPOSED NEW LANGUAGE:**

SECTION 30. Every order, ordinance, resolution and vote relative to the affairs of the city, adopted or passed by the city council, shall be presented to the mayor for approval. If the mayor approves, then the mayor shall sign it; if the mayor disapproves, it shall be returned to the city council in writing with the mayor's objections, which the city council shall enter at large on its records, and again consider it. If the city council, notwithstanding such disapproval of the mayor, shall again pass such order, ordinance, resolution or vote by a two-thirds vote of all the members of the city council, it shall then be in force, but such vote shall not be taken for seven days after its return to the city council. Every such order, ordinance, resolution or vote shall be in force if it is not returned by the mayor within ten days after it was presented. This section shall not apply to budgets



submitted under section thirty-two of chapter forty-four of the General Laws or to appropriations by the city council under section thirty-three of said chapter.

### **Section 31:**

**Reasoning:**

This amendment is included to make the City Charter a more inclusive document by replacing all pronouns with the nouns that they refer to.

**CURRENT LANGUAGE:**

*SECTION 31. The civil service laws shall not apply to the appointment of the mayor's secretaries nor of stenographers, clerks, telephone operators and messengers connected with his office, and the mayor may remove such appointees without a hearing and without making a statement of the cause for their removal.*

**PROPOSED EDITS:**

SECTION 31. The civil service laws shall not apply to the appointment of the mayor's secretaries nor of stenographers, clerks, telephone operators and messengers connected with **his** the mayor's office, and the mayor may remove such appointees without a hearing and without making a statement of the cause for their removal.

**PROPOSED NEW LANGUAGE:**

SECTION 31. The civil service laws shall not apply to the appointment of the mayor's secretaries nor of stenographers, clerks, telephone operators and messengers connected with the mayor's office, and the mayor may remove such appointees without a hearing and without making a statement of the cause for their removal.

### **Section 32:**

**Reasoning:**

This amendment relates to instances in where the City has an Acting Mayor, because the Mayor has either resigned or left office during the middle of the term for other reasons. Under the current language of the City Charter, the City Council President becomes the Acting Mayor with limited authority when there is a vacancy in the position of Mayor. However, the Charter only allows there to be an Acting Mayor for a

period of not more than six (6) months. This creates a system where if a Mayor resigned during the second year of the term, there could be up to four (4) elections in the same year for the same position – Special Preliminary, Special Election, Regular Preliminary, Regular General Election.

This amendment also creates a pay scale for the position of Acting Mayor. Under the current system an Acting Mayor only receives the stipend for being City Council President. At this time this document was written, the current stipend for the City Council President is \$10,707 and no payment can be given above that for any work done as Acting Mayor. This this amendment would create a system where the City could have an Acting Mayor for a period of up to a year, the second half of this amendment would compensate the Acting Mayor for the work they would be doing as the City's interim CEO.

**CURRENT LANGUAGE:**

*SECTION 32. If a vacancy occurs in the office of mayor before the last six months of the term of office, the city council shall order an election to fill the same for the unexpired term; and if such vacancy occurs in the office of the mayor in the last six months of said term, the president of the city council shall succeed thereto for the unexpired term.*

*If a vacancy occurs in the position of councilor at large, the city council shall appoint the person who received the seventh highest vote total for the position of councilor at large during the most recent municipal election to fill the vacancy for the unexpired term, if the person is willing to serve, then to the eighth and so on until a person is appointed.*

*If a vacancy occurs in the position of ward councilor, the city council shall appoint the person from the same ward who received the next highest vote total in the most recent municipal election to fill the vacancy for the unexpired term, except that if there was not another candidate for the ward councilor position, then the city council, by a majority vote, may elect a resident of the same ward to fill the vacancy for the unexpired term.*

*If the Mayor is absent or unable from any cause temporarily to perform his duties, or if his office is vacant during the first eighteen months of his term, his duties shall be performed by*

*the president of the city council. The person upon whom such duties shall devolve shall be called "acting mayor", and he shall possess the powers of mayor only in matters not admitting of delay, but shall have no power to make permanent appointments.*

*Should an appointive officer of the city be temporarily unable for any cause to perform his duties, the mayor or the city council, whichever has the power of original appointment, may make a temporary appointment of some person to act until the official shall resume his duties. (Section 32 is given as amended by Chap.590 Acts of 1975.)*

### **PROPOSED EDITS:**

SECTION 32. If a vacancy occurs in the office of mayor before the last ~~six~~ **twelve** months of the term of office, the city council shall order an election to fill the same for the unexpired term; and if such vacancy occurs in the office of the mayor in the last ~~six~~ **twelve** months of said term, the president of the city council shall succeed thereto for the unexpired term.

If a vacancy occurs in the position of councilor at large, the city council shall appoint the person who received the seventh highest vote total for the position of councilor at large during the most recent municipal election to fill the vacancy for the unexpired term, if the person is willing to serve, then to the eighth and so on until a person is appointed.

If a vacancy occurs in the position of ward councilor, the city council shall appoint the person from the same ward who received the next highest vote total in the most recent municipal election to fill the vacancy for the unexpired term, except that if there was not another candidate for the ward councilor position, then the city council, by a majority vote, may elect a resident of the same ward to fill the vacancy for the unexpired term.

If the Mayor is absent or unable from any cause temporarily to perform ~~his~~ **the duties of the office**, or if ~~his~~ **the** office is vacant during the first eighteen months of his term, his duties shall be performed by the president of the city council. The person upon whom such duties shall devolve shall be called "acting mayor", and he shall possess the powers of

mayor only in matters not admitting of delay, but shall have no power to make permanent appointments. **In the event that the office of Mayor shall be vacated due to resignation or death prior to the end of the term, the acting Mayor shall be entitled to the compensation as city council President in addition to seventy-five (75%) of the then current rate of compensation of the Mayor.**

Should an appointive officer of the city be temporarily unable for any cause to perform ~~his~~ **official** duties, the mayor or the city council, whichever has the power of original appointment, may make a temporary appointment of some person to act until the official shall resume ~~his~~ **official** duties. (Section 32 is given as amended by Chap.590 Acts of 1975.)

### **PROPOSED NEW LANGUAGE:**

SECTION 32. If a vacancy occurs in the office of mayor before the last six months of the term of office, the city council shall order an election to fill the same for the unexpired term; and if such vacancy occurs in the office of the mayor in the last six months of said term, the president of the city council shall succeed thereto for the unexpired term.

If a vacancy occurs in the position of councilor at large, the city council shall appoint the person who received the seventh highest vote total for the position of councilor at large during the most recent municipal election to fill the vacancy for the unexpired term, if the person is willing to serve, then to the eighth and so on until a person is appointed.

If a vacancy occurs in the position of ward councilor, the city council shall appoint the person from the same ward who received the next highest vote total in the most recent municipal election to fill the vacancy for the unexpired term, except that if there was not another candidate for the ward councilor position, then the city council, by a majority vote, may elect a resident of the same ward to fill the vacancy for the unexpired term.

If the Mayor is absent or unable from any cause temporarily to perform his duties, or if his office is vacant during the first eighteen months of his term, his duties shall be performed by



the president of the city council. The person upon whom such duties shall devolve shall be called "acting mayor", and he shall possess the powers of mayor only in matters not admitting of delay, but shall have no power to make permanent appointments.

Should an appointive officer of the city be temporarily unable for any cause to perform his duties, the mayor or the city council, whichever has the power of original appointment, may make a temporary appointment of some person to act until the official shall resume his duties. (Section 32 is given as amended by Chap.590 Acts of 1975.)

### **Section 33:**

#### **Reasoning:**

This amendment is included to make the City Charter a more inclusive document by replacing all pronouns with the nouns that they refer to.

#### **CURRENT LANGUAGE:**

*SECTION 33. It shall be unlawful for the mayor or for a member of the city council or school committee or for any officer or employee of the city, directly or indirectly, to make a contract with the city, or to receive any commission, discount, bonus, gift, contribution, or reward from or any share in the profits of any person or corporation, making or performing such a contract, unless the mayor, such member, officer or employee, immediately upon learning of the existence of such contract, or that such a contract is proposed, shall notify in writing the mayor, city council or school committee of the nature of his interest in such contract, and shall abstain from doing any official act on behalf of the city in reference thereto. In case of such interest on the part of an officer whose duty it is to sign the contract on behalf of the city, the contract may be signed by any other officer of the city duly authorized thereto by the mayor, or if the mayor has such interest, by the city clerk, provided, however, that when a contractor with the city is a corporation or a voluntary stock association, the ownership of less than five per cent of the stock or shares actually issued*

*shall not be considered, as involving an interest in the contract within the meaning of this section, and such ownership shall not affect the validity of the contract unless the owner of such stock or shares is also an officer or agent of the corporation or association, or solicits or takes part in the making of the contract.*

*A violation of this section shall render the contract in respect to which such violation occurs voidable at the option of the city. Any person violating the provisions of this section shall be punished by a fine of not more than one thousand dollars, or by imprisonment for not more than one year, or by both such fine and imprisonment.*

#### **PROPOSED EDITS:**

SECTION 33. It shall be unlawful for the mayor or for a member of the city council or school committee or for any officer or employee of the city, directly or indirectly, to make a contract with the city, or to receive any commission, discount, bonus, gift, contribution, or reward from or any share in the profits of any person or corporation, making or performing such a contract, unless the mayor, such member, officer or employee, immediately upon learning of the existence of such contract, or that such a contract is proposed, shall notify in writing the mayor, city council or school committee of the nature of **his** **the** interest in such contract, and shall abstain from doing any official act on behalf of the city in reference thereto. In case of such interest on the part of an officer whose duty it is to sign the contract on behalf of the city, the contract may be signed by any other officer of the city duly authorized thereto by the mayor, or if the mayor has such interest, by the city clerk, provided, however, that when a contractor with the city is a corporation or a voluntary stock association, the ownership of less than five per cent of the stock or shares actually issued shall not be considered, as involving an interest in the contract within the meaning of this section, and such ownership shall not affect the validity of the contract unless the owner of such stock or shares is also an officer or agent of the corporation or association, or solicits or takes part in the making of the contract.



A violation of this section shall render the contract in respect to which such violation occurs voidable at the option of the city. Any person violating the provisions of this section shall be punished by a fine of not more than one thousand dollars, or by imprisonment for not more than one year, or by both such fine and imprisonment.

**PROPOSED NEW LANGUAGE:**

**SECTION 33.** It shall be unlawful for the mayor or for a member of the city council or school committee or for any officer or employee of the city, directly or indirectly, to make a contract with the city, or to receive any commission, discount, bonus, gift, contribution, or reward from or any share in the profits of any person or corporation, making or performing such a contract, unless the mayor, such member, officer or employee, immediately upon learning of the existence of such contract, or that such a contract is proposed, shall notify in writing the mayor, city council or school committee of the nature of the interest in such contract, and shall abstain from doing any official act on behalf of the city in reference thereto. In case of such interest on the part of an officer whose duty it is to sign the contract on behalf of the city, the contract may be signed by any other officer of the city duly authorized thereto by the mayor, or if the mayor has such interest, by the city clerk, provided, however, that when a contractor with the city is a corporation or a voluntary stock association, the ownership of less than five per cent of the stock or shares actually issued shall not be considered, as involving an interest in the contract within the meaning of this section, and such ownership shall not affect the validity of the contract unless the owner of such stock or shares is also an officer or agent of the corporation or association, or solicits or takes part in the making of the contract.

A violation of this section shall render the contract in respect to which such violation occurs voidable at the option of the city. Any person violating the provisions of this section shall be punished by a fine of not more than one thousand dollars, or by imprisonment for not more than one year, or by both such fine and imprisonment.

**Section 34:**

**Reasoning:**

This section of the City Charter was written before Massachusetts General Law created new restrictions for public contracts for construction work and procurement. This section of the City Charter is in conflict with the current state law. Since this section is less strict than state law, ***it is illegal for the City to follow this section of the Charter.*** Therefore, the proposed amendment would remove this section from the Charter since the City cannot legally follow its provisions even if it wanted to.

See Massachusetts General Laws- Chapter 30B, Chapters 30 & 39M, and Chapter 149

**CURRENT LANGUAGE:**

*SECTION 34. No contract for construction work or for the purchase of apparatus, supplies or material, whether the same shall be for repairs or original construction, the estimated cost of which amounts to or exceeds four thousand dollars (see compilation of ordinances no. 52, see also G.L. Chap. 40, sec. 4G as amended), except in cases of special emergency involving the health or safety of the people or their property, shall be awarded unless proposals for the same shall have been invited by advertisements in at least one newspaper published in the city once a week for at least two consecutive weeks, the last publication to be at least one week before the time specified for the opening of said proposals. Such advertisements shall state the time and place where plans and specifications of the proposed work or supplies may be had and the time and place for opening the proposals in answer to said advertisements, and shall reserve to the city the right to reject any or all of such proposals. All such proposals shall be opened in public. No bill or contract shall be split or divided for the purpose of evading any provision of this act. (Section 34 is given as amended by Chapter 16 of the Acts of 1934), and again amended by Chapter 191 of the Acts of 1960, sec. 1).*

**PROPOSED EDITS:**

***SECTION 34. No contract for construction work or for the purchase of apparatus, supplies or material, whether the same shall be for repairs or original construction, the estimated cost of***



which amounts to or exceeds four thousand dollars (see compilation of ordinances no. 52, see also G.L. Chap. 40, sec. 4G as amended), except in cases of special emergency involving the health or safety of the people or their property, shall be awarded unless proposals for the same shall have been invited by advertisements in at least one newspaper published in the city once a week for at least two consecutive weeks, the last publication to be at least one week before the time specified for the opening of said proposals. Such advertisements shall state the time and place where plans and specifications of the proposed work or supplies may be had and the time and place for opening the proposals in answer to said advertisements, and shall reserve to the city the right to reject any or all of such proposals. All such proposals shall be opened in public. No bill or contract shall be split or divided for the purpose of evading any provision of this act. (Section 34 is given as amended by Chapter 16 of the Acts of 1934), and again amended by Chapter 191 of the Acts of 1960, sec.1).

**PROPOSED NEW LANGUAGE:**

SECTION TO BE DELETED IN ITS ENTIRETY  
AND NOT REPLACED

**Section 35:**

**Reasoning:**

This section of the City Charter was written before Massachusetts General Law created new restrictions for public contracts for construction work and procurement. This section of the City Charter is in conflict with the current state law. Since this section is less strict than state law, it is illegal for the City to follow this section of the Charter. Therefore, the proposed amendment would remove this section from the Charter since the City cannot legally follow its provisions even if it wanted to. See Massachusetts General Laws- Chapter 30B, Chapters 30 & 39M, and Chapter 149

**CURRENT LANGUAGE:**

*SECTION 35. All contracts made by any department, board or commission in which the amount involved is one thousand dollars or more shall be in writing, and no such contract*

*shall be deemed to have been made or executed until the approval of the mayor and of the department or board making the contract is affixed thereto. Any contract made as aforesaid may be required to be accompanied by a bond with sureties satisfactory to the board of officials having the matter in charge, or by a deposit of money, certified check or other security conditioned on the faithful performance thereof, and such bonds or other securities shall be deposited with the city treasurer until the contract has in all respects been carried out; and no such contract shall be altered except by a written agreement of the contractor, the sureties on his bond, and the officer, department or board making the contract, with the approval of the mayor affixed thereto. (Section 35 is given as amended by Chapter 191 of the Acts of 1960, section 2.)*

**PROPOSED EDITS:**

~~*SECTION 35. All contracts made by any department, board or commission in which the amount involved is one thousand dollars or more shall be in writing, and no such contract shall be deemed to have been made or executed until the approval of the mayor and of the department or board making the contract is affixed thereto. Any contract made as aforesaid may be required to be accompanied by a bond with sureties satisfactory to the board of officials having the matter in charge, or by a deposit of money, certified check or other security conditioned on the faithful performance thereof, and such bonds or other securities shall be deposited with the city treasurer until the contract has in all respects been carried out; and no such contract shall be altered except by a written agreement of the contractor, the sureties on his bond, and the officer, department or board making the contract, with the approval of the mayor affixed thereto. (Section 35 is given as amended by Chapter 191 of the Acts of 1960, section 2.)*~~

**PROPOSED NEW LANGUAGE:**

SECTION TO BE DELETED IN ITS ENTIRETY  
AND NOT REPLACED



**Section 37:****Reasoning:**

This amendment is included to make the City Charter a more inclusive document by replacing all pronouns with the nouns that they refer to.

**CURRENT LANGUAGE:**

*SECTION 37. The school committee shall consist of the mayor, who shall be chairman, and six persons who shall be elected at large from the registered voters of the city. At the biennial municipal election to be held in the year nineteen hundred and ninety-one there shall be elected three persons to serve for two years and three persons to serve for four years. At each biennial election thereafter there shall be elected three persons to serve for the term of four years. (Section 37 is given as amended by Chapter 290 of the Acts of 1989, section 1). NOTE: For provisions with respect to election of members to and powers and duties of the Montachusett Regional Vocational Technical School District Committee, see Chapter 560 of the Acts of 1964 and Chapter 543 of the Acts of 1965).*

**PROPOSED EDITS:**

SECTION 37. The school committee shall consist of the mayor, who shall be **chairman chairperson**, and six persons who shall be elected at large from the registered voters of the city. At the biennial municipal election to be held in the year nineteen hundred and ninety-one there shall be elected three persons to serve for two years and three persons to serve for four years. At each biennial election thereafter there shall be elected three persons to serve for the term of four years. (Section 37 is given as amended by Chapter 290 of the Acts of 1989, section 1). NOTE: For provisions with respect to election of members to and powers and duties of the Montachusett Regional Vocational Technical School District Committee, see Chapter 560 of the Acts of 1964 and Chapter 543 of the Acts of 1965).

**PROPOSED NEW LANGUAGE:**

SECTION 37. The school committee shall consist of the mayor, who shall be chairperson, and six persons who shall be elected at large from the registered voters of the city. At the biennial municipal election to be held in the year nineteen hundred and ninety-one there shall be elected three persons to serve for two years and three persons to serve for four years. At each biennial election thereafter there shall be elected three persons to serve for the term of four years. (Section 37 is given as amended by Chapter 290 of the Acts of 1989, section 1). NOTE: For provisions with respect to election of members to and powers and duties of the Montachusett Regional Vocational Technical School District Committee, see Chapter 560 of the Acts of 1964 and Chapter 543 of the Acts of 1965).

**Section 38:****Reasoning:**

This amendment is included to make the City Charter a more inclusive document by replacing all pronouns with the nouns that they refer to. Additionally, it clarifies that the Superintendent of Schools is appointed as a contract employee by the School Committee, rather than an elected official of the City.

**CURRENT LANGUAGE:**

*SECTION 38. The school committee shall elect annually a superintendent of schools except as provided in section forty-one of chapter seventy-one of the General Laws, and may, under the laws regulating the civil service, appoint, suspend or remove such subordinate officers or assistants, including janitors of school buildings as it may deem necessary for the proper discharge of its duties and the conduct of its business; it shall define their terms of service and their duties, and shall fix their compensation. No member of the school committee, except the mayor, shall during the term for which he is elected, hold any other office or position the salary or compensation for which is payable out of the city treasury. The committee shall organize annually on Tuesday following the first Monday in January, and*

*shall elect one of its members as vice-chairman, whose duty it shall be to preside at all meetings of the committee at which the mayor is not present.*

**PROPOSED EDITS:**

SECTION 38. The school committee shall **elect** **appoint** annually a superintendent of schools except as provided in section forty-one of chapter seventy-one of the General Laws, and may, under the laws regulating the civil service, appoint, suspend or remove such subordinate officers or assistants, including janitors of school buildings as it may deem necessary for the proper discharge of its duties and the conduct of its business; it shall define their terms of service and their duties, and shall fix their compensation. No member of the school committee, except the mayor, shall **during the term for which he is elected**, hold any other office or position the salary or compensation for which is payable out of the city treasury **during the elected term of office**. The committee shall organize annually on Tuesday following the first Monday in January, and shall elect one of its members as **vice-chairman vice-chairperson**, whose duty it shall be to preside at all meetings of the committee at which the mayor is not present.

**PROPOSED NEW LANGUAGE:**

SECTION 38. The school committee shall appoint annually a superintendent of schools except as provided in section forty-one of chapter seventy-one of the General Laws, and may, under the laws regulating the civil service, appoint, suspend or remove such subordinate officers or assistants, including janitors of school buildings as it may deem necessary for the proper discharge of its duties and the conduct of its business; it shall define their terms of service and their duties, and shall fix their compensation. No member of the school committee, except the mayor, shall hold any other office or position the salary or compensation for which is payable out of the city treasury during the elected term of office. The committee shall organize annually on Tuesday following the first Monday in January, and shall elect one of its members as vice-chairperson, whose duty it shall be to preside at all meetings of the committee at which the mayor is not present.

**Section 51:**

**Reasoning:**

This section of the Charter is currently in conflict with State Law and is illegal for the City to follow. See Massachusetts General Law Chapter 43.

**CURRENT LANGUAGE:**

*SECTION 51. The ballots used in voting upon such proposed measure shall state the nature of the measure in terms sufficient to show the substance thereof. No measure shall go into effect unless it receives the affirmative votes of at least a third of the whole number of registered voters.*

**PROPOSED EDITS:**

~~SECTION 51. The ballots used in voting upon such proposed measure shall state the nature of the measure in terms sufficient to show the substance thereof. No measure shall go into effect unless it receives the affirmative votes of at least a third of the whole number of registered voters.~~

**PROPOSED NEW LANGUAGE:**

**SECTION TO BE DELETED IN ITS ENTIRETY AND NOT REPLACED**



## SECTION 4: DOCUMENT VOTED ON BY CITY COUNCIL

### CITY OF GARDNER

#### VOTE OF THE CITY COUNCIL

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

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

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

Making the following changes to the City Charter:

Section 4: Strike the second sentence “He shall hold office for the term of two years from the first Monday in January following his election and until his successor is elected and qualified.” and replace it with “The Mayor shall hold office for the term of two years from the first Monday in January following the election and until a successor is elected and qualified.”

Section 7: Strike the existing language and replace it with the following: “In making appointments, the mayor shall sign and file with the city clerk a certificate in the following form:

#### CERTIFICATE OF APPOINTMENT

I appoint (name of appointee) to the position of (name of office), and I certify that in my opinion (name of appointee) is a recognized expert in the work which will devolve in the course of official duties, and that I make the appointment solely in the interest of the city.

Mayor.

Or the following form, as the case may be:

I appoint (name of appointee) to the position of (name of office), and I certify that in my opinion (name of appointee) is a person specially fitted

by education, training or experience to perform the duties of said office, and that I make the appointment solely in the interest of the city.

Mayor.”

- Section 8: Strike the existing language and replace it with the following: “The mayor may, with the approval of a majority of the members of the city council, remove any head of a department or member of a board before the expiration of the appointee’s term of office, except members of the school committee, officers elected by the city council, officers whose election is provided for by this act, and officials appointed by the governor. The person removed shall receive a copy of the reasons for such removal in writing and may contest the same at a hearing to be given by the city council, at which the person removed shall have the right to be represented by counsel.”
- Section 11: Strike the first paragraph in its entirety and replace it with the following: “The mayor shall receive for services such salary as the city council by ordinance shall determine and shall receive no other compensation from the city. The mayor’s salary shall not be increased or diminished during the term to which the mayor was elected.
- Section 12: Strike "fourth" and replace with "seventh".
- Section 13: Strike the first paragraph in its entirety and replace it with the following: “Any person who is qualified to vote for a candidate for any office mentioned in this act, and who is a candidate for nomination for that office, may have the name as such candidate printed on the official ballot to be used at a preliminary election; provided that, at least twenty-eight (G.L. Chap. 53 sec. 10 as amended) days prior to the preliminary election, the person shall file with the city clerk a statement in writing of such candidacy, and with it the petition of at least fifty voters of the city, qualified to vote for a candidate for the said office. Said statement and petition shall be in substantially the following form:
- And be further amended by striking the second sentence of the first paragraph under the heading “PETITION ACCOMPANYING STATEMENT OF CANDIDATE and replacing it with the following: “We further state that we believe this person to be of good moral character and qualified to perform the duties of the office.”

- Section 15: Strike the first paragraph in its entirety and replace it with the following: “The name of each person, and of none other, who has filed a statement and accompanying petition as aforesaid with the official residence and the title and term of the office for which the individual is a candidate for nomination, shall be printed on said ballots under the designation of office in the order in which they may be drawn by the city clerk, whose duty it shall be to make such drawing and to give each candidate an opportunity to be present in person or by one representative. Blank space shall be left at the end of each list of candidates for nomination for the different offices equal to the number to be nominated therefore, in which the voter may insert the name of any person not printed on the ballot for whom the voter desires to vote for nomination for such office. There shall be printed on said ballots such directions as will aid the voter, as to wit: “vote for one”, “vote for not more than two”, and the like. (G.L. Chap 54, sec. 42 as amended).
- Section 16: Strike the existing language and replace it with the following: “No ballot used at any preliminary, special or regular city election shall have printed thereon any party or other political designation or mark, and there shall not be appended to the name of any candidate any such party or other political designation or mark, or anything showing the method of nomination, or indicating the candidate’s views or opinions. (See also G.L. Chap. 53, sec. 34 as amended).
- Section 18: Strike the existing language and replace it with "The City Clerk shall canvas returns from election officers and post them in a conspicuous place in City Hall and in other manners consistent with city practices."
- Section 19: Strike the second sentence in the second paragraph in its entirety and replace it with the following: “In case two or more candidates should receive an equal number of votes for the same office at any preliminary election held under this act and one of such candidates would otherwise be entitled to the candidate’s name upon the official ballot, then the names of all such persons shall be placed on the ballot.”
- Section 24: Strike the second sentence in paragraph 3 in its entirety and replace it with the following: “The city clerk shall keep the records of the meetings of the council.
- Section 25: Strike the first sentence in its entirety and replace it with the following: “The city council may at any time request from the mayor specific information upon any municipal matter within its jurisdiction, and may request the mayor’s presence to answer written questions relating thereto

at a meeting to be held not earlier than one week after the date of the receipt by the mayor of said questions.”

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

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

- Section 30: Strike the existing language and replace it with the following: “Every order, ordinance, resolution and vote relative to the affairs of the city, adopted or passed by the city council, shall be presented to the mayor for approval. If the mayor approves, then the mayor shall sign it; if the mayor disapproves, it shall be returned to the city council in writing with the mayor’s objections, which the city council shall enter at large on its records, and again consider it. If the city council, notwithstanding such disapproval of the mayor, shall again pass such order, ordinance, resolution or vote by a two-thirds vote of all the members of the city council, it shall then be in force, but such vote shall not be taken for seven days after its return to the city council. Every such order, ordinance, resolution or vote shall be in force if it is not returned by the mayor within ten days after it was presented. This section shall not apply to budgets submitted under section thirty-two of chapter forty-four of the General Laws or to appropriations by the city council under section thirty-three of said chapter.”

- Section 31: Strike the existing language and replace it with the following: “The civil service laws shall not apply to the appointment of the mayor’s secretaries nor of stenographers, clerks, telephone operators and messengers connected with the mayor’s office, and the mayor may remove such appointees without a hearing and without making a statement of the cause for their removal.”

- Section 32: In the first paragraph strike all references to "six" and replace with "twelve".

In the fourth paragraph strike the existing language and replace it with the following: “If the Mayor is absent or unable from any cause temporarily to perform the duties of the office, or if the office is vacant during the first twelve months of the term, the mayor’s duties shall be performed by the president of the city council. The person upon whom such duties shall devolve shall be called “acting mayor”, and shall possess the powers of mayor only in matters not admitting of delay, but shall have no power to make permanent appointments. In the event that the office of Mayor



shall be vacated due to resignation or death prior to the end of the term, the acting Mayor shall be entitled to the compensation as city council President in addition to seventy-five (75%) of the then current rate of compensation of the Mayor."

In the fifth paragraph, strike all existing language and replace it with the following: "Should an appointive officer of the city be temporarily unable for any cause to perform official duties, the mayor or the city council, whichever has the power of original appointment, may make a temporary appointment of some person to act until the official shall resume duties. (Section 32 is given as amended by Chap.590 Acts of 1975.)"

Section 33: In the first paragraph strike the words "the nature of his interest in such contract," and replace with "the nature of the interest in such contract."

Section 34: Delete in its entirety.

Section 35: Delete in its entirety.

Section 37. In the first paragraph strike the words "who shall be chairman," and replace with "who shall be chairperson,"

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

Strike the second sentence in its entirety and replace with "No member of the school committee, except the mayor, shall hold any other office or position the salary or compensation for which is payable out of the city treasury during the elected term of office.

Strike the term "vice-chairman" in the third sentence and replace with "vice-chairperson."

Section 51: Delete in its entirety.

**Section 2** Upon passage by the Council, a question approving the submission of the Petition to the Commonwealth of Massachusetts Legislature shall be submitted to the Voters of the City of Gardner as a non-binding referendum in accordance with Massachusetts law.

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

---

Titi Siriphan

City of Gardner City Clerk

## CITY OF GARDNER

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

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

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

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

Making the following changes to the City Charter:

- Section 4:** Strike the second sentence “He shall hold office for the term of two years from the first Monday in January following his election and until his successor is elected and qualified.” and replace it with “The Mayor shall hold office for the term of two years from the first Monday in January following the election and until a successor is elected and qualified.”
- Section 6:** Strike the phrase "but the city solicitor" and replace it with "all members of the Law Department".
- Section 7:** Strike the existing language and replace it with the following: “In making appointments, the mayor shall sign and file with the city clerk a certificate in the following form:

### CERTIFICATE OF APPOINTMENT

I appoint (name of appointee) to the position of (name of office), and I certify that in my opinion (name of appointee) is a recognized expert in the work which will devolve in the course of official duties, and that I make the appointment solely in the interest of the city.

Mayor.

Or the following form, as the case may be:

I appoint (name of appointee) to the position of (name of office), and I certify that in my opinion (name of appointee) is a person specially fitted by education, training or experience to perform the duties of said office, and that I make the appointment solely in the interest of the city.

Mayor.”

- Section 8: Strike the existing language and replace it with the following: “The mayor may, with the approval of a majority of the members of the city council, remove any head of a department or member of a board before the expiration of the appointee’s term of office, except members of the school committee, officers elected by the city council, officers whose election is provided for by this act, and officials appointed by the governor. The person removed shall receive a copy of the reasons for such removal in writing and may contest the same at a hearing to be given by the city council, at which the person removed shall have the right to be represented by counsel.”
- Section 11: Strike the first paragraph in its entirety and replace it with the following: “The mayor shall receive for services such salary as the city council by ordinance shall determine and shall receive no other compensation from the city. The mayor’s salary shall not be increased or diminished during the term to which the mayor was elected.
- Section 12: Strike "fourth" and replace with "seventh".
- Section 13: Strike the first paragraph in its entirety and replace it with the following: “Any person who is qualified to vote for a candidate for any office mentioned in this act, and who is a candidate for nomination for that office, may have the name as such candidate printed on the official ballot to be used at a preliminary election; provided that, at least twenty-eight (G.L. Chap. 53 sec. 10 as amended) days prior to the preliminary election, the person shall file with the city clerk a statement in writing of such candidacy, and with it the petition of at least fifty voters of the city, qualified to vote for a candidate for the said office. Said statement and petition shall be in substantially the following form:
- And be further amended by striking the second sentence of the first paragraph under the heading “PETITION ACCOMPANYING STATEMENT OF CANDIDATE and replacing it with the following: “We further state that we believe this person to be of good moral character and qualified to perform the duties of the office.”
- Section 15: Strike the first paragraph in its entirety and replace it with the following: “The name of each person, and of none other, who has filed a statement and accompanying petition as aforesaid with the official residence and the title and term of the office for which the individual is a candidate for

nomination, shall be printed on said ballots under the designation of office in the order in which they may be drawn by the city clerk, whose duty it shall be to make such drawing and to give each candidate an opportunity to be present in person or by one representative. Blank space shall be left at the end of each list of candidates for nomination for the different offices equal to the number to be nominated therefore, in which the voter may insert the name of any person not printed on the ballot for whom the voter desires to vote for nomination for such office. There shall be printed on said ballots such directions as will aid the voter, as to wit: "vote for one", "vote for not more than two", and the like. (G.L. Chap 54, sec. 42 as amended).

- Section 16: Strike the existing language and replace it with the following: "No ballot used at any preliminary, special or regular city election shall have printed thereon any party or other political designation or mark, and there shall not be appended to the name of any candidate any such party or other political designation or mark, or anything showing the method of nomination, or indicating the candidate's views or opinions. (See also G.L. Chap. 53, sec. 34 as amended).
- Section 18: Strike the existing language and replace it with "The City Clerk shall canvas returns from election officers and post them in a conspicuous place in City Hall and in other manners consistent with city practices."
- Section 19: Strike the second sentence in the second paragraph in its entirety and replace it with the following: "In case two or more candidates should receive an equal number of votes for the same office at any preliminary election held under this act and one of such candidates would otherwise be entitled to the candidate's name upon the official ballot, then the names of all such persons shall be placed on the ballot."
- Section 24: Strike the second sentence in paragraph 3 in its entirety and replace it with the following: "The city clerk shall keep the records of the meetings of the council.
- Section 25: Strike the first sentence in its entirety and replace it with the following: "The city council may at any time request from the mayor specific information upon any municipal matter within its jurisdiction, and may request the mayor's presence to answer written questions relating thereto at a meeting to be held not earlier than one week after the date of the receipt by the mayor of said questions."
- Section 29: Strike the words "in full" in paragraph one, line two, and replace with "in summary". In lines two and three, strike "in at least one newspaper of the city" and strike "additional" in

line three.

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

- Section 30: Strike the existing language and replace it with the following: “Every order, ordinance, resolution and vote relative to the affairs of the city, adopted or passed by the city council, shall be presented to the mayor for approval. If the mayor approves, then the mayor shall sign it; if the mayor disapproves, it shall be returned to the city council in writing with the mayor’s objections, which the city council shall enter at large on its records, and again consider it. If the city council, notwithstanding such disapproval of the mayor, shall again pass such order, ordinance, resolution or vote by a two-thirds vote of all the members of the city council, it shall then be in force, but such vote shall not be taken for seven days after its return to the city council. Every such order, ordinance, resolution or vote shall be in force if it is not returned by the mayor within ten days after it was presented. This section shall not apply to budgets submitted under section thirty-two of chapter forty-four of the General Laws or to appropriations by the city council under section thirty-three of said chapter.”
- Section 31: Strike the existing language and replace it with the following: “The civil service laws shall not apply to the appointment of the mayor’s secretaries nor of stenographers, clerks, telephone operators and messengers connected with the mayor’s office, and the mayor may remove such appointees without a hearing and without making a statement of the cause for their removal.”
- Section 32: In the first paragraph strike all references to "six" and replace with "twelve".

In the fourth paragraph strike the existing language and replace it with the following: “If the Mayor is absent or unable from any cause temporarily to perform the duties of the office, or if the office is vacant during the first twelve months of the term, the mayor’s duties shall be performed by the president of the city council. The person upon whom such duties shall devolve shall be called “acting mayor”, and shall possess the powers of mayor only in matters not admitting of delay, but shall have no power to make permanent appointments. In the event that the office of Mayor shall be vacated due to resignation or death prior to the end of the term, the acting Mayor shall be entitled to the compensation as city council President in addition to seventy-five (75%) of the then current rate of compensation of the Mayor.”



In the fifth paragraph, strike all existing language and replace it with the following: “Should an appointive officer of the city be temporarily unable for any cause to perform official duties, the mayor or the city council, whichever has the power of original appointment, may make a temporary appointment of some person to act until the official shall resume duties. (Section 32 is given as amended by Chap.590 Acts of 1975.)”

Section 33: In the first paragraph strike the words “the nature of his interest in such contract,” and replace with “the nature of the interest in such contract.”

Section 34: Delete in its entirety.

Section 35: Delete in its entirety.

Section 37. In the first paragraph strike the words “who shall be chairman,” and replace with “who shall be chairperson,”

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

Strike the second sentence in its entirety and replace with “No member of the school committee, except the mayor, shall hold any other office or position the salary or compensation for which is payable out of the city treasury during the elected term of office.

Strike the term “vice-chairman” in the third sentence and replace with “vice-chairperson.”

Section 51: Delete in its entirety.

**Section 2** This act shall take effect upon its passage.

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

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



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**

---

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.

RECEIVED

August 29, 2023

2023 AUG 29 PM 2:28

Commonwealth of Massachusetts

CITY CLERK'S OFFICE

Worcester County

City of Gardner

CERTIFICATE OF APPOINTMENT

I appoint Elijah Williams, to the position of Police Officer, of the Gardner Police Department and I certify that in my opinion he is a person specially fitted by education, training, or experience to perform the duties of said office and that I make the appointment solely in the interests of the City.

*Michael J. Nicholson*

Mayor

Michael J. Nicholson

Confirmed by City Council: \_\_\_\_\_

\_\_\_\_\_ City Clerk

Titi Siriphan

Expires: Permanent

Worcester, ss., \_\_\_\_\_ 2023

Then personally appeared the above named Elijah Williams and made oath that he would bear true faith and allegiance to the United States of America and the Commonwealth of Massachusetts and would support the Constitution and laws thereof.

Before me,

\_\_\_\_\_ City Clerk

Chapter 303 Acts of 1975  
and  
Chapter 409 Acts of 1983

Received \_\_\_\_\_

# City of Gardner, *Executive Department*



Michael J. Nicholson, Mayor

COMMONWEALTH OF MASSACHUSETTS

WORCESTER COUNTY  
GARDNER

CITY OF

I appoint the following to the position of Election Officers, as designated, and I hereby certify that in my opinion they are persons specially fitted by education, training and experience to perform the duties of said office and that I make the appointments solely in the interest of the City.

  
Michael J. Nicholson, Mayor

Confirmed by City Council \_\_\_\_\_

for terms expiring August 31, 2024

  
Titi Siriphan, City Clerk

WARD 1A

|           |            |    |               |                        |         |
|-----------|------------|----|---------------|------------------------|---------|
| Warden    | Norman     | H. | Beauregard    | 147 Oak Street         | Gardner |
| Clerk     | Roland     | D. | Mailloux, Jr. | 20 Teaberry Lane       | Gardner |
| Inspector | Doris      |    | Buefort       | 238R West Street       | Gardner |
| Inspector | Jacqueline | M. | Kraskouskas   | 222 Bickford Hill Road | Gardner |
| Inspector | Erana      | E. | Landry        | 298 Park Street        | Gardner |
| Inspector | Diane      | M. | Meany         | 58 Jean Street         | Gardner |
| Inspector | Ann        | K. | Twohig        | 315 Union Street       | Gardner |
| Inspector | George     | N. | Hiniker       | 130 Whitney Street     | Gardner |

WARD 1B

|           |         |    |           |                       |         |
|-----------|---------|----|-----------|-----------------------|---------|
| Warden    | Lynn    | M. | Roux      | 203 Betty Spring Road | Gardner |
| Clerk     | Paul    | T. | Crowley   | 43 Glazier Street     | Gardner |
| Inspector | Gloria  |    | Bourgeois | 47 Racette Avenue     | Gardner |
| Inspector | Bridget | A. | Koetsch   | 32 Talcott Avenue     | Gardner |
| Inspector | Walter  |    | Scott     | 103 Bayberry Drive    | Gardner |
| Inspector | Valerie | D. | Spar      | 20 Plymouth Street    | Gardner |



# City of Gardner, *Executive Department*



Michael J. Nicholson, Mayor

|           |          |    |            |                      |         |
|-----------|----------|----|------------|----------------------|---------|
| Inspector | Marjorie | J. | Whittemore | 47 Lake Street, A606 | Gardner |
| Inspector | Juliet   | E. | Crowley    | 43 Glazier Street    | Gardner |

## WARD 2A

|           |         |    |          |                       |         |
|-----------|---------|----|----------|-----------------------|---------|
| Warden    | Clifton | J. | Melatti  | 37 Rosewood Drive     | Gardner |
| Warden    | Loyall  | C. | Allen    | 169 Sunrise Lane      | Gardner |
| Clerk     | David   | L. | Hendren  | 55 Bickford Hill Road | Gardner |
| Inspector | Carol   | A. | Cormier  | 47 Lake Street, A207  | Gardner |
| Inspector | Robert  | J. | Cormier  | 47 Lake Street, A207  | Gardner |
| Inspector | Cathy   | T. | Leger    | 134 Greenwood Place   | Gardner |
| Inspector | Jeanne  |    | Cuskey   | 65 Kileys Way         | Gardner |
| Inspector | Linda   | M. | Bredberg | 6 Rosewood Drive      | Gardner |
| Inspector | Alice   | P. | Anderson | 34 Chapman Park       | Gardner |
| Inspector | Dianne  | A. | Hunt     | 28 Osgood Street, #1  | Gardner |

## WARD 2B

|           |           |    |          |                           |           |
|-----------|-----------|----|----------|---------------------------|-----------|
| Warden    | Kevin     | M. | Ares     | 60 Ridgewood Lane, Apt.18 | Gardner   |
| Clerk     | Nancy     | M. | Girouard | 110 Marquette Street      | Gardner   |
| Inspector | Val       | J. | Cormier  | 166 Acadia Road           | Gardner   |
| Inspector | Annette   | M. | Melanson | 178 Waterford Street      | Gardner   |
| Inspector | Elaine    | M. | Leger    | 47 Lake Street, A201      | Gardner   |
| Inspector | G. Ronald |    | Leger    | 47 Lake Street, A201      | Gardner   |
| Inspector | Marcia    | J. | White    | 92 Ryan Street            | Gardner   |
| Inspector | Patricia  | A. | Lewis    | 32 Water Wheel Circle     | Templeton |

## WARD 3A

|           |        |    |            |                   |           |
|-----------|--------|----|------------|-------------------|-----------|
| Warden    | Robert | J. | Swartz     | 53 Racette Avenue | Gardner   |
| Clerk     | Howard | A. | Leadbetter | 100 Ross Street   | Fitchburg |
| Inspector | Rachel | I. | Blais      | 25 Way Street     | Gardner   |
| Inspector | Anita  | M. | Boudreau   | 8 Jackson Park    | Gardner   |

# City of Gardner, *Executive Department*



Michael J. Nicholson, Mayor

|           |         |    |             |                    |           |
|-----------|---------|----|-------------|--------------------|-----------|
| Inspector | Darlene | I. | Brehio      | 245 Hubbardston Rd | Templeton |
| Inspector | Marcel  |    | Martin      | 17 Bayberry Drive  | Gardner   |
| Inspector | Robert  | L. | Owens       | 217 Riverside Road | Gardner   |
| Inspector | Beth    | A. | Leadbetter  | 100 Ross Street    | Fitchburg |
| Inspector | Mark    |    | St. Laurent | 153 Colony Road    | Fitchburg |

## WARD 3B

|           |          |    |           |                       |         |
|-----------|----------|----|-----------|-----------------------|---------|
| Warden    | Thomas   | H. | Patterson | 132 Pinewood Drive    | Gardner |
| Clerk     | Paulette | A. | Burns     | 185 Benwood Drive     | Athol   |
| Inspector | Helen    | M. | Linstrom  | 61 Lake Street, B-315 | Gardner |
| Inspector | Gayle    | M. | Jaillet   | 35 Wickman Drive      | Gardner |
| Inspector | Odette   | R. | Racette   | 44 Jean Street        | Gardner |
| Inspector | Monica   | J. | Williams  | 19 City Hall Ave, #50 | Gardner |
| Inspector | Alice    | L. | Ambrose   | 114 Opal Lane         | Gardner |
| Inspector | Dorothy  | M. | Ronn      | 145 Prospect Street   | Gardner |

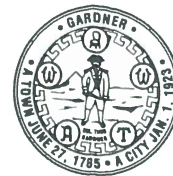
## WARD 4A

|           |          |    |           |                     |             |
|-----------|----------|----|-----------|---------------------|-------------|
| Warden    | Ronald   | J. | Roy       | 51 Pinewood Drive   | Gardner     |
| Inspector | Judith   | A. | King      | 32 Jay Street       | Gardner     |
| Inspector | Judy     |    | Roy       | 51 Pinewood Drive   | Gardner     |
| Inspector | Ann      | E. | Johnson   | 176 Main Street     | Westminster |
| Inspector | Joanne   | M. | Augustino | 15 Chatham Street   | Gardner     |
| Inspector | Gloria   | M. | Landry    | 458 Pearl Street    | Gardner     |
| Inspector | Victoria | C. | Fontaine  | 14 Waterford Street | Gardner     |
| Inspector | Danielle | L. | Rice      | 409 Pleasant Street | Gardner     |

## WARD 4B

|           |        |    |           |                           |         |
|-----------|--------|----|-----------|---------------------------|---------|
| Warden    | Dianne | M. | LeBlanc   | 209 Elm Street            | Gardner |
| Clerk     | Jaime  |    | Lubelczyk | 63 South Main Street, #2F | Gardner |
| Inspector | Doris  | L. | Forte     | 47 Lake Street, A602      | Gardner |

# City of Gardner, *Executive Department*



Michael J. Nicholson, Mayor

|           |        |    |           |                          |         |
|-----------|--------|----|-----------|--------------------------|---------|
| Inspector | Susan  |    | Greninger | 194 Central Street, #315 | Gardner |
| Inspector | Jill   | M. | Cormier   | 35 Water Street          | Gardner |
| Inspector | Ann    |    | Chandler  | 133 Pleasant Street, #2  | Gardner |
| Inspector | Donald | A. | LeBlanc   | 209 Elm Street           | Gardner |
| Inspector | Nancy  | E. | Parker    | 27 Wachusett Road        | Gardner |

## WARD 5A

|           |           |    |            |                           |         |
|-----------|-----------|----|------------|---------------------------|---------|
| Warden    | Paul      | A. | Spano      | 33 Adams Street           | Gardner |
| Clerk     | Mary      | L. | Glotch     | 47 Montvale Road          | Gardner |
| Inspector | Judith    | T. | Collette   | 47 Kendall Street         | Gardner |
| Inspector | Gloria    | M. | O'Malley   | 80 Kendall Pond Road West | Gardner |
| Inspector | Marcia    | A. | Stone      | 185 Bridge Street         | Gardner |
| Inspector | Rheal     | J. | Leblanc    | 228 Lovewell Street       | Gardner |
| Inspector | Roberta   | J. | Lesperance | 35 Wachusett Road         | Gardner |
| Inspector | Constance | I. | Pelletier  | 81 Airport Road           | Gardner |

## WARD 5B

|           |          |     |           |                    |         |
|-----------|----------|-----|-----------|--------------------|---------|
| Warden    | Leonette | M.  | Roy       | 49 Temple Street   | Gardner |
| Clerk     | Karen    | L.  | Olivari   | 185 Leo Drive      | Gardner |
| Inspector | William  |     | Edwards   | 4 Sunrise Lane     | Gardner |
| Inspector | Susan    | H.  | Lariviere | 95 Bayberry Drive  | Gardner |
| Inspector | Mary     | Ann | Suchocki  | 154 Sand Street    | Gardner |
| Inspector | Jane     | M.  | Bettez    | 24 Yale Street     | Gardner |
| Inspector | Robert   | J.  | Bettez    | 24 Yale Street     | Gardner |
| Inspector | Jeanne   | M.  | Rafferty  | 60 Kendall Pond W  | Gardner |
| Inspector | Edward   | S.  | Yablonski | 195 Sherman Street | Gardner |

# City of Gardner, *Executive Department*

Michael J. Nicholson, Mayor



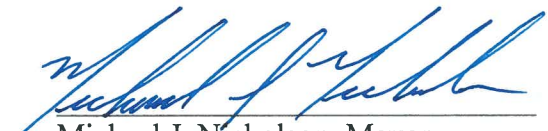
RECEIVED  
2022 SEP 16 AM 9:30  
CITY CLERK'S OFFICE

## COMMONWEALTH OF MASSACHUSETTS

WORCESTER COUNTY  
CITY OF GARDNER

I assign all Officers of the Gardner Police Department as election poll detail, and I hereby certify that in my opinion they are persons specifically fitted by education, training and experience to perform the duties of said office and that I make the appointments solely in the interest of the City.

I approve a sufficient number of police officers, at the polling location to preserve order and to protect the election officers and supervisors from any interference with their duties and to aid in enforcing the laws relating to elections, as required by Section 72 of MGL Chapter 54 which was changed in Section 13 of Chapter 91 of the Acts of 2022. Further, move to designate the Police Chief the authority to assign specific police officers according to scheduling and availability.

  
Michael J. Nicholson, Mayor

Confirmed by City Council \_\_\_\_\_

  
Titi Siriphan, City Clerk





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

OFFICE OF THE  
**CITY CLERK**

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

---

**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, 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.

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.<br><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 POLE AND WIRE LOCATIONS**

North Andover, Massachusetts

To the City Council  
Of Gardner, Massachusetts

Massachusetts Electric Company d/b/a National Grid 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 install 1 SO Pole and Relocate 1 SO Pole on Park St beginning at a point approximately 100' feet west of the centerline of the intersection of Park St and Vernon St and continuing approximately 150 feet in a west direction. Install 1 SO 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 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

**ORDER FOR POLE AND WIRE LOCATIONS**

In the City of 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 be and it is hereby granted a location for and permission to erect and maintain poles and wires to be placed thereon, together with such sustaining and protecting fixtures as said Company may deem necessary, in the public way or ways hereinafter referred to, as requested in petition of said Company 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 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 install 1 SO Pole and Relocate 1 SO Pole on Park St beginning at a point approximately 100' feet west of the centerline of the intersection of Park St and Vernon St and continuing approximately 150 feet in a west direction. Install 1 SO 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 St Project.

I hereby certify that the foregoing order was adopted at a meeting of the City Council 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

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.

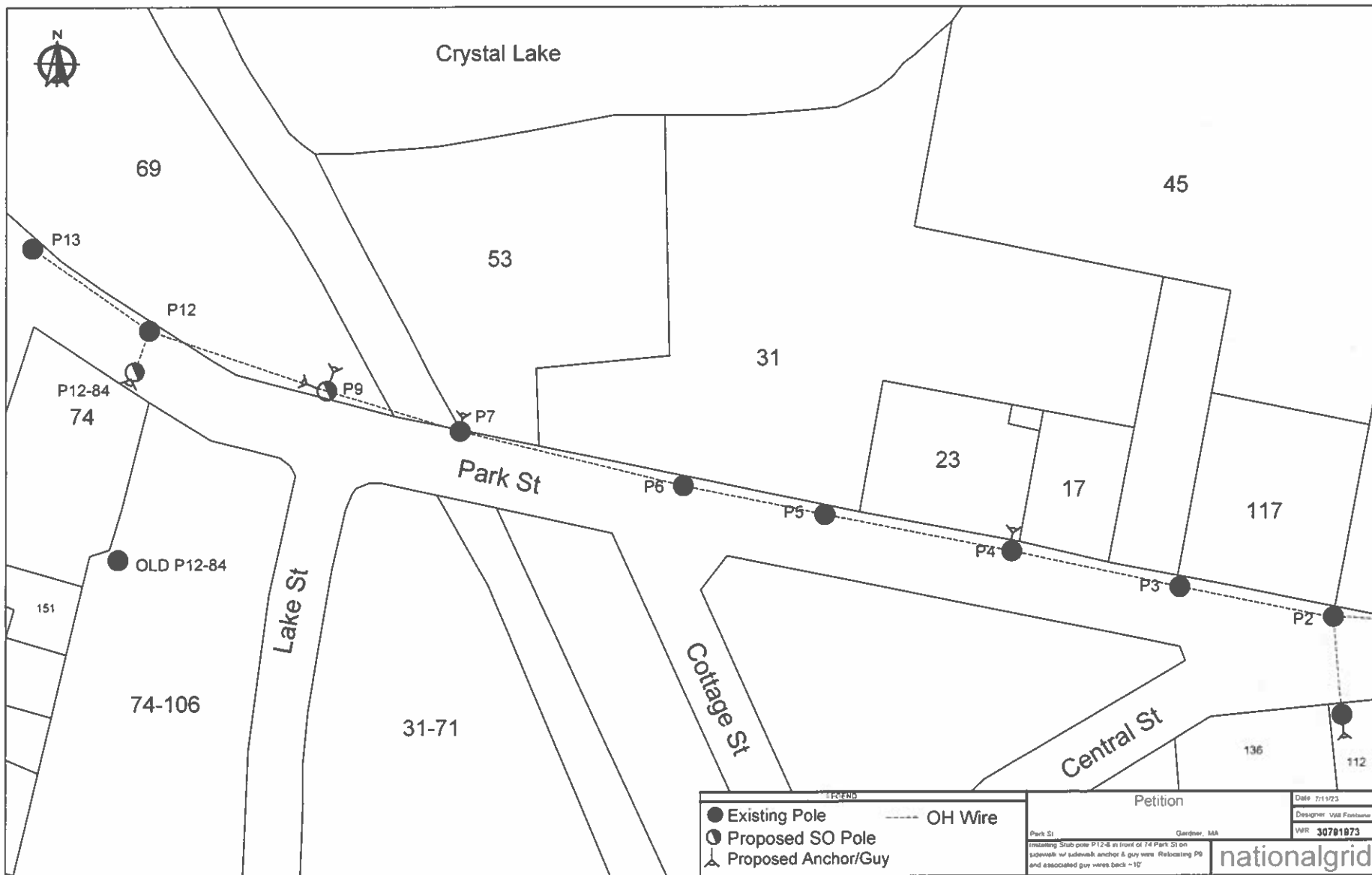
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Board or Council of Town or City, Massachusetts

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





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

OFFICE OF THE  
**CITY CLERK**

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

---

**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>                                                                                        |
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| 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.

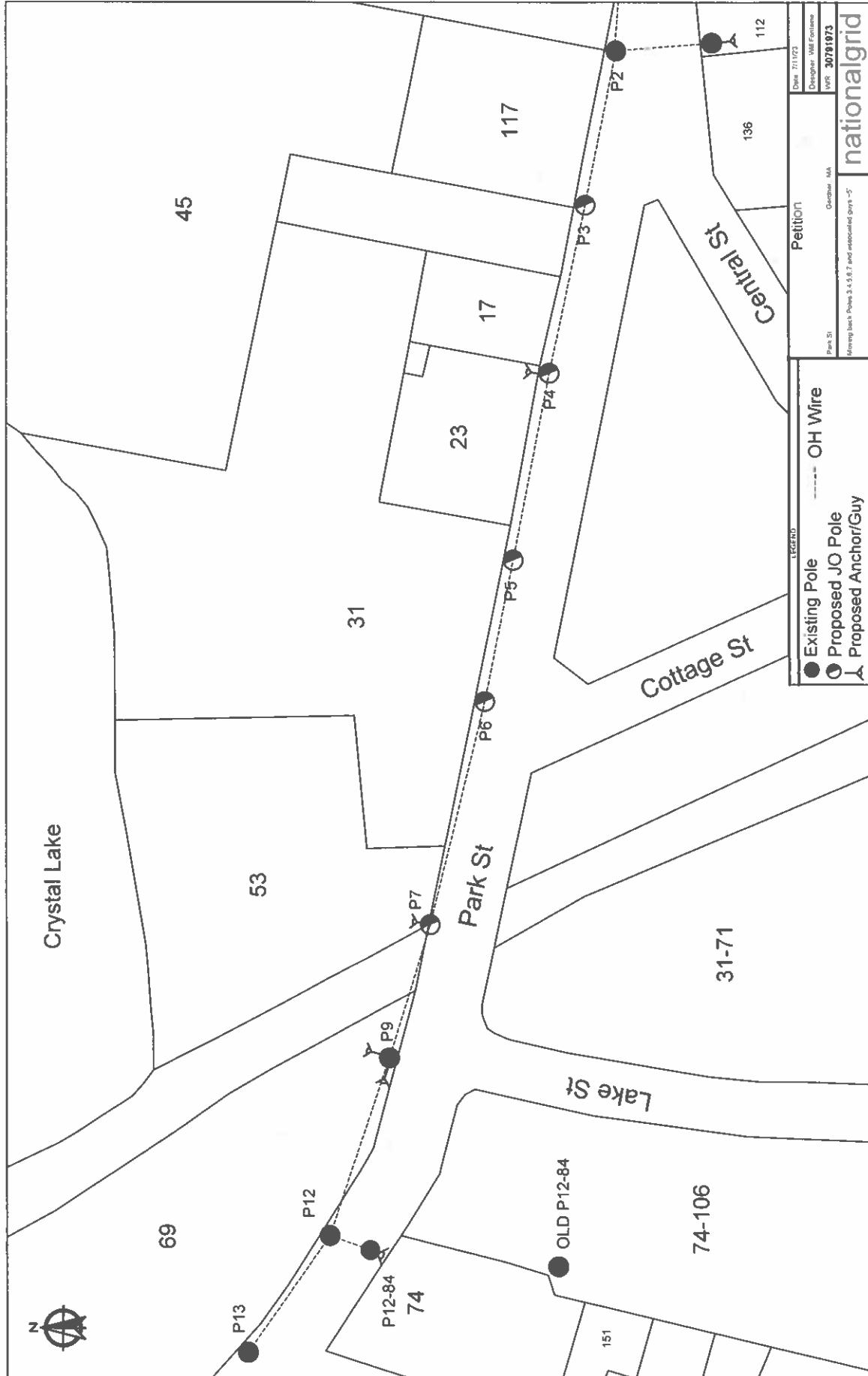
.....  
.....  
.....  
.....

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: 2/1/22  
Designer: JWF/Forlano  
IWR: 30781973  
nationalgrid

Park St  
Cottage St  
Lake St  
Central St

Crystal Lake

69  
53  
31  
17  
23  
45  
117  
136  
112

P13  
P12  
P12-84  
74  
P9  
P7  
P6  
P5  
P4  
P3  
P2

OH Wire  
Proposed JO Pole  
Proposed Anchor/Guy

Petition

31-71  
74-106  
151  
OLD P12-84



**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.

# CITY OF GARDNER

## DEPARTMENT OF COMMUNITY DEVELOPMENT AND PLANNING

Manca Annex, 115 Pleasant Street, Room 201 Gardner, Massachusetts 01440

Phone: (978) 630-4014 ♦ Fax: (978) 632-1905 ♦ CDBG (978) 632-3800

11045



September 28, 2023

President Elizabeth J. Kazinskas  
c/o Titi Siriphan, City Clerk  
City Hall  
95 Pleasant Street, Room 121  
Gardner, MA 01440

RECEIVED  
2023 SEP 28 11:11:15  
CITY OF GARDNER OFFICE  
CITY CLERK'S OFFICE

Subject: *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.*

Dear President Kazinskas:

At the Planning Board meeting on Tuesday, September 19, 2023, the Planning Board voted unanimously (5-0) to recommend the City Council not to approve and adopt the requested Zoning Amendment as referenced above. The Board's vote was based on the lack of information supporting such amendment.

Please do not hesitate to contact Trevor Beauregard, Director of Community Development and Planning if you have any questions or need additional information.

Sincerely,

Mark M. Schafron  
Chairman

Cc: *Mayor*  
*Planning Board*  
*City Council*  
*Trevor M. Beauregard, Director*  
*Thomas Zuppa, Building Commissioner*

**From:** [Trevor Beauregard](#)  
**To:** [Dana Heath](#)  
**Cc:** [Mayor](#); [Elizabeth Kazinskas](#); [mschafron@comcast.net](mailto:mschafron@comcast.net); [Christine Fucile](#); [Titi Siriphan](#)  
**Subject:** Planning Board meeting attendance - Zoning Amendments  
**Date:** Wednesday, August 23, 2023 9:48:18 AM

---

Good morning Councilor Heath,

At their meeting last night, the Planning Board suggested that I reach out to you and request your presence at their next meeting on September 19, 2023, 6:30 p.m. to address questions and comments from the Board regarding the three zoning amendments you've submitted. As the petitioner of the three amendments, your input and feedback would be appreciated prior to the Planning Board making the necessary recommendations to the City Council.

Please confirm your availability at your earliest convenience and feel free to contact me with any questions.

Thank you,  
Trevor

Trevor Beauregard  
Director  
Dept. Community Development and Planning  
115 Pleasant Street  
Gardner, MA 01440  
978-991-5842

Executive Director  
Gardner Redevelopment Authority

**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.**

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

**SECTION 1:** Subsection (C)(8)(b) of Section 1070 of Chapter 675 of the Code of the City of Gardner be amended by replacing the paragraph in its entirety and amending the Ordinance as follows:

- b) The number of marijuana retail establishments shall be limited to the amount specified by Section 5 of Chapter 306 of the Code of the City of Gardner, as the same may be amended from time to time. No permit, special permit or variance may be granted for a marijuana retail establishment which results in a violation of this limit;

**SECTION 2:** That this ordinance take effect upon passage and publication as required by law.



# CITY OF GARDNER

## DEPARTMENT OF COMMUNITY DEVELOPMENT AND PLANNING

Manca Annex, 115 Pleasant Street, Room 201 Gardner, Massachusetts 01440

Phone: (978) 630-4014 ◊ Fax: (978) 632-1905 ◊ CDBG (978) 632-3800



September 28, 2023

President Elizabeth J. Kazinskas  
c/o Titi Siriphan, City Clerk  
City Hall  
95 Pleasant Street, Room 121  
Gardner, MA 01440

RECEIVED  
2023 SEP 28 AM 11:15  
CITY OF GARDNER OFFICE  
GARDNER, MA

Subject: *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.*

Dear President Kazinskas:

At the Planning Board meeting on Tuesday, September 19, 2023, the Planning Board voted unanimously (5-0) to recommend the City Council not approve and adopt the requested Zoning Amendment as referenced above. The Board's vote was based on lack of information supporting such amendment.

Please do not hesitate to contact Trevor Beauregard, Director of Community Development and Planning if you have any questions or need additional information.

Sincerely,

Mark M. Schafron  
Chairman

Cc: *Mayor*  
*Planning Board*  
*City Council*  
*Trevor M. Beauregard, Director*  
*Thomas Zuppa, Building Commissioner*

**From:** [Trevor Beauregard](#)  
**To:** [Dana Heath](#)  
**Cc:** [Mayor](#); [Elizabeth Kazinskas](#); [mschafron@comcast.net](mailto:mschafron@comcast.net); [Christine Fucile](#); [Titi Siriphan](#)  
**Subject:** Planning Board meeting attendance - Zoning Amendments  
**Date:** Wednesday, August 23, 2023 9:48:18 AM

---

Good morning Councilor Heath,

At their meeting last night, the Planning Board suggested that I reach out to you and request your presence at their next meeting on September 19, 2023, 6:30 p.m. to address questions and comments from the Board regarding the three zoning amendments you've submitted. As the petitioner of the three amendments, your input and feedback would be appreciated prior to the Planning Board making the necessary recommendations to the City Council.

Please confirm your availability at your earliest convenience and feel free to contact me with any questions.

Thank you,  
Trevor

Trevor Beauregard  
Director  
Dept. Community Development and Planning  
115 Pleasant Street  
Gardner, MA 01440  
978-991-5842

Executive Director  
Gardner Redevelopment Authority

**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.**

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

**SECTION 1:** That Section 210(B) of Chapter 675, entitled “Word Usage and Definitions,” be amended by adding the following definition to its list:

Sports Betting Facility – A lot or structure operated by an entity licensed as a Sports Wagering Operator or Qualified Gaming Entity by the Massachusetts Gaming Commission under the provisions of M.G.L. c. 23N, 128A and 128C, as the same may be amended from time to time, to conduct sporting and sports wagering events, including but not limited to horse racing and simulcast wagering, subject to and operated in accordance with the restrictions of such license. Sports Betting Facilities may be indoor or outdoor facilities.

**SECTION 2:** That Attachment 1 of Chapter 675 of the Code of the City of Gardner, entitled “Zoning- Table of Uses,” be amended by adding a new Section 54(a) immediately following Section 54, entitled “Sports Betting Facility” with the zoning district designations as follows:

| Description of Use                                                                                                                                                                                                              | SFR1 | RR2 | GR3 | COM1 | COM2 | IND1 | IND2 |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------|-----|-----|------|------|------|------|
| 54a. Sports Betting Facility, provided that any structure is so insulated and maintained as to confine noise to the premises, and is located not less than 100 feet from a residential district, excepting any access driveway. | NP   | NP  | NP  | SPPB | SPPB | SPPB | NP   |

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