



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

**CALENDAR FOR THE MEETING**

*of*

**TUESDAY, JANUARY 16, 2024**

**CITY COUNCIL CHAMBER**

**7:30 P.M.**

**ORDER OF BUSINESS**

**I. CALL TO ORDER**

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

**III. OPENING PRAYER**

**IV. PLEDGE OF ALLEGIANCE**

**V. ANNOUNCEMENT OF OPEN MEETING RECORDINGS**

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

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

- January 4, 2024, Inaugural Minutes

**VII. PUBLIC HEARINGS**

**VIII. COMMUNICATIONS FROM THE MAYOR**

**ORDERS**

**11118** – An Order Authorizing \$106.24 Payment of Prior Year Salary Expenditure.  
(*Finance Committee*)

**APPOINTMENTS**

**11119** – A Measure Confirming the Mayor's Appointment of Rachel J. Roberts, to the position of Executive Secretary, for term expiring January 1, 2025.  
(confirmation not required) (*Appointments Committee*)

**11120** – A Measure Confirming the Mayor's Appointment of John M. Flick, to the position of City Solicitor, for term expiring January 1, 2025. (confirmation not required) (*Appointments Committee*)

- 11121** – A Measure Confirming the Mayor’s Appointment of Kevin J. Arsenault, to the position of Constable, for term expiring January 1, 2027. (confirmation not required) (*Appointments Committee*)
- 11122** – A Measure Confirming the Mayor’s Appointment of Gloria Tarpey, to the position of President of Golden Agers Club, for term expiring January 8, 2025. (confirmation not required) (*Appointments Committee*)
- 11123** – A Measure Confirming the Mayor’s Appointment of Theresa Hillman, to the position of Gardner Community Action Board of Directors Member, for term expiring January 4, 2025. (confirmation not required) (*Appointments Committee*)
- 11124** – A Measure Confirming the Mayor’s Appointment of Alan Agnelli, to the position of Historical Commission Member, for term expiring January 8, 2027. (*Appointments Committee*)
- 11125** – A Measure Confirming the Mayor’s Appointment of Barbara LeBlanc, to the position of Council on Aging Member, for term expiring January 8, 2027. (*Appointments Committee*)
- 11126** – A Measure Confirming the Mayor’s Appointment of Tammy Erdman, to the position of Municipal Grounds Commission Member, for term expiring January 9, 2027. (*Appointments Committee*)
- 11127** – A Measure Confirming the Mayor’s Appointment of Thomas Zuppa, to the position of Building Commissioner, for term expiring January 9, 2027. (*Appointments Committee*)
- 11128** – A Measure Confirming the Mayor’s Appointment of Robert Charland, Esq., to the position of Assistant City Solicitor, for term expiring January 1, 2025 (*Appointments Committee*)
- 11129** – A Measure Confirming the Mayor’s Appointment of Dane Arnold, to the position of Public Works Director, for term expiring January 4, 2027 (*Appointments Committee*)
- 11130** – A Measure Confirming the Mayor’s Appointment of Michael F. Ellis, to the position of Senior Citizen’s Director, for term expiring January 4, 2027 (*Appointments Committee*)
- 11131** - A Measure Confirming the Mayor’s Appointment of Lynette R. Gabrila, to the position of Veteran’s Agent/Veterans’ Burial Agent, for term expiring January 4, 2025 (*Appointments Committee*)

- 11132** - A Measure Confirming the Mayor's Appointment of Gregory Lagoy, to the position of Fire Chief, for term expiring January 4, 2027 (*Appointments Committee*)
- 11133** - A Measure Confirming the Mayor's Appointment of Paul Topolski, to the position of Civil Defense Director, for term expiring January 4, 2027 (*Appointments Committee*)
- 11134** - A Measure Confirming the Mayor's Appointment of Carla J. Wojtukiewicz, to the position of Trustee, Williams-Rockwell Educational Gift Fund, for term expiring January 4, 2027 (*Appointments Committee*)
- 11135** - A Measure Confirming the Mayor's Appointment of Robert Rice, Esq., to the position of Trustee, Williams-Rockwell Educational Gift Fund, for term expiring January 4, 2027 (*Appointments Committee*)
- 11136** - A Measure Confirming the Mayor's Appointment of Cheryl Slack, to the position of Animal Control Officer, for term expiring January 4, 2025 (*Appointments Committee*)
- 11137** - A Measure Confirming the Mayor's Appointment of Autumn Brown, to the position of Animal Control Officer, for term expiring January 4, 2025 (*Appointments Committee*)
- 11138** - A Measure Confirming the Mayor's Appointment of Alana Meserve, to the position of Animal Control Officer, for term expiring January 4, 2025 (*Appointments Committee*)
- 11139** - A Measure Confirming the Mayor's Appointment of Robert Bettez, to the position of Planning Board Member, for term expiring January 4, 2027 (*Appointments Committee*)
- 11140** - A Measure Confirming the Mayor's Appointment of Robert Swartz, to the position of Planning Board Member, for term expiring January 4, 2027 (*Appointments Committee*)
- 11141** - A Measure Confirming the Mayor's Appointment of Stephen Cormier, to the position of Planning Board Member, for term expiring January 4, 2027 (*Appointments Committee*)
- 11142** - A Measure Confirming the Mayor's Appointment of Charles LeBlanc, to the position of Board of Assessors, for term expiring January 4, 2027 (*Appointments Committee*)
- 11143** - A Measure Confirming the Mayor's Appointment of Richard Germano, to the position of Local Inspector, for term expiring January 4, 2027(*Appointments Committee*)

- 11144** - A Measure Confirming the Mayor's Appointment of James E. Imprescia, to the position of Plumbing & Gas Inspector, for term expiring January 4, 2027(*Appointments Committee*)
- 11145** - A Measure Confirming the Mayor's Appointment of Michael Fitzsimmons, to the position of License Commission Member, for term expiring January 4, 2027 (*Appointments Committee*)
- 11146** - A Measure Confirming the Mayor's Appointment of Kenneth Arsenault, to the position of License Commission Member, for term expiring January 4, 2027 (*Appointments Committee*)
- 11147** - A Measure Confirming the Mayor's Appointment of Nancy Binder, to the position of License Commission Member, for term expiring January 4, 2027 (*Appointments Committee*)
- 11148** - A Measure Confirming the Mayor's Appointment of Ann Twohig, to the position of Golf Commission Member, for term expiring January 4, 2027 (*Appointments Committee*)
- 11149** - A Measure Confirming the Mayor's Appointment of Kathy O'Brien, to the position of Council on Aging Member, for term expiring January 8, 2027 (*Appointments Committee*)
- 11150** - A Measure Confirming the Mayor's Appointment of Timothy Horrigan, to the position of Redevelopment Authority, for term expiring January 8, 2027 (*Appointments Committee*)
- 11151** - A Measure Confirming the Mayor's Appointment of Theresa Hillman, to the position of Council on Aging Member, for term expiring January 8, 2027 (*Appointments Committee*)
- 11152** - A Measure Confirming the Mayor's Appointment of Gloria Tarpey, to the position of Council on Aging Member, for term expiring January 8, 2027 (*Appointments Committee*)
- 11153** - A Measure Confirming the Mayor's Appointment of Susan Avallone, RN, to the position of Board of Health Member, for term expiring January 8, 2027 (*Appointments Committee*)
- 11154** - A Measure Confirming the Mayor's Appointment of Geoffrey Tobia, to the position of Board of Health Member, for term expiring January 8, 2027 (*Appointments Committee*)



- 11155** - A Measure Confirming the Mayor's Appointment of Michele Parker, to the position of MD, Board of Health Member, for term expiring January 8, 2027  
*(Appointments Committee)*
- 11156** - A Measure Confirming the Mayor's Appointment of Marcelle S. Cormier, to the position of Board of Registrar Member, for term expiring January 8, 2027  
*(Appointments Committee)*
- 11157** - A Measure Confirming the Mayor's Appointment of Patricia Darby, to the position of Board of Registrar Member, for term expiring January 9, 2027  
*(Appointments Committee)*
- 11158** - A Measure Confirming the Mayor's Appointment of Kevin McInerney, to the position of Contributory Retirement Board, for term expiring January 11, 2027  
*(Appointments Committee)*

### **COMMUNICATIONS**

- 11159** – A Notification from the Mayor Regarding Submission of Inaugural Address.
- 11160** – A Notification from the Mayor Regarding the FY2025 Budget Process.
- 11161** – A Notification from the Mayor Regarding the City Code Review.
- 11162** – A Notification from the Mayor Regarding the Bus Shelter/Stop Proposal.
- 11163** – A Notification from the Mayor Regarding Updates to Municipal Finance Law.
- 11164** – A Notification from the Mayor Regarding Change in Regulations for Communities Designated as Green Communities.
- 11165** – A Notification from the Mayor Regarding Increased Chapter 90 Funding Received from Commonwealth.
- 11166** – A Notification from the Mayor Regarding Updated Road Priority List and Rating Methodology.
- 11167** – A Notification from the Mayor Regarding Recent Grants Received by the City.
- 11168** – A Notification from the Mayor Regarding 9C Cuts in State Budget.
- 11169** – A Notification from the Mayor Regarding Update Related to the On-Street Parking Ban issued from January 6<sup>th</sup> through January 8<sup>th</sup>.

**11170** – A Notification from the Mayor Regarding Notices of Vacancy in Appointed Positions.

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

**11117** - Applications for Motor Vehicle Dealers License, Class II, Sylvester R. Anghuy, 146 Sherman Street. (*Safety Committee*)

**11171** – A Notice from the City Clerk Relative to a Vacancy in the Position of Councillor at Large.

**X. REPORTS OF STANDING COMMITTEES**

**SAFETY COMMITTEE**

**11086** – An Ordinance to Amend the Code of the City of Gardner Chapter 600, Entitled “Vehicles and Traffic”, Section 24, Entitled “Parking Prohibited on Certain Streets” – Comee Street. (*In the City Council and Referred to the Public Safety Committee 11/6/2023; More Time 11/20/2023, 12/4/2023, 12/18/2023, 1/2/2024*)

**11115** – An Ordinance to Amend the Code of the City of Gardner Chapter 600, Entitled “Vehicles and Traffic”, Section 24, Entitled “Parking Prohibited on Certain Streets.” – Douglas Road. (*In the City Council & Referred to Safety Committee 12/18/2023; More Time 1/2/2024*)

**11116** – Applications for Motor Vehicle Dealers License, Class II, Gardner Five Star Auto Sales, 407 Chestnut Street. (*In City Council and Referred to Safety Committee 1/2/2024*)

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

**11112** – 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 Councilor Dana Heath; In the City Council, Referred to Planning Board 12/4/2023; More Time 12/18/23, 1/2/2024*)

**11113** – 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 Councilor Dana Heath; In the City Council, Referred to Planning Board 12/4/2023; More time 12/18/23, 1/2/2024*)

**XII. NEW BUSINESS**

**XII. 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.



## 2024 CITY INAUGURAL EXERCISES

To be entered upon the *Journals of the City Council of the City of Gardner* in accordance with guidance provided under Section 23 of *THE CHARTER OF THE CITY OF GARDNER*.

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In accordance with the provisions of the Charter of the City of Gardner and Section 17 of Chapter 43 of the General Laws, the Mayor-Elect, Councillors at-Large-Elect, Ward Councillors-Elect, and School Committee Members-Elect, assembled in the Rotunda of Gardner City Hall on Monday, January 1, 2024 at 10:00 o'clock in the forenoon, to be sworn to the faithful performance of their duties.

**CERTIFICATE OF ELECTION & RESULTS OF VOTES CAST**

The CERTIFICATE OF ELECTION and RESULTS OF THE VOTES CAST were declared by City Clerk Titi Siriphan and entered into the journals of the City Council, as follows:

As a result of the votes cast at the City Election held on November 7, 2023, the following persons were declared elected:

MAYOR	Michael Joseph Nicholson
COUNCILLORS AT-LARGE	Elizabeth J. Kazinskas Judy A. Mack George C. Tyros Ronald F. Cormier Craig R. Cormier Carolyn A. Kamuda
WARD COUNCILLORS	David Thibault-Muñoz (Ward 1) Dana M. Heath (Ward 2) Nathan R. Boudreau (Ward 3) Karen G. Hardern (Ward 4) Aleksander Dernalowicz, Esq. (Ward 5)
SCHOOL COMMITTEE MEMBERS	Rachel A. Cormier Robert J. Swartz John M. Lafreniere

City Clerk Titi Siriphan called the Roll of Officials:

PRESENT:

MAYOR	Michael Joseph Nicholson
COUNCILLORS AT-LARGE	Judy A. Mack

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George C. Tyros  
Ronald F. Cormier  
Craig R. Cormier  
Carolyn A. Kamuda

## WARD COUNCILLORS

David Thibault-Muñoz (Ward 1)  
Dana M. Heath (Ward 2)  
Nathan R. Boudreau (Ward 3)  
Karen G. Hardern (Ward 4)  
Aleksander Dernalowicz, Esq. (Ward 5)

SCHOOL COMMITTEE  
MEMBERS

Rachel A. Cormier

## ABSENT:

Elizabeth J. Kazinskas  
George C. Tyros

Robert J. Swartz  
John M. Lafreniere

**OATH OF OFFICE**  
**COMMONWEALTH OF MASSACHUSETTS**

Worcester, ss.

Gardner, Massachusetts

January 1, 2024

I, Titi Siriphan, City Clerk of the City of Gardner, in witness thereof, certify that on the 1<sup>st</sup> day of January, 2024 at 10:00 o'clock in the forenoon, at a meeting of the Mayor-Elect, Councillors-at-Large-elect, Ward Councilors-elect, and School Committee Members-Elect, I administered the oath required by the City Charter to the following:

SCHOOL COMMITTEE  
MEMBERS

Rachel A. Cormier

## COUNCILLORS AT-LARGE

Carolyn A. Kamuda  
Judy A. Mack  
George C. Tyros  
Ronald F. Cormier  
Craig R. Cormier

## WARD COUNCILLORS

David Thibault-Muñoz (Ward 1)  
Dana M. Heath (Ward 2)  
Nathan R. Boudreau (Ward 3)  
Karen G. Hardern (Ward 4)  
Aleksander Dernalowicz, Esq. (Ward 5)

2024 CITY INAUGURAL EXERCISES

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Who severally solemnly swore that they would faithfully and impartially perform the duties of the office for which they have been elected in the City of Gardner according to the best of their ability and in conformity with law.

In testimony of all of which is required by the City Charter, I make this certificate to be entered on the journals of the meetings of the City Council.

/s/ Titi Siriphan, City Clerk

## COMMONWEALTH OF MASSACHUSETTS

Worcester, ss.

Gardner, Massachusetts

January 1, 2024

I, Titi Siriphan, City Clerk of the City of Gardner, hereby certify that on the FIRST DAY of JANUARY, 2024 at TEN o'clock in the forenoon, I administered the oath required by the City Charter to Mayor-elect **Michael J. Nicholson** for the term expiring January 5, 2026.

Michael J. Nicholson solemnly swore that he would bear true faith and allegiance to the Commonwealth of Massachusetts and would support the Constitution thereof, so help him God.

And,

Michael J. Nicholson solemnly swore and affirmed that he would faithfully and impartially discharge and perform all the duties incumbent on him as Mayor, according to the best of his abilities and understanding, agreeably, to the rules and regulations, of the Constitution thereof, and the laws of this Commonwealth, so help him God.

And,

Michael J. Nicholson solemnly swore that he would support the Constitution of the United States, so help him God.

In testimony of all of which is required by the City Charter, I make this certificate to be entered on the journals of the meetings of the City Council.

/s/ Titi Siriphan, City Clerk

Officials were dismissed at 10:15am on January 1, 2024 after the oaths were sworn.

**2024 CITY INAUGURAL EXERCISES**

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**CEREMONIAL INAUGURATION**

On the 4<sup>th</sup> day of January in the Year Two Thousand and Twenty-Four at 6:30 o'clock in the evening, officials and guests assembled in the Honorable Fred E. Perry, Gardner City Hall, 95 Pleasant Street, to bear witness to the administration of the ceremonial oath of office to the Honorable Michael J. Nicholson, Mayor of the City of Gardner, members of the City Council, and the School Committee.

**WELCOME AND PROCESSION:**

Mr. Jacob Boucher Cormier, president and CEO of Boucher Funeral Home and member of the Board of Directors of Gardner Square Two, Inc., welcomed guests to the 55<sup>th</sup> City Inaugural Exercises and announced the entrance of the City Councilors-Elect and School Committee Members- Elect.

**"ALL HAIL TO MASSACHUSETTS"**

"All Hail to Massachusetts," the official Anthem of the Commonwealth of Massachusetts, was played as the City Councilors- Elect and School Committee Members- Elect entered the auditorium.

**ENTRANCE OF THE MAYOR**

Mr. Jacob Cormier announced that as had been done at the City's first inaugural exercises in 1923, the Mayor would be escorted into the Ceremony by Chief Gregory Lagoy of the Gardner Fire Department and Chief Richard Braks of the Gardner Police Department.

Mr. Cormier then announced the entrance of his Honor, Michael J. Nicholson, 20<sup>th</sup> Mayor of the City of Gardner

**"GOD BLESS AMERICA"**

The Mayoral Honors March, consisting of "Four Ruffles and Flourishes" followed by "God Bless America" was played as Mayor- Elect Nicholson entered the Auditorium and took his place on the stage.

**WELCOMING REMARKS**

Master of Ceremonies, Dr. Stephanie Marchetti, Executive Director of the Montachusett Veterans Outreach Center, opened the Inaugural Exercises by welcoming officials and guests in attendance.

2024 CITY INAUGURAL EXERCISES

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*“Good evening everyone, as stated my name is Stephanie Marchetti and I am honored to serve as the Master of Ceremonies for the 2024 Inaugural Exercises. Throughout my time working in public and human services in the city of Gardner, nearly 15 years now, first at Mount Wachusett Community College and now at MVOC, I have watched the city grow and change but one thing has remained constant and that is a commitment to the well-being of residents. It has been a privilege to collaborate with your elected officials over the years and I am honored to be inducting each of these individuals in office tonight. Like so many of you, I look forward to seeing what the next term of office brings to Gardner and I am excited to be part of the positive changes that are anticipated.*

*I would also like to recognize those members of the Gardner School Committee who are with us this evening who were elected to their current four-year term in the previous municipal election and is not being sworn into office this evening – Atty Jennifer Zlotnik Pelavin who serves as the Vice Chair of the School Committee, Anne Hurst, and Shannon Ward-Leighton.*

*I would also like to acknowledge Councilor-at-large-Elect Calvin Brooks who is with us this evening, who received the 7th highest votes in this last election. The City Council will be taking action to fill the recent vacancy on the Council and appoint Councilor-Elect Brooks according to the process outlined in the City Charter at their regularly scheduled meeting of January 16th.”*

**PRESENTATION OF THE COLORS**

The National and City Colors were presented and posted by the Montachusett Regional Vocational Technical High School Marine Corps Junior ROTC and the Color Guard of the American Legion Post 129, Gardner.

**PLEDGE OF ALLEGIANCE**

The Boy Scouts of America of Troops 9 and 49 led the Assembly in the “Pledge of Allegiance.”

**“THE STAR SPANGLED BANNER”**

The Gardner Middle School Select Choir under the Direction of Mr. Gianni Patrizio Davilli, performed “The Star Spangled Banner.”

**INVOCATION**

The Invocation was offered by the Reverend Pastor David Trolongo of Chair City Church.



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*Good evening. Will you bow your heads to join me in a time of prayer? Heavenly Father, we come before you with thanksgiving for all those who gathered together here this evening to recognize and support those who have chosen to give their lives to serve our city. May your loving hand be upon each and every one of them. To our mayor, our city council, our school committee, to bring them calmness and comfort as they engage and endure the complexity of the challenges that await them and yet at the same time may your spirit Empower them as they together create new opportunities which will form and shape New Beginnings in our great City. God Almighty, we humbly ask that you would go before them to move the hearts and minds of those in our community towards kindness and support of each one of them as they dutifully serve our city. May your Spirit guide them to peace and unity in all they do together in their service of our city father Heavenly Father. We are grateful for your love of everyone in this room and that you have heard our prayer this evening. Amen.*

**CERTIFICATE OF ELECTION & RESULTS OF VOTES CAST**

The CERTIFICATE OF ELECTION and RESULTS OF THE VOTES CAST were declared by City Clerk Titi Siriphan and entered into the journals of the City Council, as follows:

As a result of the votes cast at the City Election held on November 7, 2023, the following persons were declared elected:

MAYOR	Michael Joseph Nicholson
COUNCILLORS AT-LARGE	Elizabeth J. Kazinskas George C. Tyros Judy A. Mack Ronald F. Cormier Craig R. Cormier Carolyn A. Kamuda
WARD COUNCILLORS	David Thibault-Muñoz (Ward 1) Dana M. Heath (Ward 2) Nathan R. Boudreau (Ward 3) Karen G. Hardern (Ward 4) Aleksander Dernalowicz, Esq. (Ward 5)
SCHOOL COMMITTEE MEMBERS	Rachel A. Cormier Robert J. Swartz John M. Lafreniere

City Clerk Titi Siriphan called the Roll of Officials:

PRESENT:

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MAYOR

Michael Joseph Nicholson

COUNCILLORS AT-LARGE

Elizabeth J. Kazinskas  
George C. Tyros  
Judy A. Mack  
Ronald F. Cormier  
Craig R. Cormier

WARD COUNCILLORS

David Thibault-Muñoz (Ward 1)  
Dana M. Heath (Ward 2)  
Nathan R. Boudreau (Ward 3)  
Karen G. Hardern (Ward 4)  
Aleksander Dernalowicz, Esq. (Ward 5)SCHOOL COMMITTEE  
MEMBERSRachel A. Cormier  
Robert J. Swartz

ABSENT:

John M. Lafreniere\*

\*Mr. Lafreniere took his Oath of Office at the Regularly Scheduled School Committee Meeting of January 2<sup>nd</sup>, 2024

**MUSICAL SELECTION**

The Greater Gardner Community Choir then performed its rendition of “Joy to the World,” by George Frederick Handel, Arranged by Pink Zebra, under the direction of Mrs. Dianne Cushing

**OATHS OF OFFICE**

The Honorable Mark Goldstein, First Presiding Justice of the Gardner – Winchendon District Court administered the Oaths of Office to City Councilors and School Committee members.

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**COMMONWEALTH OF MASSACHUSETTS**

Worcester, ss.

Gardner, Massachusetts

January 4, 2024

I, Titi Siriphan, City Clerk of the City of Gardner, in witness thereof, certify that on the 4<sup>th</sup> day of January, 2024 at six-thirty o'clock in the evening, at a meeting of the Mayor-Elect, Councilors-at-Large-elect, Ward Councilors-elect, and School Committee Members-Elect, The Honorable Mark Goldstein, First Presiding Justice of the Gardner – Winchendon District Court, administered the oath required by the City Charter to the following:

2024 CITY INAUGURAL EXERCISES

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SCHOOL COMMITTEE  
MEMBERSRachel A. Cormier  
Robert J. Swartz

## COUNCILLORS AT-LARGE

Elizabeth J. Kazinskas  
Judy A. Mack  
George C. Tyros  
Ronald F. Cormier  
Craig R. Cormier

## WARD COUNCILLORS

James M. Walsh, Esq. (Ward 1)  
Dana M. Heath (Ward 2)  
Nathan R. Boudreau (Ward 3)  
Karen G. Hardern (Ward 4)  
Aleksander Dernalowicz, Esq. (Ward 5)

Who severally solemnly swore that they would faithfully and impartially perform the duties of the office for which they have been elected in the City of Gardner according to the best of their ability and in conformity with law.

In testimony of all of which is required by the City Charter, I make this certificate to be entered on the journals of the meetings of the City Council.

/s/ Titi Siriphan, City Clerk

INAUGURAL ADDRESS OF THE CITY COUNCIL PRESIDENT

The Honorable Elizabeth J. Kazinskas, City Council President of the City of Gardner, delivered the following Address:

*“Thank you, Stephanie, for the introduction, and thank you for your important work at the Montachusett Veterans Outreach Center. We are lucky to have such a valuable resource right here in Downtown Gardner to serve our area’s veterans.*

*Good evening. On behalf of the Gardner City Council, thank you to all of you for being here – elected officials, family, friends, clergy, community performance groups, and citizens of Gardner.*

*To my family - Thank you for listening, understanding, cheering me on, taking care of me, and for your support of my passion for all things black and orange, all things Wildcat and all things Gardner...and what that means is*

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*every gift that they receive from me is the latest black and orange apparel from John's Sport Shop in downtown Gardner, with the expectation that they will wear it as often as possible.*

*Representative Zlotnik – You have turned countless possibilities into reality for Gardner through your work and advocacy at the State level. Thank you for your friendship and continuing to be a reliable State partner to our City, and for your many years of dedicated service to the Commonwealth.*

*Vice Chair Pelavin – Congratulations on your re-election as Vice Chair once again, and thank you to you and the Members of the School Committee for your hard work and service to our schools.*

*Mayor Nicholson – Thank you for working alongside the City Council in our City government – this is how it is supposed to work, and we have proven in Gardner, that it does work. We don't have to agree all the time, but it is ok if we agree some of the time. We don't have to respect each other, but we choose to do so. We can have different roles that serve different purposes in our City government, and still share a common goal. Your strong commitment to transparency is appreciated, and I look forward to all that WE as a City Council, will accomplish TOGETHER with YOU as our city's Mayor, in our respective roles, over the next two years.*

*Judge Goldstein – Thank you for administering the Oath of Office to the City Council this evening. Also, thank you for recognizing the needs of our community and serving those needs through your work at Gardner District Court.*

*To the citizens of Gardner – The City Council's role in serving you is important, and your role in electing us to do so is equally as important. Thank you for giving this City Council the opportunity to work for you.*

*To my fellow City Councillors – I am grateful and humbled by your unanimous vote to re-elect me as City Council President. Your confidence in my ability to serve you and our community in this position holds significant value to me. Thank you all.*

*To our families - City Council business is a huge commitment. It takes away from time with you, it follows us everywhere we go – to the grocery store, family dinners, on social media. Your support is important to us, and to the community. Thank you for all that you do to keep us afloat.*

2024 CITY INAUGURAL EXERCISES

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*City Clerk Titi Siriphan – Thank you for being the backbone of the City Council and always rising to the occasion. You never complain, you always deliver, and you take your job seriously. It is an honor to work with you, and sit next to you at each and every City Council meeting.*

*During this term, I look forward to the City Council continuing to do great work to give Gardner all that it deserves. We have a lot of work behind us, and a lot of work ahead of us, and I am confident that we will get it done.*

*David Thibault-Muñoz joins the City Council as Ward 1 Councillor, for his first term. Calvin Brooks will fill the Councillor at Large vacancy, and be sworn in officially during the next regular City Council meeting, to begin his first term. Congratulations, and welcome to you both.*

*Dana Heath is serving his second term as Ward 2 Councillor. He was the only new City Councillor this past term, stepped up to the plate, and took it on with success.*

*Ward 5 Councillor Alek Dernalowicz, Councilor at-Large Judy Mack, and Councillor at-Large George Tyros are serving their third term. All three Councillors have served as Chairs of City Council Standing Committees and on multiple committees.*

*Ward 3 Councillor Paul Tassone has served multiple terms as a City Councillor and Gardner School Committee member.*

*Ward 4 Councillor Karen Hardern and at-Large Councillor Craig Cormier also bring multiple terms of City Council experience, and have served on many of our Standing Committees.*

*At-Large Councillor Ronald Cormier is the longest serving City Councillor in the history of the City of Gardner. Ron brings valuable experience and knowledge to the Council. He has more experience in City Government than the rest of us combined. To put things into perspective, I will be 41 years old after this term, and Councillor Cormier's career on the Gardner City Council will be 38 years old after this term.*

*Our City Council should reflect the citizens of Gardner. Some of us are new, some of us are seasoned, but regardless of our experience, the expectation from*

2024 CITY INAUGURAL EXERCISES

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*the people that we represent should be the same of all of us – that the integrity of the Council is incredibly important and taken seriously by its members. I am excited and proud to lead this Council, and confident that we will serve Gardner honorably and responsibly over the next two years. Thank you.*

**MUSICAL SELECTION**

The Greater Gardner Community Choir then performed its rendition of “A Glad New Song,” by Gwyneth Walker, under the direction of Mrs. Dianne Cushing

**REMARKS BY REPRESENTATIVE JONATHAN ZLOTNIK**

The Honorable Jonathan D. Zlotnik, State Representative for the Second Worcester District, delivered the following remarks:

*“Good evening, it’s my pleasure tonight to introduce Mayor Nicholson at the start of his 2nd term in office.*

*In Mike, those of us on this stage who hold public office, have a genuine partner who comes to the table eager to collaborate, be flexible, and get things done.*

*I attended a City Council Meeting in November, because there was an item on the agenda that would be coming to the legislature. But while I was there, there were several instances of the Mayor providing information on issues that will come up in the future, or may come up, as well as updates on matters the Council had previously voted on. He’s not required to do that, but that’s the norm he has adhered to for the last 3 years.*

*Those of us who live in the City benefit from that way of doing business. It means that the Council, School Committee, is better informed, more in advance so when an issue does come up, and needs to be voted on. They have been there every step along the way.*

*You can point to many positive developments over the last 3 years, but if I can highlight one thing. It is Mike’s willingness to work with others. To put in that effort to take in other opinions, that really produces results, especially in the long term.*

2024 CITY INAUGURAL EXERCISES

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*That vote that brought me to the Council meeting a couple of months ago, was the latest step in amending the City's Charter. Something Mike spearheaded this last term. It was something that has been on the back burner for a while, failed at least a couple times before. But over the course of more than a year, many conversations, and more than a few compromises, it passed the Council, passed on the ballot, and is now HD4729 awaiting approval from the Legislature.*

*Now it is my honor to introduce to you all my former colleague and current friend, Jen Flanagan who will administer the oath of office to Mayor Nicholson. Following the Oath of Office, Mayor Nicholson will deliver his Inaugural Address."*

**REMARKS BY FORMER STATE SENATOR JENNIFER L. FLANAGAN-LONG**

The Honorable Jennifer L. Flanagan-Long, Former State Senator for the Worcester-Middlesex District, then delivered the following remarks:

*Good Evening. It is a pleasure, an honor, and a privilege to be standing here and to be asked by Mayor Nicholson to deliver to administer the oath of office to him, while I also get the non-distinguished honor of trying to get every elected official in this room and get their names right. I'm no stranger to Gardner. For almost 9 years, I was fortunate to be the state senator from this city and the one thing that I can tell you is that the themes that are going through the speeches tonight are working together, mutual respect, common denominator, and really a common purpose. As the City Council President said, everyone has their individual roles but at the same time there's a common goal to move Gardener forward. When I was the state senator in the district included Leominster and Fitchburg, we used to call ourselves the Tri Cities and we prided ourselves in the fact that we were North County, we were the north county part of Worcester County and when you called one of us you called eight of us because geographically, we all knew that we had the same struggles. We all understood that one of the most important issues to us was the train and getting people back and forth to Boston. Making sure we had enough services for substance use disorder, making sure people had health care as close possible as they can to their homes and not having to travel near and far, and at the same time, we all took that lonely ride down Route two to go to Boston to fight for the people of Gardner, and tonight you have before you school committee members, City councilors, State officials and a mayor, who if I'm being completely transparent was my intern, all working together to*

2024 CITY INAUGURAL EXERCISES

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*benefit the community of Gardner. If you look around this room, you see how full it is of people, there's older people, and children, and families, and adults, and business people, and healthcare workers, all coming together to celebrate the mayor and also getting out before the snow storm comes on Sunday. So with that, I have the honor of introducing many of my former colleagues, many of whom I still consider friends, that are standing here in the audience tonight we have:*

- Auditor Diana Dizoglio
- Senator Peter Durant
- Former Senator and Director of Rural Affairs Ann Gobi
- Former State Representative Hank Naughton
- Worcester County Registrar of Deeds Kate Toomey
- Worcester County District Attorney and my favorite DA Joe Early
- Worcester County Sheriff Lou Evangelidis
- Mayor Christian Dumais of Marlborough
- Former Mayors of Gardner Alan Agneli and Dan Kelley
- Randolph City Councilor Ryan Egan
- Former Braintree City Councilor Michael Owens
- Chair of the Lancaster Selectboard and Chair of the Massachusetts Democratic Party Steve Kerrigan
- Rutland Selectman Paul Matson
- Templeton Selectman Matt Revard
- Milbury School Committee Member Nick Lazzaro
- Rutland Town Administrator Austin Cyganiewicz
- Mount Wachusett Community College president Dr James Vander Hooven
- We have MART President and CEO Bruno Fischer and
- We have the Heywood Healthcare President and CEO Rozanna Penney

*Thank you all for coming here tonight and celebrating our elected officials here in Gardner.*

*Would Mayor Nicholson and Jackie Nicholson please join me at the podium to take the oath of office?*

**OATHS OF OFFICE**

The Honorable Jennifer L. Flanagan-Long, Former State Senator for the Worcester-Middlesex District, administered the Oaths of Office to Mayor-Elect Michael J. Nicholson.



2024 CITY INAUGURAL EXERCISES

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## COMMONWEALTH OF MASSACHUSETTS

Worcester, ss.

Gardner, Massachusetts

January 4, 2024

I, Titi Siriphan, City Clerk of the City of Gardner, hereby certify that on the FIRST DAY of JANUARY, 2024 at six-thirty o'clock in the evening, Honorable Jennifer L. Flanagan-Long, Former State Senator for the Worcester-Middlesex District, administered the ceremonial oath to Mayor Michael J. Nicholson for the term expiring January 5, 2026.

Then,

Michael J. Nicholson, who solemnly swore that he would bear true faith and allegiance to the Commonwealth of Massachusetts and would support the Constitution thereof, so help him God.

And,

Michael J. Nicholson, who solemnly swore and affirmed that he would faithfully and impartially discharge and perform all the duties incumbent on him as Mayor, according to the best of his abilities and understanding, agreeably, to the rules and regulations, of the Constitution thereof, and the laws of this Commonwealth, so help him God.

And,

Michael J. Nicholson, who solemnly swore that he would support the Constitution of the United States, so help him God.

In testimony of all of which is required by the City Charter, I make this certificate to be entered on the journals of the City Council.

/s/ Titi Siriphan, City Clerk

**INAUGURAL ADDRESS**

The Honorable Michael J. Nicholson, Mayor of the City of Gardner, delivered the following Inaugural Address:

*Good Evening,*

*President Kazinskas and the Members of the City Council, Vice Chair Pelavin and the members of the School Committee, Judge Goldstein, reverend clergy, elected officials, family, friends, relatives, fellow Gardnerites, and those visiting, including those who wished they could be here but were not able to for whatever reason and are watching this later on.*

2024 CITY INAUGURAL EXERCISES

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*To all of you - Thank you for joining us this evening.*

*Mom, Dad, and Jackie, all of my family, friends, and loved ones; I cannot thank you enough for always having my back. The gratitude I have for the love and support you have shown me is something I'll never be able to express in words alone.*

*A mi familia nicaragüense, cada oportunidad que he tenido durante mi vida ha sido por las oportunidades que se sacrificaron ustedes para que la generación menor de la familia tuviera una vida mejor. Es por sus sacrificios que puedo estar aquí hoy, como el primer alcalde electo latino de esta ciudad.*

*A ustedes que son nuevos residentes de nuestra ciudad, y en algunos casos, de este país, es mi honor y privilegio oficialmente decirles a todos BIENVENIDOS. Es mi esperanza que podamos construirles una comunidad que quieran llamar su hogar, donde puedan vivir, trabajar, y encontrar nuevas oportunidades. Mi familia encontró su sueño americano en Gardner cuando mi madre y su familia dejaron su hogar devastado por la Guerra y buscaron una vida mejor, y esa es mi esperanza para ustedes.*

*Previous section translated:*

*To my Nicaraguan Family- every opportunity that I have had in my life has been because of the opportunities that you sacrificed so that the younger generation of our family could have a better life. It is because of these sacrifices that I can stand here today, as the first Latin-American Mayor and Elected official of this City.*

*To those of you here who are new residents of our City - and in some cases, this country - It is my absolute honor and privilege to officially say to you all as the Mayor of this City – welcome. It is my hope that we can build you a community that is welcoming and that you can look forward to calling your home- where you can live, work, and find new opportunities. My family found their American Dream in Gardner when my mother and her family left their war torn home and sought a better life, and that is my hope for you.*

*Judge Goldstein - Thank you for being here with us this evening. Having a local Gardnerite serve as the first presiding justice of our local court has been a benefit to this City. You truly know Gardner and its people and your work on the bench has helped people get back on their feet when they need it the most. In particular, I would like to thank you for the vital role you played in bringing a Veterans Treatment Specialty Court to the*

2024 CITY INAUGURAL EXERCISES

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*Gardner/Winchendon District Court - the only one to exist in Worcester County - to help bring new forms of treatment and rehabilitation efforts to our veterans in particular those dealing with issues of substance abuse and addiction.*

*Representative Zlotnik and Senator Flanagan – Thank you for joining us this evening. I learned a lot when I interned for you both before when I was a college student, and I truly appreciate your continued friendship, guidance, advice, and partnership since then to now.*

*Father Thiago and Pastor Dave- Thank you for your prayers tonight, and for the guidance you provide to residents of our City through your work at your respective churches.*

*Dr. Marchetti- Thank you for the work you do every day for the veterans in the Montachusett Region and the advancements you made in improving access to veterans housing in the area.*

*Lastly, scattered throughout the hall this evening are our city department heads, employees, and first responders. Please join me in a round of applause for these individuals who work tirelessly every day to provide top quality services to all of our residents.*

*I would be remiss if I did not thank in a special way, Rachel Roberts from my office, and back here joining us this evening, Colin Smith, who recently left for a new position elsewhere. Thank you both for all you helped me with this past year, and to all of my former interns who have joined us here this evening as well. I truly appreciate you all.*

*When I gave this address at the beginning of the last term, we were on the doorstep of celebrating our 100th anniversary as a City. We talked about goals of economic growth and revitalization of the downtown. Ideas of increasing our outreach efforts were just starting to transition into discussions.*

*Plans were being put in place to provide our public safety officials with the tools they need to do their jobs in the most efficient and effective ways possible. Concerns were being raised about the demand for housing we were seeing in Gardner. And the questions that were being asked as we approached our last inauguration ceremony were “how do we meet these challenges?”, “Are we doing everything we can to be proactive not only to address the situations at hand, but also to plan for the future so we don’t end up back where we started in just a few years?”, and most importantly, “are we doing everything we can to seize every opportunity available to us and to the people who put us into office?”*

*Standing here now and reflecting on these times- Gardner’s been pretty busy, and our efforts are bearing fruit.*

2024 CITY INAUGURAL EXERCISES

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*We've continued to make strides in upholding our fiduciary responsibility to our residents. For the third year in a row, we have received a perfect audit report from the external auditors who review the City's financial statements on an annual basis. Additionally, our stabilization account is the highest it has been in decades and our new growth revenue continues to come in well over budget, showing our strong financial promise for the future.*

*Because of this strong financial standing, we have been able to invest more in our programs, initiatives, and infrastructure - and the return we have already begun to see on that investment is unprecedented.*

*In our public safety departments, we purchased new equipment, re-vamped programming, and created new positions to ensure our first responders have the tools and resources they need to do their jobs in the most effective manner and keep the public safe.*

*This includes purchasing a new ambulance, fire engine, heavy rescue and ladder truck for the fire department - all of which are currently being constructed.*

*For our police department, we purchased a new drone with infrared, spotlight, and speaker technology, portable radios, sidearms, and eight new cruisers- half of which are hybrid.*

*Aside from these capital investments, we also invested in our programming to help increase our outreach opportunities in these departments. We reinstated the Domestic Violence Advocate position in the Gardner Police Department, that had originally be cut in 2010, as well as launched our two K9 programs with Rocky, our patrol dog for the Police Department, and Sully, our Fire Department Comfort Dog to help assist in the operations of both of these departments.*

*We continued these investments in our recreation and infrastructure. In doing so, we have not only set an example to others by showing them that we are willing to invest in ourselves, but we have also planned for our future with a growing population.*

*Gardner now has new pickleball courts and our first playground graded for ages 5 and under at Bailey Brook Park, the new park and walking path at the old Park Street National Grid Substation location, and our new fitness court, done in partnership with Blue Cross Blue Shield, located at Gardner High School next to our newly refurbished tennis courts.*

*Additionally we have paved 20 miles of roads (almost a quarter of our entire city) in just the last three years, installed new sidewalks, lighting structures and crossing ramps throughout the downtown area and at Monument Park, and new runway replacement and building upgrade projects at the Gardner Municipal Airport.*

2024 CITY INAUGURAL EXERCISES

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*Our School System has seen significant achievements in recent years. Since 2019, just 5 years go, the number of students enrolled in Gardner Public Schools has increased by almost 400 students. At the same time, the number of students choosing to school choice out of Gardner to another district has declined by over 50%.*

*We have made significant efforts to bring our schools' curriculum into a full 21st Century learning environment - particularly in our early college program and through our new innovative pathway courses. Currently, approximately 30% of our juniors and seniors at Gardner High School are taking advantage of our immersive Early College Program with Mount Wachusett Community College and our newly added partner, Fitchburg State University. As a result, this last spring, over 50 students graduated with a high school diploma and a college associates degree at the same time.*

*Additionally, we have invested in new equipment for our innovative pathway classes, traditional school version of trade classes that we offer in manufacturing, automotive, robotics, woodworking, business and finance, healthcare, information technology, and engineering all of which now have state of the art equipment to work with, making our students' transition to college or employment easier, by giving them hands on learning while still in our classrooms.*

*And the most significant achievement we had in our educational efforts was the opening of our new Elementary School, where our students in preschool through fourth grade can have a modern learning environment that meets their needs and helps them best prepare for their futures.*

*Some of the most visible accomplishments we have seen over the last few years have been in our economic development endeavors. In the last two years, over 50 businesses have either newly opened or expanded their services in Gardner and almost 20 buildings in the downtown area alone have changed ownership and are under renovation. This has opened up an unprecedented amount of opportunity for Gardner.*

*We also made a concerted effort to hold ourselves to the same standard we hold the private sector to and make sure that we as a City do not become our next absentee landlord. We reviewed the properties owned by the City that were underutilized, put them on the market, and got them back onto the tax rolls - not only bringing in new revenue as a result, but also helping ensure that these properties can be used to their fullest potential through private sector investments.*

*However, the economic goals that we have met only bear true fruit if people can access them- which we have accomplished through the advancements we made in our transportation efforts.*

2024 CITY INAUGURAL EXERCISES

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*One of the biggest complaints we used to receive at City Hall was the fact that Gardner no longer had a taxi cab service and getting around the City was difficult for many people. For some, getting to doctor's appointments, grocery shopping, visiting loved ones, and many other instances, were almost impossible. To help meet this need, Council President Kazinskas and I put forward ordinance legislation that was unanimously approved by the City Council that made it easier for people looking to open and operate rideshare services in the City. Then, working with Woods Ambulance, we launched the first phase of Woods Plus - "SwiftRide." This new, locally owned ride-share service now allows our residents to get anywhere around the City at an affordable rate to fill the gap in transportation that we saw before.*

*We have also begun the process with MART to update and re-route our fixed bus routes around Gardner that haven't been reviewed since the 1980s. This allows us to truly capture the growth that we are seeing in our population and plan for it the most efficient and effective way possible.*

*This all started when Councilor Dernalowicz first approached us to inquire about adding additional bus stops in South Gardner particularly at the former Prospect Street School location. As a result, not only has this stop been added but other stops received new signage and shelter structures. For the last two years, have been in constant conversations with MART about improving services in Gardner. As the Mayor of this city and the Chair of the MART Advisory Board, I'd like to thank MART's Administration for the new energy they've placed into improving access to public transportation in Gardner, most recently with the new fare free initiative that was launched for all fixed routes in the MART district earlier this week for the next six-months.*

*Lastly, we made sure to break away from the "that's how we've always done it," mentality and see if there were any updates that could be made to improve our operations.*

*This is why Councilor George Tyros and I were able to put forward legislation to revamp our vacant, abandoned, blighted, and nuisance ordinance to give our City personnel in the health and building departments the tools they need to prevent properties from becoming problems and incentivize property owners to keep their buildings up to a standard of care.*

*Most notably in this review and update process, after an almost eight year process, the proposed amendments to the City Charter are on their way to Boston for consideration by the State Legislature, to make sure Gardner has a 21st Century Government that meets the needs of a modern, growing community.*

*We certainly have accomplished a lot in the last term, and we have set the stage for us to continue with that momentum as we move Gardner forward.*

2024 CITY INAUGURAL EXERCISES

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*Our economic development efforts continue to move forward with new advances set to take place in the next few months. Work in the downtown area is continuing to move forward with renovations being completed to the facades of several buildings, interior renovations and build outs expected to begin, and over 225 housing units expected to be constructed in the downtown alone.*

*New businesses - like Aldi, Chipotle, Five Below, and others, like Jersey Mike's, announced today for the Timpany Crossroads Plaza – are set to open their doors in Gardner in 2024.*

*Construction projects will soon be starting on Rear Main Street, Rome Square, the Greenwood Pool, Maki Park, the Uptown Rotary, Ovila Case Playground, the North Central Pathway Bike Trail, and more.*

*Perhaps the most significant construction project we have ongoing for the new year is our continued work renovating the former Waterford Street School location to house our new non-profit community center. This project will surely bring new opportunities to the area by bringing all of these services under one roof and allowing them to expand their collaboration with each other.*

*Growing Places, a local non-profit focused around access to healthy and affordable food, has already received their zoning approvals, is just about ready to move in and begin operations, and has also begun working with a newly formed group of farmers on ways to promote local agriculture and create new farmers market opportunities at the site.*

*Over and over again, we have seen that when we as a City invest in ourselves - our infrastructure, economy, facilities, residents - the return we receive on that investment exceeds our expectations. Tens of millions of dollars of private sector investment have poured into Gardner in the last two years, because we were willing to hold ourselves to a high standard and set that example for others. If we want to continue the successes that we have seen - we still have work to do.*

*One of these investments we know we need to look at is the Gardner Fire Headquarters Building. The roof of the fire station is original to the building's 1978 construction and currently is experiencing large issues with leaks. These issues need to be addressed in order to make sure we are providing our employees with an adequate, livable, workspace that meets the needs of a modern fire department.*

*We have also begun to study the feasibility of new investments in our parking and solar canopy infrastructure to better help plan for the future in Gardner- in particular in the downtown and at our public buildings.*

*Aside from these goals, we also need to review our processes, procedures, City Code, and other documents to see if our operations are working or if we are getting in our own way of*

2024 CITY INAUGURAL EXERCISES

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*progress. We cannot just sit and hope that the way we have always done things is meeting the current issues that arise in the here and now, or may arise in the future.*

*To begin this review, earlier this week, I directed our City Department Heads and the Chairs of all of our Boards and Commissions to review our City Ordinance Code - both general and zoning - and to submit any changes that could be made to improve the way we operate in the City. These changes will first be reviewed by my administration with a final version submitted to the City Council as a comprehensive package for consideration later this year.*

*The work that we've done and the successes that we've achieved is entirely thanks to the amount of collaboration and cooperation that our officials at all levels of government have had. I would like to thank the members of my administration, our department heads and employees, the members of our City Council, School Committee, our state and federal legislative delegation, and all our partners in government for constantly coming together to build a community that the people we represent can truly be proud to call their home.*

*This is how the government should work. Far too often, people view political office as a theater for character assassinations, false claims in social media posts, and deliberate misrepresentations for political gain and click bait. However, we have not let that get to us here. Even in the face of what goes on elsewhere, here in Gardner, when a problem arises, we come together, find a solution, and just do what needs to be done.*

*As we move into this new year, and the next century in our City's history, I look forward to us continuing to work together for what our City needs and setting the example for others to follow. It is my true and firm belief, that continuing with that momentum and guided by God's grace we'll be able to accomplish things beyond what we dreamed of and build a better city for it.*

*God Bless you all, and God Bless this Great City.*

*Thank you.*

**MUSICAL SELECTION**

Surround Sound then performed their rendition of Frank Sinatra's, "America The Beautiful-Overlay."



2024 CITY INAUGURAL EXERCISES

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**BENEDICTION**

*Please bow your heads and pray for God's blessing. Let us remember we are in the presence of God.*

*Almighty God, we come before you first to praise your name and thank you for the opportunity of being here tonight witnessing this beautiful moment in the history of the city of Gardner. We thank you that we are free and able to choose the people who lead our community. Thank you. Thank you for your servant, our Mayor Michael Nicholson, who was elected to guide and govern the City of Gardner. We ask you Lord to continue to bless him, to bless all the members of the City Council, and the School Committee who make a commitment this evening to serve this community. Bless and protect our city as we enter in this new beginning. May we prosper, being proud of living here. We ask all those things in Jesus' name. Amen.*

The Benediction was offered by the Reverend Father Thiago Rodrigues Ibiapina, Associate Pastor of Annunciation Parish.

**RECESSION OF OFFICIALS**

Officials recessed from the stage accompanied by a Musical Selection of "Trumpet Voluntary."

Accepted by the City Council: \_\_\_\_\_

*A True Copy, Attest:*

*Titi Siriphan, City Clerk*



City of Gardner - *Executive Department*

Mayor Michael J. Nicholson

January 9, 2024

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

RE: Authorization of Previous Year Salary Expenditure

Dear Madam President and Councilors,

Attached, please find a request for authorization for a previous year salary expense that needs to be paid for an employee whose step increase was missed before the end of the last fiscal year.

Respectfully Submitted,

Michael J. Nicholson  
Mayor, City of Gardner

RECEIVED  
2024 JAN 11 PM 1:55  
CITY CLERK'S OFFICE  
GARDNER, MA

## AUTHORIZING PAYMENT OF PRIOR YEAR SALARY EXPENDITURE

*ORDERED:* To authorize payment of prior year DPW salary expenditure account for prior year, as follows:

FY2023	DPW SALARY ACCOUNT	106.24
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**Mayor**

**From:** John Richard  
**Sent:** Tuesday, January 9, 2024 10:27 AM  
**To:** Mayor  
**Subject:** Authorization to pay prior year Salary expense-DPW  
**Attachments:** AUTHORIZING PAYMT PRIOR YEAR SAL-DPW.doc

Hi Mike

Can you please add the attached order to the next FinCom and CC agenda? Step increase needed to be process in which a portion was for previous year salary expense. FY23 portion breakdown is below. Thank you.

<b>FY24 SCOTT VAILLANCOURT RETRO FROM 06-11-23 THRU 12-10</b>								
<b>Emp #</b>	<b>Last Name</b>	<b>First Name</b>	<b>Pay</b>	<b>Desc</b>	<b>Org Code</b>	<b>Obj Code</b>	<b>Old Rate</b>	<b>New Rate</b>
5459	VAILLANCOURT	SCOTT	100	SAL & WAGES	14421	51013	\$27.7800	\$ 28.6
5459	VAILLANCOURT	SCOTT	250	REG OT 2.0	14421	51030	\$57.7000	\$ 59.3

John Richard  
 City Auditor



95 Pleasant Street, Room 114  
 Gardner, MA 01440-2630  
 978-632-1900 ext 8020

RECEIVED

Effective January 1, 2024

2024 JAN 11 AM 8:35

Commonwealth of Massachusetts

CITY CLERK'S OFFICE


Worcester County

City of Gardner

## CERTIFICATE OF APPOINTMENT

I appoint Rachel J. Roberts to the position of Executive Secretary, and I certify

that in my opinion he/she 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.

 Mayor  
Michael J. Nicholson

Confirmed by City Council CONFIRMATION NOT REQUIRED

\_\_\_\_\_  
Titi Siriphan  
City Clerk

Expires: January 1, 2025

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

Then personally appeared the above named Rachel J. Roberts and made oath that he/she would faithfully and impartially perform the duties of the office of Executive Secretary, according to law and the best of his/her abilities.

Before me,

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

Chapter 303 Acts of 1975  
and  
Chapter 409 Acts of 1983

Received \_\_\_\_\_

RECEIVED

Effective: January 1, 2024

2024 JAN 11 AM 9:55

**Commonwealth of Massachusetts**


Worcester County

CITY CLERK'S OFFICE  
GARDNER, MA

City of Gardner

**CERTIFICATE OF APPOINTMENT**I appoint **John M. Flick** to the position of **City Solicitor**, and I certify

that in my opinion he/she 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.


 Mayor  
 Michael J. Nicholson
Confirmed by City Council CONFIRMATION NOT REQUIRED.\_\_\_\_\_  
City Clerk

Titi Siriphan

Expires: January 1, 2025

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

Then personally appeared the above named **John M. Flick** and made oath that he/she would faithfully and impartially perform the duties of the office of **City Solicitor** according to law and the best of his/her abilities.

Before me,

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

Chapter 303 Acts of 1975  
and  
Chapter 409 Acts of 1983

Received \_\_\_\_\_

RECEIVED

January 1, 2024

2024 JAN 11 AM 10:05

Commonwealth of Massachusetts

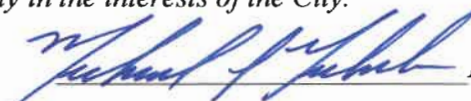
CITY CLERK'S OFFICE  
Worcester County  
GARDNER, MA

City of Gardner

## CERTIFICATE OF APPOINTMENT

I appoint Kevin J. Arsenault to the position of Constable, and I certify

that in my opinion he/she 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.

 Mayor  
Michael J. Nicholson

Confirmed by City Council Not Required

\_\_\_\_\_  
Titi Siriphan  
City Clerk

Expires: January 1, 2027

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

Then personally appeared the above named Kevin J. Arsenault and made oath that he/she would faithfully and impartially perform the duties of the office of Constable according to law and the best of his/her abilities.

Before me,

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

Chapter 303 Acts of 1975  
and  
Chapter 409 Acts of 1983

Received \_\_\_\_\_

January 8, 2024

RECEIVED

## Commonwealth of Massachusetts

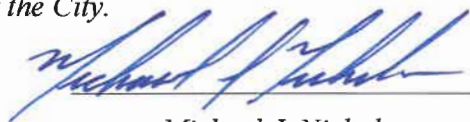
2024 JAN 11 AM 8:36  
Worcester County

City of Gardner

CITY CLERK'S OFFICE  
GARDNER, MA

## CERTIFICATE OF APPOINTMENT

I appoint Gloria Tarpey to the position of President, Golden Agers Club, and I certify that in my opinion he/she 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.



Mayor

Michael J. Nicholson

Confirmed by City Council CONFIRMATION NOT REQUIRED\_\_\_\_\_  
City Clerk

Titi Siriphan

Expires: January 8, 2025

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

Then personally appeared the above named Gloria Tarpey and made oath that he/she would faithfully and impartially perform the duties of the office of President, Golden Agers Club according to law and the best of his/her abilities.

Before me,

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

Chapter 303 Acts of 1975  
and  
Chapter 409 Acts of 1983

Received \_\_\_\_\_



January 4, 2024

11123

RECEIVED **Commonwealth of Massachusetts**

Worcester County 8:36

City of Gardner

CITY CLERK'S OFFICE  
GARDNER, MA

**CERTIFICATE OF APPOINTMENT**

I appoint **Theresa Hillman** to the position of **Member, Gardner Community Action Board of Directors**, and I certify that in my opinion he/she 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.

 Mayor  
Michael J. Nicholson

Confirmed by City Council CONFIRMATION NOT REQUIRED

\_\_\_\_\_  
Titi Siriphan  
City Clerk

Expires: January 4, 2025

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

Then personally appeared the above named **Theresa Hillman** and made oath that he/she would faithfully and impartially perform the duties of the office of **Member, Gardner Community Action Board of Directors** according to law and the best of his/her abilities.

Before me,

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

Chapter 303 Acts of 1975  
and  
Chapter 409 Acts of 1983

Received \_\_\_\_\_

RECEIVED

January 8, 2024

2024 JAN 11 AM 8:37

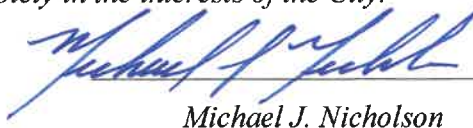
Commonwealth of Massachusetts

CITY CLERK'S OFFICE  
Worcester County, MA

City of Gardner

## CERTIFICATE OF APPOINTMENT

I appoint Alan Agnelli to the position of Member, Historical Commission, and I certify that in my opinion he/she 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.

 Mayor  
Michael J. Nicholson

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

\_\_\_\_\_  
Titi Siriphan City Clerk

Expires: January 8, 2027

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

Then personally appeared the above named Alan Agnelli and made oath that he/she would faithfully and impartially perform the duties of the office of Member, Historical Commission according to law and the best of his/her abilities.

Before me,

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

Chapter 303 Acts of 1975  
and  
Chapter 409 Acts of 1983

Received \_\_\_\_\_

January 8, 2024

RECEIVED

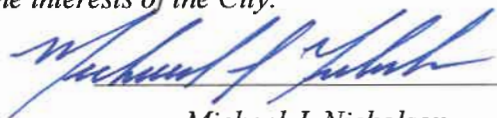
## Commonwealth of Massachusetts

2024 JAN 11 AM 8:37  
Worcester County  
CITY CLERK'S OFFICE  
GARDNER, MA

City of Gardner

## CERTIFICATE OF APPOINTMENT

I appoint **Barbara LeBlanc** to the position of **Member, Council on Aging**, and I certify that in my opinion he/she 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.



Mayor

Michael J. Nicholson

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

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

Titi Siriphan

Expires: January 8, 2027

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

Then personally appeared the above named **Barbara LeBlanc** and made oath that he/she would faithfully and impartially perform the duties of the office of **Member, Council on Aging** according to law and the best of his/her abilities.

Before me,

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

Chapter 303 Acts of 1975  
and  
Chapter 409 Acts of 1983

Received \_\_\_\_\_

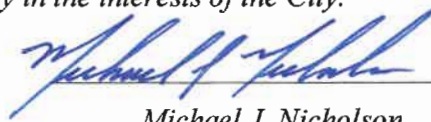
RECEIVED

January 9, 2024

2024 JAN 11 AM 8:37

**Commonwealth of Massachusetts**CITY CLERK'S OFFICE  
Worcester County  
GARDNER, MA**City of Gardner****CERTIFICATE OF APPOINTMENT**

I appoint **Tammy Erdman** to the position of **Member, Municipal Grounds Commission** and I certify that in my opinion he/she 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.

 Mayor  
Michael J. Nicholson

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

\_\_\_\_\_  
Titi Siriphan  
City Clerk

Expires: January 9, 2027

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

Then personally appeared the above named **Tammy Erdman** and made oath that he/she would faithfully and impartially perform the duties of the office of **Member, Municipal Grounds Commission** according to law and the best of his/her abilities.

Before me,

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

Chapter 303 Acts of 1975  
and  
Chapter 409 Acts of 1983

Received \_\_\_\_\_

RECEIVED

January 9, 2024

2024 JAN 11 AM 10 00

Commonwealth of Massachusetts

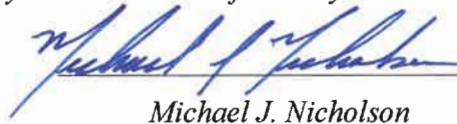
Worcester County

CITY CLERKS OFFICE  
GARDNER, MA

City of Gardner

## CERTIFICATE OF APPOINTMENT

I appoint **Thomas Zuppa** to the position of **Building Commissioner**, and I certify that in my opinion he/she 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.

 Mayor  
Michael J. Nicholson

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

\_\_\_\_\_  
Titi Siriphan  
City Clerk

Expires: January 9, 2027

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

Then personally appeared the above named **Thomas Zuppa** and made oath that he/she would faithfully and impartially perform the duties of the office of **Building Commissioner** according to law and the best of his/her abilities.

Before me,

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

Chapter 303 Acts of 1975  
and  
Chapter 409 Acts of 1983

Received \_\_\_\_\_

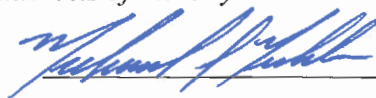
Effective: January 1, 2024

RECEIVED

2024 JAN 11 AM 8:38

Worcester County  
CITY CLERK'S OFFICE  
GARDNER, MA**Commonwealth of Massachusetts****City of Gardner****CERTIFICATE OF APPOINTMENT**I appoint **Robert Charland, Esq.** to the position of **Assistant City Solicitor**, and I certify

that in my opinion he/she 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.

 Mayor  
 Michael J. Nicholson

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

 \_\_\_\_\_ City Clerk  
 Titi Siriphan
Expires: January 1, 2025

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

Then personally appeared the above named **Robert Charland, Esq.** and made oath that he/she would faithfully and impartially perform the duties of the office of **Assistant City Solicitor** according to law and the best of his/her abilities.

Before me,

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

 Chapter 303 Acts of 1975  
 and  
 Chapter 409 Acts of 1983

Received \_\_\_\_\_

RECEIVED

January 4, 2024

2024 JAN 11

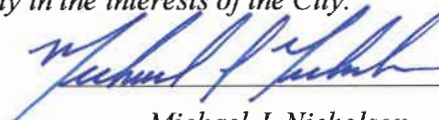
Commonwealth of Massachusetts

CITY CLERK'S OFFICE  
WORCESTER, MA  
Worcester County

City of Gardner

## CERTIFICATE OF APPOINTMENT

I appoint Dane Arnold to the position of Public Works Director and I certify that in my opinion he/she 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.

 Mayor  
Michael J. Nicholson

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

\_\_\_\_\_  
Titi Siriphan  
City Clerk

Expires: January 4, 2027

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

Then personally appeared the above named Dane Arnold and made oath that he/she would faithfully and impartially perform the duties of the office of Public Works Director according to law and the best of his/her abilities.

Before me,

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

Chapter 303 Acts of 1975  
and  
Chapter 409 Acts of 1983

Received \_\_\_\_\_



RECEIVED

January 4, 2024

2024 JAN 11 AM 8:38

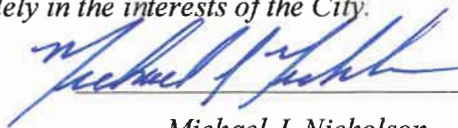
Commonwealth of Massachusetts

CITY CLERK'S OFFICE  
Worcester County  
GARDNER, MA

City of Gardner

## CERTIFICATE OF APPOINTMENT

I appoint Michael F. Ellis to the position of Senior Citizen's Director, and I certify that in my opinion he/she 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.

 Mayor  
Michael J. Nicholson

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

\_\_\_\_\_  
Titi Siriphan  
City Clerk

Expires: January 4, 2027

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

Then personally appeared the above named Michael F. Ellis and made oath that he/she would faithfully and impartially perform the duties of the office of Senior Citizen's Director according to law and the best of his/her abilities.

Before me,

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

Chapter 303 Acts of 1975  
and  
Chapter 409 Acts of 1983

Received \_\_\_\_\_



January 4, 2024

RECEIVED

2024 JAN 11 AM 8:38

## Commonwealth of Massachusetts

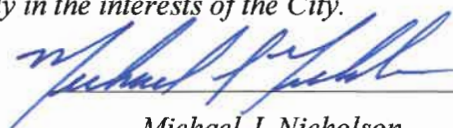
Worcester County  
GARDNER, MA

City of Gardner

## CERTIFICATE OF APPOINTMENT

I appoint Lynette R. Gabrila to the position of Veterans' Agent/Veterans' Burial Agent and I certify

that in my opinion he/she 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.



Mayor

Michael J. Nicholson

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

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

Titi Siriphan

Expires: January 4, 2025

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

Then personally appeared the above named Lynette R. Gabrila and made oath that he/she would faithfully and impartially perform the duties of the office of Veterans' Agent/ Burial Agent according to law and the best of his/her abilities.

Before me,

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

Chapter 303 Acts of 1975  
and  
Chapter 409 Acts of 1983

Received \_\_\_\_\_

January 4, 2024

11132

RECEIVED

# Commonwealth of Massachusetts

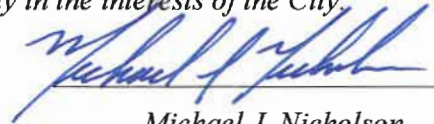
Worcester County

City of Gardner

CITY CLERK'S OFFICE  
GARDNER, MA

## CERTIFICATE OF APPOINTMENT

I appoint Gregory Lagoy to the position of Fire Chief, and I certify that in my opinion he/she 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

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

\_\_\_\_\_  
Titi Siriphan City Clerk

Expires: January 4, 2027

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

Then personally appeared the above named Gregory Lagoy and made oath that he/she would faithfully and impartially perform the duties of the office of Fire Chief according to law and the best of his/her abilities.

Before me,

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

Chapter 303 Acts of 1975  
and  
Chapter 409 Acts of 1983

Received \_\_\_\_\_

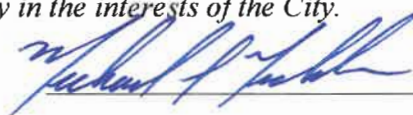
RECEIVED

January 4, 2024

2024 JAN 11 AM 8:38

**Commonwealth of Massachusetts**Worcester County  
CITY CLERK'S OFFICE  
GARDNER, MA**City of Gardner****CERTIFICATE OF APPOINTMENT**I appoint Paul Topolski to the position of Civil Defense Director, and I certify

that in my opinion he/she 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.



Mayor

Michael J. Nicholson

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

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

Titi Siriphan

Expires January 4, 2027

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

Then personally appeared the above named Paul Topolski and made oath that he/she would faithfully and impartially perform the duties of the office of Civil Defense Director according to law and the best of his/her abilities.

Before me,

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

Chapter 303 Acts of 1975  
and  
Chapter 409 Acts of 1983

Received \_\_\_\_\_

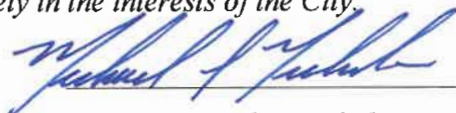
January 4, 2024

RECEIVED

2024 JAN 11 AM 8:38

Worcester County  
CLERK OF COURSE  
GARDNER, MA**Commonwealth of Massachusetts****City of Gardner****CERTIFICATE OF APPOINTMENT**

I appoint Carla J. Wojtukiewicz to the position of Trustee, Williams-Rockwell Educational Gift Fund, and I certify that in my opinion he/she 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.



Mayor

Michael J. Nicholson

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

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

Titi Siriphan

Expires: January 4, 2027

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

Then personally appeared the above named Carla J. Wojtukiewicz and made oath that he/she would faithfully and impartially perform the duties of the office of Trustee, Williams-Rockwell Educational Gift Fund according to law and the best of his/her abilities.

Before me,

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

Chapter 303 Acts of 1975  
and  
Chapter 409 Acts of 1983

Received \_\_\_\_\_

January 4, 2024

RECEIVED

2024 JAN 11 AM 8:38

**Commonwealth of Massachusetts**

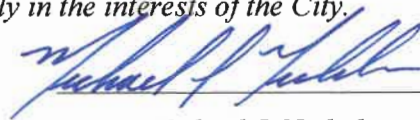
Worcester County

CITY CLERK'S OFFICE  
GARDNER, MA

City of Gardner

**CERTIFICATE OF APPOINTMENT**

I appoint **Robert Rice, Esq.** to the position of **Trustee, Williams-Rockwell Educational Gift Fund,** and I certify that in my opinion he/she 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.



Mayor

Michael J. Nicholson

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

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

Titi Siriphan

Expires: January 4, 2027

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

Then personally appeared the above named **Robert Rice, Esq.** and made oath that he/she would faithfully and impartially perform the duties of the office of **Trustee, Williams-Rockwell Educational Gift Fund** according to law and the best of his/her abilities.

Before me,

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

Chapter 303 Acts of 1975  
and  
Chapter 409 Acts of 1983

Received \_\_\_\_\_

RECEIVED

January 4, 2024

2024 JAN 11 AM 9:00

Commonwealth of Massachusetts

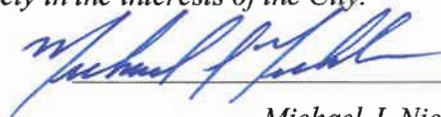
Worcester County  
CITY CLERK'S OFFICE  
GARDNER, MA

City of Gardner

## CERTIFICATE OF APPOINTMENT

I appoint Cheryl Slack to the position of Animal Control Officer, and I certify

that in my opinion he/she 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.

 Mayor  
Michael J. Nicholson

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

\_\_\_\_\_  
Titi Siriphan  
City Clerk

Expires: January 4, 2025

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

Then personally appeared the above named Cheryl Slack and made oath that he/she would faithfully and impartially perform the duties of the office of Animal Control Officer according to law and the best of his/her abilities.

Before me,

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

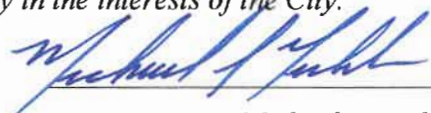
Chapter 303 Acts of 1975  
and  
Chapter 409 Acts of 1983

Received \_\_\_\_\_

RECEIVED

January 4, 2024

2024 JAN 11 AM 8:38

**Commonwealth of Massachusetts**Worcester County  
CITY CLERK'S OFFICE  
GARDNER, MA**City of Gardner****CERTIFICATE OF APPOINTMENT***I appoint Autumn Brown to the position of Animal Control Officer, and I certify**that in my opinion he/she 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.*
  
 \_\_\_\_\_ Mayor  
 Michael J. Nicholson

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

 \_\_\_\_\_ City Clerk  
 Titi Siriphan
Expires: January 4, 2025

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

*Then personally appeared the above named Autumn Brown and made oath that he/she would faithfully and impartially perform the duties of the office of Animal Control Officer according to law and the best of his/her abilities.*

Before me,

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

Chapter 303 Acts of 1975  
 and  
 Chapter 409 Acts of 1983

Received \_\_\_\_\_



RECEIVED

January 4, 2024

2024 JAN 11 AM 9:30

## Commonwealth of Massachusetts

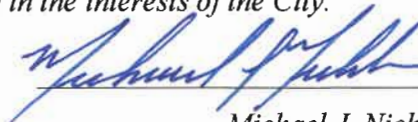
Worcester County  
CITY CLERK'S OFFICE  
GARDNER, MA

City of Gardner

## CERTIFICATE OF APPOINTMENT

I appoint Alana Meserve to the position of Animal Control Officer, and I certify

that in my opinion he/she 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.

 Mayor  
Michael J. Nicholson

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

\_\_\_\_\_  
Titi Siriphan  
City Clerk

Expires: January 4, 2025

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

Then personally appeared the above named Alana Meserve and made oath that he/she would faithfully and impartially perform the duties of the office of Animal Control Officer according to law and the best of his/her abilities.

Before me,

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

Chapter 303 Acts of 1975  
and  
Chapter 409 Acts of 1983

Received \_\_\_\_\_



RECEIVED

January 4, 2024

2024 JAN 11 AM 8:39

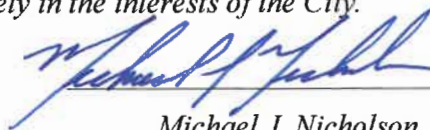
## Commonwealth of Massachusetts

CITY OF GARDNER OFFICE  
GARDNER, MA  
Worcester County

City of Gardner

## CERTIFICATE OF APPOINTMENT

I appoint Robert Bettez to the position of Member, Planning Board, and I certify that in my opinion he/she 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.



Mayor

Michael J. Nicholson

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

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

Titi Siriphan

Expires: January 4, 2027

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

Then personally appeared the above named Robert Bettez and made oath that he/she would faithfully and impartially perform the duties of the office of Member, Planning Board according to law and the best of his/her abilities.

Before me,

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

Chapter 303 Acts of 1975  
and  
Chapter 409 Acts of 1983

Received \_\_\_\_\_

RECEIVED

January 4, 2024

2024 JAN 11 AM 8:39

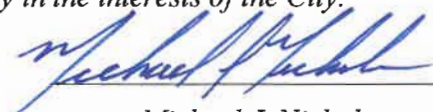
## Commonwealth of Massachusetts

CITY CLERK  
Worcester County  
GARDNER, MA

City of Gardner

## CERTIFICATE OF APPOINTMENT

I appoint Robert Swartz to the position of Member, Planning Board, and I certify that in my opinion he/she 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.

 Mayor  
Michael J. Nicholson

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

\_\_\_\_\_  
Titi Siriphan  
City Clerk

Expires: January 4, 2027

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

Then personally appeared the above named Robert Swartz and made oath that he/she would faithfully and impartially perform the duties of the office of Member, Planning Board according to law and the best of his/her abilities.

Before me,

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

Chapter 303 Acts of 1975  
and  
Chapter 409 Acts of 1983

Received \_\_\_\_\_

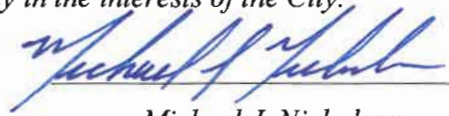
RECEIVED

January 4, 2024

2024 JAN 11 AM 8:39

**Commonwealth of Massachusetts**Worcester County  
GARDNER, MA**City of Gardner****CERTIFICATE OF APPOINTMENT**

I appoint **Stephen Cormier** to the position of **Member, Planning Board**, and I certify that in my opinion he/she 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.

 Mayor  
Michael J. Nicholson

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

\_\_\_\_\_  
Titi Siriphan City Clerk

Expires: January 4, 2027

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

Then personally appeared the above named **Stephen Cormier** and made oath that he/she would faithfully and impartially perform the duties of the office of **Member, Planning Board** according to law and the best of his/her abilities.

Before me,

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

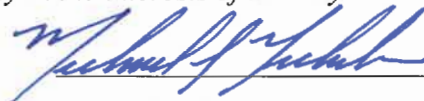
Chapter 303 Acts of 1975  
and  
Chapter 409 Acts of 1983

Received \_\_\_\_\_

RECEIVED

January 4, 2024

2024 JAN 11 AM 8:45

**Commonwealth of Massachusetts**CITY CLERK'S OFFICE  
Worcester County  
GARDNER, MA**City of Gardner****CERTIFICATE OF APPOINTMENT***I appoint **Charles LeBlanc** to the position of **Member, Board of Assessors**, and I certify**that in my opinion he/she 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.*

 \_\_\_\_\_ Mayor  
 Michael J. Nicholson

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

 \_\_\_\_\_ City Clerk  
 Titi Siriphan
Expires: January 4, 2027

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

*Then personally appeared the above named **Charles LeBlanc** and made oath that he/she would faithfully and impartially perform the duties of the office of **Member, Board of Assessors** according to law and the best of his/her abilities.*

Before me,

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

Chapter 303 Acts of 1975  
 and  
 Chapter 409 Acts of 1983

Received \_\_\_\_\_

RECEIVED

January 12, 2024

2024 JAN 12 AM 10:17

Commonwealth of Massachusetts

CITY CLERK'S OFFICE

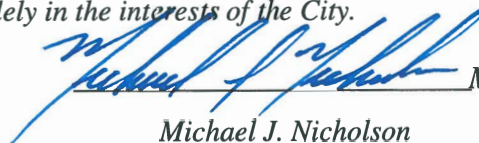
Worcester County GARDNER, MA

City of Gardner

## CERTIFICATE OF APPOINTMENT

I appoint **Rick Germano** to the position of **Local Inspector**, and I certify

that in my opinion he/she 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.

 Mayor  
Michael J. Nicholson

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

\_\_\_\_\_  
Titi Siriphan  
City Clerk

Expires: January 4, 2027

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

Then personally appeared the above named **Rick Germano** and made oath that he/she would faithfully and impartially perform the duties of the office of **Local Inspector** according to law and the best of his/her abilities.

Before me,

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

Chapter 303 Acts of 1975  
and  
Chapter 409 Acts of 1983

Received \_\_\_\_\_

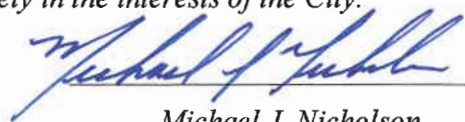
RECEIVED

January 4, 2024

2024 JAN 11 AM 8:40

CITY OF WORCESTER  
Worcester County  
GARDNER, MA**Commonwealth of Massachusetts****City of Gardner****CERTIFICATE OF APPOINTMENT**

I appoint **James E. Imprescia** to the position of **Plumbing & Gas Inspector**, and I certify that in my opinion he/she 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.

  
 \_\_\_\_\_ Mayor  
 Michael J. Nicholson

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

\_\_\_\_\_  
 Titi Siriphan  
 City Clerk

Expires: January 4, 2027

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

Then personally appeared the above named **James E. Imprescia** and made oath that he/she would faithfully and impartially perform the duties of the office of **Plumbing and Gas Inspector** according to law and the best of his/her abilities.

Before me,

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

Chapter 303 Acts of 1975  
 and  
 Chapter 409 Acts of 1983

Received \_\_\_\_\_

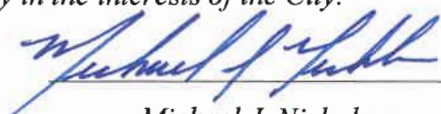
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January 4, 2024

2024 JAN 11 AM 8:41

**Commonwealth of Massachusetts**CITY CLERK'S OFFICE  
Worcester County  
GARDNER, MA**City of Gardner****CERTIFICATE OF APPOINTMENT**

I appoint **Michael Fitzsimmons** to the position of **Member, License Commission**, and I certify that in my opinion he/she 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.

 Mayor  
Michael J. Nicholson

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

\_\_\_\_\_  
Titi Siriphan  
City Clerk

Expires: January 4, 2027

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

Then personally appeared the above named **Michael Fitzsimmons** and made oath that he/she would faithfully and impartially perform the duties of the office of **Member, License Commission** according to law and the best of his/her abilities.

Before me,

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

Chapter 303 Acts of 1975  
and  
Chapter 409 Acts of 1983

Received \_\_\_\_\_



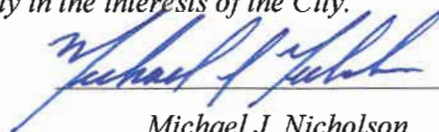
RECEIVED

January 4, 2024

2024 JAN 11 AM 8:41

**Commonwealth of Massachusetts**CITY CLERK'S OFFICE  
Worcester County  
GARDNER, MA**City of Gardner****CERTIFICATE OF APPOINTMENT**

I appoint **Kenneth Arsenault** to the position of **Member, License Commission**, and I certify that in my opinion he/she 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.



Mayor

Michael J. Nicholson

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

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

Titi Siriphan

Expires: January 4, 2027

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

Then personally appeared the above named **Kenneth Arsenault** and made oath that he/she would faithfully and impartially perform the duties of the office of **Member, License Commission** according to law and the best of his/her abilities.

Before me,

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

Chapter 303 Acts of 1975  
and  
Chapter 409 Acts of 1983

Received \_\_\_\_\_



RECEIVED

January 4, 2024

2024 JAN 11

**Commonwealth of Massachusetts**

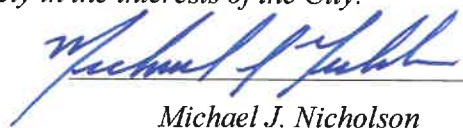
Worcester County

CITY CLERK'S OFFICE  
GARDNER, MA

City of Gardner

**CERTIFICATE OF APPOINTMENT**

I appoint Nancy Binder to the position of Member, License Commission, and I certify that in my opinion he/she 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.

 Mayor  
Michael J. Nicholson

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

\_\_\_\_\_  
Titi Siriphan City Clerk

Expires: January 4, 2027

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

Then personally appeared the above named Nancy Binder and made oath that he/she would faithfully and impartially perform the duties of the office of Member, License Commission according to law and the best of his/her abilities.

Before me,

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

Chapter 303 Acts of 1975  
and  
Chapter 409 Acts of 1983

Received \_\_\_\_\_

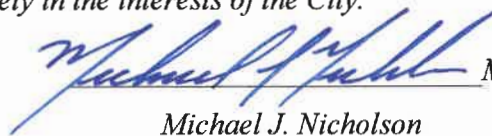
RECEIVED

January 8, 2024

2024 JAN 11 AM 8:41

CITY CLERK  
WORCESTER COUNTY  
GARDNER, MA**Commonwealth of Massachusetts****City of Gardner****CERTIFICATE OF APPOINTMENT**

I appoint Ann Twohig to the position of Member, Golf Commission, and I certify that in my opinion he/she 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.

 Mayor  
Michael J. Nicholson

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

\_\_\_\_\_  
Titi Siriphan  
City Clerk

Expires: January 8, 2027

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

Then personally appeared the above named Ann Twohig and made oath that he/she would faithfully and impartially perform the duties of the office of Member, Golf Commission according to law and the best of his/her abilities.

Before me,

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

Chapter 303 Acts of 1975  
and  
Chapter 409 Acts of 1983

Received \_\_\_\_\_

January 8, 2024

RECEIVED

## Commonwealth of Massachusetts

2024 JAN 11 AM 9:41  
Worcester County

City of Gardner

CITY CLERK'S OFFICE  
GARDNER, MA

## CERTIFICATE OF APPOINTMENT

I appoint Kathy O'Brien to the position of Member, Council on Aging, and I certify that in my opinion he/she 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.

 Mayor  
Michael J. Nicholson

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

\_\_\_\_\_  
Titi Siriphan  
City Clerk

Expires: January 8, 2027

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

Then personally appeared the above named Kathy O'Brien and made oath that he/she would faithfully and impartially perform the duties of the office of Member, Council on Aging according to law and the best of his/her abilities.

Before me,

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

Chapter 303 Acts of 1975  
and  
Chapter 409 Acts of 1983

Received \_\_\_\_\_

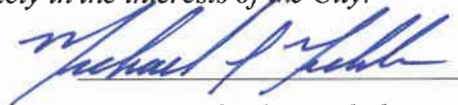
RECEIVED

January 8, 2024

2024 JAN 11 AM 9:47

**Commonwealth of Massachusetts**Worcester County  
CITY CLERK'S OFFICE  
GARDNER, MA**City of Gardner****CERTIFICATE OF APPOINTMENT**

I appoint **Timothy Horrigan** to the position of **Member, Redevelopment Authority**, and I certify that in my opinion he/she 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.

  
 \_\_\_\_\_ Mayor  
 Michael J. Nicholson

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

\_\_\_\_\_  
 Titi Siriphan  
 City Clerk

Expires: January 8, 2027

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

Then personally appeared the above named **Timothy Horrigan** and made oath that he/she would faithfully and impartially perform the duties of the office of **Member, Redevelopment Authority** according to law and the best of his/her abilities.

Before me,

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

Chapter 303 Acts of 1975  
 and  
 Chapter 409 Acts of 1983

Received \_\_\_\_\_

January 8, 2024

RECEIVED

## Commonwealth of Massachusetts

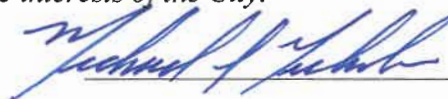
2024 JAN 11 11:04  
Worcester County

City of Gardner

CITY CLERK'S OFFICE  
GARDNER, MA

## CERTIFICATE OF APPOINTMENT

I appoint Theresa Hillman to the position of Member, Council on Aging, and I certify that in my opinion he/she 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.



Mayor

Michael J. Nicholson

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

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

Titi Siriphan

Expires: January 8, 2027

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

Then personally appeared the above named Theresa Hillman and made oath that he/she would faithfully and impartially perform the duties of the office of Member, Council on Aging according to law and the best of his/her abilities.

Before me,

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

Chapter 303 Acts of 1975  
and  
Chapter 409 Acts of 1983

Received \_\_\_\_\_

January 8, 2024

RECEIVED  
**Commonwealth of Massachusetts**

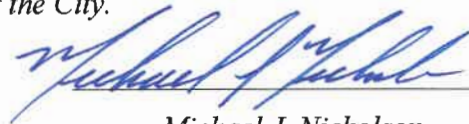
2024 JAN 11 AM 8:41  
 Worcester County

City of Gardner

CITY CLERK'S OFFICE  
 GARDNER, MA

**CERTIFICATE OF APPOINTMENT**

I appoint Gloria Tarpey to the position of Member, Council on Aging, and I certify that in my opinion he/she 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

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

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

Titi Siriphan

Expires: January 8, 2027

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

Then personally appeared the above named Gloria Tarpey and made oath that he/she would faithfully and impartially perform the duties of the office of Member, Council on Aging according to law and the best of his/her abilities.

Before me,

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

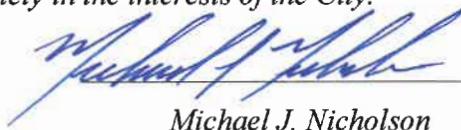
Chapter 303 Acts of 1975  
 and  
 Chapter 409 Acts of 1983

Received \_\_\_\_\_

January 8, 2024

RECEIVED

2024 JAN 11 AM 8:42

CITY CLERK OF THE  
Worcester County  
GARDNER, MA**Commonwealth of Massachusetts****City of Gardner****CERTIFICATE OF APPOINTMENT***I appoint **Susan Avallone, RN** to the position of **Member, Board of Health** and I certify**that in my opinion he/she 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.*

 \_\_\_\_\_ Mayor  
 Michael J. Nicholson

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

 \_\_\_\_\_ City Clerk  
 Titi Siriphan
Expires: January 8, 2027

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

*Then personally appeared the above named **Susan Avallone** and made oath that he/she would faithfully and impartially perform the duties of the office of **Member, Board of Health** according to law and the best of his/her abilities.*

*Before me,*

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

Chapter 303 Acts of 1975  
 and  
 Chapter 409 Acts of 1983

Received \_\_\_\_\_



RECEIVED

January 8, 2024

2024 JAN 11 AM 8:42

## Commonwealth of Massachusetts

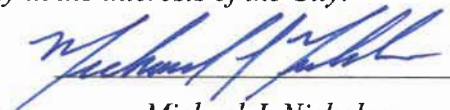
Worcester County  
CITY CLERK'S OFFICE  
GARDNER, MA

City of Gardner

## CERTIFICATE OF APPOINTMENT

I appoint Geoffrey Tobia, Esq. to the position of Member, Board of Health and I certify

that in my opinion he/she 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.

 Mayor  
Michael J. Nicholson

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

\_\_\_\_\_  
Titi Siriphan  
City Clerk

Expires: January 8, 2027

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

Then personally appeared the above named Geoffrey Tobia and made oath that he/she would faithfully and impartially perform the duties of the office of Member, Board of Health according to law and the best of his/her abilities.

Before me,

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

Chapter 303 Acts of 1975  
and  
Chapter 409 Acts of 1983

Received \_\_\_\_\_



RECEIVED

January 8, 2024

2024 JAN 11 AM 8:42

## Commonwealth of Massachusetts

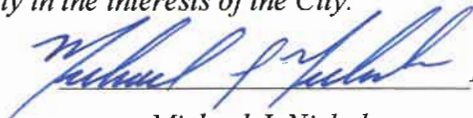
Worcester County  
CITY CLERK'S OFFICE  
GARDNER, MA

City of Gardner

## CERTIFICATE OF APPOINTMENT

I appoint Michele Parker, MD to the position of Member, Board of Health and I certify

that in my opinion he/she 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.


 \_\_\_\_\_ Mayor  
 Michael J. Nicholson

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

 \_\_\_\_\_ City Clerk  
 Titi Siriphan
Expires: January 8, 2027

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

Then personally appeared the above named Michele Parker and made oath that he/she would faithfully and impartially perform the duties of the office of Member, Board of Health according to law and the best of his/her abilities.

Before me,

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

 Chapter 303 Acts of 1975  
 and  
 Chapter 409 Acts of 1983

Received \_\_\_\_\_

RECEIVED

January 8, 2024

2024 JAN 11 AM 8:41


## Commonwealth of Massachusetts

Worcester County  
GARDNER, MA

City of Gardner

## CERTIFICATE OF APPOINTMENT

I appoint Marcelle S. Cormier to the position of Member, Board of Registrars, and I certify that in my opinion he/she 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.

 Mayor  
Michael J. Nicholson

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

\_\_\_\_\_  
Titi Siriphan City Clerk

Expires: January 8, 2027

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

Then personally appeared the above named Marcelle S. Cormier and made oath that he/she would faithfully and impartially perform the duties of the office of Member, Board of Registrars according to law and the best of his/her abilities.

Before me,

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

Chapter 303 Acts of 1975  
and  
Chapter 409 Acts of 1983

Received \_\_\_\_\_

RECEIVED

January 9, 2024

2024 JAN 11 10:10

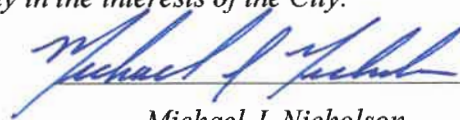
Commonwealth of Massachusetts

Worcester County  
CITY CLERK'S OFFICE  
GARDNER, MA

City of Gardner

## CERTIFICATE OF APPOINTMENT

I appoint Patricia Darby to the position of Member, Board of Registrars, and I certify that in my opinion he/she 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.

 Mayor  
Michael J. Nicholson

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

\_\_\_\_\_  
Titi Siriphan  
City Clerk

Expires: January 9, 2027

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

Then personally appeared the above named Patricia Darby and made oath that he/she would faithfully and impartially perform the duties of the office of Member, Board of Registrars according to law and the best of his/her abilities.

Before me,

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

Chapter 303 Acts of 1975  
and  
Chapter 409 Acts of 1983

Received \_\_\_\_\_

RECEIVED

January 11, 2024

2024 JAN 11 PM

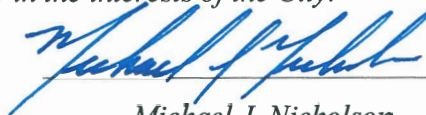
Commonwealth of Massachusetts

Worcester County  
GARDNER, MA

City of Gardner

## CERTIFICATE OF APPOINTMENT

I appoint Kevin McInerney to the position of Mayor's Appointee, Contributory Retirement Board and I certify that in my opinion he/she 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.



Mayor

Michael J. Nicholson

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

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

Titi Siriphan

Expires: January 11, 2027

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

Then personally appeared the above named Kevin McInerney and made oath that he/she would faithfully and impartially perform the duties of the office of Mayor's Appointee according to law and the best of his/her abilities.

Before me,

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

Chapter 303 Acts of 1975  
and  
Chapter 409 Acts of 1983

Received \_\_\_\_\_



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

2024 JAN 11 AM 8:46  
CITY CLERK'S OFFICE  
GARDNER, MA

January 5, 2024

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

RE: Submission of Inaugural Address

Dear Madam President and Councilors,

In accordance with the provisions of Section 23 of the Charter of the City of Gardner, I hereby submit a copy of the 2024 Inaugural Address that I delivered at the City's Inaugural Exercises on Thursday, January 4<sup>th</sup>, 2024 in Perry Auditorium.

Respectfully Submitted,

Michael J. Nicholson  
Mayor, City of Gardner

CITY OF GARDNER



MASSACHUSETTS

## INAUGURAL ADDRESS BY MAYOR MICHAEL J. NICHOLSON

JANUARY 4, 2024

Good Evening,

President Kazinskas and the Members of the City Council, Vice Chair Pelavin and the members of the School Committee, Judge Goldstein, reverend clergy, elected officials, family, friends, relatives, fellow Gardnerites, and those visiting, including those who wished they could be here but were not able to for whatever reason and are watching this later on.

To all of you - Thank you for joining us this evening.

Mom, Dad, and Jackie, all of my family, friends, and loved ones; I cannot thank you enough for always having my back. The gratitude I have for the love and support you have shown me is something I'll never be able to express in words alone.

A mi familia nicaragüense, cada oportunidad que he tenido durante mi vida ha sido por las oportunidades que se sacrificaron ustedes para que la generación menor de la familia tuviera una vida mejor. Es por sus sacrificios que puedo estar aquí hoy, como el primer alcalde e electo latino de esta ciudad.

A ustedes que son nuevos residentes de nuestra ciudad, y en algunos casos, de este país, es mi honor y privilegio oficialmente decirles a todos BIENVENIDOS. Es mi esperanza que podamos construirles una comunidad que quieran llamar su hogar, donde puedan vivir, trabajar, y encontrar nuevas oportunidades. Mi familia encontró su sueño americano en Gardner cuando mi madre y su familia dejaron su hogar devastado por la Guerra y buscaron una vida mejor, y esa es mi esperanza para ustedes.

*Previous section translated:*

*To my Nicaraguan Family- every opportunity that I have had in my live has been because of the opportunities that you sacrificed so that the younger generation of our family could have a better life. It is because of these sacrifices that I can stand here today, as the first Latin-American Mayor and Elected official of this City.*

*To those of you here who are new residents of our City - and in some cases, this country - It is my absolute honor and privilege to officially say to you all as the Mayor of this City – welcome. It is my hope that we can build you a community that is welcoming and that you can look forward to calling your home- where you can live, work, and find new opportunities. My family found their American Dream in Gardner when my mother and her family left their war torn home and sought a better life, and that is my hope for you.*

Judge Goldstein - Thank you for being here with us this evening. Having a local Gardnerite serve as the first presiding justice of our local court has been a benefit to this City. You truly know Gardner



CITY OF GARDNER



MASSACHUSETTS

## INAUGURAL ADDRESS BY MAYOR MICHAEL J. NICHOLSON

JANUARY 4, 2024

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and its people and your work on the bench has helped people get back on their feet when they need it the most. In particular, I would like to thank you for the vital role you played in bringing a Veterans Treatment Specialty Court to the Gardner/Winchendon District Court - the only one to exist in Worcester County - to help bring new forms of treatment and rehabilitation efforts to our veterans in particular those dealing with issues of substance abuse and addiction.

Representative Zlotnik and Senator Flanagan – Thank you for joining us this evening. I learned a lot when I interned for you both before when I was a college student, and I truly appreciate your continued friendship, guidance, advice, and partnership since then to now.

Father Thiago and Pastor Dave- Thank you for your prayers tonight, and for the guidance you provide to residents of our City through your work at your respective churches.

Dr. Marchetti- Thank you for the work you do every day for the veterans in the Montachusett Region and the advancements you made in improving access to veterans housing in the area.

Lastly, scattered throughout the hall this evening are our city department heads, employees, and first responders. Please join me in a round of applause for these individuals who work tirelessly every day to provide top quality services to all of our residents.

I would be remiss if I did not thank in a special way, Rachel Roberts from my office, and back here joining us this evening, Colin Smith, who recently left for a new position elsewhere. Thank you both for all you helped me with this past year, and to all of my former interns who have joined us here this evening as well. I truly appreciate you all.

When I gave this address at the beginning of the last term, we were on the doorstep of celebrating our 100<sup>th</sup> anniversary as a City. We talked about goals of economic growth and revitalization of the downtown. Ideas of increasing our outreach efforts were just starting to transition into discussions. Plans were being put in place to provide our public safety officials with the tools they need to do their jobs in the most efficient and effective ways possible. Concerns were being raised about the demand for housing we were seeing in Gardner. And the questions that were being asked as we approached our last inauguration ceremony were “how do we meet these challenges?”, “Are we doing everything we can to be proactive not only to address the situations at hand, but also to plan for the future so we don’t end up back where we started in just a few years?”, and most importantly, “are we doing everything we can to seize every opportunity available to us and to the people who put us into office?”

Standing here now and reflecting on these times- Gardner’s been pretty busy, and our efforts are bearing fruit.

CITY OF GARDNER



MASSACHUSETTS

## INAUGURAL ADDRESS BY MAYOR MICHAEL J. NICHOLSON

JANUARY 4, 2024

Accomplishments:

We've continued to make strides in upholding our fiduciary responsibility to our residents. For the third year in a row, we have received a perfect audit report from the external auditors who review the City's financial statements on an annual basis. Additionally, our stabilization account is the highest it has been in decades and our new growth revenue continues to come in well over budget, showing our strong financial promise for the future.

Because of this strong financial standing, we have been able to invest more in our programs, initiatives, and infrastructure - and the return we have already begun to see on that investment is unprecedented.

In our public safety departments, we purchased new equipment, re-vamped programming, and created new positions to ensure our first responders have the tools and resources they need to do their jobs in the most effective manner and keep the public safe.

This includes purchasing a new ambulance, fire engine, heavy rescue and ladder truck for the fire department - all of which are currently being constructed.

For our police department, we purchased a new drone with infrared, spotlight, and speaker technology, portable radios, sidearms, and eight new cruisers- half of which are hybrid.

Aside from these capital investments, we also invested in our programming to help increase our outreach opportunities in these departments. We reinstated the Domestic Violence Advocate position in the Gardner Police Department, that had originally be cut in 2010, as well as launched our two K9 programs with Rocky, our patrol dog for the Police Department, and Sully, our Fire Department Comfort Dog to help assist in the operations of both of these departments.

We continued these investments in our recreation and infrastructure. In doing so, we have not only set an example to others by showing them that we are willing to invest in ourselves, but we have also planned for our future with a growing population.

Gardner now has new pickleball courts and our first playground graded for ages 5 and under at Bailey Brook Park, the new park and walking path at the old Park Street National Grid Substation location, and our new fitness court, done in partnership with Blue Cross Blue Shield, located at Gardner High School next to our newly refurbished tennis courts.

Additionally we have paved 20 miles of roads (almost a quarter of our entire city) in just the last three years, installed new sidewalks, lighting structures and crossing ramps throughout the downtown area and at Monument Park, and new runway replacement and building upgrade projects at the Gardner Municipal Airport.



CITY OF GARDNER



MASSACHUSETTS

## INAUGURAL ADDRESS BY MAYOR MICHAEL J. NICHOLSON

JANUARY 4, 2024

Our School System has seen significant achievements in recent years. Since 2019, just 5 years go, the number of students enrolled in Gardner Public Schools has increased by almost 400 students. At the same time, the number of students choosing to school choice out of Gardner to another district has declined by over 50%.

We have made significant efforts to bring our schools' curriculum into a full 21st Century learning environment - particularly in our early college program and through our new innovative pathway courses. Currently, approximately 30% of our juniors and seniors at Gardner High School are taking advantage of our immersive Early College Program with Mount Wachusett Community College and our newly added partner, Fitchburg State University. As a result, this last spring, over 50 students graduated with a high school diploma and a college associates degree at the same time.

Additionally, we have invested in new equipment for our innovative pathway classes, traditional school version of trade classes that we offer in manufacturing, automotive, robotics, woodworking, business and finance, healthcare, information technology, and engineering all of which now have state of the art equipment to work with, making our students' transition to college or employment easier, by giving them hands on learning while still in our classrooms.

And the most significant achievement we had in our educational efforts was the opening of our new Elementary School, where our students in preschool through fourth grade can have a modern learning environment that meets their needs and helps them best prepare for their futures. Some of the most visible accomplishments we have seen over the last few years have been in our economic development endeavors. In the last two years, over 50 businesses have either newly opened or expanded their services in Gardner and almost 20 buildings in the downtown area alone have changed ownership and are under renovation. This has opened up an unprecedented amount of opportunity for Gardner.

We also made a concerted effort to hold ourselves to the same standard we hold the private sector to and make sure that we as a City do not become our next absentee landlord. We reviewed the properties owned by the City that were underutilized, put them on the market, and got them back onto the tax rolls - not only bringing in new revenue as a result, but also helping ensure that these properties can be used to their fullest potential through private sector investments.

However, the economic goals that we have met only bear true fruit if people can access them- which we have accomplished through the advancements we made in our transportation efforts. One of the biggest complaints we used to receive at City Hall was the fact that Gardner no longer had a taxi cab service and getting around the City was difficult for many people. For some, getting to doctor's appointments, grocery shopping, visiting loved ones, and many other instances, were almost impossible. To help meet this need, Council President Kazinskas and I put forward ordinance

CITY OF GARDNER



MASSACHUSETTS

## INAUGURAL ADDRESS BY MAYOR MICHAEL J. NICHOLSON

JANUARY 4, 2024

legislation that was unanimously approved by the City Council that made it easier for people looking to open and operate rideshare services in the City. Then, working with Woods Ambulance, we launched the first phase of Woods Plus - "SwiftRide." This new, locally owned ride-share service now allows our residents to get anywhere around the City at an affordable rate to fill the gap in transportation that we saw before.

We have also begun the process with MART to update and re-route our fixed bus routes around Gardner that haven't been reviewed since the 1980s. This allows us to truly capture the growth that we are seeing in our population and plan for it the most efficient and effective way possible. This all started when Councilor Dernalowicz first approached us to inquire about adding additional bus stops in South Gardner particularly at the former Prospect Street School location. As a result, not only has this stop been added but other stops received new signage and shelter structures. For the last two years, have been in constant conversations with MART about improving services in Gardner. As the Mayor of this city and the Chair of the MART Advisory Board, I'd like to thank MART's Administration for the new energy they've placed into improving access to public transportation in Gardner, most recently with the new fare free initiative that was launched for all fixed routes in the MART district earlier this week for the next six-months.

Lastly, we made sure to break away from the "that's how we've always done it," mentality and see if there were any updates that could be made to improve our operations.

This is why Councilor George Tyros and I were able to put forward legislation to revamp our vacant, abandoned, blighted, and nuisance ordinance to give our City personnel in the health and building departments the tools they need to prevent properties from becoming problems and incentivize property owners to keep their buildings up to a standard of care.

Most notably in this review and update process, after an almost eight year process, the proposed amendments to the City Charter are on their way to Boston for consideration by the State Legislature, to make sure Gardner has a 21st Century Government that meets the needs of a modern, growing community.

### Goals

We certainly have accomplished a lot in the last term, and we have set the stage for us to continue with that momentum as we move Gardner forward.

Our economic development efforts continue to move forward with new advances set to take place in the next few months. Work in the downtown area is continuing to move forward with renovations being completed to the facades of several buildings, interior renovations and build outs expected to begin, and over 225 housing units expected to be constructed in the downtown alone.

CITY OF GARDNER



MASSACHUSETTS

## INAUGURAL ADDRESS BY MAYOR MICHAEL J. NICHOLSON

JANUARY 4, 2024

New businesses - like Aldi, Chipotle, Five Below, and others, like Jersey Mike's, announced today for the Timpany Crossroads Plaza – are set to open their doors in Gardner in 2024.

Construction projects will soon be starting on Rear Main Street, Rome Square, the Greenwood Pool, Maki Park, the Uptown Rotary, Ovila Case Playground, the North Central Pathway Bike Trail, and more.

Perhaps the most significant construction project we have ongoing for the new year is our continued work renovating the former Waterford Street School location to house our new non-profit community center. This project will surely bring new opportunities to the area by bringing all of these services under one roof and allowing them to expand their collaboration with each other. Growing Places, a local non-profit focused around access to healthy and affordable food, has already received their zoning approvals, is just about ready to move in and begin operations, and has also begun working with a newly formed group of farmers on ways to promote local agriculture and create new farmers market opportunities at the site.

Over and over again, we have seen that when we as a City invest in ourselves - our infrastructure, economy, facilities, residents - the return we receive on that investment exceeds our expectations. Tens of millions of dollars of private sector investment have poured into Gardner in the last two years, because we were willing to hold ourselves to a high standard and set that example for others. If we want to continue the successes that we have seen - we still have work to do.

One of these investments we know we need to look at is the Gardner Fire Headquarters Building. The roof of the fire station is original to the building's 1978 construction and currently is experiencing large issues with leaks. These issues need to be addressed in order to make sure we are providing our employees with an adequate, livable, workspace that meets the needs of a modern fire department.

We have also begun to study the feasibility of new investments in our parking and solar canopy infrastructure to better help plan for the future in Gardner- in particular in the downtown and at our public buildings.

Aside from these goals, we also need to review our processes, procedures, City Code, and other documents to see if our operations are working or if we are getting in our own way of progress. We cannot just sit and hope that the way we have always done things is meeting the current issues that arise in the here and now, or may arise in the future.

To begin this review, earlier this week, I directed our City Department Heads and the Chairs of all of our Boards and Commissions to review our City Ordinance Code - both general and zoning - and to submit any changes that could be made to improve the way we operate in the City. These changes

CITY OF GARDNER



MASSACHUSETTS

## INAUGURAL ADDRESS BY MAYOR MICHAEL J. NICHOLSON

JANUARY 4, 2024

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will first be reviewed by my administration with a final version submitted to the City Council as a comprehensive package for consideration later this year.

The work that we've done and the successes that we've achieved is entirely thanks to the amount of collaboration and cooperation that our officials at all levels of government have had. I would like to thank the members of my administration, our department heads and employees, the members of our City Council, School Committee, our state and federal legislative delegation, and all our partners in government for constantly coming together to build a community that the people we represent can truly be proud to call their home.

This is how the government should work. Far too often, people view political office as a theater for character assassinations, false claims in social media posts, and deliberate misrepresentations for political gain and click bait. However, we have not let that get to us here. Even in the face of what goes on elsewhere, here in Gardner, when a problem arises, we come together, find a solution, and just do what needs to be done.

As we move into this new year, and the next century in our City's history, I look forward to us continuing to work together for what our City needs and setting the example for others to follow. It is my true and firm belief, that continuing with that momentum and guided by God's grace we'll be able to accomplish things beyond what we dreamed of and build a better city for it.

God Bless you all, and God Bless this Great City.

Thank you.





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

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2024 JAN 11 AM 8:46

CITY CLERK'S OFFICE  
GARDNER, MA

January 8, 2024

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

RE: Notification of FY2025 Budget Process

Dear Madam President and Councilors,

I am writing to inform you that on January 8<sup>th</sup>, 2024, I sent out the FY2024 Budget Directive to all of our Department Heads and the Chairs of our Boards and Commissions. (All of which are referred to in the remainder of this correspondence as "The Departments.")

This year, I asked the Departments to provide me with three (3) versions of their department's budgets:

- the first being a version of their budget that if money was no object and they could have everything they needed to run their department in the most efficient and effective manner possible with all of the resources they need, what would it be;
- the second being their usual budget submission with a two percent (2%) cost of living adjustment and general expense trends remaining in a level funded area;
- the third asking for a three percent (3%) reduction in all non-salary/wage and non-contractually required line items per department.

These figures will then be used when the Administration crafts the final FY2025 budget proposal that will be submitted to the City Council later this year for consideration.

The reason for the third option is to explore ways in which the City could fund potential salary and wage increases to make the City more competitive in the area's job market.

I will be sure to keep you informed of this process as it proceeds forward.

Respectfully submitted,

Michael J. Nicholson  
Mayor, City of Gardner



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

2024 JAN 11 AM 8:47

CITY CLERK'S OFFICE  
GARDNER, MA

January 8, 2024

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

RE: Notification of City Code Review

Dear Madam President and Councilors,

At the December 4<sup>th</sup>, 2023 meeting of the City Council Appointments Committee and in my Inaugural Address given on January 4<sup>th</sup>, 2024, I announced that the Administration is currently conducting a review of the City Code to see if there are any updates that need to be made in order to improve efficiencies and practices within the City.

Our Department Heads and our Boards and Commissions are reviewing the City Code in its entirety (both general and zoning) to see if they believe any changes should be made.

Once all of these requests are submitted, my administration will conduct an initial review and then send the final recommendations to the City Council as a comprehensive package for your consideration later this year.

Since this is something that I anticipate will require a large amount of review, I wanted to notify you of this as early as possible in the term.

Respectfully submitted,

Michael J. Nicholson  
Mayor, City of Gardner



City of Gardner - *Executive Department*

Mayor Michael J. Nicholson

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2024 JAN 11 AM 8:48

CITY CLERK'S OFFICE  
GARDNER, MA

January 8, 2024

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

RE: Notification of Bus Shelter/Stop Proposal under review

Dear Madam President and Councilors,

I am writing to notify you that the Administration and MART have sent a proposal to the Traffic Commission to review the merits of adding a bus stop and bus shelter in Volney Howe Park at the intersection of Parker Street and Graham Street in downtown Gardner.

If this proposal makes it way through the Traffic Commission, the City Code requires that the City Council vote to create the bus stop.

There is no City Council action that is needed at this time, but where this is a larger, new development in our transportation policies, I wanted to be sure to notify you all as early as possible in order to adequately receive feedback on the matter for consideration.

This is being done in conjunction with the Administration working with MART to update our fixed bus routes around the City, for the first time since the 1980s.

Respectfully submitted,

Michael J. Nicholson  
Mayor, City of Gardner



Maps

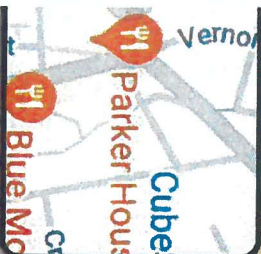


St

Massachusetts

the Street View

See more dates



Bus shelter location

No parking space at this time

Google

One parking space need to be eliminated







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

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2024 JAN 11 AM 8:48

CITY CLERK'S OFFICE  
GARDNER, MA

January 8, 2024

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

RE: Notification regarding updates to Municipal Finance Law

Dear Madam President and Councilors,

On December 4, 2023, Governor Healey signed the FY2023 Commonwealth Supplemental Budget into law. Aside from appropriations, this law also included updates to municipal finance law.

I have attached the briefing that the City received from the Massachusetts Municipal Association on these updates, as well as the information briefs issued directly from the Massachusetts Department of Revenue.

Those items that mainly impact Gardner currently, are:

- 1) The change in vote threshold from a two-thirds (2/3) vote to a simple majority vote to appropriate money out of a special stabilization account
- 2) The ability to create a special stabilization account for funds received from the Opioid Settlement, so that it does not have to be appropriated out of free cash on an annual basis.

The Administration is also exploring plans to submit a proposal to the City Council later on under the new Section 53K of Chapter 44, to create a special revenue account for rent collected at the new Waterford Street Community Center in order to cover the costs of renovations associated with the building.

Respectfully submitted,

Michael J. Nicholson  
Mayor, City of Gardner

DEC

22

2023

LOCAL AID AND FINANCE

## Municipal finance changes included in supplemental budget law

[Home](#) → [News](#) → [Local Aid and Finance](#)

The [closeout fiscal 2023 supplemental budget](#) signed into law on Dec. 4 included a number of changes to modernize and streamline certain municipal finance rules.

The MMA had long advocated for the municipal finance changes, which are now in effect.

The changes, itemized in outside sections of the law, are as follows:

- Section 8 allows for a simple majority vote of the local legislative body, rather than a two-thirds vote, to draw down special purpose stabilization funds. A two-thirds vote is still required to establish both types of stabilization funds — general and special purpose — but the threshold has been lowered for drawing from special purpose funds.
- Section 9 allows municipal departments to repair property damages under \$150,000 before the related insurance claim comes through, without seeking appropriation, with the expectation that appropriate accounts will be reimbursed when the insurance claim is paid. The municipality would be required to fund the deficit if the insurance claim is not received within a certain period.

• Section 9 also creates a “general fund revenue exception.” Under state law (Ch. 44, Sect. 53), all money received or collected from any source by a municipality belongs to its general fund and can only be spent after appropriation, unless a general or special law provides an exception. This rule can present accounting challenges when unexpected, conditional revenue is received, because the law requires this revenue to become part of the general fund even though it is intended for a specific purpose. As a result, these funds often become part of the next year’s free cash certification, creating confusion around how the funds can be used.

The law now allows municipalities, with authorization from the Division of Local Services’ director of accounts, to reserve such one-time revenue in a special fund, thus keeping it out of the general fund and preventing it from eventually becoming free cash. The language clarifies how the receipts in special funds can be spent: if the receipt is for one specific purpose, such as opioid settlement funds, a municipal executive would be able to spend the funds without further appropriation; otherwise, qualifying revenue reserved in a special fund would be subject to appropriation. In both cases, the exception applies only to one-time, unanticipated receipts that are received by multiple communities.

• Section 197 allows cities and towns that have created a dedicated stabilization fund for statewide opioid settlement receipts to consolidate all monies previously received for this purpose into the special revenue fund, with clarifying language for how to proceed.

• Section 10 establishes a new Section 53k under Chapter 44, Section 53 to allow municipalities to create a special revenue fund (rather than using the general revenue fund) for funds coming to the municipality for a specific purpose. Municipalities often enter into host or mitigation agreements with developers or other entities to address the impacts of new development, and receive payments to mitigate these impacts. Section 10 allows communities to separately account for these payments and spend them for the dedicated purpose without further appropriation.

• Section 205 allows a city or town to amortize over fiscal 2025 through 2027 the amount of its fiscal 2024 major disaster-related deficit.

The Department of Revenue’s Division of Local Services has issued further clarifications

Written by [Jackie Lavender Bird, MMA Deputy Legislative Director](#)

# News Categories

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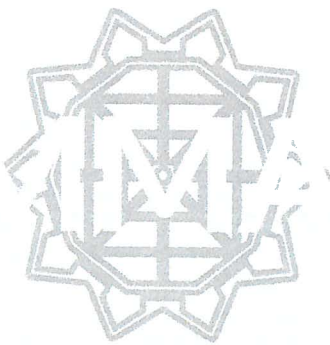
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## Bulletin

BUL-2023-7

### G.L. c. 44, § 53 Clause 4: Opioid Settlement Receipts

TO: Local Officials  
FROM: Deborah A. Wagner, Director of Accounts  
DATE: December 2023

This guidance supersedes BUL-2023-6 and the July 7, 2022 edition of *City and Town, Ask DLS: Treatment of Opioid Settlement Payments*.

On December 4, 2023, Governor Healey signed [Chapter 77 of the Acts of 2023](#), Section 9 of which provides, in part, for the following exception to the general rule that all receipts are to be recorded as general fund revenue per [G.L. c. 44, § 53](#):

*“(4) non-recurring, unanticipated sums received by multiple cities, towns or districts and not otherwise provided for by general or special law, may, upon the approval of the director of accounts, be expended at the direction of the chief executive officer without further appropriation only for the singular purpose for which the monies were received” (emphasis added)*

The Director of Accounts has determined that cities and towns that have received or will receive funds in Fiscal Year 2024, or thereafter, pursuant to settlement agreements entered into by the Commonwealth with opioid distributors and opioid-makers for prevention, harm reduction, treatment, and recovery, may place said funds into a special revenue fund. The proceeds can then be expended, without further appropriation, at the direction of the chief executive officer only for the purpose identified in said settlement agreements.

Section 197 of the Act further allows a community to consolidate all monies previously received for this purpose into the special revenue fund, mentioned above, in the following ways.

1. If prior year settlement funds have not otherwise been reserved (i.e., dedicated to a stabilization fund) or become part of certified free cash, then those funds may be placed directly into the special revenue fund.
2. If already dedicated to a stabilization fund, said dedication can be revoked at any time by vote of the legislative body. Upon revocation, all statewide opioid settlement receipts previously received may be placed in the special revenue fund.
3. If a community has settlement funds in a stabilization fund but did not dedicate future settlement receipts, the money currently in stabilization can be placed directly into the special revenue fund.

In the case of #2 or #3 above, once funds are moved from the stabilization fund, by virtue of having no remaining balance the stabilization fund can be removed from the balance sheet.

4. Settlement funds that have become part of free cash may be appropriated into the special revenue fund by vote of the community's legislative body.

Once placed in the special revenue fund, monies can be spent without further appropriation for purpose identified in the settlement agreements. Any interest belongs to the general fund.

The transfers of funds, noted in #1-#4 above, represent a limited ability to consolidate previously received opioid settlement monies into the newly allowed special revenue fund. These transfers are permitted only for this express purpose and should not be considered a general change to how monies are otherwise accounted for under the General Laws.

If you have any further questions, please contact your BOA field representative.



Geoffrey E. Snyder  
Commissioner of Revenue

Sean R. Cronin  
Senior Deputy Commissioner

## Bulletin

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BUL-2023-8

### **RECENT LEGISLATION**

TO: Local Officials

FROM: Kenneth Woodland, Chief, Municipal Finance Law Bureau

DATE: December 2023

SUBJECT: "AN ACT MAKING APPROPRIATIONS FOR THE FISCAL YEAR 2023 FOR SUPPLEMENTING CERTAIN EXISTING APPROPRIATIONS AND FOR CERTAIN OTHER ACTIVITIES AND PROJECTS" [Chapter 77 of the Acts of 2023](#)

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To keep you informed of legislative developments, the Division of Local Services ("Division") periodically publishes a **BULLETIN** summarizing new laws that affect municipal budgets and local tax assessment, administration and collection. Each issue usually contains a cumulative summary of session laws enacted to that time and indicates whether the Division has issued any further implementation guidelines. This edition of the **BULLETIN** instead focuses on a recent legislative change affecting municipal finance found in [Chapter 77 of the Acts of 2023](#) ("Act"), entitled AN ACT MAKING APPROPRIATIONS FOR THE FISCAL YEAR 2023 FOR SUPPLEMENTING CERTAIN EXISTING APPROPRIATIONS AND FOR CERTAIN OTHER ACTIVITIES AND PROJECTS. The Act is currently in effect.

§ 8 of the Act amends [G.L. c. 40, § 5B](#), which governs the establishment of stabilization funds and regulates their administration. As is the practice in many cities and towns, municipalities may create a general purpose stabilization fund or a special purpose stabilization fund. In practice, most general purpose stabilization funds are broadly created for any lawful purpose while a special purpose stabilization fund delineates the intent of future expenditures more distinctly. The Act changed the quantum of votes to appropriate funds from special purpose stabilization funds so that it is now a simple majority. The present two-thirds quantum of votes needed for appropriating funds from a general purpose stabilization remains the same. Likewise, a two-thirds vote is still needed to create either stabilization fund or to change its purpose.



§ 9 of the Act amends [G.L. c. 44, § 53](#), which governs municipal receipts, in the following two ways.

First, Clause 2 has been amended. Presently, a municipal or district department in charge of property that was damaged and for which the municipality or district receives insurance proceeds or restitution payments of \$150,000 or less could spend the monies, without appropriation and with the approval of the chief executive officer, to replace or repair the property. In many cases, however, that replacement or repair must be made immediately. The change now allows spending for this purpose in advance of the monies being received, for amounts \$150,000 or less. However, if the monies are not received by the close of the fiscal year after the fiscal year in which the damage occurred, the municipality must report the same in the determination of the applicable annual tax rate or otherwise make provision therefor. The amendment is patterned after the change made by the Municipal Modernization Act to [G.L. c. 44, § 53A](#), which allows spending in advance of certain grant funds.

Second, new Clauses 4 and 5 have been added. Generally, all money received or collected from any source by a city, town or district belongs to its general fund and can only be spent after appropriation unless a general or special law provides an exception, i.e., expressly restricts use for a particular purpose or allows expenditure by a department or officer without appropriation. This general rule of municipal finance occasionally presents communities with accounting and procedural difficulties in situations where an unexpected, conditional receipt is received. Such receipts, by law, would become part of the general fund, eventually close and become part of the next year's free cash certification. When it becomes part of free cash, the original restrictions on the funds become muddled, as under current law they must sit in an available fund that can be appropriated for any lawful purpose. Additionally, this process can take several months and many times these one-time monies are intended for immediate expenditure for their specific purpose. The new Clauses 4 and 5 create exceptions to this general rule. With the approval of the Director of Accounts, in certain circumstances, both clauses allow certain one-time monies to be reserved in a special revenue fund, thereby not closing to fund balance at the end of the fiscal year and not becoming part of the free cash certification. Clause 4 does so for monies received for one specific purpose and can be spent without further appropriation, while Clause 5 does so for monies received for multiple purposes and requires appropriation. In both scenarios, there must be an authorization from the Director of Accounts and is limited to one-time, unanticipated receipts that affect multiple communities.

To see how this change, pursuant to Clause 4, will impact opioid settlement receipts, please see [Bulletin 2023-7](#). The Bulletin further discusses Section 197 of the Act which allows a community to consolidate all monies previously received for this purpose into the special revenue fund in the ways described therein.

Next, § 10 of the Act inserts new section 53K into [G.L. c. 44](#). Municipalities often enter into host or mitigation agreements with developers or other entities, including cannabis establishments and casinos, to address the impacts of new development or location of a facility within the city or town and receive cash payments to mitigate these impacts. In addition, a developer may make a cash payment in lieu of undertaking a particular condition or obligation required by a zoning or other permitting by-law or ordinance, or a party renting municipal property may make payments in addition to the lease. Examples include a developer of a commercial property making a payment required under the town's zoning bylaw in lieu of constructing sufficient parking spaces with the monies to be used by the town for the acquisition, improvement and maintenance of municipal parking; or a cell phone company that is leasing town owned property for its equipment agreeing to give the municipality a "one-time payment" in addition to its lease. Under current municipal finance law, these mitigation payments or regulatory exactions are general fund monies that must be appropriated before they can be used for the dedicated

purposes for which they are given and received. [G.L. c. 44, § 53](#). The parties often try to characterize the monies as gifts, so as to be able to spend them without appropriation, but they are not gifts within any ordinary meaning of the term. The new § 10 addition of Section 53K allows communities to separately account for such payments in a special revenue fund and spend them for the dedicated purposes without further appropriation.

Lastly, § 205 of the Act allows a city or town to amortize over fiscal years 2025 to 2027 the amount of its fiscal year 2024 major disaster related deficit. To do so, the select board or, in a city, the council, with the mayor's approval when required by law, must adopt a deficit amortization schedule before setting the municipality's fiscal year 2025 tax rate. The amortization process will be comparable to the process that was used to amortize snow related deficits in 2015. Examples of a major disaster include flood, drought, fire, hurricane, earthquake, storm or other catastrophe, whether natural or otherwise, which poses an immediate threat to the health or safety of persons or property. To utilize this section, there must be a declaration of emergency, either locally or by the Governor, and an approval to expend for the liabilities incurred by the Director of Accounts. DLS will be providing further guidance on this process.



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

RECEIVED  
2024 JAN 11 AM 8:48  
CITY CLERK'S OFFICE  
GARDNER, MA

January 8, 2024

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

RE: Notification in Change in Regulations for Communities Designated as Green Communities

Dear Madam President and Councilors,

The Green Communities Act is a state statute created a new designation for municipalities as "Green Communities." Currently, 309 of the 351 municipalities in Massachusetts have this designation.

This designation is a minimum mandatory requirement for most state grant funding opportunities. Any community that does not maintain this designation through following the minimum criteria becomes ineligible for the majority of state grant award funding.

The Massachusetts Green Communities Division of the Executive Office of Energy and Environmental Affairs recently revised the requirement of municipalities to purchase only fuel efficient vehicles, with an emphasis on hybrid and electric vehicles. This requirement exempts "off-road vehicles, motorcycles and heavy-duty vehicles. Heavy-Duty vehicles are defined as having a manufacturer's gross vehicle weight rating (GVWR) of more than 8,500 pounds. Examples include fire engines, ambulances, and some public works vehicles."

Prior to this change, police cruisers were exempt from this requirement. However, with this change in regulation, beginning July 1, 2025, municipalities who maintain this designation will only be allowed to purchase either hybrid or electric police cruisers, as this exemption is set to expire for cruisers at that time.

Per our rotation policy for the police department, the City tries to purchase three (3) police cruisers annually. Beginning this fiscal year, we have begun the process of purchasing hybrid cruisers for the Police Department.

Respectfully submitted,

Michael J. Nicholson  
Mayor, City of Gardner

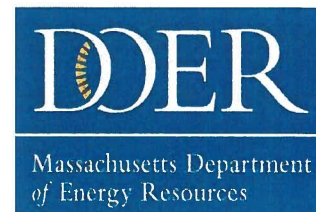
# Green Communities Fuel-Efficient Vehicle Requirements



GREEN  
COMMUNITIES  
DESIGNATION and  
GRANT PROGRAM

Fuel efficient  
vehicles

Criterion **4**



## INTRODUCTION

Criterion Four of the Green Communities Program states that communities must purchase only fuel-efficient vehicles for municipal use whenever such vehicles are commercially available and practicable. The purpose behind this criterion is to reduce carbon dioxide emissions by municipal vehicles, which has a positive impact on the environment and saves municipalities money.

As background, the US Environmental Protection Agency's Green Vehicle Guide states that:

*Vehicles with lower fuel economy create more carbon dioxide - the most prevalent greenhouse gas - than vehicles with higher fuel economy. Every gallon of gasoline your vehicle burns puts about 20 pounds of carbon dioxide into the atmosphere because air has weight and mass, and it takes a lot of it to burn a gallon of gasoline. One of the most important things you can do to reduce your contribution to global warming is to buy a vehicle with higher fuel economy. The difference between 25 miles per gallon and 20 miles per gallon can amount to the prevention of 10 tons of carbon dioxide over a vehicle's lifetime. Buying a more fuel-efficient vehicle will also help to reduce our nation's dependence on fossil fuels. And of course, you will save money by having to fuel up less often.*

## COMPLIANCE

To meet this criterion, municipalities need to adopt by action of the local official or body with authority to enact municipal policies a written Fuel-Efficient Vehicle Policy that requires municipal departments and divisions to purchase only fuel-efficient vehicles (**See Appendix A, model policy**). Both general government and school districts are required to enact a fuel-efficient vehicle policy for a municipality to meet this requirement, and letters documenting adoption must be provided and signed by the appropriate municipal authorities, as noted below. Letters from other municipal officials are not acceptable.

For letters from the general government and school district:

- **General Government** – The general government must provide a letter from the Chief Executive Officer of the city or town stating that it has adopted the Fuel-Efficient Vehicle Policy. The Chief Executive Officer is defined as the manager in any city having a manager and in any



REVISED 12/12/2023

town having a city form of government, the Mayor in any other city, and the Board of Selectmen in any other town unless some other officer or body is designated to perform the functions of a Chief Executive Officer under the provisions of a local charter or laws having the force of a charter.

- **Public School Districts** - For a municipality to meet this requirement, its public school district must provide a letter from the School Superintendent stating that it has adopted the Fuel-Efficient Vehicle Policy. Please note that even if the school has no vehicles, or only has vehicles that are exempt from the Policy, adoption of the Policy by the school must be provided since the school may acquire non-exempt vehicles in the future.
- **Regional School Districts** – Regional School Districts are not required to be part of a municipality's Green Communities designation application. However, for regional school districts that wish to be part of a municipality's Green Communities designation (with approval by the municipality), the regional school district must also adopt the Fuel Efficient Vehicle Policy and provide a letter from the Superintendent stating that it has adopted the Policy.

Sample adoption letters are provided in Appendices B and C.

In addition, the municipality is required to develop and maintain a vehicle inventory for all four-wheeled vehicles, both exempt and non-exempt. A plan for replacing non-exempt vehicles with vehicles that meet the fuel efficiency ratings below must also be developed and maintained. This inventory of all vehicles and replacement plan for non-exempt vehicles must include school vehicles. The fuel efficiency ratings are set to ensure that at least five or more automatic transmission models of mass production are available for sale in Massachusetts (all from affordable brands; no luxury brands). Based on 2019 EPA data, vehicles are to have a combined city and highway MPG no less than the following:

- 2 wheel drive car: 30 MPG
- 4 wheel drive car: 29 MPG
- 2 wheel drive van 22 MPG
- 4 wheel drive van 20 MPG
- 2 wheel drive pick-up truck: 21 MPG
- 4 wheel drive pick-up truck: 18 MPG
- 2 wheel drive sport utility vehicle: 24 MPG
- 4 wheel drive sport utility vehicle: 21 MPG

Hybrid or electric vehicles in these vehicle classes will meet these criteria.

***To inform your purchasing decisions, information on makes and models of vehicles, including fuel economy comparisons, can be found at: <http://www.fueleconomy.gov> We encourage use of this valuable resource for informing decisions.***

***In addition, many vehicles that meet the above criteria can be found on statewide contract VEH110,***

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"Purchase of Light Duty Vehicles – Passenger Cars, SUVs, Trucks, Vans, SSVs and PPVs," located in [www.commbuys.com](http://www.commbuys.com)

**\*NOTE:** The EPA maintains a database on vehicle fuel efficiency that is updated occasionally throughout the year, as new models are released. As increasing numbers of fuel efficient vehicle models are released, the minimum combined MPG requirements of Criterion 4 will be revised upwards. **Thus, cities and towns must check the Criterion 4 Guidance for updates prior to ordering new vehicles.**

In order to encourage efficient driving practices, municipalities should implement a monitoring system to record miles driven, fuel consumption, etc. for each vehicle in every department. A monitoring system will help facilitate the municipality's reduction in aggregate energy consumption. If a municipality provides fuel for fleet vehicles, it should consider using a universal fleet card that provides a monitoring system for tracking fuel use.

### VEHICLE RECYCLING

Recycling of vehicles – i.e., moving a previously purchased and used vehicle from one municipal department to another municipal department in need of a vehicle is only allowed if the vehicle being recycled to a new department is more fuel efficient than the vehicle it is replacing.

### EXEMPTIONS

Vehicles that are exempt from the municipal Fuel Efficient Vehicle Policy include off-road vehicles, motorcycles and heavy-duty vehicles. Heavy-Duty vehicles are defined as having a manufacturer's gross vehicle weight rating (GVWR) of more than 8,500 pounds. Examples include fire engines, ambulances, and some public works vehicles.

In addition, police cruisers are currently exempt from this criterion due to market availability; however, **starting in FY 26 (July 1, 2025), police cruisers will no longer be exempt and new acquisitions will have to adhere to this policy. While these vehicles remain exempt from the policy, municipalities are encouraged to consider acquiring hybrid and zero-emission models as they replace existing cruisers.** Police and fire department administrative vehicles MUST meet fuel efficient requirements.

**PLEASE NOTE:** *If a vehicle is found on [www.fueleconomy.gov](http://www.fueleconomy.gov), then it has a GVWR of less than 8,500 pounds, is **NOT** a heavy-duty vehicle and is **NOT** exempt.*

### ALTERNATIVE COMPLIANCE

If a municipality has a vehicle fleet composed of all exempt vehicles (e.g. heavy-duty vehicles and/or police cruisers), it must propose alternative means of reducing vehicle fuel consumption in order to comply with this criterion. Examples of Alternative Compliance include having in place policies and programs that reduce vehicle fuel consumption such as: the installation of idle-reduction devices on police cruisers and/or trucks, installation of electric vehicle charging stations, after-market hybrid conversion of existing vehicles, fleet right-sizing, adoption of an anti-idling policy, and/or use of alternative fuels such as biodiesel blends from B-5 to B-20 for heavy duty fleets. While DOER encourages policies such as these for all municipalities, cities and towns that do not have any vehicles in their fleet subject to the MPG criteria

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MUST provide some form of Alternative Compliance. In addition, a municipality must note that, should it acquire non-exempt vehicles in the future, it is committed to purchasing non-exempt vehicles that meet the most recent guidance for Criterion 4 published by the MA Department of Energy Resources' Green Communities Division. See Appendix D for a model Fuel Efficient Vehicle Policy for Alternative Compliance.

An inventory of all vehicles must be provided.

**Please note:** Even if a municipality has only one non-exempt vehicle, it must have a Fuel Efficient Vehicle Policy in place. Alternative Compliance for meeting Criterion 4 can only be used if ALL vehicles in the fleet are exempt.

#### **APPLICABILITY**

All communities seeking Green Communities designation must adopt a fuel efficient vehicle policy that reflects the most recent MPG criteria published in this Guidance. If a municipality has adopted a policy that reflects old MPG criteria, it must have done so within the six months immediately preceding issuance of revised Guidance in order to qualify for credit under this criterion when applying for designation.

**All designated Green Communities must review their Fuel Efficient Vehicle Policy on an annual basis and ensure that their policies reflect DOER's most recently published MPG minimums. The Annual Reporting required of Green Communities will include this information.**

#### **Future Financial Considerations**

Contingency language regarding potential future budgetary constraints in Fuel Efficient Vehicle Policies will not be accepted. DOER recognizes that predicting and committing future budgets is difficult and will work with municipalities on a case-by-case basis should they encounter difficulty complying with their Fuel Efficient Policy due to a budget issue in a particular year.

## **FOR MORE INFORMATION**

#### **Websites:**

[www.mass.gov/energy/greencommunities](http://www.mass.gov/energy/greencommunities)

[www.fueleconomy.gov](http://www.fueleconomy.gov)

Statewide contract **VEH110**

**"Purchase of Light Duty Vehicles: Passenger Cars, SUVs, Trucks, Vans, SSVs and PPVs"**

located on <https://www.commbuys.com> .

Contact your [Regional Coordinator](#)



**APPENDIX A**

*This model policy was prepared to assist cities and towns in developing a fuel efficient vehicle policy. This model policy is intended for illustration purposes. Communities are free to utilize the format provided.*

Municipality / School District	
<b>FUEL EFFICIENT VEHICLE POLICY</b>	
Effective Date	
Revisions	
Board of Selectman Approval Date	
School Superintendent Approval Date	

**DEFINITIONS**

**Combined city and highway MPG (EPA Combined fuel economy):** Combined Fuel Economy means the fuel economy from driving a combination of 55 percent city and 45 Percent highway miles and is calculated as follows:

$$=1/((0.55/City\ MPG)+(0.45/highway\ MPG))$$

**Drive System:** The manner in which mechanical power is directly transmitted from the drive shaft to the wheels. The following codes are used in the drive field:

- AWD = All Wheel Drive: 4 -wheel drive automatically controlled by the vehicle power train system
- 4WD = 4-Wheel Drive: driver selectable 4-wheel drive with 2-wheel drive option
- 2WD = 2-Wheel Drive

**Heavy-duty vehicle:** Vehicles with a manufacturer's gross vehicle weight rating (GVWR) of more than 8,500 pounds

**POLICY STATEMENT**

In an effort to reduce the (city/town/school district/other local entity)'s fuel consumption and energy costs the (policy making body) hereby adopts a policy to purchase only fuel efficient vehicles to meet this goal.

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**PURPOSE**

To establish a requirement that the (city/town/school district/other local entity) purchase only fuel efficient vehicles for municipal/school use whenever such vehicles are commercially available and practicable.

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**APPLICABILITY**

This policy applies to all divisions and departments of the (city/town/school district/other local entity). It applies to road-worthy passenger vehicles, pick up and utility trucks, and SUVs. It does not apply to specialized equipment or off-road vehicles.

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**GUIDELINES**

All departments/divisions shall purchase only fuel efficient vehicles for municipal use whenever such vehicles are commercially available and practicable.

The (city/town/school district/other local entity) will maintain an annual vehicle inventory for ALL vehicles and a plan for replacing any non-exempt vehicles with vehicles that meet, at a minimum, the fuel efficiency ratings contained in the most recent guidance for Criterion 4 published by the MA Department of Energy Resources' Green Communities Division.

It is the responsibility of the (city/town/school district/other local entity) to check the Green Communities Division's Guidance for Criterion 4 for updates prior to ordering replacement vehicles.

***Exemptions***

- Heavy-duty vehicles: examples include fire-trucks, ambulances, and some public works trucks that meet the definition of heavy-duty vehicle.
- As of the adoption date (above) police cruisers are exempt from this criterion. Starting on July 1, 2023, police cruisers added to the fleet must meet the fuel efficiency ratings listed in the most recent guidance for Criterion 4. Police and fire department administrative vehicles are NOT exempt and must meet fuel efficient requirements.

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**Inventory**

The following information shall be included in a vehicle inventory list and said list shall be updated on an annual basis and provided to the Green Communities Division:

Model	Make	Model Year	Year/month Purchased	Drive System: 2 WD, 4WD or AWD	> 8500 pounds? (Y or N)	Exempt or non- exempt	MPG Rating	Vehicle Function
Ford	F250	2016	08/2017	4WD	Y	Exempt	N/A	DPW - Maintenance
Ford	Focus	2014	07/2014	2WD	N	NE	32	Assessors
International	Dump Truck	2011	09/2011	RWD	Y	Exempt	N/A	Sander/Snowplowing

NOTE: Departments/Divisions may use EPA combined MPG estimates or actual combined MPG.

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**FUEL EFFICIENT VEHICLE REPLACEMENT PLAN**

All non-exempt vehicles shall be replaced with fuel efficient vehicles that adhere to the most recent Green Communities Criterion 4 Guidance. Vehicles shall be replaced when they are no longer operable and will not be recycled from one municipal department to another unless the recycled replacement is more efficient than the vehicle it is replacing. In addition, when replacing exempt vehicles, the function of the vehicle will be reviewed for potential replacement with a more fuel efficient vehicle, including a fuel efficient non-exempt vehicle.

(city/town/school district/other local entity) will review on an annual basis the Vehicle Inventory, along with the Green Communities Criterion 4 Guidance, to plan for new acquisitions as part of planning for the new fiscal year budget.

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**QUESTIONS / ENFORCEMENT**

All other inquiries should be directed to the department/division responsible for fleet management and/or fleet procurement. This policy is enforced by the Chief Administrative Officer and/or his/her designee(s).

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**Appendix B**

**Sample town adoption letter**

**Letter must be on Town Letterhead**

**MA Department of Energy Resources  
Green Communities Division  
100 Cambridge Street – Suite 1040  
Boston, MA 02114**

**{date of letter}**

**At a public Board of Selectmen meeting held on [DATE], the Board of Selectmen voted to adopt the attached Fuel Efficiency Vehicle Policy.**

**Thank you.**

**Signature and Typed Name of Chair**

**Appendix C**

**Sample School Adoption Letter**

**Letter must be on School letterhead**

MA Department of Energy Resources  
Green Communities Division  
100 Cambridge Street – Suite 1040  
Boston, MA 02114

{date of letter}

Please be advised that the Public Schools of [Town] hereby adopted the attached Fuel Efficiency Vehicle Policy.

Thank you.

Signature and Typed Name of Superintendent of Schools

## Appendix D

*This model policy was prepared to assist cities and towns in developing an alternative compliance fuel efficient vehicle policy. This model policy is intended for illustration purposes. Communities are free to utilize the format provided.*

**(city/town/school district/other local entity name) Alternative Compliance Fuel Efficient Vehicle Policy**

FEVP Effective Date	
Date of Municipal Approval	
Date of Board of Selectmen Approval	
Date of School Superintendent Approval	

## INTRODUCTION

Criterion Four of the Green Communities Program states that a Green Community must purchase fuel efficient vehicles for municipal use, including schools, whenever such vehicles are commercially available and practicable. *(city/town/school district/other local entity name)* currently owns **XX** vehicles for municipal use. All vehicles fall into the exempt status according to the Green Community's Criterion 4 guidance. *(city/town/school district/other local entity name)* has adopted this Fuel Efficient Vehicle Policy (FEVP) to purchase the most fuel efficient vehicles for all departments/divisions whenever they become commercially available.

This policy is established to reduce the consumption of fossil fuels, which in turn will have a positive impact on the environment and save tax dollars. Under this policy *(city/town/school district/other local entity name)* hereby establishes a monitoring system to help facilitate the municipality's reduction in vehicle consumption. *(city/town/school district/other local entity name)* **XX** will establish and oversee the monitoring system in conjunction with the town and school officials and staff as appropriate.

## ALTERNATIVE COMPLIANCE

*(city/town/school district/other local entity name)* has all exempt vehicles (see attachment A, vehicle inventory). Therefore, *(city/town/school district/other local entity)* is seeking Alternative Compliance for Criterion 4 based on the following actions *(must select at least two)*:

- 1) The annual miles driven (or hours used) and total fuel consumption will be determined starting in the municipal fiscal years of 20XX, beginning on July 1, 20XX. *(city/town/school district/other local*

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*entity*) will review this information in September of each year for potential ways to reduce consumption, including: reducing vehicle miles traveled, replacing exempt vehicles with fuel efficient non-exempt vehicles, replacing exempt vehicles with more efficient exempt vehicles.

- 2) *(city/town/school district/other local entity name)* has adopted an anti-idling policy, in accordance with MGL chapter 90, Section 16A (see Attachment B) applicable to all municipal vehicles to reduce vehicle fuel consumption and emissions. All town employees who drive municipal vehicles have been given this policy.
- 3) *(city/town/school district/other local entity name)* commits to using biodiesel blended fuels in light, medium or heavy duty fleet vehicles.
- 4) *(city/town/school district/other local entity name)* commits to installing a Level II charging station at a publicly accessible location.
- 5) *(city/town/school district/other local entity name)* will pursue after-market conversion of existing vehicles, which includes modifying a vehicle or engine to operate using a different fuel or power source that which it was originally designed for. Many conventional vehicles can be converted to run on fuels like electricity, propane or natural gas, helping to reduce petroleum consumption and GHG emissions and often significantly increasing the fuel efficiency of the vehicle.
- 6) *(city/town/school district/other local entity name)* will install vehicle parts and/or equipment to conserve fuel. There are many technologies available that, when added to existing vehicles, can help save fuel, reduce emissions, and save money. This includes engine idle management systems, telematics, cab and/or engine block heaters, auxiliary power units, and using synthetic oils.
- 7) *(city/town/school district/other local entity name)* commits to fleet right sizing, which refers to striking the optimal balance between fleet composition and operational requirements such that each asset within a fleet is not only fully utilized but the right size and type for the job. Right sizing is a management practice that can help vehicle fleet managers build and maintain sustainable, fuel efficient fleets. Fleet inventories often grow over time to include vehicles that are highly specialized, rarely used, or unsuitable for current applications.

## **POLICY STATEMENT**

In an effort to reduce *(city/town/school district/other local entity name)*'s fuel consumption and energy costs, *(city/town/school district/other local entity name)*'s hereby adopts this policy to purchase the most fuel-efficient vehicles to meet this goal.

## **APPLICABILITY**

This policy applies to all divisions and departments of *(city/town/school district/other local entity name)*.

## **GUIDELINES**

All departments/divisions will purchase the most fuel efficient vehicles for municipal use (including police, fire and highway) whenever such vehicles are commercially available and practicable.



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(city/town/school district/other local entity name) will maintain an annual vehicle inventory for all vehicles and a plan for acquiring any non-exempt vehicles that meet, at a minimum, the fuel efficiency ratings contained in the most recent guidance for Criterion 4 published by the MA Department of Energy Resources' Green Communities Division. The fuel efficiency ratings contained therein are based on the most recently published US Environmental Protection Agency combined city and highway MPG ratings for vehicles. The most recent Green Communities Guidance for Criterion 4 will be checked for updates prior to ordering replacement vehicles.

### **Exemptions**

- Heavy-duty vehicles: examples include fire-trucks, ambulances, and some public works trucks that meet the definition of heavy-duty vehicle.
- As of the adoption date (above) police cruisers are exempt from this criterion. However, starting on July 1, 2023, police cruisers are no longer exempt and must adhere to the fuel efficiency ratings listed in the Criterion 4 guidance. Police and fire department administrative vehicles are NOT exempt and must meet fuel efficient requirements.

### **Inventory**

An inventory of all Town vehicles is contained in Attachment A and shall be updated on an annual basis.

### **FUEL EFFICIENT VEHICLE REPLACEMENT PLAN**

Vehicles shall be replaced when they are no longer operable and will not be recycled from one municipal department to another unless the recycled replacement vehicle is more efficient than the vehicle it is replacing. In addition, when replacing exempt vehicles, the function of the vehicle will be reviewed for potential replacement with a more fuel efficient vehicle, including a fuel efficient non-exempt vehicle.

The Vehicle Inventory will be reviewed on an annual basis along with the Green Communities Criterion 4 Guidance to plan for new acquisitions as part of planning for the new fiscal year budget.

### **DEFINITIONS**

Combined City and Highway MPG (EPA Combined fuel economy): Combined Fuel Economy means the fuel economy from driving a combination of 45 percent city and 55 percent highway miles and is calculated as follows:

$$\text{Combined City and highway MPG} = \frac{1}{\left(\frac{0.45}{\text{CityMPG}}\right) + \left(\frac{0.55}{\text{HighwayMPG}}\right)}$$

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**ATTACHMENT B**

*This sample policy was taken from the MA DEP's idling reduction toolkit, found at <http://www.mass.gov/dep/air/community/depirkit.doc>.*

**(city/town/school district/other local entity name)ANTI-IDLING POLICY**

This policy applies to [Insert target audience: residents, municipal fleet, school] vehicles operated by or within the town/city of [name of municipality].

**OBJECTIVES**

- 1) To eliminate unnecessary idling of vehicles in order to reduce the community's exposure to exhaust from gasoline and diesel engines.
- 2) To educate and inform municipal employees and residents about the health and environmental effects of gasoline and diesel exhaust.

**PURPOSE**

Idling vehicles pollute the air and present several health and environmental hazards. Gasoline and diesel vehicles produce carbon monoxide, carbon dioxide, volatile organic compounds (VOCs) and oxides of nitrogen (NOx). Carbon monoxide causes respiratory distress and in high concentrations can be lethal; carbon dioxide is a primary contributor to global warming; and VOCs and NOx form ozone, ground-level smog and impair lung function. In addition, diesel exhaust contains fine particulate matter, which the U.S. Environmental Protection Agency has designated as a likely carcinogen. The elderly, chronically ill and children are all particularly vulnerable to these health effects because their lung function is respectively decreased, impaired or still in development.

In addition, Massachusetts General Law (MGL Chapter 90, Section 16A) and the Massachusetts Department of Environmental Protection (DEP) idling reduction regulation (310 CMR 7.11(1)(b)) both prohibit unnecessary vehicle idling by stating that the engine must be shut down if the vehicle will be stopped for more than five minutes. Exemptions include: 1) the vehicle is being serviced and the idling is required to repair the vehicle; or 2) the vehicle is making deliveries and needs to keep its engine running (to power refrigerators, for example); and, 3) the vehicle's accessory equipment needs to be powered, such as a fork lift or a truck's rear dump bed, or a wheelchair lift in a bus or van. To provide additional protections for children, MGL Chapter 90, Section 16B further restricts unnecessary idling in school zones.

In order to reduce the health and environmental effects of vehicle exhaust, comply with the state's idling reduction regulation and law, and decrease our use of fuel by reducing unnecessary idling, the following actions shall be implemented to the maximum extent practicable:

*[Municipality would insert specific actions it will implement in its Idling Reduction Campaign such as: posting of signs in public areas, educating municipal employees and residents, establishing best management practices for municipal vehicle operations, etc.]*

This policy is hereby approved by the [Governing Body], this [date], to eliminate unnecessary idling.

**Signature:** \_\_\_\_\_  
**Authorized Official**

# Full Green Communities Designation Program Overview



## GREEN COMMUNITIES DESIGNATION AND GRANT PROGRAM



# PROGRAM GUIDANCE

## INTRODUCTION

The following guidance describes the Green Communities Designation and Grant Program process (pursuant to M.G.L.c. 25A §10).

Becoming designated as a Green Community provides grant funding to a municipality to support all or a portion of the cost of:

- studying, designing, constructing and implementing energy efficiency activities including, but not limited to, energy efficiency measures and projects;
- procuring energy management services;
- adopting energy efficiency policies; and,
- siting activities related to and construction of renewable energy generating facilities on municipally-owned property.

**The Green Communities Designation and Grant process requires a sequence of steps:**

- 1) **Prior to applying for designation, it is important for a municipality to review the Criteria Guidance documents to make sure that it is complying with the most recent guidance available.** To fully understand all five criteria, it is important to review all the detailed guidance for each criterion. Links to the web pages containing all Criteria Guidance documents are available in this document and at the [Green Communities Designation and Grant Program](#) page of DOER's website.
- 2) A municipality applies to DOER's Green Communities Division (the Division) for designation to demonstrate that it meets the five specific designation criteria. These criteria, along with documentation submission requirements, are outlined in this document. **Please note: if all the required documents listed are not included as part of the submission, the Division reserves the right to reject the application in its entirety.**
- 3) The Division reviews the application and determines whether a municipality meets the five criteria. The Division then informs the municipality of its decision. If designated a Green Community, the municipality then will be informed of the amount of its grant award.
- 4) The designated municipality submits a project proposal in the amount of its grant award.
- 5) The Division reviews the designated municipality's grant application and determines if the proposed projects are eligible for funding and are effective in terms of cost and energy savings.

This Program Guidance document is available at the [Green Communities Designation and Grant Program](#) page of DOER's website.

*Updated 8/21/2023***INSTRUCTIONS****Designation Application (Required)**

To receive grant funding, the applicant first must be designated as a Green Community. To receive official designation as a Green Community, the applicant must complete the Designation Application and submit it to the Division for review. Once the Division has completed its review, it will notify the applicant whether it has been designated a Green Community.

**Preliminary Consultation (Optional)**

Those municipalities that wish to have their designation criteria reviewed prior to formally submitting a Designation Application may request a preliminary consultation with the Division. To receive a preliminary consultation, an applicant must submit an electronic request via email to its [Regional Coordinator](#). The request must specify which criterion or criteria for which the applicant is seeking consultation and include draft supporting documents. Preliminary consultation requests may be submitted at any time up until four weeks prior to application deadline. Requesting a preliminary consultation early is recommended to allow time for Division review and consultation and for potential revision by the municipality before documents are presented for adoption at a Town Meeting.

Please note that comments by Division staff during a preliminary consultation do not represent designation approval.

**Deadline for Designation Application**

**Designation applications for 2023 will be accepted through March 31, 2023 for the spring round, and December 29, 2023 for the fall. Applications must have all post-review issues resolved by within three weeks of application deadline to be considered for designation.**

To apply: Application is an entirely online process; no hard copies of any documents are to be submitted. Instructions for applying online are contained in this document. Contact your Regional Coordinator for access to the Green Communities Online Designation Application system.

**Grant Application (Required for funding)**

Once designated and informed of its grant amount, each Green Community is eligible to submit a proposal for the use of its grant award. Designated Green Communities must fill out a grant application (provided by DOER) and submit it for consideration. Award amounts will be based on available funds and a predetermined grant allocation formula.

Grant awards resulting from this process will be governed by 815 CMR 2.0.






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## Requirements for Becoming Designated as a Green Community

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### REQUIREMENTS FOR MEETING THE CRITERIA TO BE DESIGNATED AS A GREEN COMMUNITY

As outlined in MGL c. 25A §10(c), a municipality must do ALL of the following:

#### **Participation by Municipalities Served by Municipal Light Plants**

The Green Communities Act requires a specific path forward for municipalities served by municipal light plants that adopt the renewable energy charge to participate in the Green Communities Designation and Grant program. Some municipalities, however, do not clearly fit into the provisions of this statutory requirement because they are in the unusual situation of being served by multiple load serving entities - by an MLP as well as an investor-owned utility. DOER issued the following Guideline in May 2012:

**Municipalities served by BOTH a municipal light plant and an investor-owned electric utility ARE eligible to apply for and become a designated Green Community.**

Please note that any community in this category must submit to DOER materials (such as letters from its utility and the board of its municipal light plant) documenting that the community receives service from both entities.

---

### CRITERION 1: AS-OF-RIGHT SITING – RENEWABLE ENERGY (RE) / ALTERNATIVE ENERGY (AE)

A municipality must provide zoning in designated locations for the as-of-right siting of:

1. renewable or alternative energy generating facilities,  
OR
2. renewable or alternative energy research and development (R&D) facilities,  
OR
3. renewable or alternative energy manufacturing facilities

#### **IMPORTANT LINK:**

[Criterion 1 Guidance Documents](#)

Updated 8/21/2023

**Documentation Required to Meet Criterion 1**

The following documentation must be provided as evidence that the municipality has met this criterion.

- Brief description of the qualifying section of the bylaw or ordinance that identifies designated locations
- Color copy of the zoning map that shows area zoned
- Applicable sections of the zoning bylaw or ordinance
- Important zoning definitions
- Relevant section of the use table and any key that will help DOER interpret the use table
- Any related local regulations applicable to facilities sited under the bylaw/ordinance—such as site plan review regulations—so that DOER can confirm that the related local regulations are non-discretionary; and
- For RE/AE R&D and/or Manufacturing Facilities only: yield calculations, either in the text of the letter provided by municipal legal counsel or attached.
- For RE/AE R&D and/or Manufacturing Facilities only: if meeting the criterion through *existing* bylaws or ordinances, applicants must provide a letter from municipal legal counsel certifying that the existing zoning complies with the RE/AE Facilities criterion. In terms of specific contents, the letter must cite and summarize the pertinent section of the zoning ordinance/bylaw.

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**CRITERION 2: EXPEDITED PERMITTING**

A municipality must adopt an expedited application and permitting process under which Criterion 1 facilities may be sited within the municipality, and the permitting process shall not exceed one (1) year from the date of initial application to the date of final approval.

- The expedited application and permitting process applies only to proposed facilities that are subject to the Criterion 1 as-of-right siting provision.
- An applicant can meet this requirement by applying the expedited permitting process of MGL c 43D to these zoning districts.
- Having a 43D site is NOT a requirement. See below for “Local Expedited Permitting Process.”

**IMPORTANT LINK:**

[Criterion 2 Guidance Document](#)

**Documentation Required to Meet Criterion 2**

The following documentation must be provided as evidence that an expedited application and permitting process has been fully adopted for the Criterion 1 as-of-right zoned parcels.



Updated 8/21/2023

Local Expedited Permitting Process

- Municipalities must provide DOER with a letter from municipal legal counsel affirming that nothing within the municipality's rules and regulations precludes issuance of a permitting decision within one year, along with the language addressing approval procedures and associated timing of any applicable bylaws/ordinances or regulations.
- The applicant should also include a color copy of the applicable map(s) showing that the areas where the expedited permitting applies coincide with the as-of-right zoned areas for Criterion 1. If appropriate, this map may be the same as the map provided for Criterion 1.

MGL c43D

- Municipalities must provide DOER with a certified copy of their City Council or Town Meeting vote designating the as-of-right zoned parcel(s) as a Priority Development Site.
- The applicant should also include a color copy of the applicable map(s) showing the areas where the expedited permitting applies.

**CRITERION 3: ENERGY BASELINE / 20 PERCENT ENERGY REDUCTION PLAN**

A municipality must establish an energy use baseline inventory for all municipal buildings (which includes school buildings, drinking water and wastewater treatment plants, pumping stations, and open spaces), vehicles, and street and traffic lighting. A municipality must also adopt a comprehensive five-year Energy Reduction Plan (ERP) designed to reduce that baseline by 20 percent after completion of a full five-years of implementing its ERP.

**IMPORTANT LINK:**

[Criterion 3 Guidance Documents](#)

**Documentation Required to Meet Criterion 3**

The municipality must provide a copy of the Energy Reduction Plan for reducing energy consumption by 20 percent in five years across all municipal buildings, school buildings, municipal and school vehicles, street and traffic lighting, drinking water and wastewater treatment plants, pumping stations and open spaces owned by the municipality. At a minimum, the Plan must include the following information:

- Identification of the inventory tool used
- Identification of the baseline year used
- The energy baseline, broken down by buildings, vehicles, water/sewer and streetlights.
- *Specific energy conservation measures* to be implemented to achieve reductions of at least 15 percent, the energy reductions to be achieved, the basis for the projected energy reductions, and a timeline with milestones to implement measures and achieve required energy reductions.
- *General strategies* to achieve 5 percent or less in energy reductions.
- Documentation that both the municipal government and local school district have adopted the energy reduction plan. If a regional school district is included as part of the designation, documentation that the regional school district has adopted the plan must be included. See Criterion 3 Guidance, "Energy Reduction Plan Guidance," for more details.

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#### CRITERION 4: PURCHASE ONLY FUEL-EFFICIENT VEHICLES

All Departments in the municipality must purchase only fuel-efficient vehicles for municipal use whenever such vehicles are commercially available and practicable.

##### IMPORTANT LINK

[Criterion 4 Guidance Documents](#)

##### Documentation Required to Meet Criterion 4:

The following documentation must be provided as evidence that the municipality has met this criterion:

- Copy of the policy or other mechanism adopted for purchasing only fuel-efficient vehicles
- Inventory of all vehicles (model, year, estimated MPG) including local school district vehicles, with exempt/non-exempt status indicated.
- A replacement plan for non-exempt vehicles with fuel-efficient vehicles
- Documentation that both the municipality and the local school district have adopted the fuel-efficient vehicle policy. If a regional school district is included as part of the designation, documentation that the regional school district has adopted the fuel-efficient vehicle policy must be included. See Criterion 4 Guidance, "Guidance and Model Policy for Purchasing Fuel Efficient Vehicles," for more details.

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#### CRITERION 5: MINIMIZE LIFE-CYCLE COSTS

A municipality must require all new residential construction over 3,000 square feet and all new commercial and industrial real estate construction to minimize, to the extent feasible, the life cycle cost of facilities/buildings by utilizing energy efficiency, water conservation, and other renewable or alternative energy technologies.

The recommended way for cities and towns to meet this requirement is by adopting the Stretch Code Regulations (225 CMR 22.00 and 225 CMR 23.00). **Note:** *There is no minimum 3,000 square foot threshold for new residential construction if your municipality adopts the Stretch Code. All new residential construction, irrespective of size/square footage, will be subject to the Stretch Code.*

Towns are advised to adopt the Stretch Code as a general bylaw at Town Meeting. Cities are advised to adopt the Stretch Code by general ordinance voted by City Council.

Should a community choose to not adopt the Stretch Code and choose to use another standard, the community must provide evidence that this alternative standard minimizes the life cycle energy costs for new construction and is enforceable by the community. *While this option exists, no municipality has successfully met the requirements of Criterion 5 in this manner.*

##### IMPORTANT LINKS

[Criterion 5 Guidance Documents](#)

**Documentation Required to Meet Criterion 5**

The following documentation must be provided as evidence to verify that the municipality has met this criterion:

**Stretch Energy Code**

The municipality must provide documentation of the city council or town meeting vote adopting 780 CMR 115.AA, the MA Board of Building Regulations and Standards (BBRS) Stretch Energy Code. ***The vote must include the effective date of the Stretch Energy Code.***

PLEASE NOTE: 780 CMR 120.AA is no longer in effect. **The municipality MUST adopt 780 CMR 115.AA.**

**Alternative Local Process**

The municipality must provide documentation of the standard adopted, the mechanism in place for requiring this criterion for new construction, and documentation of how this standard provides reduced life cycle energy costs.

NOTE: Municipalities planning to meet this criterion through a local process are encouraged to submit a description of the process, with supporting documentation, in advance of applying for designation. In this way, the Green Communities Division can provide feedback on the acceptability of the identified process for meeting this criterion.

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**MUNICIPALITIES SERVED BY MUNICIPAL LIGHT PLANTS (MLP)**

For municipalities served by MLPs, one of the following must apply to be designated a Green Community

- The MLP must have adopted the renewable energy charge; or
- The municipality must be served by an investor-owned electric utility in addition to the MLP.

**Documentation Required**

The municipality must provide evidence that one of the above applies. This can include:

- Documentation from the Massachusetts Renewable Energy Trust or Massachusetts Clean Energy Center verifying that the MLP has adopted the renewable energy charge
- Documentation from an investor-owned utility that it serves customers within the municipality's borders.




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## Online Instructions for Designation Application Process

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**First Step**—The city or town designates a single Point of Contact and provides to its Regional Coordinator the name, title, phone, email address, and legal address of city or town including zip code. The single Point of Contact receives an email invitation to the online application system. Follow the link provided in that email and create a member profile and password.

When the Point of Contact logs back into the system with his/her username and password, he/she will be directed to the Online Designation Application System. He/she will see a welcome message and navigation links in the left-hand column—“Instructions” and “Proceed to Fill Out Forms,” as well as some Tabs along the top. Click on either to expand the navigation menu, and click on any title to view information or alternatively click on a Tab.

**Second Step**—Log in to become familiar with the online system and the five (5) criterion forms. Click on “Instructions” and “Proceed to Fill Out Forms” to expand the navigation menu or use the Tabs along the top. Click any titles to see more information.

If you want to practice using the system, you can do so without using the <Submit> button and nothing will be saved. **Please submit each form only once.**

**Third Step**—Have ready in electronic form all the information and supporting files for each criterion. If possible, use a high speed (broadband) Internet connection rather than a dial-up connection, which could be frustratingly slow for uploading files.

If you do not see your city / town name on any of the forms or have any other problems or questions, please contact Jane Pfister ([jane.pfister@mass.gov](mailto:jane.pfister@mass.gov))

You do not have to submit all the criterion forms in the same online session but must submit them one by one. You cannot return to a partially completed form to change or add files. Each time you log in, you will see blank forms, even if you have submitted them previously. Do not worry - the information and files are saved to the online system when you see the confirmation page after each successful submission of a form.

For each form, choose your city / town name from the drop-down list, the first field in each form. Usually, multiple documents support a criterion. Please submit them as separate PDFs, rather than combined into a single file. For each file, begin the file name with city / town name, followed by criterion abbreviation (CR1, CR2, CR3, CR4, CR5), then wording that makes the content of the file clear.

For each designation criterion, you will upload one or more supporting files. You will see six (6) green “File Upload” lines on the bottom of each form.



*Updated 8/21/2023*

To attach a file, click on <Browse> button to browse on your computer, select the file, then double click on it. You can repeat the process on each green line. If you have more than six (6) files for a criterion form, create a Compressed (zipped) file. Upload and name the compressed files the same way you named and uploaded single files.

When submitting a form, you may receive the following message: "This form is non-secure - do you still want to send it?" This is just informational and nothing to worry about. Answer <Yes>. You'll go to a confirmation page if the submission was successful.

Each time you submit a form, you will get redirected to a confirmation page that your submission was successful. You will also get an email message confirming that DOER's Green Communities Division has received the submission and the number of files uploaded with it.

### **Creating a Compressed (zip) file**

1. Put all the files (e.g. more than six) you want to attach somewhere on your computer where you can see all of them at the same time (e.g. in one folder).
2. Select all the files you wish to include by holding down the <Ctrl> key as you click each one. They will all be highlighted in blue.
3. Right click any of the highlighted files (put your cursor over one of the files and click the right button on your mouse or other pointing device).
4. Select <Send To> (about half way down the pop-up menu).
5. Select <Compressed (zipped) Folder/File> from the next pop-up menu.
6. Find the new file. It will have the name of one of the files you selected (in step 3), but with a .zip extension (e.g. Energy Reduction Plan.zip).
7. Rename the file to conform to DOER requirements. Right click the file name and select <Rename> (near the bottom of the menu).
8. Change only the name to the left of the period (i.e. keep the .zip extension). Begin with city/town name, followed by criterion code (CR1, CR2, CR3, CR4, CR5), then wording that makes the content clear.

**Fourth Step**—Review the Form and upload files listed there. If everything looks good, use the <Submit> button to submit the form. You will see a confirmation page if successful. You can then choose another criterion form to work on or log out and return later. If you are only practicing, do not use the <Submit> button and nothing will be saved to the online system. **Please submit only ONE form per criterion.**

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If you need to submit additional files, make a change, or have any other problems or questions, please contact Jane Pfister ([jane.pfister@mass.gov](mailto:jane.pfister@mass.gov)). Each time DOER receives a criterion form, you will receive an email within one business day confirming a successful submission and the number of files uploaded with it.



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

RECEIVED

2024 JAN 11 AM 8:48

CITY CLERK'S OFFICE  
GARDNER, MA

January 8, 2024

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

RE: Notification of Increased Chapter 90 Funding Received from Commonwealth

Dear Madam President and Councilors,

In the FY2024 Budget that was adopted by the Commonwealth in September of 2023, the City of Gardner was awarded \$522,700 in Chapter 90 funding.

The Massachusetts Department of Transportation defines Chapter 90 funds as follows:

*"The purpose of the Chapter 90 Program is to provide municipalities with an annual funding source for improvements to and investments in local transportation networks. Every municipality in the Commonwealth is allocated a portion of total program dollars. The Chapter 90 Program allows municipalities to evaluate their unique transportation needs and goals and allocate funding dollars accordingly."*

On December 11, 2023, the City received notice from the Healey- Driscoll Administration that the City's Chapter 90 allotment was going to be increased by \$306,552.00 from revenue collected by the new Fair Share Amendment that was adopted by the voters in the November 2022 election.

A copy of this notification is attached for your notice.

Respectfully submitted,

Michael J. Nicholson  
Mayor, City of Gardner



Maura Healey, Governor  
Kimberley Driscoll, Lieutenant Governor  
Monica Tibbitts-Nutt, Secretary & CEO

11165



December 11, 2023

Michael Nicholson  
Mayor  
95 Pleasant St  
Gardner, MA 01440

Dear Michael Nicholson,

We are pleased to announce that under the new administration of Governor Maura Healey and Lieutenant Governor Kim Driscoll, a total of \$100 million for Fiscal Year 2024 has been allotted from the Fair Share Amendment to support local infrastructure across the Commonwealth's 351 cities and towns.

Passed by voters in 2022, the Fair Share Amendment requires that revenue raised by the 4% surtax on taxable income over \$1 million be spent on public education and transportation. This apportionment continues to demonstrate the Administration's support in strengthening municipal partnerships and providing financial resources that support transportation improvements at the local level.

**This letter certifies that your community's Fair Share apportionment for Fiscal Year 2024 is \$306,552.00.**

The Fair Share Amendment funds will be distributed to communities using two formulas. The first \$50 million will be distributed using the traditional Chapter 90 formula based on local road mileage (58.33%), population (20.83%), and employment (20.83%). The other \$50 million will be distributed using a formula based on each municipality's share of road mileage.

This apportionment will automatically be incorporated into your existing Chapter 90 contract with MassDOT with no further action by the municipality. Apportionments for all communities are available online at [www.mass.gov/chapter-90-program](http://www.mass.gov/chapter-90-program). Please note that the bill enacting these funds has been signed; the funds are now available for municipal use.

We look forward to working with you in the coming year to continue the success of our municipal partnerships.

Sincerely,

Maura Healey  
Governor

Kim Driscoll  
Lieutenant Governor



**Mayor**

**From:** Pennucci, Kristen E. (DOT) <Kristen.Pennucci@dot.state.ma.us>  
**Sent:** Friday, January 5, 2024 1:08 PM  
**To:** Pennucci, Kristen E. (DOT)  
**Subject:** [EXTERNAL] MassDOT Fiscal Year 2024 Fair Share / Education and Transportation Funds and Prequalification Reminders

**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.

Good Afternoon,

MassDOT is pleased to inform you that official letters certifying local apportionments for the Fiscal Year 2024 Fair Share / Education and Transportation funds have been sent to the cities and towns of the Commonwealth. The funds, totaling \$100 million, are distributed through two distinct formulas:

- The initial \$50 million follows the traditional Chapter 90 formula, considering local road mileage (58.33%), population (20.83%), and employment (20.83%).
- The subsequent \$50 million is allocated based on each municipality's share of road mileage.

Each community will receive a total amount determined by these two formulas. This apportionment is automatically incorporated into a municipality's existing Chapter 90 contract with MassDOT with no further action required by the municipality. Funds shall be spent in accordance with the [Chapter 90 Program](#); therefore, projects will follow the same procedures for project approval, implementation, and reimbursement.

The detailed apportionments for all communities are accessible online at <https://www.mass.gov/info-details/fair-share-fy-2024-amounts-by-municipality>. The funds, now available for municipal use, aim to empower local initiatives and enhance community development.

Additionally, please be reminded of the important prequalification requirements for these funds and all state-funded projects.

As stated on the MassDOT [Prequalification Program](#) website, a MassDOT prequalified horizontal construction firm is required for a City/Town/OAA project, as follows:

- The project uses state funds where the cost exceeds \$50,000;
- The project is on a state-numbered road and/or highway;
- The project requires MassDOT Prequalification as a condition for State Funding Reimbursement; or

- A public entity (i.e., City/Town/Other Awarding Authority) chooses to require MassDOT Prequalification, regardless of funding source.

The Prequalification Program cannot provide an official list of qualified bidders after a project's bid opening date. To avoid procurement issues, submit the Prequalification Form, Engineer's Bid Item Estimate, and Scope of Work at least two weeks prior to the project's bid opening date. This will ensure that your municipality receives official lists of qualified bidders and will allow time for a contractor to submit a waiver for the project and appeal a waiver denial.

Please bookmark the [Prequalification Website](#) for information, forms, and other resources for the following:

- City/Town/Other Awarding Authority Prequalification Form
- Project Advertisement Language and Timeline
- Apparent 3 Lowest Bidders Form
- Unofficial Prequalified Contractor List
- Contractor and Subcontractor Evaluation Reports
- Waiver Lists, Distributing Plans and Specifications, Accepting Bids

Before you submit your documents to the Prequalification Program, submit your project request through the standard [Chapter 90 Program](#) process on MapIT.

Should you have any questions or require additional information, please do not hesitate to reach out. Please see a list of your District State Aid Engineers [at the bottom of this page](#) or email me and I can connect you.

We appreciate your continued collaboration and commitment to advancing our shared goals.

Happy New Year,  
Kristen

*Kristen Pennucci*

Community Grants Administrator  
Massachusetts Department of Transportation (MassDOT)  
Highway Division  
10 Park Plaza, Suite 7410



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

RECEIVED

2024 JAN 11 AM 8:48

CITY CLERK'S OFFICE  
GARDNER, MA

January 9, 2024

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

RE: Notification of Updated Road Priority List and Rating Methodology

Dear Madam President and Councilors,

In December 2023, the Department of Public Works and Engineering Department conducted a review of the City's paving priority list.

An updated review of the paving priority list, the methodology used in creating these ratings, and the estimated cost to pave every road on the list is hereby attached for your information.

It was the original plan of the Administration to pave all of the streets that were ancillary to the Uptown Rotary this year, however, due to a few outside factors, this will have to wait another year.

The first of these factors being that the Uptown Rotary Project isn't expected to be completed until October of 2024. Any changes to the layout of these tributary streets may cause delays in the construction of the Rotary project through the Commonwealth, and we are not looking to delay that project any further.

The Safe Routes to School program, that will be paving the sidewalks and street on Elm Street from Cherry Street to Temple Street has also been delayed a year by the Commonwealth, and any work on Elm Street before that work begins could cause further delays as well.

Lastly, the City just received the \$1,000,000.00 earmark from the Federal Government to install a new water transmission line between the Crystal Lake Water Treatment Facility and the James Street Storage Towers. This is going out to bid soon, with an anticipated Fall 2024/Spring 2025 construction date. This project would require us to dig through Green Street and Woodland Ave., so paving in the area this year would not be in the City's best financial interest.

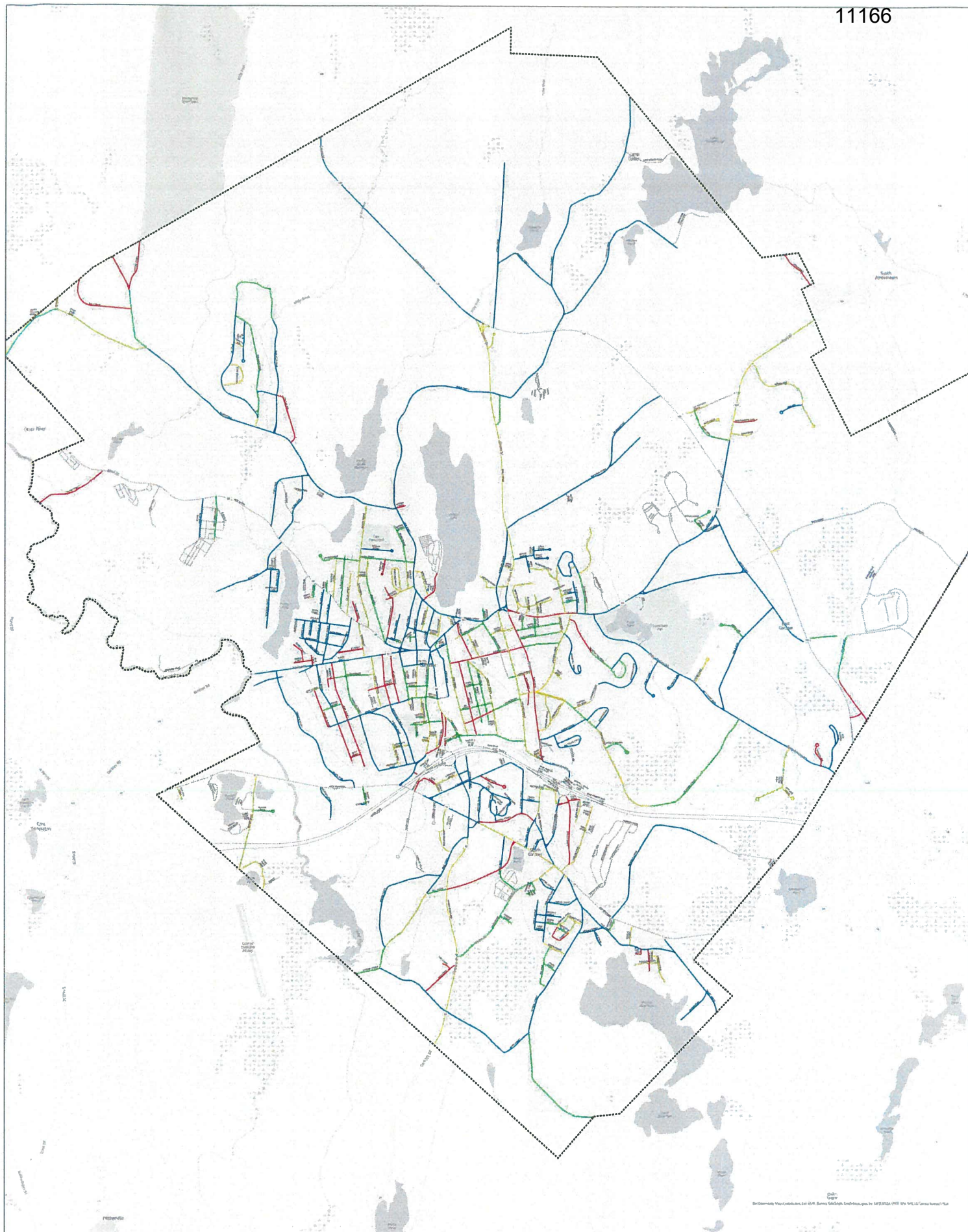
As such, the Administration is working on coming up with a new list of roads to pave this year. I will be sure to notify you when the final paving list has been created.

Respectfully submitted,

Michael J. Nicholson  
Mayor, City of Gardner

Rating System		Pave (yrs)
1	Beyond Repair - many pot holes, large cracks, loss of cross section, poor drainage and ride-abi	Immediate
2	Repairs Necessary - sporadic pot holes and trenches, cracks, beyond crack sealing	5
3	Crack Fill	10
4	Few expansion cracks, good ride-ability, crack seal within 5 years	15
Priority System		Examples
1	Main Road in and out of City, Heavy Traffic, Downtown Area, High Profile	Main, Central, Parker, Elm
2	Minor Collector Road, in and out of neighborhoods, several neighborhood streets connected	Chestnut, Baker, Jean, Park
3	Local Road, few side streets connected	Leamy, Chapel, Graham, Brookside
4	Minor Local Road, Traffic for fewer than 20 homes, Dead end Street	Kelton, Stephanie, Ken, Stone





Legend  
 Pavement Rating  
 1  
 2  
 3  
 4  
 5  
 Not Maintained by DPW



# Pavement Condition Index City of Gardner

December 2023



Map data by Esri, DeLorme, Garmin, and others. All rights reserved. City of Gardner, 2023. All rights reserved. City of Gardner, 2023. All rights reserved.















Lakewood Terrace	Central St.	Dead End	2008	3	5	8	8	-	28	383	0.07	3,539	265	\$ 22,560.62	\$ 1,191.56	4,847	\$ 1,915.00	\$ 30,514.51
Laura Street	Lovewell St.	Ken Dr.	2002	3	5	8	4	-	36	448	0.08	5,203	390	\$ 33,171.93	\$ 1,752.00		\$ 2,190.00	\$ 37,113.93
Linwood Street	Union St.	Dead End	2014	3	5	8	6	-	36	441	0.08	5,239	391	\$ 33,389.14	\$ 1,764.00	5,591	\$ 2,205.00	\$ 42,949.54
Mohawk Drive	Airport Road	Dead End	2019	3	5	8	6	3	28	593	0.11	5,479	411	\$ 34,930.67	\$ 1,844.99		\$ 2,965.00	\$ 39,740.55
Nelson Street	Blanchard St.	Elizabeth St.	1996	3	5	8	1	2	36	453	0.09	5,382	404	\$ 34,307.96	\$ 1,812.00	5,733	\$ 2,265.00	\$ 44,118.24
Nicholi Terrace	Temple St.	Dead End	2002	3	5	8	2	3	28	784	0.15	7,244	543	\$ 46,181.52	\$ 2,439.11		\$ 3,920.00	\$ 52,540.63
Green Street/Kelton St	Green St.	Eaton St.	2004	3	5	8	1	-	28	1,002	0.19	9,258	694	\$ 59,022.81	\$ 3,117.33		\$ 5,010.00	\$ 67,150.14
	Clairmont Street	Dead End	2011	3	5	8	3	-	28	50	0.01	462	35	\$ 2,945.25	\$ 155.56	633	\$ 250.00	\$ 3,983.62
Shawn Avenue	Robert Dr.	Dead End	2011	3	5	8	1	3	30	741	0.14	7,336	550	\$ 46,766.36	\$ 2,470.00	9,378	\$ 3,705.00	\$ 62,319.64
St. John's Road	West St.	Dead End	2013	3	5	8	7	-	28	398	0.08	3,678	276	\$ 23,444.19	\$ 1,238.22		\$ 1,990.00	\$ 26,672.41
Talcoit Avenue	West Broadway	Dead End	2011	3	5	8	6	-	28	584	0.11	5,396	405	\$ 34,400.52	\$ 1,816.89		\$ 2,920.00	\$ 39,137.41
Vaughn Street	Limrick St.	Dead End	2009	3	5	8	6	-	28	125	0.02	1,155	87	\$ 7,363.13	\$ 388.89		\$ 625.00	\$ 8,271.01
Parter Street	Barton Ave.	Templeton T. L.	2024	4	1	5	7	4	28	1,003	0.19	9,268	695	\$ 59,081.72	\$ 3,120.44		\$ 5,015.00	\$ 67,217.16
Betty Spring Rd	Pearl St.	Westminster T.L.	2018	4	1	5	1	-	28	934	1.77	86,431	6,482	\$ 50,997.37	\$ 29,101.33	118,387	\$ 45,076.00	\$ 745,255.27
Central Street	Main St.	Rolary	2022	4	1	5	8	3	40	3,363	0.64	44,392	3,329	\$ 32,929.66	\$ 14,946.57	42,563	\$ 16,815.00	\$ 357,321.09
City Hall Avenue	Cornors St.	Pleasant St.	2021	4	1	5	6	3	28	965	0.18	8,917	669	\$ 56,843.33	\$ 3,002.22	12,213	\$ 4,825.00	\$ 76,983.33
Clark Street	Park St.	Oto River Road	2018	4	1	5	8	2	28	9,832	1.86	90,848	6,814	\$ 57,915.33	\$ 30,589.44		\$ 49,160.00	\$ 658,902.40
Main Street	Willow Street	Central St.	2021	4	1	5	6	3	28	1,496	0.28	13,823	1,037	\$ 88,121.88	\$ 4,654.22	65,028	\$ 7,480.00	\$ 100,296.10
Matthews Street	Green St.	Route 140	2018	4	1	5	1	-	32	5,138	0.97	54,257	4,069	\$ 34,589.16	\$ 18,268.44		\$ 25,690.00	\$ 454,876.42
Park Street	Clark St.	Eaton St.	2023	4	1	5	8	3	28	3,807	0.72	35,177	2,638	\$ 22,425.34	\$ 11,844.00		\$ 19,035.00	\$ 255,130.34
Park Street	Central St.	Clark St.	2017	4	1	5	8	3	28	4,727	0.90	43,677	3,276	\$ 27,844.94	\$ 14,706.22		\$ 32,635.00	\$ 316,785.16
Parker Street	Jean St.	Barthel Ave	2008	4	1	5	7	3	28	2,024	1.802	19,727	1,480	\$ 125,762.18	\$ 6,842.22		\$ 10,675.00	\$ 174,241.89
Parker Street	Main Street	Jean Street	2002	4	1	5	7	3	28	2,135	0.40	19,727	1,480	\$ 125,762.18	\$ 6,842.22		\$ 10,675.00	\$ 143,079.40
Pearl Street	Elizabeth St.	Route 140	2022	4	1	5	1	2	36	6,800	1.29	80,784	6,059	\$ 51,498.00	\$ 27,200.00	86,063	\$ 34,000.00	\$ 662,260.50
Pearly Lane	Route 140	Pearly Lane		4	1	5	1	-	48	7,100	1.33	112,464	8,435	\$ 71,698.00	\$ 37,966.67	89,859	\$ 35,500.00	\$ 880,184.04
Pearson Boulevard	Pearl Street	Old Matthew Street		4	1	5	1	3	28	1,564	0.30	14,729	1,105	\$ 93,884.57	\$ 4,959.11	20,174	\$ 7,970.00	\$ 126,997.74
Pearson Boulevard	South Main St.	Elm St.	2015	4	1	5	2	4	28	1,066	0.21	10,127	760	\$ 64,559.88	\$ 3,409.78	13,871	\$ 5,480.00	\$ 87,320.91
Route 140/Green Street	Green St.	Winchendon T.L.	2022	4	1	5	8	-	28	1,868	0.32	15,579	1,168	\$ 99,313.83	\$ 5,245.33		\$ 6,490.00	\$ 112,989.16
Timpany Boulevard	Crawford Street	Dyer Street	2019	4	1	5	5	3	24	2,515	0.37	16,202	1,186	#####	\$ 53,266.67	101,123	\$ 39,950.00	\$ 1,202,877.85
West Broadway	State/Unn Garage	Warwick St	2019	4	1	5	4	2	28	1,919	1.494	19,919	1,494	\$ 116,292.35	\$ 6,706.67	31,830	\$ 12,575.00	\$ 178,094.49
West Street	State Ormed/monadnoc	Oak Street	2022	4	1	5	7	2	28	516	0.10	4,768	358	\$ 30,394.98	\$ 1,605.33	6,531	\$ 2,865.00	\$ 157,201.54
West Street	Graham Street	Chapel St.	2022	4	1	5	7	2	28	493	0.09	4,555	342	\$ 29,040.17	\$ 1,533.78	6,240	\$ 2,465.00	\$ 39,278.47
Willis Road	Brook Dr	Chapel St.	2021	4	1	5	1	-	32	1,353	0.26	14,288	1,072	\$ 91,083.96	\$ 4,810.67		\$ 2,765.00	\$ 102,655.63
Woodland Avenue	Central St.	Green St.	2022	4	1	5	1	3	40	2,588	0.49	34,162	2,562	\$ 32,717.80	\$ 11,502.22	32,754	\$ 12,940.00	\$ 274,976.80
Fredette S/VWilkins Rd	Parker St.	Wilkins Rd.	2024	4	2	6	6	4	36	4,47	0.90	56,394	4,230	\$ 59,514.05	\$ 18,988.00	60,079	\$ 32,735.00	\$ 462,316.28
Baker Street	Nichols Street	Coburn Ave	2018	4	2	6	6	2	30	2,642	0.50	26,156	1,962	\$ 16,674.23	\$ 8,806.67	33,438	\$ 13,210.00	\$ 222,197.70
Cornors Street	West Broadway	Glenwood St.	2017	4	2	6	4	-	28	2,935	0.56	27,119	2,034	\$ 17,288.18	\$ 9,131.11		\$ 14,675.00	\$ 196,992.29
Cornors Street	City Hall Ave	Parker St.	2022	4	2	6	6	4	28	464	0.09	4,287	322	\$ 27,331.92	\$ 1,443.66	5,873	\$ 2,320.00	\$ 36,967.98
Derby Drive	Main Street	West Lynde Street	2019	4	2	6	6	4	28	1,927	0.36	17,805	1,335	\$ 13,515.09	\$ 5,995.11	24,389	\$ 9,635.00	\$ 153,528.64
Eaton Street	West Broadway	Timpany Blvd	2023	4	2	6	5	3	28	351	0.07	3,243	243	\$ 20,675.66	\$ 1,092.00	4,442	\$ 1,755.00	\$ 27,965.00
Greenwood Street	Park St.	Green St.	2011	4	2	6	6	-	28	2,053	0.39	18,070	1,423	\$ 120,931.97	\$ 7,768.44	31,603	\$ 12,485.00	\$ 189,841.89
Lawrence Street	Temple St.	Greenwood Pl.	2021	4	2	6	2	4	28	2,827	0.54	26,121	1,959	\$ 16,652.44	\$ 8,795.11	35,779	\$ 14,135.00	\$ 225,233.76
Lennon Street	High St.	Elm St.	2014	4	2	6	2	-	18	1,614	0.31	9,587	719	\$ 61,118.15	\$ 3,228.00	20,427	\$ 8,070.00	\$ 92,843.33
Lovewell Street	Lovewell St.	Melcarf St	2021	4	2	6	3	4	28	818	0.15	7,558	567	\$ 48,184.29	\$ 2,544.89		\$ 4,090.00	\$ 54,819.18
Nichols Street	East Broadway	Westminster T.L.	2018	4	2	6	3	-	28	2,948	0.56	27,240	2,043	\$ 17,365.94	\$ 9,171.56	37,311	\$ 14,740.00	\$ 234,874.12
Nichols Street	Parker St.	City Hall Ave	2021	4	2	6	6	2	30	473	0.09	4,683	351	\$ 29,852.21	\$ 1,576.67	5,986	\$ 2,365.00	\$ 39,780.29
Oak Street	West St.	Park St.	2019	4	2	6	8	4	28	2,487	0.47	22,980	1,723	\$ 14,486.74	\$ 7,737.33	31,476	\$ 12,365.00	\$ 198,145.16
Pine Street	West Lynde Street	Central St.	2021	4	2	6	6	4	28	325	0.06	3,003	225	\$ 19,144.13	\$ 1,011.11		\$ 1,625.00	\$ 21,780.24
Pleasant Street	West Broadway	RR Bridge	2020	4	2	6	6	4	28	1,597	0.30	14,664	1,100	\$ 9,482.24	\$ 4,937.33	20,085	\$ 7,935.00	\$ 126,440.04
Pleasant Street	City Hall Ave	Main St.	2021	4	2	6	6	4	32	386	0.07	4,076	306	\$ 25,985.52	\$ 1,372.44	4,885	\$ 1,930.00	\$ 34,173.28
Prospect Street	East Broadway	Donna Ave.	2016	4	2	6	3	-	26	2,266	0.43	20,938	1,570	\$ 33,478.73	\$ 7,049.78		\$ 11,330.00	\$ 151,865.61
Vernon Street	Central St.	Richmond St.	2021	4	2	6	8	3	28	1,273	0.24	11,763	882	\$ 74,996.07	\$ 3,960.44	16,111	\$ 6,365.00	\$ 101,422.92
West Lynde Street	Main St.	Pine St.	2022	4	2	6	6	3	28	575	0.11	5,313	398	\$ 33,870.38	\$ 1,788.89		\$ 2,795.00	\$ 38,534.26
Acadia Road	West St.	Ryan St.	2021	4	2	6	8	-	28	2,255	0.42	20,651	1,449	\$ 13,165.62	\$ 6,953.33	28,287	\$ 11,175.00	\$ 178,056.73
Adams Street	Lovewell St.	Whitney St.	2011	4	3	7	4	-	28	990	0.19	9,148	696	\$ 58,315.95	\$ 3,080.00	12,530	\$ 4,950.00	\$ 78,875.64
Barthel Avenue	Parker St.	Baker St.	2012	4	3	7	6	-	28	2,004	0.38	18,517	1,389	\$ 18,045.62	\$ 6,234.67	25,363	\$ 10,020.00	\$ 159,663.41
Becky Avenue	Bertha Ave	Dead End	2019	4	3	7	1	4	28	516	0.10	4,768	338	\$ 30,394.98	\$ 1,605.33	6,531	\$ 2,580.00	\$ 41,110.94
Bertha Avenue	Green St.	Cypress St.	2019	4	3	7	1	-	36	654	0.12	7,770	583	\$ 49,530.69	\$ 2,616.00	8,277	\$ 3,375.00	\$ 63,693.88
Bickford Hill Road	Lawrence St.	Top of Hill	2021	4	3	7	2	-	28	1,275	0.24	11,781	884	\$ 75,103.88	\$ 3,966.67		\$ 6,375.00	\$ 85,445.54
Brookside Drive	Clark St.	Century way	2015	4	3	7	8	2	28	4,006	0.76	37,015	2,726	\$ 23,973.43	\$ 12,463.11	50,701	\$ 20,020.00	\$ 319,167.48
Chapel Street	Pearl St.	Willis Road	2019	4	3	7	1	-	28	3,432	0.65	31,712	2,378	\$ 20,216.96	\$ 10,677.33	43,438	\$ 17,160.00	\$ 273,435.54
Coleman Street	West St.	Parker St.	2022	4	3	7	7	4	28	1,746	0.33	16,133	1,210	\$ 10,284.13	\$ 5,432.00		\$ 8,730.00	\$ 117,010.13
Coleman Street	of Parker St.	GAMMA/Dead End	2022	4	3	7	6	-	28	486	0.09	4,491	337	\$ 28,627.83	\$ 1,512.00		\$ 2,430.00	\$ 32,569.83
Coleman Street	Coleman St.	Shore Dr	2021	4	3	7	7	4	28	1,772	0.34	16,373	1,228	\$ 10,437.66	\$ 5,512.89		\$ 8,860.00	\$ 118,752.55
Draper Road	West St.	Douglas Rd.	2022	4	3	7	7	4	28	1,052	0.20	9,720	779	\$ 61,968.06	\$ 3,272.89	13,314	\$ 5,260.00	\$ 83,815.32
Dyer Street	Timpany Blvd	Mill St.	2015	4	3	7	5	3	28	2,250	0.43	20,790	1,559	\$ 13,536.25	\$ 7,000.00	28,477	\$ 11,250.00	\$ 179,262.87
Eaton Street	Green St.	Kelton St.	2006	4	3	7	1	-	40	312	0.06	4,118	309	\$ 26,254.80	\$ 1,386.67		\$ 1,560.00	\$ 29,201.47



11166	Foss Road	West St	Douglas Rd	2022	4	3	7	7	4	24	904	0.17	7,160	537	\$ 45,642.96	\$ 2,410.67	11,441	\$ 4,520.00	\$ 64,014.88	
	Glenwood Street	Kendall Rd.	Conant St.	2017	4	3	7	4	3	28	1,887	0.35	16,974	1,273	\$108,208.49	\$ 6,715.11	20,541	\$ 9,186.00	\$ 123,108.60	
	Graham Street	West St.	Park St.	2019	4	3	7	8	3	28	1,623	0.31	14,997	1,125	\$ 95,602.82	\$ 5,049.33	20,541	\$ 8,115.00	\$ 129,308.24	
	Greenwood Place	Pleasant St.	Waterford St.	2016	4	3	7	6	4	28	1,178	0.22	10,885	816	\$ 69,390.09	\$ 3,664.89	27,768	\$ 5,890.00	\$ 78,944.98	
	High Street	Greenwood Pl	Baker St.	2021	4	3	7	6	-	28	2,194	0.42	20,273	1,520	\$129,237.57	\$ 6,825.78	27,768	\$10,970.00	\$ 174,801.16	
	Jackson Hill Road	East Broadway	Minot St.	2002	4	3	7	3	4	32	4,484	0.85	47,457	3,559	\$302,536.08	\$ 15,878.67	66,871	\$22,470.00	\$ 397,861.93	
	Kendall Street	Conant St.	Intervale Rd.	2017	4	3	7	4	-	28	1,311	0.25	12,114	909	\$ 77,224.46	\$ 4,078.67	16,592	\$ 6,555.00	\$ 104,450.47	
	Kraft Street	West Broadway	South Main St.	2022	4	3	7	4	-	28	1,946	0.37	17,981	1,349	\$114,629.13	\$ 6,054.22	13,410	\$ 9,730.00	\$ 143,131.35	
	Leo Drive	West Broadway	Clark St.	2021	4	3	7	8	3	28	5,165	0.98	47,725	3,974	\$304,244.33	\$ 16,068.89	65,370	\$25,825.00	\$ 411,507.75	
	Lovewell Street	Metcalf St.	Adams Street	2020	4	3	7	3	4	28	3,565	0.68	32,941	2,471	\$209,966.38	\$ 11,091.11	45,120	\$17,825.00	\$ 284,031.97	
	Monadnock Street	West St.	Way St.	2022	4	3	7	8	3	28	450	0.09	4,158	312	\$ 26,507.25	\$ 1,400.00	5,895	\$ 2,250.00	\$ 35,852.56	
	Rodland Street	Coleman St.	Parker St.	2022	4	3	7	7	4	28	1,291	0.24	11,929	895	\$ 76,046.36	\$ 4,016.44	11,411	\$ 6,455.00	\$ 86,517.80	
	Ryan Street	West Street	Acadia Road	2013	4	3	7	7	8	-	28	2,215	0.42	20,467	1,535	\$130,474.58	\$ 6,891.11	28,034	\$11,075.00	\$ 176,474.28
	Ryan Street	Clark Street	Acadia Road	2019	4	3	7	8	-	28	1,98	0.04	1,830	137	\$ 11,663.19	\$ 616.00	1,939	\$ 990.00	\$ 13,269.19	
	Smith Street	Pearl St.	Chapel St.	2019	4	3	7	1	-	32	3,746	0.71	39,558	2,967	\$252,180.72	\$ 13,319.11	29,967	\$18,730.00	\$ 284,229.83	
	South Main Street	West Broadway	Traverse Street	2016	4	3	7	3	4	36	1,602	0.30	19,032	1,427	\$121,327.47	\$ 6,408.00	20,275	\$ 8,010.00	\$ 156,020.78	
	Wasa Street	Coleman St.	Pond St.	2022	4	3	7	7	4	28	1,389	0.26	12,927	970	\$ 82,408.10	\$ 4,352.44	17,706	\$ 6,995.00	\$ 111,461.63	
	Waterford Street	Baker St.	Greenwood Pl.	2016	4	3	7	6	4	28	1,842	0.35	17,020	1,277	\$108,503.01	\$ 5,730.67	23,313	\$ 9,210.00	\$ 146,756.49	
	Whitney Street	Adams St.	Timpany Blvd.	2020	4	3	7	4	-	28	2,293	0.43	21,187	1,589	\$135,069.17	\$ 7,133.78	29,021	\$11,465.00	\$ 182,688.72	
	Whitney Street	Mill Street	Timpany Blvd.	2020	4	3	7	4	-	28	25,47	0.48	23,540	1,765	\$150,066.38	\$ 7,925.87	32,243	\$12,738.00	\$ 202,973.31	
Wickman Drive	Pond St.	Douglas Rd.	2022	4	3	7	7	4	28	957	0.18	8,843	663	\$ 56,372.09	\$ 2,977.33	10,710	\$ 4,785.00	\$ 64,134.42		
Industrial Rowe	West Broadway	Dead End	2023	4	4	8	6	4	28	1,094	0.21	10,109	758	\$ 64,442.07	\$ 3,403.56	11,411	\$ 5,470.00	\$ 73,315.63		
Keyes Road	West St.	Dead End	2023	4	4	8	7	4	28	2,783	0.53	25,715	1,929	\$163,932.62	\$ 8,658.22	7,961	\$13,915.00	\$ 186,505.84		
Bates Road	Coleman St.	Robillard St	2022	4	4	8	7	4	28	629	0.12	5,812	436	\$ 37,051.25	\$ 1,956.89	15,327	\$ 3,145.00	\$ 50,113.92		
Bear Hill Road	Fernwood Drive	Dead End	2021	4	4	8	8	3	28	1,211	0.23	11,190	839	\$ 71,333.96	\$ 3,767.56	15,327	\$ 6,055.00	\$ 96,483.23		
Carter Road	Pearl St.	Chapel St.	2019	4	4	8	1	-	36	571	0.11	6,783	509	\$ 43,244.69	\$ 2,284.00	7,227	\$ 2,855.00	\$ 55,610.40		
Century Way	Brookside Dr.	Fernwood Dr.	2015	4	4	8	8	-	28	634	0.12	5,858	439	\$ 37,345.77	\$ 1,972.44	7,227	\$ 3,170.00	\$ 42,488.21		
Charles Street	Prospect St.	High St.	2016	4	4	8	3	-	28	957	0.18	8,843	663	\$ 56,372.09	\$ 2,977.33	10,710	\$ 4,785.00	\$ 64,134.42		
Crawford Street	Timpany Blvd.	Mechanic St.	2002	4	4	8	4	3	28	322	0.06	2,975	223	\$ 18,967.41	\$ 1,001.78	4,075	\$ 1,610.00	\$ 25,654.50		
Crawford Drive	Bickford Hill Rd.	Bickford Hill Rd	1992	4	4	8	2	-	28	377	0.07	3,483	261	\$ 22,207.19	\$ 1,172.89	4,771	\$ 1,885.00	\$ 30,036.48		
Crestwood Drive	Bickford Hill Rd	Dead End	2022	4	4	8	2	-	28	2,521	0.48	23,284	1,747	\$148,489.51	\$ 7,843.11	31,906	\$12,605.00	\$ 200,854.02		
Eastwood Circle	Lennon St.	loop	2016	4	4	8	2	-	28	2,058	0.39	19,016	1,426	\$121,226.49	\$ 6,402.67	11,411	\$10,290.00	\$ 137,919.16		
Elizabeth Street	Pearl St.	Dead End	2016	4	4	8	1	4	28	1,012	0.19	9,351	701	\$ 59,611.86	\$ 3,148.44	11,411	\$ 5,060.00	\$ 67,820.30		
Jackson Park	Jackson Hill Rd.	Kendall St.	2017	4	4	8	4	-	28	1,014	0.19	9,369	703	\$ 59,729.67	\$ 3,154.67	9,998	\$ 5,070.00	\$ 67,954.34		
Metcalf Street	Lovewell St.	High St.	2016	4	4	8	4	-	28	790	0.15	7,300	547	\$ 46,534.95	\$ 2,457.78	9,998	\$ 3,950.00	\$ 52,941.17		
Middle Street	Wasa St.	Douglas Rd.	2022	4	4	8	7	4	28	633	0.12	5,849	439	\$ 37,286.87	\$ 1,969.33	7,227	\$ 3,165.00	\$ 42,421.20		
Nutting Street	Union St.	Prospect St.	2016	4	4	8	3	-	28	672	0.13	6,209	466	\$ 39,584.16	\$ 2,090.67	7,227	\$ 3,360.00	\$ 45,034.83		
Pond Street	Robillard St.	Wasa St.	2022	4	4	8	7	-	28	843	0.16	7,789	564	\$ 49,656.92	\$ 2,622.67	9,988	\$ 4,215.00	\$ 56,494.58		
Richmond Street	Lake St.	Graham Street	2021	4	4	8	8	3	28	341	0.06	3,151	236	\$ 20,086.61	\$ 1,060.89	4,316	\$ 1,705.00	\$ 27,168.28		
Sawyer Street	Dyer St.	Mill St.	2020	4	4	8	5	-	28	3,689	0.70	34,086	2,556	\$217,300.55	\$ 11,476.89	40,711	\$18,445.00	\$ 247,222.43		
Traverse Street	South Main St.	Bridge	2002	4	4	8	3	4	28	537	0.10	4,862	372	\$ 31,631.99	\$ 1,670.67	6,766	\$ 2,685.00	\$ 42,784.06		
Wavick Road	West Broadway	Bridge	2022	4	4	8	3	4	28	596	0.11	5,507	413	\$ 35,107.38	\$ 1,854.22	7,543	\$ 2,980.00	\$ 47,864.73		
Willis Road	Kendall Rd.	Jackson Hill Rd.	2022	4	4	8	4	-	28	1,147	0.22	10,598	795	\$ 67,564.04	\$ 3,568.44	11,411	\$ 5,735.00	\$ 76,867.48		
Winter Street	Betty Spring Rd.	Chapel Street	2019	4	4	8	1	-	36	3,833	0.73	45,536	3,415	\$290,292.26	\$ 15,332.00	47,543	\$19,165.00	\$ 324,789.26		
Zub Street	West Broadway	Mill St.	2014	4	4	8	4	-	28	1,038	0.20	9,591	719	\$ 61,143.39	\$ 3,229.33	13,137	\$ 5,190.00	\$ 82,699.91		
Princeton Street	Rugby Ln.	Dead End	2014	4	4	8	1	-	28	670	0.13	6,191	464	\$ 39,466.35	\$ 2,084.44	23,439	\$ 3,350.00	\$ 44,900.79		
Richardson Street	Rugby St.	Dead End	2023	4	4	9	7	3	-	28	1,852	0.35	17,112	1,263	\$109,092.06	\$ 5,761.78	23,439	\$ 9,260.00	\$ 147,553.21	
Richardson Street	Princeton St.	Watkins St.	2023	4	4	9	7	-	28	239	0.05	2,208	166	\$ 14,078.30	\$ 743.56	3,025	\$ 1,195.00	\$ 19,041.69		
Rugby Street	Keyes Rd.	Watkins St.	2023	4	4	9	7	-	28	363	0.07	3,354	252	\$ 21,382.52	\$ 1,129.33	4,316	\$ 1,815.00	\$ 24,326.85		
Watkins Street	Richardson St.	Rugby St.	2023	4	4	9	7	-	28	690	0.13	6,376	478	\$ 40,644.45	\$ 2,146.67	7,543	\$ 3,450.00	\$ 46,241.12		
Coleman Street	off Fredette St.	East Dead End	2023	4	4	9	6	-	28	141	0.03	1,303	98	\$ 8,305.61	\$ 438.67	9,885	\$ 7,05.00	\$ 9,449.27		
Coleman Street	off Fredette St.	West Dead End	2023	4	4	9	6	-	28	781	0.15	7,216	541	\$ 46,004.81	\$ 2,428.78	9,885	\$ 3,905.00	\$ 62,224.11		
Coleman Street	Ames Avenue	Summit Ave	2016	4	4	9	3	-	28	294	0.06	2,717	204	\$ 17,318.07	\$ 914.67	2,717	\$ 1,902.74	\$ 19,702.74		
Ashey Drive	Betty Spring Rd.	Dead End	2021	4	4	9	1	-	28	1,279	0.24	11,818	886	\$ 75,339.50	\$ 3,979.11	11,411	\$ 6,350.00	\$ 86,713.61		
Banner Road	Minot St	Dead End	2014	4	4	9	3	-	28	1,210	0.23	11,180	839	\$ 71,275.05	\$ 3,764.44	11,411	\$ 6,050.00	\$ 81,089.49		
Birch Street	From Cypress St	Dead End	2019	4	4	9	1	4	28	483	0.09	4,463	335	\$ 28,451.12	\$ 1,502.67	6,113	\$ 2,415.00	\$ 38,481.75		
Chapel Street	Willis Road	Dead End	2021	4	4	9	2	-	28	1,475	0.28	13,629	1,022	\$ 86,884.88	\$ 4,588.89	11,411	\$ 7,375.0			

Mechanic Street	Main Street	Dead End		4	5	9	6	-	28	211	0.04	1,950	146	\$ 12,428.96	\$ 656.44		\$ 1,055.00	\$ 14,140.40
Myrtle Road	Douglas Rd.	Dead End	2022	4	5	9	7	-	28	458	0.09	4,232	317	\$ 26,978.49	\$ 1,424.89		\$ 2,290.00	\$ 30,693.38
Norman Street	Racelle Ave.	Dead End	2021	4	5	9	8	-	36	944	0.18	11,219	841	\$ 71,493.84	\$ 3,776.00		\$ 4,720.00	\$ 79,989.84
Noire Dame Road	West St.	Dead End		4	5	9	7	-	28	1,243	0.24	11,485	861	\$ 73,218.92	\$ 3,867.11		\$ 6,215.00	\$ 83,301.03
Olde Colonial Drive	Betty Spring Rd	Dead End	2018	4	5	9	1	3	28	2,121	0.40	19,598	1,470	\$124,937.51	\$ 6,598.67	26,844	\$10,605.00	\$ 168,985.08
Orchle Street	May St.	Dead End	2015	4	5	9	8	-	28	841	0.16	7,771	583	\$ 49,539.11	\$ 2,616.44	10,644	\$ 4,205.00	\$ 67,004.46
Parker Hill Road	Lawrence St.	Dead End	2016	4	5	9	2	-	28	2,069	0.39	19,118	1,434	\$121,874.45	\$ 6,436.89		\$10,345.00	\$ 138,656.33
Partridge Street	East Broadway	Dead End	2023	4	5	9	3	3	32	5,386	1.02	56,876	4,266	\$562,585.52	\$ 19,150.22	68,167	\$26,930.00	\$ 476,832.30
Raymond Street	Keilton St.	Dead End	2021	4	5	9	1	-	28	5,514	1.04	50,949	3,821	\$324,802.17	\$ 17,154.67		\$27,570.00	\$ 369,526.84
Rouville Avenue	Summit Ave.	Dead End	2016	4	5	9	3	-	36	781	0.15	9,278	666	\$ 59,149.04	\$ 3,124.00		\$ 3,905.00	\$ 66,178.04
Shore Drive	Douglas Rd.	Dead End	2022	4	5	9	7	-	24	450	0.09	3,564	267	\$ 22,720.50	\$ 1,200.00		\$ 2,570.50	\$ 26,170.50
Spring Street	Talcott Street	Dead End	2011	4	5	9	6	-	28	135	0.03	1,247	94	\$ 7,952.18	\$ 420.00		\$ 675.00	\$ 9,047.18
Spring Street	Cypress St.	Dead End	2019	4	5	9	1	4	28	497	0.09	4,592	344	\$ 29,275.79	\$ 1,546.22	6,290	\$ 2,485.00	\$ 39,597.16
Stone Street	Green Street	Dead End		4	5	9	1	-	28	509	0.10	4,703	353	\$ 29,982.65	\$ 1,583.96		\$ 2,545.00	\$ 34,111.20
Stone Street	Route 140	Wheeler Street	2012	4	5	9	1	-	28	1,817	0.34	16,789	1,259	\$107,030.39	\$ 5,652.89		\$ 9,085.00	\$ 121,768.27
Stone Street	Wheeler Street	Dead End	2021	4	5	9	1	-	28	3,406	0.66	31,471	2,360	\$200,630.43	\$ 10,596.44		\$17,030.00	\$ 228,256.87
Summit Avenue	Arnes Ave	Dead End	2016	4	5	9	3	-	28	931	0.18	8,602	645	\$ 54,840.56	\$ 2,896.44		\$ 2,685.00	\$ 62,392.00
Teaberry Lane	Betty Spring Rd	Dead End	2021	4	5	9	1	-	36	537	0.10	6,380	478	\$ 40,689.70	\$ 2,148.00		\$ 2,685.00	\$ 45,502.70
Tracy Street	South Main St.	Glenwood St.	2017	4	5	9	3	-	28	535	0.10	4,943	371	\$ 31,514.18	\$ 1,664.44		\$ 2,675.00	\$ 35,853.62
Wachusettis Road	Intervale Rd.	Jackson Park	2017	4	5	9	4	-	28	797	0.15	7,364	552	\$ 46,947.29	\$ 2,479.56		\$ 3,985.00	\$ 53,411.84
Wheeler Street	Keilton St.	Stone St.	2021	4	5	9	1	-	28	2,202	0.42	20,346	1,526	\$129,708.81	\$ 6,850.67		\$11,010.00	\$ 147,569.48
									437,186	91.79							\$41,831,269.02	





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

**RECEIVED**

2024 JAN 11 AM 8:48

CITY CLERK'S OFFICE  
 GARDNER, MA

January 8, 2024

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

RE: Notification of Recent Grants Received by the City

Dear Madam President and Councilors,

As I have periodically done, I am providing you all with a notification about the recent grant funds received by the City from both the Commonwealth and Federal Government.

**Municipal Road Safety Grant**

**\$23,386.50**

The Office of Grants and Research is the State Administering Agency for traffic safety grants provided by National Highway Traffic Safety Administration (NHTSA). This grant program makes federal funds available to provide police departments substantial flexibility in addressing local traffic safety issues, allowing funding beyond enforcement to include equipment options and developing novel traffic-safety programs. The goal is to support traditional enforcement activities and develop new strategies to reduce roadway crashes, injuries, fatalities, and associated economic losses in Massachusetts.

**Shannon Anti-Gang Grant**

**\$50,000.00**

The Shannon Community Safety Initiative (CSI) is a multi-pronged approach to address a community's gang and youth violence problem using five strategy areas:

- Social intervention
- Suppression
- Opportunity Provision
- Organizational Change
- Community Mobilization

Gardner uses this grant to fund the annual Junior Police Academy

**Safet Routes For All – Action Planning Grant**

**\$230,000.00**

The Bipartisan Infrastructure Law (BIL) established the Safe Streets and Roads for All (SS4A) discretionary program with \$5 billion in appropriated funds over 5 years, 2022-2026. The SS4A program funds regional, local, and Tribal initiatives through grants to prevent roadway deaths and serious injuries.

Gardner plans to use these funds to conduct the required planning phases which will review safety upgrades that could be made to our most highly trafficked streets in Gardner and then apply for a construction and implementation grant in the next round once the required first phase is completed.

**Violence Against Women Act STOP Grant | \$11,261.77**

The VAWA STOP grant program helps to provide victims with the protection and services they need to pursue safe and healthy lives, while improving communities' capacity to provide justice for victims and hold offenders accountable. This is accomplished by forging state, local and tribal partnerships among police, prosecutors, judges, victim advocates, health care providers, faith leaders, organizations that serve culturally specific and underserved communities, and others.

This funding will be used to offset the cost of the Gardner Police Department's Domestic Violence Advocate position.

**DESE Early College Grant | \$50,000.00**

The purpose of this targeted grant is to provide support resources to Designated Early College programs. Designated K-12 districts will be the primary fiscal recipients and lead education agencies for these funds, however, the resources allocated are intended to support both the Designated secondary school and institute of higher education (IHE) partners in the development and sustainment of their Early College work.

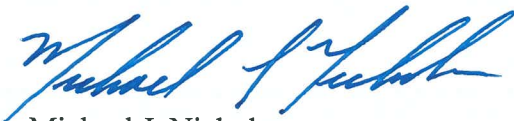
**Hybrid Programming for Councils on Aging Grant | \$84,920.00**

EOEA has opened a new \$1.45 million grant program to help Massachusetts Councils on Aging (COAs) offer Older Adults hybrid programs available both in person and virtually. Applicants can use grant funds to purchase equipment, hire staff, or cover expenses necessary for their hybrid program.

This was a joint application with the City of Gardner and the Town of Templeton to purchase new technology equipment for our respective senior centers to allow for more hybrid capabilities.

As always, if you have any questions, please feel free to contact me at any time.

Respectfully submitted,



Michael J. Nicholson  
Mayor, City of Gardner





City of Gardner - *Executive Department*

Mayor Michael J. Nicholson

RECEIVED

2024 JAN 11 AM 8:48

CITY CLERK'S OFFICE  
GARDNER, MA

January 8, 2024

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

RE: Notification Regarding 9C Cuts in State Budget

Dear Madam President and Councilors,

The Administration has been asked several times what the announced 9C cuts mean for our municipal funds.

At this time, there were no cuts made to any core municipal or school aid accounts.

Attached is the information the City has received on the matter from the Massachusetts Municipal Association.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Michael J. Nicholson", is written over a horizontal line.

Michael J. Nicholson  
Mayor, City of Gardner

**Mayor**

---

**From:** MA Municipal Assoc. <dkoffman@mma.org>  
**Sent:** Monday, January 8, 2024 3:02 PM  
**To:** Mayor  
**Subject:** [EXTERNAL] 9C Cuts Announced, Municipal and School Aid Accounts NOT Impacted

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.

## ADMINISTRATION TO CUT \$375M FROM FY24 BUDGET, MUNICIPAL & SCHOOL AID ACCOUNTS NOT IMPACTED

January 8, 2024

Dear Michael J. Nicholson,

After six months of state tax collections falling short of fiscal 2024 benchmarks, the Healey-Driscoll Administration today announced 9C cuts, or mid-fiscal year cuts, to the fiscal 2024 state budget. These reductions announced today do not directly impact core municipal and school aid accounts. There are various reduced earmarks from fiscal 2024 appropriations that may have a municipal impact.

Under Section 9C of Chapter 29 of Massachusetts General Laws, the governor has the authority to make unilateral cuts via executive branch agencies to address deficiencies in expected revenue. In light of the recent shortfall in tax collections, the Administration and Finance Secretary has advised the Administration to take multiple steps to reduce spending and rebalance the fiscal 2024 state budget.

Currently, state tax collections are \$769 million below the year-to-date benchmark, and December was the sixth consecutive month of below-benchmark tax revenue collections. As a result, the Healey-Driscoll Administration has reduced the fiscal 2024 tax revenue estimate by \$1 billion to \$40.41 billion, including surtax revenues. In addition, the Administration has directed spending reductions at Executive Branch agencies under the governor's authority. The complete list of line item reductions can be found here [ <https://www.mass.gov/doc/fy24-9c-line-item-listing/download> ] . For the remaining \$625 million shortfall, the Administration has identified certain revenue opportunities to increase non-tax revenue.

If you have any questions or need additional information, please contact MMA Deputy Legislative Director Jackie Lavender Bird at 617-426-7272 ext. 123 or [jlavenderbird@mma.org](mailto:jlavenderbird@mma.org) [ <mailto:jlavenderbird@mma.org> ] .

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[<https://twitter.com/massmunicipal>]

linkedin

[<https://www.linkedin.com/company/massachusetts-municipal-association>]

[<https://www.facebook.com/massmunicipal/>]

Massachusetts Municipal Association

3 Center Plaza

Suite 610

Boston, MA 02108

(617) 426-7272 | Email Us [ <mailto:alerts@mma.org> ] | View our website [ <https://www.mma.org/> ]



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

**RECEIVED**

2024 JAN 11 AM 8:49

CITY CLERK'S OFFICE  
 GARDNER, MA

January 8, 2024

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

RE: Notification Regarding an update related to the On-Street Parking Ban issued from January 6<sup>th</sup> through January 8<sup>th</sup>

Dear Madam President and Councilors,

Section 23 of Chapter 600 of the Code of the City of Gardner provides for the conditions and process for the City to issue an on-street parking ban. (A full copy of this section of the City Code is attached).

When I first took office, I promised to periodically inform the City Council as to how this process has been fairing when a ban has been issued.

Due to the predicted inclement weather, after consultation with the Police Department and the Department of Public Works, the Administration issued an on-street parking ban from 11:30pm (2330hr) on Saturday, January 6<sup>th</sup>, 2024 and expiring at 6:00am (0600hr) on Monday, January 8<sup>th</sup>, 2024, in order to allow crews to adequately clear the roads.

The following actions were taken to notify the public:

- The City's CodeRED system was used to notify residents at
  - 1:04pm on Friday, January 5, 2024,
  - 4:10pm on Saturday, January 6, 2024,
  - and 1:28pm on Sunday, January 7, 2024.
- Email notifications were sent to the Gardner News, Gardner Magazine, WGAW 1340AM Radio, and Gardner Educational Television at 1:04pm on Friday, January 5, 2024
- Posts were placed on the City's social media platforms at:
  - 12:56pm Friday, January 5, 2024
  - 4:16pm Saturday, January 6, 2024
- News alert was posted on the City's website at 12:45pm on Friday, January 5<sup>th</sup>, 2024

In checking with the Gardner Police Department after the ban was lifted, a total of 4 tickets were written and 28 cars were towed as a result of the ban, city-wide.

Respectfully Submitted,

Michael J. Nicholson  
 Mayor, City of Gardner

Select Language ▼

City of Gardner, MA  
Monday, January 8, 2024

## Chapter 600. Vehicles and Traffic

### Article VI. Stopping, Standing and Parking

#### § 600-23. All-night parking.

[Amended 3-18-2002; 2-2-2004 by Ord. No. 1399]

A. Parking ban.

[Amended 11-18-2013 by Ord. No. 1563; 10-1-2018 by Ord. No. 1615]

- (1) The Mayor, or designee, after consultation with the Police Department and the Department of Public Works, may order a parking ban to be put in place and enforced by the Gardner Police Department.
- (2) During the parking ban, no vehicles will be permitted to park on any public way, highway, or parking lot under the control of the City, except those locations listed in the later sections of this ordinance.  
[Amended 11-15-2021 by Ord. No. 1641]
- (3) Notification to residents about the ban will occur by posting the information through social media, the City's emergency alert system, notification to the local newspaper and/or by any other technology deemed fit for this purpose.
- (4) The parking ban shall expire upon notice from the Mayor, or designee, stating the date and time that the ban will expire. The Mayor, or designee, may choose to issue this notice at a separate date and time from when the ban is declared.
- (5) Fines issued by the Police Department by those in violation of this section shall be set according to the provisions of Chapter **390** of the Code of the City of Gardner.

B. There shall be no all-night parking at the following lots during this ban: Uptown Parking Lot.  
[Amended 2-1-2010 by Ord. No. 1508]

C. Chapter **512**, Parking, Article I, Interference with Snow and Ice Removal, of this Code shall take effect in the case of a parked motor vehicle or trailer which interferes with removal of snow and ice.

D. At the prescribed lots, during the parking ban, designated overnight parking areas shall be properly signed and parking shall be allowed until 7:00 a.m., unless otherwise noted. No vehicle may park in a designated overnight parking area, in any municipal lot, during the overnight parking ban, between the hours of 7:00 a.m. and 9:00 a.m., unless otherwise noted. Any vehicle or trailer parking in violation of the above shall be tagged and/or towed by the Police Department. The following are designated areas:

[Amended 1-19-2016 by Ord. No. 1585; 2-1-2010 by Ord. No. 1508; 9-6-2011 by Ord. No. 1531; 10-1-2018 by Ord. No. 1615]

- (1) West Street: north side facing Franklin Court.
- (2) Knowlton Street: east side facing Pleasant Street (one lane).

- (3) Knowlton Street: from 7:00 p.m. to 7:00 a.m., east side from the southerly point of entrance of the City Hall Annex driveway south 75 feet to the overnight parking area.
- (4) Pleasant Street: southerly boundary of lot (one lane).
- (5) Pleasant Street: northerly boundary of lot (one lane).
- (6) West Lynde Street Parking Lot South: 16 feet (two spaces) from the easterly corner of the southerly border of the lot then westerly the remaining distance (one lane).
- (7) West Lynde Street Parking North Lot: With the exception of the four parking spaces located outside of the enclosure, all City-designated parking spaces located in the lower level of the lot, except when the lot is posted for maintenance or weather-related cleanup. This lot is exempt from the 7:00 a.m. to 9:00 a.m. restriction on parking due to it being a covered lot.
- (8) George Sweeney Park: all spaces.
- (9) Prospect Street Parking Lot: all spaces along west boundary of lot.
- (10) Nichols Street Lot: west end running parallel to Nichols Street; east end running parallel to Connors Street.





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

**RECEIVED**

2024 JAN 11 AM 8:49

CITY CLERK'S OFFICE  
 GARDNER, MA

January 8, 2024

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

RE: Notification of Vacancies in Appointed positions

Dear Madam President and Councilors,

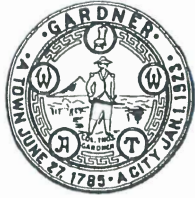
The Administration has begun to review and make a concerted effort in our appointments to our boards and commissions, in order to catch up to the backlog that has existed for the past few administrations in the City.

I am writing to notify you that the following vacancies currently exist among our appointees:

Commission	Number of Vacancies	Compensation
Municipal Grounds	1	\$750
Conservation Commission	1	\$750
Zoning Board Alternate	1	\$200
Golf Commission	1	Free Family Membership
Youth Commission	2	Volunteer
Disability Commission	1	Volunteer
Historical Commission	2	Volunteer
Bandstand Committee	2	Volunteer
Cultural Council	4	Volunteer
Constable	1	Fees Collected for Service

Respectfully submitted,

Michael J. Nicholson  
 Mayor, City of Gardner



CITY OF GARDNER, MASSACHUSETTS  
City Hall - Room 121 - 95 Pleasant Street  
Gardner, MA 01440-2630  
Tel: 978-630-4058 Fax: 978-630-2589

11117

Date Received

## APPLICATION FOR LICENSE TO BUY AND SELL SECOND HAND MOTOR VEHICLES

New \_\_\_ Renewal \_\_\_ Class 1 \_\_\_ Class 2 \_\_\_ Class 3 (Circle all that apply to this Application)

1. Legal Name of Business: SYLVESTER R ANGHUY  
(Name as registered with the Secretary of the Commonwealth's Corporations Division. If individual or partnerships enter names)
2. Doing Business As: SYLVESTER  
(If conducted under any name other than the Applicant's Legal Name. An active Business Certificate must be on file with the City Clerk)
3. Business Address: 146 Sherman Street, Gardner MA 01440  
(Complete street address where business will be conducted and P.O. Box, if any)
4. Business Tel. \_\_\_\_\_ Cellular 617-821-0792 Fax \_\_\_\_\_ E-Mail Slyanghuy@gmail.com
5. Is the business an individual, partnership, association or corporation? \_\_\_\_\_
6. If an individual, state full name and residential address: \_\_\_\_\_  
\_\_\_\_\_
7. If a partnership, state full names and residential addresses of all partners: \_\_\_\_\_  
\_\_\_\_\_
8. If an association or corporation, state full names of the principal officers:  
President \_\_\_\_\_  
Secretary \_\_\_\_\_  
Treasurer \_\_\_\_\_
9. Are you engaged principally in the business of buying, selling, or exchanging motor vehicles? YES
  - a. If so, is your principal business the sale of new motor vehicles? NO
  - b. Is your principal business the buying and selling or exchanging of second hand motor vehicles? YES
  - c. Is your principal business that of a motor vehicle junk dealer? NO
  - d. Is your principal business that of a "Repairs"? NO
  - e. Is your principal business that of "Repossession"? NO
9. Provide a complete description of all the premises to be used for the purpose of carrying on the business:  
Home is to be used for online sales only. Cars will be off site.
10. Are you a recognized agent of a motor vehicle manufacturer? YES \_\_\_\_\_ NO ✓  
If yes, state the name of the manufacturer: \_\_\_\_\_

11. Do you have a signed contract as required by Section 58, Class I? YES \_\_\_\_\_ NO ✓
12. Have you ever applied for a license to deal in second hand motor vehicles or parts thereof? YES ✓ NO \_\_\_\_\_  
 If yes, in what city or town? City Gardner
- Did you receive a license? YES \_\_\_\_\_ NO \_\_\_\_\_ For what year? \_\_\_\_\_
13. Has any license issued to you in Massachusetts or any other state to deal in motor vehicles or parts thereof ever been suspended or revoked? YES \_\_\_\_\_ NO ✓ If yes, please explain: \_\_\_\_\_

**Provide the following items/documentation with the completed Application form:**

- ☐ **Applicable License Application Processing Fee(s)**, check payable to **"City of Gardner"**
- ☐ **Surety Bond** in the amount of **\$25,000** executed by a surety company authorized to transact business in Massachusetts, or other equivalent proof of financial responsibility satisfactory to the municipal licensing authority. A separate bond shall be required for each different name under which the dealer conducts his business. (Applies only to Class 2 Dealers).
- ☐ **State and Federal Tax Certification Affidavit**
- ☐ City of Gardner **PERMIT/APPLICATION GOOD STANDING CERTIFICATE**
- ☐ **Criminal Offender Record Information (CORI) Authorization form.**
- ☐ **Workers Compensation Insurance Affidavit: General Businesses**
- ☐ **Parking Plan** (scaled 1" = 40 ft.) showing Building Department-approved parking layout. Six (6) copies shall be reduced to either 8½" x 11", or if applicable, 11" x 17".
- ☐ **Site Plan** (scaled 1" = 40 ft.) showing all available parking, driveways, entrances and exits, building location, etc. Six (6) copies shall be reduced to either 8½" x 11", or if applicable, 11" x 17".
- ☐ **Zoning Opinion** from the Building Commissioner.
- ☐ Planning Board and/or Board of Appeals Decisions (*if applicable*).

THE APPLICANT CERTIFIES THAT ALL STATE TAX RETURNS HAVE BEEN FILED AND ALL STATE AND LOCAL TAXES REQUIRED BY LAW HAVE BEEN PAID AND AGREES TO COMPLY WITH THE TERMS OF ITS LICENSE AND APPLICABLE LAW, AND ALL RULES AND REGULATIONS PROMULGATED THERETO. APPLICANT FURTHER CERTIFIES THAT THE INFORMATION CONTAINED IN THIS APPLICATION IS TRUE AND ACCURATE AND ALSO AUTHORIZE THE LICENSING AUTHORITY OR ITS AGENTS TO CONDUCT WHATEVER INVESTIGATION IS NECESSARY TO VERIFY THE INFORMATION CONTAINED IN THIS APPLICATION.

SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY.

*Salvatore P. Angiulli*

INDIVIDUAL, PARTNER OR AUTHORIZED CORPORATE  
OFFICER OR APPLICANT

DATE SIGNED \_\_\_\_\_

OR

EMPLOYER IDENTIFICATION NUMBER (EIN) \_\_\_\_\_

**License Fee must be submitted with this form. Make check payable to *City of Gardner*. Mail completed Application Form, along with all required documentation and check to: *City Clerk, 95 Pleasant Street, Room 121, Gardner, MA 01440*.**

**NOTICE:** The filing of this application confers no rights on the part of the Applicant to undertake any activities until the license has been granted. The issuance of a license under this section or sections is subject to the Applicant's compliance with all other applicable Federal, State or local statutes, ordinances, bylaws, rules or regulations. The Licensing Authority reserves the right to request any additional information it reasonably deems appropriate for the purpose of determining the terms and conditions of the License and its decision to issue a License. The provisions of G.L. c.152 requires the filing of a Workers' Compensation Insurance Affidavit with this application. Failure to file the Affidavit, along with any other required information and/or documentation, **shall be sufficient cause for the denial of the License application.**



**CITY of GARDNER**  
**Office of the City Clerk**  
 95 Pleasant Street, Room 121  
 Gardner, MA 01440  
 \*Tel. 978-630-4058 \*Fax: 978-630-2589

**TITI SIRIPHAN, City Clerk**  
**Faith A. Glover, Asst. City Clerk**  
**Elizabeth Doiron, Asst. City Clerk**

January 11, 2024

Hon. Elizabeth J. Kazinskas, President  
 And Members of the City Council  
 City Hall, 95 Pleasant Street  
 Gardner, MA 01440

**Re: Notice of Councillor at Large Vacancy**

Dear President Kazinskas and Members of the City Council:

I am writing to inform you that a vacancy shall exist in the position of Councillor at Large effective on Tuesday, January 2, 2024 at 7:12 p.m. The impending vacancy is due to the resignation of Councillor Carolyn A. Kamuda.

Consequently, the provisions of Section 32 of the *Charter of the City of Gardner* state, “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.”

The candidate receiving the seventh highest vote total in the November 7, 2023 City Election was Calvin D. Brooks, 147 Elm Street. I have spoken to Mr. Brooks and he has notified me that he will accept the appointment.

Should you have any questions, please feel free to contact me.

Sincerely,

Titi Siriphan  
 City Clerk

**Carolyn A. Kamuda**  
**400 Pleasant Street**  
**Gardner, MA 01440**  
**978-630-1953**  
**carolynkamuda@aol.com**

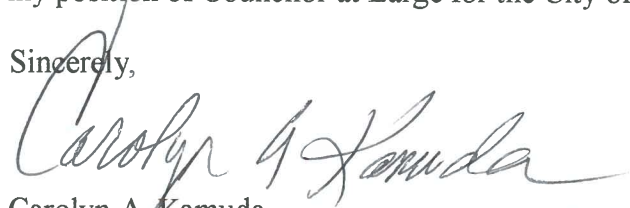
January 2, 2024

Titi Siriphan  
Gardner City Clerk  
95 Pleasant Street  
Gardner, MA 01440

Dear Ms. Siriphan,

I regret to inform you, the Mayor and the Gardner City Council that I am resigning from my position of Councilor at Large for the City of Gardner effective immediately.

Sincerely,

A handwritten signature in cursive script, reading "Carolyn A. Kamuda". The signature is written in dark ink and is positioned above the printed name.

Carolyn A. Kamuda



January 3, 2024

147 Elm Street  
Gardner, MA 01440

Re: City Council Vacancy

Dear Ms. Siriphan:

I understand from your email of January 3, 2024, that a vacancy exists in the position of Councilor at Large and that the provisions of the City Charter require that City Council appoint the person who received the seventh highest vote. Because I am that person, I am writing to say that I will accept the appointment.

I wish Carolyn Kamuda all the best in her future endeavors.

This city is a great place to live, work, and raise a family, and the support given to me in the past election, and truly throughout my life, has left me honored and humbled. I look forward to joining the City Council and working with the other councilors to make this community as good for future generations as it has been for me.

Sincerely,

A handwritten signature in dark ink, appearing to read "Calvin D. Brooks". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Calvin D. Brooks



**CITY OF GARDNER, MASSACHUSETTS**  
**NOVEMBER 7, 2023 CITY ELECTION**  
**Official Results**

The following is a result of the votes cast in the various precincts in the City of Gardner at the City Election held on November 7, 2023, as returned by the Precinct Clerks and tabulated by the City Clerk:

<b>MAYOR</b>	<b>1A</b>	<b>1B</b>	<b>2A</b>	<b>2B</b>	<b>3A</b>	<b>3B</b>	<b>4A</b>	<b>4B</b>	<b>5A</b>	<b>5B</b>	<b>TOTAL</b>
<b>BALLOTS CAST</b>	<b>536</b>	<b>228</b>	<b>405</b>	<b>450</b>	<b>334</b>	<b>427</b>	<b>320</b>	<b>253</b>	<b>301</b>	<b>481</b>	<b>3,735</b>
<b>KIMBERLY ANN BLAKE</b>	137	61	126	144	122	130	108	92	92	177	<b>1,189</b>
<b>MICHAEL JOSEPH NICHOLSON</b>	381	165	271	291	206	289	204	158	202	292	<b>2,459</b>
<i>Josh Cormier (Write-in)</i>	2	-	-	-	-	-	-	-	-	-	<b>2</b>
<i>Martin Gray (Write-in)</i>	-	-	4	-	-	-	-	-	-	-	<b>4</b>
<i>Neil Jansen (Write-in)</i>	-	-	-	1	-	-	-	-	-	-	<b>1</b>
<i>Dwayne Bouchard (Write-in)</i>	-	-	-	1	-	-	-	-	-	-	<b>1</b>
<i>Scott Graves (Write-in)</i>	-	-	-	1	-	-	-	-	-	-	<b>1</b>
<i>Mark Hawke (Write-in)</i>	-	-	-	-	-	-	-	-	1	-	<b>1</b>
<i>April Agnelli (Write-in)</i>	-	-	-	-	-	-	-	-	-	1	<b>1</b>
<i>Jonathan Teken (Write-in)</i>	-	-	-	-	-	-	-	-	-	1	<b>1</b>
<i>Anthony Agnelli (Write-in)</i>	-	-	-	-	-	-	-	-	-	1	<b>1</b>
<i>Gerald St. Hilaire (Write-in)</i>	-	-	-	-	-	-	-	-	-	1	<b>1</b>
<b>BLANKS</b>	16	2	4	12	6	8	8	3	6	8	<b>73</b>

<b>COUNCILLOR AT LARGE</b>	<b>1A</b>	<b>1B</b>	<b>2A</b>	<b>2B</b>	<b>3A</b>	<b>3B</b>	<b>4A</b>	<b>4B</b>	<b>5A</b>	<b>5B</b>	<b>TOTAL</b>
<b>BALLOTS CAST</b>	<b>536</b>	<b>228</b>	<b>405</b>	<b>450</b>	<b>334</b>	<b>427</b>	<b>320</b>	<b>253</b>	<b>301</b>	<b>481</b>	<b>3,735</b>
<b>CAROLYN A. KAMUDA</b>	192	92	177	236	150	196	156	132	138	227	<b>1,696</b>
<b>GEORGE C. TYROS</b>	302	102	189	201	158	238	144	110	148	226	<b>1,818</b>
<b>RONALD F. CORMIER</b>	288	97	167	204	150	223	149	108	135	221	<b>1,742</b>
<b>ELIZABETH J. KAZINSKAS</b>	351	120	246	246	184	220	192	125	162	248	<b>2,094</b>
<b>BRAD E. HEGLIN</b>	251	75	155	180	120	164	130	99	131	192	<b>1,497</b>
<b>JUDY A. MACK</b>	291	103	188	212	156	210	156	119	141	231	<b>1,807</b>
<b>JAMES M. HUNT</b>	153	72	128	149	112	130	102	76	114	161	<b>1,197</b>
<b>CALVIN D. BROOKS</b>	291	92	187	202	159	164	145	93	117	233	<b>1,683</b>
<b>CRAIG R. CORMIER</b>	273	104	168	194	157	221	157	110	137	201	<b>1,722</b>
<i>Brian Andrew (Write-in)</i>	-	-	1	-	-	-	-	-	-	-	<b>1</b>
<i>Glenn Rediker (Write-in)</i>	-	-	-	-	-	1	-	-	-	-	<b>1</b>
<i>Katherine Margoles (Write-in)</i>	-	-	-	-	-	-	1	-	-	-	<b>1</b>
<i>Bruce Chester (Write-in)</i>	-	-	-	-	-	-	-	-	1	-	<b>1</b>
<i>Scott J. Graves (Write-in)</i>	-	-	-	-	-	-	-	-	-	1	<b>1</b>
<b>BLANKS</b>	824	511	824	876	658	795	588	546	582	945	<b>7,149</b>



**CITY OF GARDNER, MASSACHUSETTS**  
**NOVEMBER 7, 2023 CITY ELECTION**  
**Official Results**

The following is a result of the votes cast in the various precincts in the City of Gardner at the City Election held on November 7, 2023, as returned by the Precinct Clerks and tabulated by the City Clerk:

<b>WARD ONE COUNCILLOR</b>	<b>1A</b>	<b>1B</b>	<b>2A</b>	<b>2B</b>	<b>3A</b>	<b>3B</b>	<b>4A</b>	<b>4B</b>	<b>5A</b>	<b>5B</b>	<b>TOTAL</b>
<b>BALLOTS CAST</b>	<b>536</b>	<b>228</b>									<b>764</b>
<b>DAVID R. THIBAUT-MUNOZ</b>	263	92									<b>355</b>
<b>JAMES F. WALLGREN</b>	227	106									<b>333</b>
<b>Peter Sargent (Write-in)</b>	1	-									<b>1</b>
<b>BLANKS</b>	45	30									<b>75</b>
<b>WARD TWO COUNCILLOR</b>	<b>1A</b>	<b>1B</b>	<b>2A</b>	<b>2B</b>	<b>3A</b>	<b>3B</b>	<b>4A</b>	<b>4B</b>	<b>5A</b>	<b>5B</b>	<b>TOTAL</b>
<b>BALLOTS CAST</b>			<b>405</b>	<b>450</b>							<b>855</b>
<b>DANA M. HEATH</b>			299	347							<b>646</b>
<b>John M. Curran (Write-in)</b>			-	1							<b>1</b>
<b>Guy McDonald (Write-in)</b>			-	1							<b>1</b>
<b>Val Cormier (Write-in)</b>			-	1							<b>1</b>
<b>Kylee Caruso (Write-in)</b>			-	1							<b>1</b>
<b>Ed Perry (Write-in)</b>			-	1							<b>1</b>
<b>Steve Rockwood (Write-in)</b>			-	1							<b>1</b>
<b>BLANKS</b>			106	97							<b>203</b>
<b>WARD THREE COUNCILLOR</b>	<b>1A</b>	<b>1B</b>	<b>2A</b>	<b>2B</b>	<b>3A</b>	<b>3B</b>	<b>4A</b>	<b>4B</b>	<b>5A</b>	<b>5B</b>	<b>TOTAL</b>
<b>BALLOTS CAST</b>					<b>334</b>	<b>427</b>					<b>761</b>
<b>JEFFREY MICHAEL PALMIERI</b>					139	183					<b>322</b>
<b>PAUL GERARD TASSONE</b>					156	217					<b>373</b>
<b>Scott Rak (Write-in)</b>					1	-					<b>1</b>
<b>Pryore Felse (Write-in)</b>					-	1					<b>1</b>
<b>BLANKS</b>					38	26					<b>64</b>
<b>WARD FOUR COUNCILLOR</b>	<b>1A</b>	<b>1B</b>	<b>2A</b>	<b>2B</b>	<b>3A</b>	<b>3B</b>	<b>4A</b>	<b>4B</b>	<b>5A</b>	<b>5B</b>	<b>TOTAL</b>
<b>BALLOTS CAST</b>							<b>320</b>	<b>253</b>			<b>573</b>
<b>KAREN G. HARDERN</b>							226	195			<b>421</b>
<b>Mark Monahan (Write-in)</b>							2	-			<b>2</b>
<b>Mark Metzger (Write-in)</b>							2	-			<b>2</b>
<b>Mark White (Write-in)</b>							1	-			<b>1</b>
<b>Tim Horrigan (Write-in)</b>							1	-			<b>1</b>
<b>Mike Horrigan (Write-in)</b>							1	-			<b>1</b>
<b>Matthew P. Jee (Write-in)</b>							-	1			<b>1</b>
<b>Tony Hawk (Write-in)</b>							-	1			<b>1</b>
<b>BLANKS</b>							87	56			<b>143</b>



**CITY OF GARDNER, MASSACHUSETTS**  
**NOVEMBER 7, 2023 CITY ELECTION**  
**Official Results**

The following is a result of the votes cast in the various precincts in the City of Gardner at the City Election held on November 7, 2023, as returned by the Precinct Clerks and tabulated by the City Clerk:

<b>WARD FIVE COUNCILLOR</b>	<b>1A</b>	<b>1B</b>	<b>2A</b>	<b>2B</b>	<b>3A</b>	<b>3B</b>	<b>4A</b>	<b>4B</b>	<b>5A</b>	<b>5B</b>	<b>TOTAL</b>
<b>BALLOTS CAST</b>									<b>301</b>	<b>481</b>	<b>782</b>
<b>ALEKSANDER H. DERNALOWICZ</b>									227	350	577
<i>Daniel Forte (Write-in)</i>									-	1	1
<b>BLANKS</b>									74	130	204

<b>SCHOOL COMMITTEE</b>	<b>1A</b>	<b>1B</b>	<b>2A</b>	<b>2B</b>	<b>3A</b>	<b>3B</b>	<b>4A</b>	<b>4B</b>	<b>5A</b>	<b>5B</b>	<b>TOTAL</b>
<b>BALLOTS CAST</b>	<b>536</b>	<b>228</b>	<b>405</b>	<b>450</b>	<b>334</b>	<b>427</b>	<b>320</b>	<b>253</b>	<b>301</b>	<b>481</b>	<b>3,735</b>
<b>JOHN M. LaFRENIERE</b>	215	104	167	193	141	211	147	111	146	228	1,663
<b>STEPHEN P. SANDOVAL</b>	124	61	100	112	87	92	98	66	78	115	933
<b>ROBERT J. SWARTZ</b>	210	83	144	172	145	171	138	82	80	177	1,402
<b>MARGARET BISSONNETTE</b>	175	62	141	183	127	144	114	101	110	173	1,330
<b>BRANDON RICHARD HUGHEY</b>	188	64	122	152	100	130	93	72	95	139	1,155
<b>RACHEL ANN CORMIER</b>	357	129	193	234	162	243	177	129	165	236	2,025
<i>Jason Carl (Write-in)</i>	1	-	-	-	-	-	-	-	-	-	1
<i>Ayesha Coaxum (Write-in)</i>	-	-	2	-	-	-	1	-	1	-	4
<i>Mark Monahan (Write-in)</i>	-	-	-	-	-	-	1	-	-	-	1
<i>Joseph R. Lyman II (Write-in)</i>	-	-	-	-	-	-	-	1	-	-	1
<i>Bruce Chester (Write-in)</i>	-	-	-	-	-	-	-	-	1	-	1
<b>BLANKS</b>	338	181	346	304	240	290	191	197	227	375	2,689

<b>QUESTION 1</b>	<b>1A</b>	<b>1B</b>	<b>2A</b>	<b>2B</b>	<b>3A</b>	<b>3B</b>	<b>4A</b>	<b>4B</b>	<b>5A</b>	<b>5B</b>	<b>TOTAL</b>
<b>BALLOTS CAST</b>	<b>536</b>	<b>228</b>	<b>405</b>	<b>450</b>	<b>334</b>	<b>427</b>	<b>320</b>	<b>253</b>	<b>301</b>	<b>481</b>	<b>3,735</b>
<b>YES</b>	322	135	212	221	165	226	154	110	146	237	1,928
<b>NO</b>	138	72	143	179	130	152	119	98	114	175	1,320
<b>BLANKS</b>	76	21	50	50	39	49	47	45	41	69	487

<b>NO. OF VOTERS CASTING BALLOTS</b>	536	228	405	450	334	427	320	253	301	481	3,735
<b>NO. OF REGISTERED VOTERS</b>	1,519	887	1,513	1,548	1,513	1,501	1,371	1,345	1,313	1,562	14,072
<b>PERCENTAGE OF REGISTERED VOTERS CASTING BALLOTS</b>	35.29%	25.70%	26.77%	29.07%	22.08%	28.45%	23.34%	18.81%	22.92%	30.79%	26.54%

A True Copy, Attest:

*Titi Siriphan*

Titi Siriphan, City Clerk

AN ORDINACNE TO AMEND THE CODE OF THE CITY OF GARDNER CHAPTER 600, ENTITLED  
“VEHICLES AND TRAFFIC”, SECTION 24, ENTITLED “PARKING PROHIBITED ON CERTAIN STREETS”

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

SECTION 1: Section 24, of Chapter 600 of the Code of the City of Garnder, entitled “Parking  
Prohibited on Certain Streets” by amended by adding the following

<u>Name of Street</u>	<u>Side</u>	<u>Location</u>
Comee St	West	Entire Length
Comee St	East	From Pearl Street southerly for a distance of 30 feet





# CITY OF GARDNER POLICE DEPARTMENT

200 Main Street • Gardner, Massachusetts 01440

**Emergency-Dial 911**

Main line: (978) 632-5600

Fax Line: (978) 630-4027



## **TRAFFIC COMMISSION - MEETING MINUTES**

Date: Thursday August 10, 2023 Time: 10am

Location: Community Classroom, GPD

Provided by Dept. Chief of Police Nick Maroni

1. Members in attendance: Call to Order: 10:03 am by D.C. Nicholas Maroni  
Dane Arnold – Director of DPW  
Rob Oliva – City Engineer  
Josh Cormier – Director of Civil Enforcement  
Craig Cormier – Councilor at large

Member(s) not in attendance- Trevor Beauregard

2. Waive reading / acceptance of meeting minutes from April 24, 2023
  - a. Motion by Dane, 2<sup>nd</sup> by Rob, All in favor – Unanimous.
3. Rob- updated on flashing school zone signs on Catherine St
  - a. Future updates to city ordinance to define current school zones.
4. Gardner ale house renting a parking spot on Parker St to designate as Pick up parking.
  - a. Josh- if allowed would this cause other businesses to ask too.
  - b. Dane-not in favor, large parking area behind business and across the street
  - c. Nick- limited parking already in the downtown area
  - d. Dane motion to not allow pick up parking for all of downtown, Rob 2<sup>nd</sup>, unanimous vote.
5. Pedestrian traffic concerns with new Tap House going in at Bullnose Park.
  - a. Rob- ask Tap house to help enhance crosswalks in area, flashing lights, push button to activate when pedestrians cross. Recommends city work with building owner to install flashing lights
6. New School Traffic and speeding on Catherine St.
  - a. Dane worked with school on new traffic pattern for drop off and pick up that should cut down on traffic. Tabled until start of school to see how it works.
7. Eliminate Parking Spot on Central St near the cross walk at Lake St on the Southwest travel side of Central St so pedestrians can be seen by motor vehicles.
  - a. Dane motioned, Josh 2<sup>nd</sup> All in Favor-Unanimous
  - b. Forwarded to Public Safety Committee
8. Remove handicap spot in front of 144 Central St and recommend city council to approve new Handicap spots on Central St at Monument Park.
  - a. Dane motioned, Josh 2<sup>nd</sup>, all in favor, unanimous.
  - b. Forwarded to Public Safety Committee
  - c. Let property owner know about removing Handicap spot in front of 144 Central.

9. Eliminate parking spot in front of crosswalk on west bound side of East Broadway at Prospect St so motor vehicles can see pedestrians in the cross walk.
  - a. Dane motioned, Rob 2<sup>nd</sup> all in favor, unanimous.
  - b. Forwarded to Public Safety Committee.
10. New Business
  - a. Rob suggested making whole length of westside of Comee St no parking and making no parking 30 ft from stop sign on east side heading from Pearl St
    - i. Dane motioned, Josh 2<sup>nd</sup> all in favor, unanimous will be forwarded to public safety committee.
  - b. Speeding on Elm St & Lawrence St, request more enforcement with school starting.
  - c. Craig asked about speeding issues on Chesley St
    - i. Nick stated Officers did enforcement in that area and we have not received any further complaints.

Conclusion: At 10:56 am Dane made a motion to adjourn the meeting, seconded by Craig

All in favor - Unanimous

Next Traffic Committee Meeting Schedule: TBD

AN ORDINANCE TO AMEND THE CODE OF THE CITY OF GARDNER CHAPTER 600, ENTITLED  
“VEHICLES AND TRAFFIC”, SECTION 24, ENTITLED “PARKING PROHIBITED ON CERTAIN STREETS”

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

SECTION 1: Section 24, of Chapter 600 of the Code of the City of Gardner, entitled “Parking  
Prohibited on Certain Streets” be amended by adding the following

<u>Name of Street</u>	<u>Side</u>	<u>Location</u>
Douglas Rd	South	From Coleman Street westerly for a distance of 30 feet



CITY OF GARDNER POLICE DEPARTMENT  
200 Main Street  
Gardner, MA 01440  
Phone (978) 632-5600  
Fax (978) 630-9045



Eric P. McAvene  
Chief of Police

Nicholas P. Maroni  
Deputy Chief of Police

Date: 12/5/2023

To Councilor Cormier, Committee Chairman, and members of the Public Safety Committee,

The Traffic Committee met on November 28, 2023 and discussed a few changes and recommendations to increase the safety of the City's roadways. The following are the changes and recommendations the Traffic Committee voted on, unanimously (6 of 6) to send to the Public Safety Committee for review.

1. City Ordinance change to §600-24 (Parking prohibited on certain Streets) due to parking spots being eliminated by new construction around Monument Park.

<b>Name of Street</b>	<b>Side</b>	<b>Location</b>
Park Street	South	From Cottage Street to Central St

2. Temporary 60 Day restricted parking trial on the North side of Edgell St to Westford St.
3. Recommended eliminating parking 30 ft southerly side of Douglas Rd.

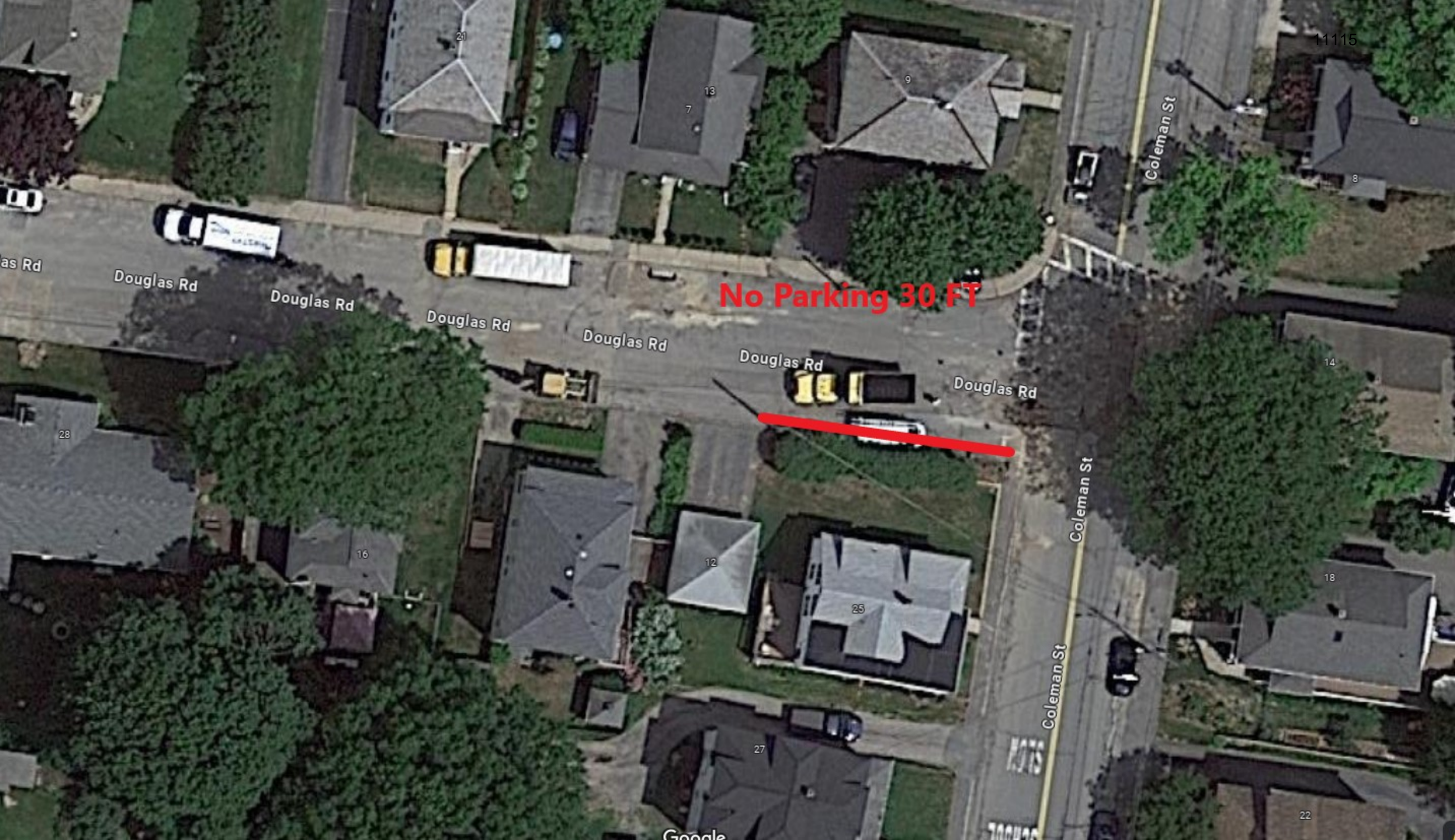
The commission appreciates your attention to these matters and members can be made available if further clarification is needed. Photos of the proposed areas have been attached.

Respectfully Submitted,

Nicholas Maroni  
Deputy Chief of Police/ Traffic Committee Commissioner

CC: Traffic Commission members, City Clerk





No Parking 30 FT

Coleman St

Coleman St

Coleman St

Douglas Rd

Douglas Rd

Douglas Rd

Douglas Rd

Douglas Rd

Douglas Rd

as Rd

Google





Cherry St

11115

Westford St

No parking

Comee St

Westford St

Edgell St

Edgell St

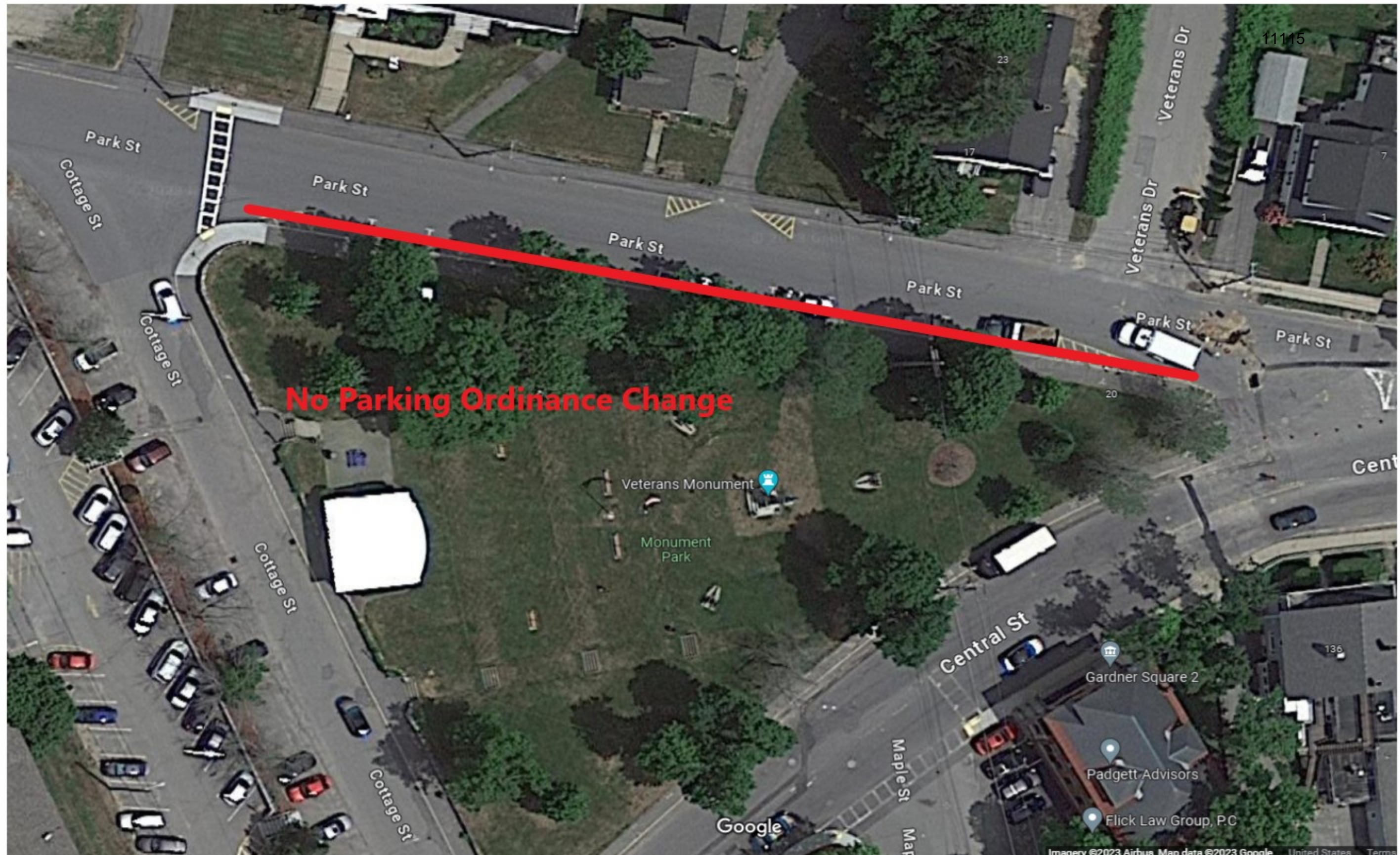
Edgell St

Lawrence St

Edgell St

Edgell St





**No Parking Ordinance Change**

Veterans Monument

Monument Park

Central St

Gardner Square 2

Padgett Advisors

Flick Law Group, P.C.

Google

Maple St

Park St

Park St

Park St

Park St

Park St

Park St

Veterans Dr

Veterans Dr

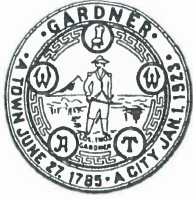
Cottage St

Cottage St

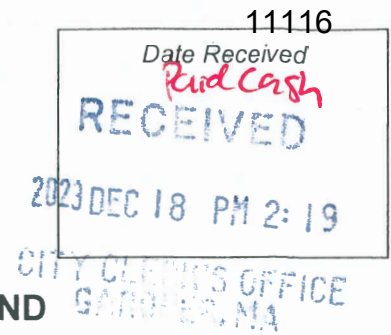
Cottage St

Cottage St





CITY OF GARDNER, MASSACHUSETTS  
City Hall - Room 121 - 95 Pleasant Street  
Gardner, MA 01440-2630  
Tel: 978-630-4058 Fax: 978-630-2589



APPLICATION FOR LICENSE TO BUY AND  
SELL SECOND HAND MOTOR VEHICLES

New \_\_\_ Renewal ✓ Class 1 - Class 2 - Class 3 (Circle all that apply to this Application)

1. Legal Name of Business: Northeast bus an truck sales LLC  
(Name as registered with the Secretary of the Commonwealth's Corporations Division. If individual or partnerships enter names)
2. Doing Business As: Gardner five Star Auto Sales  
(If conducted under any name other than the Applicant's Legal Name. An active Business Certificate must be on file with the City Clerk)
3. Business Address: 407 chestnut st Gardner MA 01440  
(Complete street address where business will be conducted and P.O. Box, if any)
4. Business Tel: 9784107171 Cellular 436950177 Fax \_\_\_\_\_ E-Mail Busandtruck@outlook.com
5. Is the business an individual, partnership, association or corporation? individual
6. If an individual, state full name and residential address: Jesús A Merino Monge  
170 E hadley Rd apt 138 Amherst MA 01440
7. If a partnership, state full names and residential addresses of all partners: \_\_\_\_\_
8. If an association or corporation, state full names of the principal officers:  
President \_\_\_\_\_  
Secretary \_\_\_\_\_  
Treasurer \_\_\_\_\_
9. Are you engaged principally in the business of buying, selling, or exchanging motor vehicles? yes
  - a. If so, is your principal business the sale of new motor vehicles? NO
  - b. Is your principal business the buying and selling or exchanging of second hand motor vehicles? yes
  - c. Is your principal business that of a motor vehicle junk dealer? NO
  - d. Is your principal business that of a "Repairs"? NO
  - e. Is your principal business that of "Repossession"? NO
9. Provide a complete description of all the premises to be used for the purpose of carrying on the business:  
Used car dealer  
small car repair
10. Are you a recognized agent of a motor vehicle manufacturer? YES \_\_\_\_\_ NO (circled)  
If yes, state the name of the manufacturer: \_\_\_\_\_

11. Do you have a signed contract as required by Section 58, Class I? YES \_\_\_\_\_ NO \_\_\_\_\_
12. Have you ever applied for a license to deal in second hand motor vehicles or parts thereof? YES \_\_\_\_\_ NO ✓  
 If yes, in what city or town? \_\_\_\_\_  
 Did you receive a license? YES \_\_\_\_\_ NO \_\_\_\_\_ For what year? \_\_\_\_\_
13. Has any license issued to you in Massachusetts or any other state to deal in motor vehicles or parts thereof ever been suspended or revoked? YES \_\_\_\_\_ NO ✓ If yes, please explain: \_\_\_\_\_

**Provide the following items/documentation with the completed Application form:**

- ☐ **Applicable License Application Processing Fee(s)**, check payable to **"City of Gardner"**
- ☐ **Surety Bond** in the amount of **\$25,000** executed by a surety company authorized to transact business in Massachusetts, or other equivalent proof of financial responsibility satisfactory to the municipal licensing authority. A separate bond shall be required for each different name under which the dealer conducts his business. (Applies only to Class 2 Dealers).
- ☐ **State and Federal Tax Certification Affidavit**
- ☐ City of Gardner **PERMIT/APPLICATION GOOD STANDING CERTIFICATE**
- ☐ **Criminal Offender Record Information (CORI) Authorization form.**
- ☐ **Workers Compensation Insurance Affidavit: General Businesses**
- ☐ **Parking Plan** (scaled 1" = 40 ft.) showing Building Department-approved parking layout. Six (6) copies shall be reduced to either 8½" x 11", or if applicable, 11" x 17".
- ☐ **Site Plan** (scaled 1" = 40 ft.) showing all available parking, driveways, entrances and exits, building location, etc. Six (6) copies shall be reduced to either 8½" x 11", or if applicable, 11" x 17".
- ☐ **Zoning Opinion** from the Building Commissioner.
- ☐ Planning Board and/or Board of Appeals Decisions (if applicable).

THE APPLICANT CERTIFIES THAT ALL STATE TAX RETURNS HAVE BEEN FILED AND ALL STATE AND LOCAL TAXES REQUIRED BY LAW HAVE BEEN PAID AND AGREES TO COMPLY WITH THE TERMS OF ITS LICENSE AND APPLICABLE LAW, AND ALL RULES AND REGULATIONS PROMULGATED THERETO. APPLICANT FURTHER CERTIFIES THAT THE INFORMATION CONTAINED IN THIS APPLICATION IS TRUE AND ACCURATE AND ALSO AUTHORIZES THE LICENSING AUTHORITY OR ITS AGENTS TO CONDUCT WHATEVER INVESTIGATION IS NECESSARY TO VERIFY THE INFORMATION CONTAINED IN THIS APPLICATION.

SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY.

Jesus A Merino Mance  
 INDIVIDUAL, PARTNER OR AUTHORIZED CORPORATE  
 OFFICER OR APPLICANT

DATE SIGNED

12/18/23

OR

EMPLOYER IDENTIFICATION NUMBER (EIN)

**License Fee must be submitted with this form. Make check payable to City of Gardner. Mail completed Application Form, along with all required documentation and check to: City Clerk, 95 Pleasant Street, Room 121, Gardner, MA 01440.**

**NOTICE:** The filing of this application confers no rights on the part of the Applicant to undertake any activities until the license has been granted. The issuance of a license under this section or sections is subject to the Applicant's compliance with all other applicable Federal, State or local statutes, ordinances, bylaws, rules or regulations. The Licensing Authority reserves the right to request any additional information it reasonably deems appropriate for the purpose of determining the terms and conditions of the License and its decision to issue a License. The provisions of G.L. c.152 requires the filing of a Workers' Compensation Insurance Affidavit with this application. Failure to file the Affidavit, along with any other required information and/or documentation, **shall be sufficient cause for the denial of the License application.**



**CITY of GARDNER**  
**Office of the City Clerk**  
 95 Pleasant Street, Room 121  
 Gardner, MA 01440  
 \*Tel. 978-630-4058 \*Fax: 978-630-2589

CITY OF GARDNER  
 NOTICE OF JOINT PUBLIC HEARING

Pursuant to G.L. 40A, § 5, notice is hereby given that the City Council and Planning Board will conduct a **Joint Public Hearing** on **Tuesday, January 16, 2024** at **6:45 P.M.** in the City Council Chamber, Room 219, City Hall, 95 Pleasant Street, Gardner, to consider amending Chapter 675, the Zoning Code of the City of Gardner. The proposed Amendment involves changing items:

- 11112** – 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, Referred to Planning Board 12/4/2023, More Time 12/18/2023)*
- 11113** – 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, Referred to Planning Board 12/4/2023; More Time 12/18/2023)*

Information regarding this amendment is available for viewing in the City Clerk’s Office, the Department of Community Development and Planning (DCDP), or on the City’s webpage – [www.gardner-ma.gov](http://www.gardner-ma.gov).

All persons interested in this matter and desire to offer testimony are invited to attend the hearing.

Titi Siriphan  
 City Clerk



# 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

11112



December 14, 2023

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

RECEIVED  
2023 DEC 14 PM 3:57  
CITY CLERK'S 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. (Submitted by Councilor Dana Heath)

Dear President Kazinskas:

At the Planning Board meeting on Tuesday, December 12, 2023, the Planning Board voted unanimously (5-0) to recommend the City Council approve and adopt the requested Zoning Amendment as referenced above. In addition, the Planning Board recommends to amend the Table of Uses by replacing Permitted by right (P) with Special Permit Planning Board (SPPB) in each of the relevant columns. The Planning Board also voted to hold Joint Public Hearing with the City Council.

Please do not hesitate to contact Trevor M. 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

**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 – An entity licensed by the Massachusetts Gaming Commission under the provisions of Chapter 173 of the Acts of 2022 of the General Laws to conduct sporting and wagering events.

**SECTION 2:** That Section 54 of Attachment 1 of Chapter 675 of the Code of the City of Gardner, entitled "Zoning- Table of Uses," be adding the term "Sports Betting Facility" to the description of use as follows:

54. Indoor amusement, fitness, or recreational place or place of assembly, provided that the building is so insulated and maintained as to confine noise to the premises and is located not less than 100 feet from a residential district, or a sports betting facility.

**SECTION 2:** That Section 56 of Attachment 1 of Chapter 675 of the Code of the City of Gardner, entitled "Zoning- Table of Uses," be adding the term "Sports Betting Facility" to the description of use as follows:

56. Public or commercial outdoor amusement or recreation use, or a sports betting facility, but not including outdoor drive-in movie theater.

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

# CITY OF GARDNER

DEPARTMENT OF COMMUNITY DEVELOPMENT AND PLANNING  
March 30, 2023



Elizabeth Kazinskas, Council President  
C/o Titi Sirphan, City Clerk  
95 Pleasant Street, Room 121  
Gardner, MA 01440

RE: **Petition 10892** – 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 its meeting on March 22, 2023, the Planning Board voted unanimously, 5-0, to recommend approving the proposed zoning amendment referenced above based on the information provided to them by the petitioner.

If the proposed amendment is approved, the Planning Board recommends the rewording of number 54 to read:

*Indoor amusement, fitness, recreational place, place of assembly, or a sports betting facility, provided that the building is so insulated and maintained as to confine noise to the premises and is located not less than 100 feet from a residential district.*

In addition, due to the potential significant scope and complexity of such a project if implemented under this proposed zoning amendment, the Board recommends changing the use table for number 54 from permitted by right (P) to Special Permit Planning Board (SPPB) for Commercial 1 and Commercial 2 zones; and number 56 from permitted by right (P) to Special Permit Planning Board (SPPB) for Commercial 2 and Industrial 1 zones.

The Planning Board looks forward to joining the City Council at the joint public hearing scheduled on Monday, April 3, 2023, at 6:30 p.m. Please contact Trevor Beauregard if you have any questions or need additional information.

Sincerely,

Mark M. Schafron, Planning Board Chairman

C: Mayor Michael J. Nicholson  
Trevor M. Beauregard, Director  
Richard Hanks, Interim Building Commissioner

City Hall Annex, 115 Pleasant Street, Room 201, Gardner, Massachusetts 01440  
Telephone: (978) 630-4011 ♦ Facsimile: (978) 632-1905 ♦ CDBG (978) 632-3800



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

RECEIVED  
2023 MAR 29 PM 1:21  
CITY CLERK'S OFFICE  
GARDNER, MA

March 29, 2023

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

RE: Item #: 10892 - Planning Board Follow Up

Dear Madam President and Councilors,

At the Planning Board Meeting of March 22, 2023, the Planning Board recommended changing the proposal from a permitted use ("P") in the table to a use requiring a special permit ("SP").

The Administration is more than acceptable to this proposal and would be amenable to it being made.

Respectfully Submitted,

Michael J. Nicholson  
Mayor, City of Gardner





# City of Gardner - Executive Department

Mayor Michael J. Nicholson

RECEIVED

2023 MAR 29 PM 1:21

CITY CLERK'S OFFICE  
GARDNER, MA

March 15, 2023

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

Mr. Mark Schafron, Chair  
And Planning Board Members  
Gardner City Hall, Manca Annex, Rm 201  
115 Pleasant St  
Gardner, MA 01440

RE: Joint Public Hearing Written Testimony – Item #10892: 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 Madam President and Councilors,

I am writing in favor of the Administration’s proposed Zoning Amendment to add the term “Sports Betting,” to line items 54 and 56 the Zoning Table of Uses.

In May of 2018, the United States Supreme Court struck down the federal Professional and Amateur Sports Protection Act (“PASPA”)<sup>1</sup>, also known as the Bradley Act, as unconstitutional in their ruling of *Murphy v. National Collegiate Athletic Association*<sup>2</sup>. This federal statute had effectively outlawed sports betting nationwide, except for a few excluded states. The Supreme Court had ruled this act as unconstitutional, thus paving the way for several states to legalize sports betting.

In August of 2023, former Governor Charlie Baker signed House Bill 5164 into law, legalizing online, retail, and kiosk sports betting in the Commonwealth for residents ages 21 and older. Retail sports betting went live on January 31, 2023, and online sports betting launched on March 10, 2023. Kiosk sports betting will go live later this year.

There are currently three (3) approved retail sites and ten (10) approved mobile betting applications. When kiosk sports betting goes live later this year, they will be allowed across the Commonwealth in locations that follow a specific procedure as outlined by the new law.

The Supreme Court of the United States has ruled on several occasions, that under the First Amendment of the Constitution, a municipality cannot outright ban a particular industry or business from opening within its borders, but can limit where these businesses are located.

Since the City cannot bar this type of business from opening in Gardner, and since this type of activity is not currently listed in the City’s Zoning Table of Uses, it leaves the City open to

<sup>1</sup> 28 U.S.C. ch.178 §3701 et seq.

<sup>2</sup> *Murphy v. NCAA*, 138 S.Ct. 1461 (2018).

liability of not being able to control whether these types of facility are located in largely residential neighborhoods or in areas in the City that may not be suited for this type of activity.

As such, it is the request of my Administration that this use be added to the City Code's Zoning table of uses under Line 54: Indoor Amusement, and Line 56: Outdoor Amusement, as these items fit the closest to the realm of sports betting.

This amendment to the Zoning Table of Uses, does not waive the other requirements these locations would have to go through should any sports betting facility open in Gardner in the future.

Per the requirements of the sports betting enabling legislation, any sports betting facility would have to enter into a Host Community Agreement ("HCA") similar to cannabis facilities in the Commonwealth. The Expanded Gaming Act requires that all applicants for sports betting licenses must first submit to the Massachusetts Gaming commission:

"a signed agreement between the host community and the applicant setting forth the conditions to have a gaming establishment located within the host community; provided, however, that the agreement shall include a community impact fee for the host community and all stipulations of responsibilities between the host community and the applicant, including stipulations of known impacts from the development and operation of a gaming establishment."

Additionally, after the HCA is approved by the City Council and signed by the Mayor, the City Council must then annually vote to allow the proposed establishment to operate a sports betting facility within the City at its location.

Lastly, before any facility should open, they must also go through the regular requirements for site plan approval and Development Review Committee vetting, both listed in Chapter §675-1010 of the City Code.

As such, this action to add this type of use to the Zoning Ordinances still requires this type of industry to be heavily regulated and vetted by the City by both branches of its government and its boards and commissions.

This action is simply being put forward to protect the City in the long run and pre-plan should one of these facilities come to Gardner rather than waiting and reacting if this should ever come up.

Respectfully Submitted,



Michael J. Nicholson  
Mayor, City of Gardner





**CITY of GARDNER**  
**Office of the City Clerk**  
95 Pleasant Street, Room 121  
Gardner, MA 01440  
\*Tel. 978-630-4058 \*Fax: 978-630-2589

CITY OF GARDNER  
NOTICE OF JOINT PUBLIC HEARING, continued

Pursuant to G.L. 40A, § 5, notice is hereby given that the City Council and Planning Board will conduct a **Joint Public Hearing** on **Monday, April 3, 2023 at 6:30 P.M.** in the City Council Chamber, Room 219, City Hall, 95 Pleasant Street, Gardner, to consider amending Chapter 675, the Zoning Code of the City of Gardner. The proposed Amendment involves changing items:

- **10891** – An Ordinance to Amend the Code of the City of Gardner, Chapter 675 Thereof, entitled “Zoning,” to Change the Classification of Certain Parcels of Land Along Route 140.
- **10892** – 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.
- **10893** – 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 increase the quota allowed by the Code of the City of Gardner

Information regarding this amendment is available for viewing in the City Clerk’s Office, the Department of Community Development and Planning (DCDP), or on the City’s webpage – [www.gardner-ma.gov](http://www.gardner-ma.gov).

All persons interested in this matter and desire to offer testimony are invited to attend the hearing.

Titi Siriphan  
City Clerk



**CITY of GARDNER**  
**Office of the City Clerk**  
95 Pleasant Street, Room 121  
Gardner, MA 01440  
\*Tel. 978-630-4058 \*Fax: 978-630-2589

CITY OF GARDNER  
NOTICE OF JOINT PUBLIC HEARING

Pursuant to G.L. 40A, § 5, notice is hereby given that the City Council and Planning Board will conduct a **Joint Public Hearing** on **Monday, March 20, 2023 at 6:30 P.M.** in the City Council Chamber, Room 219, City Hall, 95 Pleasant Street, Gardner, to consider amending Chapter 675, the Zoning Code of the City of Gardner. The proposed Amendment involves changing items:

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All persons interested in this matter and desire to offer testimony are invited to attend the hearing.

Titi Siriphan  
City Clerk



**City of Gardner - *Executive Department***

**Mayor Michael J. Nicholson**

February 3, 2023

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

RE: Zoning Ordinance Proposal- Sports Betting Facilities

Dear Madam President and Councilors,

As you are likely aware, on August 10, 2022, former Governor Charlie Baker signed Chapter 173 of the Acts of 2022 into law, legalizing sports betting in the Commonwealth.

This new addition to the General Laws, some parts of which have already taken effect while others will within the next few months, allows for the opening of new facilities across the Commonwealth where individuals can gamble and place wagers on sporting games.

Currently, these types of facilities are not governed by our zoning ordinance, as they were not allowed prior to the passage of this act. The attached ordinance proposal is being presented to help protect the City so that we can regulate where facilities like this can go and make sure that in the event that a facility like this looks to open in Gardner, it locates in a location that fits this use rather than in a largely residential area that could cause disruptions to a neighborhood.

I believe it is in the best interest of the City to be proactive in this matter in order to make sure the City has the tools in place before any situations may arise.

Respectfully Submitted,

A handwritten signature in blue ink, which appears to read "Michael J. Nicholson", is written over a horizontal line.

Michael J. Nicholson  
Mayor, City of Gardner

CC:  
City Council Public Welfare Committee  
Planning Board



## CITY OF GARDNER POLICE DEPARTMENT

200 Main Street  
Gardner, Massachusetts 01440  
Phone: (978) 632-5600  
Fax: (978) 632-9045



Eric P. McAvene  
Chief of Police

Nicholas P. Maroni  
Deputy Chief of Police

February 3, 2023

The Honorable Michael J. Nicholson, Mayor  
Gardner City Hall  
95 Pleasant Street  
Gardner, MA 01440

Re: Sports Betting Zoning Ordinance

Dear Mayor,

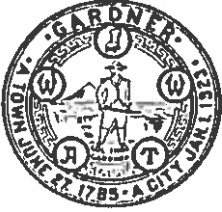
I have reviewed the proposed addition of the new Sports Betting Ordinance and do not see any issues from the police department. Any proposed facility should have a buffer between any residential zone and this ordinance reflects the new law.

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

Very truly yours,

A handwritten signature in black ink, appearing to read "CPA" followed by a stylized flourish.

Eric P. McAvene  
Chief of Police



**City of Gardner**  
**Department of Inspectional Services**  
**115 Pleasant Street, Room 101**  
**Gardner, MA 01440**  
Tel. (978) 630-4007 Fax: (978) 632-3313

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Feb. 7, 2023

RE: Text Amendment

Dear Mr. Mayor,

Please accept this letter as my full support for your proposed text amendment to our Zoning Ordinance regarding sports betting. I believe when new laws are enacted at a state level that a municipalities Zoning must change to reflect the new law, or be forced to react to a potential problem.

Do not hesitate to contact me should you need any further assistance.

Roland Jean  
Building Commissioner/Zoning Enforcement Officer  
City Hall Annex  
115 Pleasant St. RM 101  
Gardner, MA 01440  
(978) 630 4007  
rjean@gardner-ma.gov

**Mission Statement**

To promote the safe and compatible development of the community through fair and consistent enforcement of building codes and zoning ordinances



*Current Ordinance*

GARDNER CODE

Description of Use	SFR1	RR2	GR3	COM1	COM2		IND1	IND2
					P	SP		
49. Restaurant	NP	SP	NP	P	P		P	NP
50. Restaurant, fast-food, including appurtenant structures to provide drive-through or drive-in services	NP	NP	NP	SP	SP		NP	NP
51. Restaurant serving food or beverages with live or mechanical entertainment	NP	SP	NP	SP	P		NP	NP
52. Wholesale office or showroom, with storage limited to floor samples only	NP	NP	NP	P	P		P	P
53. Wholesale office or showroom with storage permitted on property	NP	NP	NP	SP	P		P	P
54. Indoor amusement, fitness, or recreational place or place of assembly, provided that the building is so insulated and maintained as to confine noise to the premises and is located not less than 100 feet from a residential district	NP	NP	NP	P	P		NP	NP
55. Outdoor commercial clubs and/or recreational establishments or use such as swimming pools, tennis courts, ski clubs, camping areas, skating rinks or other commercial facilities offering outdoor recreation	NP	SP	NP	P	P		NP	NP
56. Public or commercial outdoor amusement or recreation use but not including outdoor drive-in movie theater	NP	NP	NP	NP	P		P	NP
57. Bus station or terminal or railroad station for passengers	NP	NP	NP	P	P		P	NP
58. Transport terminal, warehouse distribution facility	NP	NP	NP	NP	NP		P	P
59. Contracting business and contractor's yard, including storage in the open'	NP	NP	NP	NP	SP		P	NP

# HOUSE . . . . . No. 5164

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## The Commonwealth of Massachusetts

The committee of conference on the disagreeing votes of the two branches with reference to the Senate amendment (striking out all after the enacting clause and inserting in place thereof the text contained in Senate document numbered 2862) of the House Bill regulating sports wagering (House, No. 3993), reports recommending passage of the accompanying bill (House, No. 5164). August 1, 2022.

Jerald A. Parisella	Michael J. Rodrigues
Aaron Michlewitz	Eric P. Lesser
David K. Muradian	Patrick M. O'Connor

FILED ON: 8/1/2022

**HOUSE . . . . . No. 5164****The Commonwealth of Massachusetts**

\_\_\_\_\_  
**In the One Hundred and Ninety-Second General Court**  
**(2021-2022)**  
 \_\_\_\_\_

An Act regulating sports wagering.

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

1           SECTION 1. Section 7 of chapter 4 of the General Laws is hereby amended by striking  
 2 out clause Tenth, as appearing in the 2020 Official Edition, and inserting in place thereof the  
 3 following clause:-

4           Tenth, "Illegal gaming", a banking or percentage game played with cards, dice, tiles,  
 5 dominoes, or an electronic, electrical or mechanical device or machine for money, property,  
 6 checks, credit or any representative of value, but excluding: (i) a lottery game conducted by the  
 7 state lottery commission under sections 24, 24A and 27 of chapter 10; (ii) a game conducted  
 8 under chapter 23K; (iii) sports wagering conducted under chapter 23N; (iv) pari-mutuel wagering  
 9 on horse races under chapters 128A and 128C and greyhound races under said chapter 128C; (v)  
 10 a game of bingo conducted under chapter 271; (vi) charitable gaming conducted under said  
 11 chapter 271; and (vii) a fantasy contest conducted under section 11M½.

12           SECTION 2. Section 7 of chapter 4 of the General Laws is hereby amended by striking  
 13 out clause Tenth, as inserted by section 1, and inserting in place thereof the following clause:-

Tenth, “Illegal gaming”, a banking or percentage game played with cards, dice, tiles, dominoes, or an electronic, electrical or mechanical device or machine for money, property, checks, credit or any representative of value, but excluding: (i) a lottery game conducted by the state lottery commission under sections 24, 24A and 27 of chapter 10; (ii) a game conducted under chapter 23K; (iii) sports wagering conducted under chapter 23N; (iv) pari-mutuel wagering on horse races under chapters 128A and 128C; (v) a game of bingo conducted under chapter 271; and (vi) charitable gaming conducted under said chapter 271.

SECTION 3. Chapter 12 of the General Laws is hereby amended by inserting after section 11M the following section:-

Section 11M½. Notwithstanding sections 24, 24A and 27 of chapter 10, chapter 271 or any other general or special law to the contrary, a person or entity that offers fantasy contests for a cash prize to members of the public may offer a fantasy contest to residents of the commonwealth pursuant to and in accordance with regulations promulgated by the attorney general; provided further, for the purposes of section 7 of chapter 4, a fantasy contest shall not be considered illegal gaming. “Fantasy contest” includes any fantasy or simulated game or contest, including, but not limited to, any fantasy or simulated game or contest based on professional sports events in which: (i) the value of all prizes and awards offered to winning participants are established and made known to the participants in advance of the contest; (ii) all winning outcomes reflect the relative knowledge and skill of the participants and shall be determined predominantly by accumulated statistical results of the performance of individuals, including athletes in the case of sports events; and (iii) no winning outcome is based on the score, point spread, or any performance or performances of any single actual team or combination of such

36 teams or solely on any single performance of an individual athlete or player in any single actual  
37 event.

38 SECTION 4. Section 4 of chapter 23K of the General Laws, as appearing in the 2020  
39 Official Edition, is hereby amended by inserting the following subsection:-

40 (42) regulate and enforce chapter 23N relating to sports wagering.

41 SECTION 5. The General Laws are hereby amended by inserting after chapter 23M the  
42 following chapter:-

43 CHAPTER 23N

44 AUTHORIZATION AND REGULATION OF SPORTS WAGERING

45 Section 1. This chapter shall be known and may be cited as the "Massachusetts Sports  
46 Wagering Act".

47 Section 2. Notwithstanding any general or special law to the contrary, the operation of  
48 sports wagering and ancillary activities shall be lawful when conducted in accordance with this  
49 chapter and the rules and regulations of the commission.

50 Section 3. As used in this chapter the following words shall, unless the context clearly  
51 requires otherwise, have the following meanings:

52 "Adjusted gross fantasy wagering receipts", the total gross receipts from fantasy contests  
53 as defined in section 11M1/2 of chapter 12, less only the total of all cash prizes paid to  
54 participants in the fantasy contests; provided, however, that the total of all cash prizes paid to



55 participants shall not include the cash equivalent of any merchandise or thing of value awarded  
56 as a prize.

57 “Adjusted gross sports wagering receipts”, the total gross receipts from sports wagering  
58 less the sum of: (i) the total of all winnings paid to participants; and (ii) all excise taxes paid  
59 pursuant to federal law; provided, however, that the total of all winnings paid to participants  
60 shall not include the cash equivalent of any merchandise or thing of value awarded as a prize.

61 “Affiliate”, a person who directly or indirectly controls, or is controlled by, or is under  
62 common control with, a specified person.

63 “Applicant”, a person who has applied for a license to engage in activity regulated under  
64 this chapter.

65 “Breaks”, the odd cents over any multiple of 10 cents of winnings per \$1 wagered.

66 “Category 1 license”, a license issued by the commission that permits the operation of  
67 sports wagering in person at a gaming establishment, as defined in section 2 of chapter 23K, and  
68 through not more than 2 individually-branded mobile applications or other digital platforms  
69 approved by the commission; provided, that the mobile applications or other digital platforms  
70 shall be qualified for and issued a category 3 license.

71 “Category 2 license”, a license issued by the commission that permits the operation of  
72 sports wagering in-person on the premises where either: (1) live horse racing is conducted in  
73 accordance with chapter 128A or (2) the licensee is authorized by law to conduct simulcast  
74 wagering on horse or greyhound racing, and through not more than 1 individually branded  
75 mobile application or other digital platform approved by the commission; provided, that the

76 mobile applications or other digital platforms shall be qualified for and issued a category 3  
77 license; provided further, that the commission may issue a category 2 license to: (1) a person or  
78 entity licensed by the commission in accordance with said chapter 128A to conduct a live horse  
79 racing meeting, (2) a running horse racing licensee that conducted simulcast wagering as of  
80 December 31, 2020 as authorized by law, or (3) a greyhound meeting licensee that conducted  
81 simulcast wagering as of December 31, 2020 as authorized by law; provided further, a category 2  
82 licensee shall make a capital investment of not less than \$7,500,000 within 3 years after  
83 receiving a sports wagering license.

84 “Category 3 license”, a license issued by the commission that permits the operation of  
85 sports wagering through a mobile application and other digital platforms approved by the  
86 commission.

87 “Close associate”, a person who holds a relevant financial interest in, or is entitled to  
88 exercise power in, the business of an applicant or licensee and, by virtue of that interest or  
89 power, is able to exercise a significant influence over the management or operation of a gaming  
90 establishment or business licensed under this chapter.

91 “Collegiate sport or athletic event”, a sport or athletic event offered or sponsored by, or  
92 played in connection with, a public or private institution that offers educational services beyond  
93 the secondary level.

94 “Collegiate tournament”, a series of collegiate sports or athletic events involving four or  
95 more collegiate teams that make up a single unit of competition.

96 “Commission”, the Massachusetts gaming commission established in section 3 of chapter  
97 23K.

98           “Electronic sports”, a single or multiplayer video game played competitively for  
99   spectators.

100          “Governmental authority”, any governmental unit of a national, state or local body  
101   exercising governmental functions, except the United States government.

102          “License”, any license applied for or issued by the commission under this chapter,  
103   including, but not limited to: (i) an operator license or (ii) an occupational license.

104          “National criminal history background check”, a criminal history background check  
105   conducted using the criminal history record system maintained by the Federal Bureau of  
106   Investigation and based on fingerprint identification or any other method of positive  
107   identification.

108          “Occupational license”, a license required to be held by an employee of an operator when  
109   the employee performs duties directly related to the operation of sports wagering in the  
110   commonwealth in a supervisory role.

111          “Official league data”, statistics, results, outcomes and other data relating to a sporting  
112   event that is obtained pursuant to an agreement with the relevant sports governing body, or with  
113   an entity expressly authorized by the relevant sports governing body to provide such data to  
114   sports wagering operators, which authorizes the use of such data for determining the outcome of  
115   tier 2 sports wagers on such sporting event.

116          “Operator” or “sports wagering operator”, any entity permitted under this chapter to offer  
117   sports wagering to persons in the commonwealth through a category 1 license, category 2 license  
118   or category 3 license.

119           “Operator license”, a category 1 license, category 2 license or category 3 license to  
120   operate sports wagering.

121           “Person”, an individual, corporation, association, operation, firm, partnership, trust or  
122   other form of business association.

123           “Personal biometric data”, any information about an athlete that is derived from that  
124   athlete’s physical or physiological characteristics, including, but not limited to, deoxyribonucleic  
125   acid, heart rate, blood pressure, perspiration rate, internal or external body temperature, hormone  
126   levels, glucose levels, hydration levels, vitamin levels, bone density, muscle density or sleep  
127   patterns.

128           “Players association”, a professional sports association recognized by a sports governing  
129   body that represents professional athletes.

130           “Professional sport or athletic event”, an event at which 2 or more persons participate in a  
131   sport or athletic event and receive compensation in excess of actual expenses for their  
132   participation in such event.

133           “Promotional gaming credit”, a sports wagering credit or other item issued by an operator  
134   to a patron to enable the placement of a sports wager.

135           “Qualified gaming entity”, an entity that: (i) holds a gaming license as defined in section  
136   2 of chapter 23K; (ii) (a) is licensed by the commission in accordance with chapter 128A to  
137   conduct a live horse racing meeting, (b) is a running horse racing licensee that conducted  
138   simulcast wagering as of December 31, 2020 as authorized by law or (c) is a greyhound meeting  
139   licensee that conducted simulcast wagering as of December 31, 2020 as authorized by law; or

(iii) offers an interactive sports wagering platform through a mobile application or other digital platform.

“Sports event” or “sporting event”, a professional sport or athletic event, collegiate sport or athletic event, a collegiate tournament, motor race event, electronic sports event or other event authorized by the commission under this chapter; provided, however, that “sporting event” shall not include: (i) high school and youth sports or athletic events; or (ii) a collegiate sport or athletic event involving 1 or more collegiate teams from the commonwealth unless they are involved in a collegiate tournament.

“Sports governing body”, an organization that is headquartered in the United States and prescribes final rules and enforces codes of conduct with respect to a sporting event and participants therein; provided, however, that, notwithstanding the foregoing, the commission shall adopt regulations to determine the governing body for electronic sports for the purposes of this chapter.

“Sports wager”, a wager on a sporting event or a portion of a sporting event.

“Sports wagering”, the business of accepting wagers on sporting events or portions of sporting events, other events, the individual performance statistics of athletes in a sporting event or other events or a combination of any of the same by any system or method of wagering approved by the commission including, but not limited to, mobile applications and other digital platforms; provided, that sports wagering shall not include the acceptance of any wager: (i) with an outcome dependent on the performance of an individual athlete in any collegiate sport or athletic event, including, but not limited, to in-game or in-play wagers; (ii) on a high school or youth sporting event; (iii) on injuries, penalties, player discipline or replay review; and provided



further, that sports wagering shall not include fantasy contests as defined in section 11M½ of chapter 12. Sports wagering shall include, but shall not be limited to, single-game bets, teaser bets, parlays, over-under, moneyline, pools, exchange wagering, in-game wagering, in-play bets, proposition bets and straight bets.

“Sports wagering account”, a financial record established by an operator for a patron in which the patron may deposit by any method approved by the commission and withdraw funds for sports wagering and other authorized purchases and to which the operator may credit winnings or other amounts due to or authorized by that patron; provided, however, that such account may be established and funded by the patron electronically through an approved mobile application or digital platform; and provided further, that a deposit into a sports wagering account shall not be made using a credit card.

“Tier 1 sports wager”, a sports wager that is determined solely by the final score or outcome of a sporting event and is placed before the sporting event has begun.

“Tier 2 sports wager”, a sports wager that is not a tier 1 sports wager.

“Wager”, a sum of money or thing of value risked on an uncertain occurrence.

Section 4. (a) The commission shall regulate the conduct of sports wagering under this chapter.

(b) The commission shall promulgate rules and regulations necessary for the implementation, administration and enforcement of this chapter. The commission may promulgate emergency rules and regulations in accordance with applicable procedures for the promulgation of emergency rules and regulations.

(c) The commission shall promulgate regulations to prohibit: (i) the purchase or other use of any personal biometric data of an athlete for sports wagering or aiding a patron in placing a wager with sports wagering operators; and (ii) the following advertising, marketing and branding activities: (A) advertisements, marketing and branding in such a manner that it is deceptive, false, misleading, or untrue, or tends to deceive or create a misleading impression whether directly, or by ambiguity or omission; (B) use of unsolicited pop-up advertisements on the internet or by text message directed to an individual on the list of self-excluded persons established pursuant to paragraph (2) of subsection (e) of section 13; (C) any form of advertising, marketing or branding that the commission deems unacceptable or disruptive to the viewer experience at a sports event; (D) advertising, marketing and branding deemed to appeal directly to a person younger than 21 years old; and (E) advertising on any billboards, or any other public signage, which fails to comply with any federal, state or local law.

(d)(1) The commission may promulgate rules and regulations including, but not limited to, those governing the acceptance of wagers on a sports event, other event or a series of sports events; types of wagering receipts which may be used; methods of issuing receipts; methods of accounting to be used by operators; types of records to be kept; types of systems for wagering; and any other sports wagering-related issues.

(2) The commission shall promulgate rules and regulations regarding protections for patrons placing wagers and the promotion of social responsibility and responsible gaming that shall include, but not be limited to, a requirement that an operator: (i) implement responsible gaming programs that include comprehensive employee trainings on responding to circumstances in which individuals present signs of gambling addiction; (ii) assess, prevent and address problem gaming by an operator's consumers; (iii) permit a consumer to permanently

close an account registered to the consumer on any or all platforms owned or operated by the operator at any time and for any reason; (iv) offer consumers access to their account history and account details; (v) refrain from making claims as to a consumer's winnings or money earned that is not net of wagers placed; (vi) allow a consumer to withdraw funds without further solicitation or promotion in the manner in which the funds were deposited; (vii) annually submit a problem gaming plan for approval by the commission, in consultation with the department of public health, that includes the objectives of and timetables for implementing the plan, identification of the persons responsible for implementing and maintaining the plan, procedures for identifying consumers with suspected or known problem gaming behavior, procedures for providing information to consumers concerning problem gaming identification and resources, procedures to prevent gaming by minors and self-excluded persons and any other information the commission may require; and (viii) shall not offer or provide a line of credit to any consumer.

(3) The commission shall promulgate regulations that require mobile applications and digital platforms authorized for sports wagering to prominently display upon each entry into the application or platform the telephone number and website for a problem gambling hotline overseen by the department of public health.

(e) The commission shall: (i) determine the eligibility of a person to hold or continue to hold a license; (ii) issue all licenses; and (iii) maintain a record of all licenses issued under this chapter.

(f) The commission shall levy and collect all fees, surcharges, civil penalties and taxes on adjusted gross sports wagering receipts imposed by this chapter, except as otherwise provided under this chapter.

228 (g) The commission shall have the authority to enforce this chapter and any rule or  
229 regulation of the commission and may request that the attorney general bring an action to enforce  
230 this chapter or any rule or regulation of the commission by civil action or petition for injunctive  
231 relief.

232 (h) The commission may hold hearings, administer oaths and issue subpoenas or  
233 subpoenas duces tecum in order to enforce this chapter and the rules and regulations of the  
234 commission.

235 (i) The commission may exercise any other powers necessary to effectuate this chapter  
236 and the rules and regulations of the commission.

237 Section 5. (a) A person shall not engage in any activity in connection with sports  
238 wagering in the commonwealth unless all required licenses have been obtained in accordance  
239 with this chapter and the rules and regulations of the commission.

240 (b) The commission shall not grant an operator license until it determines that each  
241 person who has control of the applicant meets all qualifications for licensure. For the purposes of  
242 this chapter, the following shall be considered to have control of an applicant: (i) a person who  
243 owns 10 per cent or more of a corporate applicant and who has the ability to control the activities  
244 of the corporate applicant; provided, however, that a bank or other licensed lending institution  
245 that holds a mortgage or other lien acquired in the ordinary course of business shall not be  
246 considered to have control of an applicant; (ii) a person who holds a beneficial or proprietary  
247 interest of 10 per cent or more of a non-corporate applicant's business operation and who has the  
248 ability to control the activities of the non-corporate applicant; and (iii) at the commission's

discretion, an executive, employee or agent having the power to exercise significant influence over decisions concerning the applicant's sports wagering operations in the commonwealth.

(c) A person having control of an applicant pursuant to subsection (b) shall submit to the commission an application in a form determined by the commission. Each such person who is a natural person shall also submit to the commission: (i) fingerprints for a national criminal records check by the department of state police and the Federal Bureau of Investigation; and (ii) a signed authorization for the release of the person's information by the department of state police and the Federal Bureau of Investigation; provided, however, that a person having control of an applicant who is a natural person that has submitted to a national criminal records check in any jurisdiction within the previous year shall not be required to submit to another national criminal records check if such person submits to the commission the results of such previous national criminal records check. Any applicant convicted of any disqualifying offense, as determined by the commission, shall not be licensed.

(d) Each person licensed under this chapter shall give the commission written notice not more than 30 days after any change to any material information provided in the application for a license or renewal.

(e) A commission employee shall not be an applicant for any license issued under this chapter.

Section 6. (a) A licensed qualified gaming entity may operate sports wagering upon the approval of the commission.

(b)(1) The commission shall issue a category 1 license to any holder of a gaming license, as defined in section 2 of chapter 23K, that meets the requirements of this chapter and the rules



271 and regulations of the commission; provided, however, that any holder of a category 1 license  
272 shall not be issued a category 2 license.

273 (2) The commission shall issue a category 2 license to: (i) any holder of a license to  
274 conduct a live horse racing meeting in accordance with chapter 128A; (ii) a running horse racing  
275 licensee that conducted simulcast wagering as of December 31, 2020 as authorized by law; or  
276 (iii) a greyhound meeting licensee that conducted simulcast wagering as of December 31, 2020  
277 as authorized by law; that meets the requirements of this chapter and the rules and regulations of  
278 the commission; provided, however, that any holder of a category 2 license shall not be issued a  
279 category 1 license; and provided further, that no more than 1 category 2 license shall be issued to  
280 any 1 person, entity, or affiliate or close associate of such person or entity.

281 (3) The commission may issue a category 3 license to any entity that offers sports  
282 wagering through a mobile application or other digital platform that meets the requirements of  
283 this chapter and the rules and regulations of the commission; provided, however, the commission  
284 shall issue no more than 7 category 3 licenses that are not connected to a category 1 or category  
285 2 license.

286 (4) A category 1 or category 2 licensee may enter into agreements related to mobile or  
287 digital sports wagering with a category 3 licensee pursuant to the approval of the commission.  
288 Nothing in this chapter shall require a category 3 licensee to partner with or have any  
289 commercial relationship with a category 1 or 2 licensee.

290 (c)(1) A qualified gaming entity may submit to the commission a request for a temporary  
291 license for the immediate commencement of sports wagering operations. Such request shall  
292 include an initial licensing fee of \$1,000,000 payable to the commission.

293 (2) Upon receiving a request for a temporary license, the executive director of the  
294 commission shall review the request. If the executive director determines that the entity  
295 requesting the temporary license is a qualified gaming entity and has paid the sports wagering  
296 initial licensing fee pursuant to paragraph (1), the commission shall authorize the qualified  
297 gaming entity to conduct sports wagering for a period of 1 year under a temporary license or  
298 until a final determination on its operator license application is made.

299 (3) All sports wagering conducted under authority of a temporary license shall comply  
300 with the house rules adopted under section 10.

301 (d) Prior to issuing an operator license, the commission shall commence an investigation  
302 into the suitability of the applicant. The commission may use information obtained from the  
303 applicant pursuant to chapter 23K, chapter 128A, chapter 128C, or information from other  
304 jurisdictions where the applicant is authorized to conduct sports wagering. In evaluating the  
305 suitability of the applicant, the commission shall consider the overall reputation of the applicant  
306 including, but not limited to: (i) the integrity, honesty, good character and reputation of the  
307 applicant; (ii) the financial stability, integrity and background of the applicant; (iii) the business  
308 practices and the business ability of the applicant to establish and maintain a successful sports  
309 wagering operation; (iv) whether the applicant has a history of compliance with gaming or sports  
310 wagering licensing requirements in other jurisdictions; (v) whether the applicant, at the time of  
311 application, is a defendant in litigation involving its business practices; and (vi) the suitability of  
312 all parties in interest to the license, including affiliates and close associates, and the financial  
313 resources of the applicant.

314 (c) The commission may deny an application, if the commission determines during its  
315 investigation that an applicant has failed to: (i) establish the applicant's integrity or the integrity  
316 of any affiliate, close associate, financial resources or any person required to be qualified by the  
317 commission; (ii) demonstrate responsible business practices in any jurisdiction; or (iii) overcome  
318 any other reason, as determined by the commission, as to why it would be injurious to the  
319 interests of the commonwealth to award the applicant an operator license.

320 (f) Upon application by a qualified gaming entity that is not denied pursuant to subsection  
321 (e) and payment of a \$5,000,000 licensing fee, the commission shall grant an operator license to  
322 a qualified gaming entity that provides the right to conduct sports wagering; provided, that the  
323 qualified gaming entity shall meet the requirements for licensure under this chapter and the rules  
324 and regulations of the commission. Such license shall be issued for a 5-year period, and may be  
325 renewed for 5-year periods upon payment of a \$5,000,000 renewal fee; provided, that the  
326 operator shall continue to meet all requirements under this chapter and the rules and regulations  
327 of the commission. The commission shall credit any initial licensing fee paid pursuant to  
328 paragraph (1) of subsection (c) to a successful applicant for an operator license against the  
329 licensing fee due under this subsection.

330 (g) An operator shall submit to the commission such documentation or information as the  
331 commission may require to demonstrate that the operator continues to meet the requirements of  
332 this chapter and the rules and regulations of the commission. An operator shall submit required  
333 documentation or information no later than 5 years after issuance of its operator license and  
334 every 5 years thereafter, or within lesser periods based on circumstances specified by the  
335 commission.

(h) No licensee shall transfer an operator license, or any direct or indirect interest in the license, without the majority approval of the commission. A person seeking to acquire such license through a transfer shall qualify and otherwise be determined by the commission to be eligible for licensure under this chapter. The commission may reject a proposed license transfer or a proposed transfer of interest in the license to an unsuitable person and may reject a proposed transfer that, in the determination of the commission, would be injurious to the interests of the commonwealth. The commission may promulgate regulations governing this process which may include assessment of a fee to reflect the cost associated with reviewing the proposed transfer.

(i) Applications for operator licenses shall be public records under section 10 of chapter 66; provided however, that trade secrets, competitively-sensitive or other proprietary information provided in the course of an application for an operator license under this chapter, the disclosure of which would place the applicant at a competitive disadvantage, may be withheld from disclosure under said section 10 of said chapter 66.

Section 7. (a) An applicant for an operator license shall pay to the commission a nonrefundable processing fee of \$200,000 for the costs associated with the processing of the application and investigation of the applicant; provided, however, that if the costs of the investigation exceed the initial application fee, the applicant shall pay the additional amount to the commission not more than 30 days after notification of insufficient fees or the application shall be rejected.

(b) All fees in this section shall be deposited into the Sports Wagering Control Fund established in section 14.

Section 8. Section 8. (a) All persons employed by an operator to perform duties directly related to the operation of sports wagering in the commonwealth in a supervisory role shall maintain a valid occupational license issued by the commission. The commission shall issue such occupational license to a person who meets the requirements of this section.

(b) An occupational license authorizes the licensee to be employed in the capacity designated by the commission while the license is active. The commission may establish, by rule or regulation, job classifications with different requirements based on the extent to which a particular job impacts, or has the potential to impact, the lawful operation of sports wagering.

(c) An applicant for an occupational license shall submit any required application forms established by the commission and shall pay a nonrefundable application fee of \$100. An employer may pay an application fee on behalf of an applicant.

(d) Not later than March 1 of the third calendar year following the issuance or renewal of an occupational license, an occupational license holder shall pay a nonrefundable license renewal fee of \$100 and submit a renewal application on a form established by the commission. An employer may pay the license renewal fee on behalf of the licensed employee.

Section 9. Section 9. (a) The commission may deny a license to any applicant, reprimand any licensee or suspend or revoke a license if the applicant or licensee: (i) has knowingly made a false statement of a material fact to the commission; (ii) has had a license revoked by any governmental authority responsible for regulation of gaming activities; (iii) has been convicted of a felony or other crime involving embezzlement, theft, fraud, perjury, or a gambling-related offense; (iv) has not demonstrated to the satisfaction of the commission financial responsibility sufficient to adequately meet the requirements of the proposed enterprise; (v) has affiliates or



close associates that would not qualify for a license or whose relationship with the applicant may pose an injurious threat to the interests of the commonwealth in awarding an operator license to the applicant; or (vi) in the case of an operator or an applicant for an operator license, is not the true owner of the business or is not the sole owner and has not disclosed the existence or identity of other persons who have an ownership interest in the business.

(b) The commission may deny, suspend or revoke an operator license or reprimand any licensee if the applicant or licensee has not met the requirements of this chapter.

Section 10. (a) An operator shall adopt comprehensive house rules for game play governing sports wagering transactions with the operator's patrons. The house rules shall specify the amounts to be paid on winning wagers and the effect of sports event schedule changes. An operator shall not conduct sports wagering until the commission has approved the house rules and an operator shall not conduct sports wagering in a manner inconsistent with approved house rules.

(b) The house rules, together with any other information the commission deems appropriate, shall be accessible to any patrons of the sports wagering operator. The operator shall make copies readily available to patrons and shall post the house rules as required by the commission, including on a prominent place on the operator's public website and mobile application or other digital platform.

Section 11. (a) An operator shall employ commercially reasonable methods to: (i) prohibit the operator, directors, officers, owners and employees of the operator and any relative living in the same household as any such person from placing bets with the operator; (ii) prohibit athletes, coaches, referees, team owners, employees of a sports governing body or its member

401 teams and player and referee union personnel from wagering on any sporting event of their  
402 sport's governing body; provided, however, that the operator shall use lists of such persons that a  
403 sports governing body may provide to the commission to determine which persons are excluded  
404 from placing wagers under this subsection; and provided further, that the commission may use  
405 the list of barred employees from the operator and may work directly with a member team to  
406 determine the risk posed by certain employees for obtaining nonpublic confidential information  
407 on a sporting event and may remove an employee without knowledge of team strategy or game  
408 operations from such a list if the commission determines any such risk is de minimis; (iii)  
409 prohibit any individual with access to nonpublic confidential information held by the operator  
410 from placing wagers with the operator; (iv) prohibit persons from placing wagers as agents or  
411 proxies for others; and (v) maintain the security of wagering data, customer data and other  
412 confidential information from unauthorized access and dissemination; provided, however, that  
413 nothing in this chapter shall preclude the use of internet or cloud-based hosting of such data and  
414 information or disclosure as required by court order, other law or this chapter; and provided  
415 further, that such data and information shall be hosted in the United States.

416 (b) A sports governing body or players association representing athletes who participate  
417 in sporting events of the sports governing body may submit to the commission, in writing, by  
418 providing notice in a form and manner as the commission may require, a request to restrict, limit  
419 or exclude a certain type, form or category of sports wagering with respect to sporting events of  
420 the sports governing body, if the sports governing body or players association believes that such  
421 type, form or category of sports wagering with respect to sporting events of the sports governing  
422 body: (i) is contrary to public policy; (ii) unfair to consumers; (iii) may undermine the perceived  
423 integrity of the sports governing body, sporting events of the sports governing body or the

424 athletes participating therein; or (iv) affects the integrity of the sports governing body or sporting  
425 events of the sports governing body or the athletes participating therein.

426       The commission shall request comment from operators on all such requests. After giving  
427 due consideration to all comments received, the commission shall, upon a demonstration of good  
428 cause from the requestor, grant the request. The commission shall respond to a request  
429 concerning a particular event before the start of the event or, if it is not feasible to respond before  
430 the start of the event, not later than 7 days after the request is made; provided, however, that if  
431 the commission determines that the requestor is more likely than not to prevail in successfully  
432 demonstrating good cause for its request, the commission may provisionally grant the request  
433 until the commission makes a final determination as to whether the requestor has demonstrated  
434 good cause. Absent a provisional grant by the commission, an operator may continue to offer  
435 sports wagering on sporting events that are the subject of a request during the pendency of the  
436 consideration of the applicable request.

437       (c) The commission shall designate a state law enforcement entity to have primary  
438 responsibility for conducting, or assisting the commission in conducting, investigations into  
439 abnormal betting activity, match fixing and other conduct that corrupts a betting outcome of a  
440 sporting event for purposes of financial gain.

441       (d) The commission and operators shall use commercially reasonable efforts to cooperate  
442 with investigations conducted by sports governing bodies or law enforcement agencies,  
443 including, but not limited to, using commercially reasonable efforts to provide or facilitate the  
444 provision of anonymized account-level betting information and audio or video files relating to  
445 persons placing wagers. All disclosures under this section are subject to the obligation of an

446 operator to comply with all federal, state and local laws and regulations, including, but not  
447 limited to, laws and regulations relating to privacy and personally identifiable information.

448 (e) An operator shall immediately report to the commission any information relating to:  
449 (i) criminal or disciplinary proceedings commenced against the operator in connection with its  
450 operations; (ii) abnormal betting activity or patterns that may indicate a concern with the  
451 integrity of a sporting event; (iii) any potential breach of the internal rules and codes of conduct  
452 pertaining to sports wagering of a relevant sports governing body; (iv) any other conduct that  
453 corrupts a betting outcome of a sporting event for purposes of financial gain, including, but not  
454 limited to, match fixing; or (v) suspicious or illegal wagering activities, including, but not limited  
455 to: (A) use of funds derived from illegal activity; (B) wagers to conceal or launder funds derived  
456 from illegal activity; (C) use of agents to place wagers; and (D) use of false identification. An  
457 operator shall immediately report information relating to conduct described in clauses (ii), (iii)  
458 and (iv) of this subsection to the relevant sports governing body.

459 (f) The commission and operators shall maintain the confidentiality of information  
460 provided by a sports governing body for purposes of investigating or preventing the conduct  
461 described in clauses (ii), (iii) and (iv) of subsection (e), unless disclosure is required by this  
462 chapter, the commission, other law or court order or unless the sports governing body consents to  
463 disclosure.

464 (g) With respect to any information provided by an operator to a sports governing body  
465 relating to conduct described in clauses (ii), (iii) and (iv) of subsection (e), a sports governing  
466 body shall: (i) only use such information for integrity purposes and shall not use the information  
467 for any commercial or other purpose; and (ii) maintain the confidentiality of such information,

unless disclosure is required by this chapter, the commission, other law or court order or unless the operator consents to disclosure; provided, however, that the sports governing body may make any disclosure necessary to conduct and resolve integrity-related investigations and may publicly disclose such information if required by its integrity policies or if deemed by the sports governing body in its reasonable judgment to be necessary to maintain the actual or perceived integrity of its sporting events, and subject in all cases to the sports governing body's compliance with federal, state and local laws and regulations, including, but not limited to, laws and regulations relating to privacy and personally identifiable information; and provided further, that prior to any such public disclosure that would identify the operator by name, the sports governing body shall provide the operator with notice of such disclosure and an opportunity to object to such disclosure.

(h) An operator shall maintain records of all wagers placed by its patrons, including: (i) personally identifiable information of a patron who places a sports wager through a mobile application or other digital platform or a patron who places an in-person sports wager that exceeds an amount determined by the commission; (ii) amount and type of the bet; (iii) the time the bet was placed; (iv) the location of the bet, including the Internet Protocol address if applicable; (v) the outcome of the bet; and (vi) records of abnormal betting activity for 3 years after a sporting event occurs and video camera recordings in the case of in-person wagers for at least 1 year after a sporting event occurs. An operator shall make these records available for inspection upon request of the commission or as required by court order.

(i) An operator shall use commercially reasonable efforts to maintain, in real time and at the account level, anonymized information for each patron, including: (i) the amount and type of bet; (ii) the time the bet was placed; (iii) the location of the bet, including the Internet Protocol



491 address if applicable; (iv) the outcome of the bet; and (v) records of abnormal betting activity.  
492 The commission may request the information in the form and manner as it requires. Nothing in  
493 this section shall require an operator to provide any information prohibited by federal, state or  
494 local laws or regulations, including, but not limited to, laws and regulations relating to privacy  
495 and personally identifiable information.

496 (j) If a sports governing body has notified the commission and demonstrated a need for  
497 access to the information described in subsection (i) for wagers placed on sporting events of the  
498 sports governing body for integrity monitoring purposes and demonstrated the capability to use  
499 the data for the purpose of effectively monitoring the integrity of sporting events of the sports  
500 governing body, an operator shall share, in a commercially reasonable frequency, form and  
501 manner, with the sports governing body or its designee the same information the operator is  
502 required to maintain pursuant to said subsection (i) with respect to sports wagers on sporting  
503 events of the sports governing body. A sports governing body and its designee shall only use  
504 information received pursuant to this section for integrity-monitoring purposes and shall not use  
505 information received pursuant to this section for any commercial or other purpose. Nothing in  
506 this section shall require an operator to provide any information that is prohibited by federal,  
507 state or local law or regulation, including, but not limited to, laws and regulations relating to  
508 privacy and personally identifiable information.

509 (k)(1) An operator shall conduct a background check on each newly hired employee.  
510 Background checks shall search for criminal history, charges or convictions involving corruption  
511 or manipulation of sporting events and association with organized crime.

(2) An operator shall conduct a single background check on any employee hired before the operator was issued an operator license. Background checks shall search for criminal history, charges or convictions involving corruption or manipulation of sporting events and association with organized crime.

Section 12. (a) An operator shall: (i) employ a monitoring system utilizing software to identify irregularities in volume or changes in odds that could signal suspicious activities and promptly report such information to the commission for further investigation; provided, however, that system requirements and specifications shall be developed according to industry standards and implemented by the commission as part of the minimum internal control standards; (ii) promptly report to the commission any facts or circumstances related to the operation of a sports wagering license that constitute a violation of state or federal law and promptly report to the appropriate state or federal authorities any suspicious betting over a threshold set by the operator that has been approved by the commission; (iii) conduct all sports wagering activities and functions in a manner that does not pose a threat to the public health, safety or welfare of the residents of the commonwealth; (iv) keep current in all payments and obligations to the commission; (v) prevent any person from tampering or interfering with the operation of any sports wagering; (vi) ensure that mobile sports wagering occurs only using a commission-approved mobile application or other digital platform to accept wagers initiated within the commonwealth; (vii) maintain sufficient cash and other supplies to conduct sports wagering at all times; (viii) maintain daily records showing the gross sports wagering receipts and adjusted gross sports wagering receipts of the operator from sports wagering; (ix) timely file with the commission any additional reports required by this chapter or by any rule or regulation;

534 and (x) use commercially reasonable efforts to prevent a person under 21 years old from placing  
535 a wager.

536 (b) Sports wagering operators may use any data source for determining:

537 (1) the results of any and all tier 1 sports wagers on any and all sporting events; and

538 (2) the results of any and all tier 2 sports wagers on sporting events of an organization  
539 that is not headquartered in the United States.

540 (c) A sports governing body may notify the commission that it desires sports wagering  
541 operators to use official league data to settle tier 2 sports wagers on sporting events of such  
542 sports governing body. The notification shall be made in the form and manner as the commission  
543 may require. Within 5 days of receipt of the notification, the commission shall notify each sports  
544 wagering operator of the requirement to use official league data to settle tier 2 sports wagers. If a  
545 sports governing body does not notify the commission of its desire to supply official league data,  
546 a sports wagering operator may use any data source for determining the results of any and all tier  
547 2 sports wagers on sporting events of the sports governing body.

548 (d) Within 60 days of the commission notifying a sports wagering operator of the  
549 requirement to use official league data to settle tier 2 sports wagers pursuant to subsection (c), or  
550 such longer period as may be agreed between the sports governing body and the applicable  
551 sports wagering operator, a sports wagering operator shall use only official league data to  
552 determine the results of tier 2 sports wagers on sporting events of that sports governing body,  
553 unless:

554 (1) the sports governing body or its designee cannot provide a feed of official league data  
555 to determine the results of a particular type of tier 2 sports wager, in which case a sports  
556 wagering operator may use any data source for determining the results of the applicable tier 2  
557 sports wager until such time a data feed becomes available from the sports governing body on  
558 commercially reasonable terms and conditions; or

559 (2) a sports wagering operator can demonstrate to the commission that the sports  
560 governing body or its designee will not provide a feed of official league data to the sports  
561 wagering operator on commercially reasonable terms and conditions.

562 (e) In evaluating whether official league data is offered on commercially reasonable  
563 terms and conditions for purposes of paragraphs (1) and (2) of subsection (d), the commission  
564 may consider factors, including, but not limited to:

565 (1) the availability of official league data to a sports wagering operator from more than 1  
566 authorized source;

567 (2) market information, including, but not limited to, price and other terms and conditions  
568 regarding the purchase by sports wagering operators of comparable data for the purpose of  
569 settling sports wagers in the commonwealth and other jurisdictions;

570 (3) the nature and quantity of data, including the quality and complexity of the process  
571 used for collecting the data; and

572 (4) the extent to which a sports governing body or its designee has made data used to  
573 settle tier 2 wagers available to sports wagering operators and any terms and conditions relating  
574 to the use of that data.

575 (f) Notwithstanding subsection (d) or any provision of this subsection to the contrary,  
576 during the pendency of the determination of the commission as to whether a sports governing  
577 body or its designee may provide official league data on commercially reasonable terms, a sports  
578 wagering operator may use any data source to determine the results of tier 2 sports wagers. The  
579 determination shall be made within 120 days of the sports wagering operator notifying the  
580 commission that it requests to demonstrate that the sports governing body or its designee will not  
581 provide a feed of official league data to the sports wagering operator on commercially reasonable  
582 terms.

583 (g) A sports governing body may enter into commercial agreements with a sports  
584 wagering operator or other entity in which such sports governing body may share in the amount  
585 wagered or revenues derived from sports wagering on sporting events of the sports governing  
586 body. A sports governing body shall not be required to obtain a license or any other approval  
587 from the commission to lawfully accept such amounts or revenues.

588 Section 13. (a) Holders of category 1 and category 2 licenses may accept wagers on  
589 sports events and other events authorized pursuant to this chapter in person at authorized  
590 facilities.

591 (b) Holders of an operator license may accept wagers on sports events and other events  
592 authorized pursuant to this chapter from individuals physically located within the commonwealth  
593 using mobile applications or digital platforms approved by the commission, through the patron's  
594 sports wagering account. The branding for each mobile application or digital platform shall be  
595 determined by the operator. All bets authorized pursuant to this section must be initiated,  
596 received and otherwise made within the commonwealth. Consistent with the intent of the federal



Unlawful Internet Gambling Enforcement Act of 2006, 31 U.S.C. section 5361 to 5367, inclusive, the intermediate routing of electronic data related to a lawful intrastate wager authorized pursuant to this chapter shall not determine the location or locations in which the wager is initiated, received or otherwise made.

(c) An operator may: (i) accept wagers placed by other operators and (ii) place wagers with other operators; provided, that any operator that places a wager with another operator shall inform the operator accepting the wager that the wager is being placed by an operator and shall disclose the operator's identity.

(d) An operator shall not accept: (i) a wager from a person who is less than 21 years of age; or (ii) a credit card .

(e)(1) The commission or operator may ban any person from participating in the play or operation of any sports wagering consistent with rules and regulations promulgated by the commission. A list of all excluded patrons shall be kept by the commission and provided to each licensee. No patron on the exclusion list shall be permitted to conduct sports wagering pursuant to this chapter.

(2) The commission shall establish a list of self-excluded persons from sports wagering. A person may request their name to be placed on the list of self-excluded persons by filing a statement with the commission acknowledging that they are a problem gambler and by agreeing that, during any period of voluntary exclusion, they shall not collect any winnings or recover any losses resulting from any sports wagering. The commission shall adopt further regulations for the self-excluded persons list including procedures for placement, removal and transmittal of the list to sports wagering operators. The commission may revoke, limit, condition, suspend or fine a

619 sports wagering operator if the operator knowingly or recklessly fails to exclude or eject from its  
620 premises any person placed on the list of self-excluded persons. The list of self-excluded persons  
621 from sports wagering shall not be open to public inspection.

622 (3) An operator that operates sports wagering through a mobile application or other  
623 digital platform may allow patrons to set self-imposed limitations on sports wagering when the  
624 patron joins the mobile application or digital platform.

625 (f) No employee may place a sports wager at any facility or through any mobile  
626 application or digital platform owned or operated by their employer.

627 (g) Sections 24, 24A and 27 of chapter 10 of the General Laws shall not apply to an  
628 operator conducting sports wagering in accordance with this chapter.

629 (h) Unclaimed winning sports wagers shall be retained by the operator for the person  
630 entitled to the wager for 1 year after the game or event in which the wager was won. If no claim  
631 is made for the wager within 1 year, the cash or equivalent cash value of the wager shall be  
632 deposited in the Sports Wagering Control Fund established in section 15.

633 Section 14. (a) An excise is hereby imposed upon sports wagering operators in the  
634 commonwealth at the rate of: (i) 15 per cent of the operator's adjusted gross sports wagering  
635 receipts from the operation of in-person sports wagering; (ii) 20 per cent of the operator's  
636 adjusted gross sports wagering receipts from the operation of sports wagering through mobile  
637 applications and other digital platforms approved by the commission; and (iii) 15 per cent of the  
638 adjusted gross fantasy wagering receipts of a person or entity that offers fantasy contests, as  
639 defined in section 11M½. The accrual method of accounting shall be used for purposes of

calculating the amount of the tax owed by the licensee. The excise shall be paid to the commission at the time provided for filing the return pursuant to subsection (b).

(b)(1) The excise imposed and collected pursuant to subsection (a) shall be due and payable to the commission in monthly installments on or before the fifteenth calendar day following the calendar month in which the adjusted gross sports wagering receipts were received.

(2) On or before the fifteenth calendar day of each month, the operator shall complete and submit the return for the preceding month by electronic communication to the commission in a form prescribed by the commission that provides:

(i) the total gross sports wagering receipts and adjusted gross sports wagering receipts from operation of sports wagering during that month;

(ii) the total gross fantasy wagering receipts and adjusted gross fantasy wagering receipts from the offering of fantasy contests, as defined in section 11M½ of chapter 12, during that month;

(iii) the tax amount for which an operator or a person or entity that offers fantasy contests, as defined in said section 11M½ of said chapter 12, is liable; and

(iv) any additional information necessary in the computation and collection of the tax on adjusted gross sports wagering receipts and adjusted gross fantasy wagering receipts required by the commission.

(3) The excise amount shown to be due shall be remitted by electronic funds transfer simultaneously with the filing of the return.

660           (4) When an operator's adjusted gross sports wagering receipts for a month is a negative  
661   number because the winnings paid to wagerers and excise taxes paid pursuant to federal law  
662   exceed the operator's total gross receipts from sports wagering, the commission shall allow the  
663   operator to carry over the negative amount to returns filed for subsequent months. The negative  
664   amount of adjusted gross sports wagering receipts shall not be carried back to an earlier month  
665   and taxes previously received by the commission shall not be refunded unless the operator  
666   surrenders its license and the operator's last return reported negative adjusted gross sports  
667   wagering receipts.

668           (c) The excise on adjusted gross sports wagering receipts imposed by this section shall be  
669   in lieu of all other state and local taxes and fees imposed on the operation of, or the proceeds  
670   from operation of, sports wagering.

671           (d) Annually, not later than July 1, the commission shall publish on its website a report  
672   stating the amount in fees, surcharges and civil penalties received from operators and taxes  
673   received from operators and from people or entities that offer fantasy contests, as defined in  
674   section 11M½ of chapter 12.

675           Section 15. (a) There shall be established and set up on the books of the commonwealth a  
676   separate fund to be known as the Sports Wagering Control Fund. The commission shall be the  
677   trustee of the fund and shall expend money to finance the operational activities of the  
678   commission pertaining to sports wagering. The fund shall be credited with: (i) any appropriation,  
679   bond proceeds or other monies authorized by the general court and specifically designated to be  
680   credited thereto; (ii) the proceeds of any fees collected pursuant to this section unless otherwise  
681   specified; (iii) fees collected pursuant to sections 7 and 8; (iv) breaks; and (v) such additional

682 funds as are subject to the direction and control of the commission. All available money in the  
683 fund that is unexpended at the end of each fiscal year shall not revert to the General Fund and  
684 shall be available for expenditure in the subsequent fiscal year.

685 (b) The commission shall establish fees for any investigation into a violation of this  
686 chapter or regulation promulgated hereunder by a sports wagering operator to be paid by the  
687 sports wagering operator including, but not limited to, billable hours by commission staff  
688 involved in the investigation and the costs of services, equipment or other expenses that are  
689 incurred by the commission during the investigation.

690 (c) Any remaining costs of the commission necessary to maintain regulatory control over  
691 sports wagering operators that are not covered by: (i) the fees set forth in subsection (b); (ii) any  
692 other fees assessed pursuant to this chapter; or (iii) any other designated sources of funding, shall  
693 be annually assessed on sports wagering operators pursuant to this chapter in proportion to each  
694 operator's share of the commonwealth's total adjusted gross sports wagering receipts. Each  
695 operator shall pay the amount assessed against the operator not more than 30 days after the date  
696 of the notice of assessment from the commission.

697 (d) If the fees collected pursuant to subsections (b) and (c) exceed the cost required to  
698 maintain regulatory control, the surplus funds shall be credited in proportional shares against  
699 each sports wagering operator's next assessment.

700 (e) The commission shall annually assess and collect a \$1,000,000 fee in shares to be  
701 determined by the commission against each sports wagering operator that is not a category 1 or  
702 category 2 gaming licensee, as defined in section 2 of chapter 23K. The fee collected pursuant to  
703 this subsection shall be deposited into the Public Health Trust Fund established in section 58 of



704 said chapter 23K and shall be used for the costs of services and public health programs provided  
705 for in said section 58 of said chapter 23K.

706       Section 16. (a) The commission may assess a civil administrative penalty on an operator  
707 who fails to comply with any provision of this chapter, house rules or any regulation or order  
708 adopted by the commission; provided, however, that the noncompliance shall have occurred after  
709 the commission has given such operator written notice of the noncompliance and the time stated  
710 in the notice for coming into compliance has elapsed; provided further, that the commission may  
711 assess a penalty without providing written notice if the failure to comply: (i) was part of a pattern  
712 of noncompliance and not an isolated instance; (ii) was willful or neglectful and not the result of  
713 error; (iii) resulted in a significant breach to the integrity of the operator or the sports wagering  
714 laws of the commonwealth; or (iv) consisted of failure to promptly report to the commission any  
715 knowledge of evidence or circumstances that would cause a reasonable person to believe that a  
716 violation of this chapter has been committed. The civil administrative penalty shall be in addition  
717 to any other civil penalty that may be prescribed by law.

718       (b) For the purpose of determining whether such noncompliance was part of a pattern of  
719 noncompliance and not an isolated instance, the commission shall consider, but not be limited to;  
720 (i) whether the commission had previously notified the operator of such noncompliance on more  
721 than 1 occasion during the previous month or of any noncompliance with the same provision of a  
722 law, regulation, order, license or approval as the current noncompliance during the previous 6-  
723 month period; or (ii) whether the current and previous instances of noncompliance, considered  
724 together, indicate a potential threat to the integrity of the operator and sports wagering in the  
725 commonwealth or an interference with the commission's ability to efficiently and effectively  
726 regulate sports wagering in the commonwealth and enforce any regulation, license or order. If an

727 operator that has received a notice of noncompliance fails to come into compliance within the  
728 time period stated in the notice, the civil administrative penalty may be assessed by the  
729 commission upon the operator from the date of receipt of such notice.

730 (c) If the commission seeks to assess a civil administrative penalty on an operator, the  
731 commission shall cause to be served upon the operator, by service in hand or by certified mail,  
732 return receipt requested, a written notice of its intent to assess a civil administrative penalty that  
733 shall include: (i) a concise statement of the alleged act or omission for which such civil  
734 administrative penalty is sought to be assessed; (ii) each law, regulation, order, license or  
735 approval that has not been complied with as a result of such alleged act or omission; (iii) the  
736 amount that the commission seeks to assess as a civil administrative penalty for each alleged act  
737 or omission; (iv) a statement of the operator's right to an adjudicatory hearing on the proposed  
738 assessment; (v) the requirements the operator shall comply with to avoid being deemed to have  
739 waived the right to an adjudicatory hearing; and (vi) the manner of payment thereof if the  
740 operator elects to pay the penalty and waive an adjudicatory hearing. After written notice of  
741 noncompliance or intent to assess a civil administrative penalty has been given, each day  
742 thereafter during which noncompliance occurs or continues shall constitute a separate offense  
743 and shall be subject to a separate civil administrative penalty if reasonable efforts have not been  
744 made by the operator to promptly come into compliance.

745 (d) If the commission seeks to assess a civil administrative penalty on an operator, the  
746 operator shall have the right to an adjudicatory hearing under chapter 30A, the provisions of  
747 which shall apply except when they are inconsistent with the provisions of this chapter.

748 (c) An operator shall be deemed to have waived its right to an adjudicatory hearing  
749 unless, not more than 21 days after the date of the commission's notice that the commission  
750 seeks to assess a civil administrative penalty, the operator files with the commission a written  
751 statement denying the occurrence of any of the acts or omissions alleged by the commission in  
752 the notice or asserting that the amount of the proposed civil administrative penalty is excessive.  
753 In an adjudicatory hearing authorized under chapter 30A, the commission shall be required to  
754 prove, by a preponderance of the evidence, the occurrence of each act or omission alleged by the  
755 commission in the notice.

756 (f) If an operator waives the right to an adjudicatory hearing, the proposed civil  
757 administrative penalty shall be final immediately upon such waiver. If a civil administrative  
758 penalty is assessed at the conclusion of an adjudicatory hearing, the civil administrative penalty  
759 shall be final upon the expiration of 30 days unless an action for judicial review of the decision is  
760 commenced under chapter 30A.

761 (g) An operator who institutes proceedings for judicial review of the final assessment of a  
762 civil administrative penalty shall place the full amount of the final assessment in an interest-  
763 bearing escrow account in the custody of the clerk or magistrate of the reviewing court. The  
764 establishment of an interest-bearing escrow account shall be a condition precedent to the  
765 jurisdiction of the reviewing court unless the party seeking judicial review demonstrates, in a  
766 preliminary hearing held not more than 20 days after the filing of the complaint, the presence of  
767 a substantial question for review by the court or the operator's inability to pay. Upon such a  
768 demonstration, the court may grant an extension or waiver of the interest-bearing escrow account  
769 requirement or may require, in lieu of such interest-bearing escrow account, the posting of a

770 bond payable directly to the commonwealth in the amount of 125 per cent of the assessed  
771 penalty.

772 If, after judicial review, in a case where the escrow account requirement has been waived,  
773 and in cases where a bond has been posted in lieu of such requirement, the court affirms, in  
774 whole or in part, the assessment of a civil administrative penalty, the commission shall be paid  
775 the amount thereof together with interest at the rate provided in section 6C of chapter 231. If,  
776 after judicial review in a case where an interest-bearing escrow account has been established, the  
777 court affirms the assessment of such penalty, in whole or in part, the commission shall be paid  
778 the amount thereof together with the accumulated interest in the interest-bearing escrow account.  
779 If the court sets aside the assessment of a civil administrative penalty in a case where the amount  
780 of such penalty has been deposited in an interest-bearing escrow account, the operator on whom  
781 the civil administrative penalty was assessed shall be repaid the amount so set aside, together  
782 with the accumulated interest thereon.

783 (h) Each operator who fails to timely pay a civil administrative penalty and each operator  
784 who issues a bond under this section and fails to timely pay to the commission the amount  
785 required for the bond, shall be liable to the commonwealth for up to 3 times the amount of the  
786 civil administrative penalty, together with costs, plus interest accrued from the time the civil  
787 administrative penalty became final and attorneys' fees, including all costs and attorneys fees  
788 incurred directly in the collection of the penalty. The rate of interest shall be the rate provided in  
789 section 6C of chapter 231. The commission may require that the amount of a civil administrative  
790 penalty imposed under this section exceed any economic benefit realized by a person.

(i) The commission may impose conditions on, suspend or revoke an operator's license or reprimand or assess a fine on an operator upon a finding that the operator: (i) has committed a criminal or civil offense under this chapter or under any other law; (ii) is not in compliance with sports wagering regulations promulgated pursuant to this chapter; (iii) is under criminal investigation in another jurisdiction; (iv) has breached a condition of licensure; (v) has affiliates, close associates or employees that are not qualified or licensed under this chapter with whom the operator continues to conduct business or employ; (vi) is no longer capable of maintaining operations as a sports wagering operator; or (vii) whose business practice, upon a determination by the commission, is injurious to the policy objectives of this chapter.

Section 17. There shall be established and set up on the books of the commonwealth a Sports Wagering Fund which shall receive revenues collected pursuant to sections 6 and 14. The commission shall be the trustee of the fund and shall transfer monies from the fund as follows:

(1) 45 per cent to the General Fund;

(2) 17.5 per cent to the Workforce Investment Trust Fund established in section 18;

(3) 27.5 per cent to the Gaming Local Aid Fund established in section 63 of section 23K;

(4) 1 per cent to the Youth Development and Achievement Fund established in section 19; and

(5) 9 per cent to the Public Health Trust Fund established in section 58 of section 23K.

Section 18. (a) There is hereby established and set up on the books of the commonwealth a separate fund to be known as the Workforce Investment Trust Fund. There shall be credited to the fund any sports wagering revenue transferred from the Sports Wagering Fund pursuant to

section 16. Monies transferred to the fund shall be continuously expended, without regard for fiscal year, exclusively for carrying out the purposes of this section. Money remaining in the fund at the end of a fiscal year shall not revert to the General Fund.

(b) The fund shall be administered by the secretary of housing and economic development. Money in the fund shall be competitively granted to develop and strengthen workforce opportunities for low-income communities and vulnerable youth and young adults in the commonwealth, including providing opportunities and strategies to promote stable employment and wage growth.

(c) Eligible grant recipients shall provide opportunities which: (i) target at risk youth, including resources to empower youth to succeed in the workforce; (ii) provide job skills trainings, including programs offering trainings in multiple languages and areas for development, including education and hands on skills; (iii) promote adult literacy, including strategies to master reading and writing and providing digital formats to increase accessibility; and (iv) provide English language learning programs to promote access to the workforce. The secretary of housing and economic development shall establish criteria to evaluate applications for the grant program; provided, that the criteria shall include, but shall not be limited to, at risk populations; provided further, that preference shall be given to eligible grant recipients providing opportunities for individuals who meet at least 2 of the following: (i) is under 30 years of age; (ii) is a victim of violence; (iii) is over 18 years of age and does not have a high school diploma; (iv) has been convicted of a felony; (v) has been unemployed or has had a family income below 250 per cent of the federal poverty level for not less than 6 months; (vi) lives in a census tract where over 20 per cent of the populations fall below the federal poverty line; or (vii) is an immigrant, refugee or person of color.



835 (d) Annually, not later than October 1, the secretary of housing and economic  
836 development shall provide a report of the grants given and a breakdown of expenditures made by  
837 the fund. The report shall be posted on the website of the executive office of housing and  
838 economic development.

839 Section 18. There shall be established and set up on the books of the commonwealth a  
840 fund to be known as the Youth Development and Achievement Fund. The fund shall be credited  
841 any monies transferred from the Sports Wagering Fund pursuant to section 16 and all monies  
842 credited to or transferred to the fund from any other fund or source. Expenditures from the fund  
843 shall be subject to appropriation and shall be expended equally for the following purposes:

844 (1) For the purposes of providing financial assistance to students from the commonwealth  
845 enrolled in and pursuing a program of higher education in any approved public or independent  
846 college, university, school of nursing or any other approved institution furnishing a program of  
847 higher education;

848 (2) For the purposes of funding after-school and out-of-school activities, including, but  
849 not limited to, youth athletics and other activities that improve student health, literacy programs,  
850 English language learning programs, academic tutoring, art, theater and music programs and  
851 community service programs; and

852 (3) For the purposes of providing matching grants to elementary and secondary youth  
853 sports, organizations, clubs and other school groups to attend events including, but not limited to,  
854 academic events and programs, cultural events and award ceremonies both nationally and  
855 internationally.

Section 20. The commission shall conduct a study into the feasibility of allowing retail locations in the commonwealth to operate sports wagering kiosks. The study by the commission shall include, but not be limited to, an analysis of: (i) the economic impact of this chapter on retail establishments that serve alcoholic beverages for on premises consumption, such as restaurants and bars; (ii) which retail locations have the ability to operate a sports wagering kiosk; (iii) the economic impact to the commonwealth of authorizing retail locations to operate a sports wagering kiosk; (iv) the methods and availability of payouts of winnings by a sports wagering kiosks at retail locations; (v) the public health and safety impacts to the commonwealth of authorizing retail locations to operate a sports wagering kiosk; (vi) the potential effect of sports wagering kiosks at retail locations on problem gaming or gambling; (vii) the impact of sports wagering kiosks at retail locations on minors; (viii) the economic impact of authorizing this method of sports wagering on businesses owned by people of color; (ix) the public health and economic impact of this method of sports wagering as an alternative to the current black market, particularly in communities far from authorized in-person sports wagering; and (x) recommendations to ensure diversity, equity and inclusion are included in this method of sports wagering. As part of the study, the commission shall consult retailers, convenience stores, restaurants, women and minority owned businesses and small business owners. The commission shall report on its findings and submit any recommendations to the clerks of the house and senate, the house and senate committees on ways and means, the joint committee on consumer protection and professional licensure and the joint committee on economic development and emerging technologies no later than December 31, 2022.

Section 21. (a) The commission may impose on any person who violates this chapter a civil penalty not to exceed \$2,000 for each violation or \$5,000 for violations arising from the

879 same series of events. Such penalty shall be imposed on all persons and is not limited to persons  
880 licensed under this chapter.

881 (b) The commission may condition, suspend, reprimand, assess a fine or revoke an  
882 operator license upon a finding that a licensee: (i) has committed a criminal or civil offense  
883 under this chapter or under any other laws of the commonwealth; (ii) is not in compliance with  
884 sports wagering regulations; (iii) is under criminal investigation in another jurisdiction; (iv) has  
885 breached a condition of licensure; (v) has affiliates, close associates or employees that are not  
886 qualified or licensed under this chapter with whom the licensee continues to conduct business or  
887 employ; (vi) is no longer capable of maintaining operations as a sports wagering operator or data  
888 supplier; or (vii) whose business practice, upon a determination by the commission,  
889 is injurious to the policy objectives of this chapter.

890 Section 21. (a) Whoever, other than an operator under this chapter, engages in accepting,  
891 facilitating or operating a sports wagering operation shall be punished by imprisonment in the  
892 house of correction for not more than 90 days or by a fine not to exceed \$10,000, or both; and for  
893 a second offense, by imprisonment in the house of correction for not more than 6 months or by a  
894 fine of not more than \$50,000, or both; and in the case of a third or subsequent violation by  
895 imprisonment in the state prison for not less than 1 but not more than 5 years or by a fine of not  
896 less than \$25,000 and not more than \$100,000, or both.

897 Section 22. An operator shall not discharge, demote, suspend, threaten, harass or in any  
898 other manner discriminate against an employee because of any lawful act done by the employee  
899 to provide information, cause information to be provided or otherwise assist in an investigation

900 regarding any conduct that the employee reasonably believes constitutes a violation of this  
901 chapter.

902       Section 23. (a) The commission shall develop an annual research agenda in order to  
903 understand the social and economic effects of sports wagering in the commonwealth and to  
904 obtain scientific information relative to the neuroscience, psychology, sociology, epidemiology  
905 and etiology of sports wagering. The secretary of health and human services, with the advice and  
906 consent of the commission, may expend funds from the Public Health Trust Fund established in  
907 section 58 of chapter 23K to implement the objectives of the sports wagering research agenda;  
908 provided, however, that the objectives of the sports wagering research agenda shall, to the extent  
909 practicable, be substantially similar to the objectives of the research agenda established under  
910 section 71 of said chapter 23K. The sports wagering research agenda shall also include, but not  
911 be limited to: (i) an assessment of whether problem sports wagering is comorbid with problem  
912 gambling; (ii) an assessment as to whether the individuals participating in sports wagering are  
913 different than those who participate in other forms of gaming or gambling; (iii) an assessment of  
914 the impact of sports wagering on youth under the age of 25; (iv) an assessment of the impacts of  
915 sports wagering on college athletics and professional sports; and (v) the costs of implementing  
916 this chapter.

917       (b) Annually, the commission shall make scientifically-based recommendations that  
918 reflect the results of the research under clause (a) to the clerks of the senate and house of  
919 representatives, the senate and house committees on ways and means, the joint committee on  
920 economic development and emerging technologies, the joint committee on mental health,  
921 substance use and recovery and the joint committee on public health. The commission shall  
922 consider any such recommendations, research and findings in all decisions related to enhancing

923 responsible gambling and mitigating problem sports wagering. The recommendations shall be  
924 posted on the commission's website.

925 SECTION 6. Chapter 128C of the General Laws is hereby amended by inserting the  
926 following new section:-

927 Section 9. Notwithstanding sections 1 to 8, inclusive, or any other general or special law  
928 to the contrary, no racing meeting licensee, including licensees holding racing meetings in  
929 connection with a state or county fair as defined in section 1 of chapter 128A, shall simulcast or  
930 accept a wager on greyhound dog racing, and a running horse racing meeting licensee shall  
931 conduct not less than 20 live racing days at a thoroughbred horse racing track, provided, the  
932 commission may waive this requirement as necessary and appropriate to ensure the financial  
933 ability of the licensee to develop and operate a race track.

934 SECTION 7. Section 1 of chapter 137 of the General Laws, as appearing in the 2018  
935 Official Edition, is hereby amended by inserting after the figure "23K", in line 3, the following  
936 words:- or sports wagering conducted pursuant to chapter 23N.

937 SECTION 8. Section 2 of said chapter 137, as so appearing, is hereby amended by  
938 inserting after the figure "23K", in line 3, the following words:- or an operator who offers sports  
939 wagering pursuant to chapter 23N.

940 SECTION 9. Section 3 of said chapter 137, as so appearing, is hereby amended by  
941 inserting after the figure "23K", in line 7, the following words:- or sports wagering conducted  
942 pursuant to chapter 23N.

943           SECTION 10. Section 1 of chapter 271 of the General Laws, as so appearing, is hereby  
944 amended by striking out, in line 4, the words “chapter 23K” and inserting in place thereof the  
945 following words:- chapters 23K and 23N.

946           SECTION 11. Section 2 of said chapter 271, as so appearing, is hereby amended by  
947 striking out, in line 4, the words “chapter 23K” and inserting in place thereof the following  
948 words:- chapters 23K and 23N.

949           SECTION 12. Section 3 of said chapter 271, as so appearing, is hereby amended by  
950 striking out, in line 1, the words “chapter 23K” and inserting in place thereof the following  
951 words:- chapters 23K and 23N.

952           SECTION 13. Section 5 of said chapter 271, as so appearing, is hereby amended by  
953 striking out, in line 1, the words “chapter 23K” and inserting in place thereof the following  
954 words:- chapters 23K and 23N.

955           SECTION 14. Section 5A of said chapter 271, as so appearing, is further amended by  
956 inserting after the words “chapter 23K”, in line 32, the following words:- or sports wagering  
957 conducted pursuant to chapter 23N.

958           SECTION 15. Section 5B of said chapter 271, as so appearing, is hereby amended by  
959 striking out, in line 58, the words “chapter 23K” and inserting in place thereof the following  
960 words:- chapters 23K and 23N.

961           SECTION 16. Section 8 of said chapter 271, as so appearing, is hereby amended by  
962 striking out, in lines 10 to 11, the words “other game of chance that is not being conducted in a  
963 gaming establishment licensed under chapter 23K” and inserting in place thereof the following



964 words:- other game that is not being conducted pursuant to chapter 23K and any other sports  
965 wagering that is not being conducted pursuant to chapter 23N.

966 SECTION 17. Section 17 of said chapter 271, as so appearing, is hereby amended by  
967 inserting after the words "chapter 23K", in line 27, the following words:- or for the purpose of  
968 sports wagering conducted in accordance with chapter 23N.

969 SECTION 18. Said chapter 271, as so appearing, is hereby further amended by striking  
970 out section 17A and inserting in place thereof the following section:-

971 Section 17A. Except as permitted under chapter 23N, whoever uses a telephone, internet  
972 or other communications technology or, being the occupant in control of premises where a  
973 telephone, internet or other communications technology is located or a subscriber for such  
974 communications technology, knowingly permits another to use a telephone, internet or other  
975 communications technology so located or for which such person subscribes, as the case may be,  
976 for the purpose of accepting wagers or bets, or buying or selling of pools, or for placing all or  
977 any portion of a wager with another, upon the result of a trial or contest of skill, speed or  
978 endurance of man, beast, bird or machine, or upon the result of an athletic game or contest, or  
979 upon the lottery called the numbers game, or for the purpose of reporting the same to a  
980 headquarters or booking office, or who under another name or otherwise falsely or fictitiously  
981 procures telephone, internet or other communications technology service for oneself or another  
982 for such purposes, shall be punished by a fine of not more than \$2,000 or by imprisonment for  
983 not more than 1 year; provided, however, that this section shall not apply to use of telephones or  
984 other devices or means to place wagers authorized pursuant to the provisions of section 5C of  
985 chapter 128A.

986 SECTION 19. Section 19 of said chapter 271, as so appearing, is hereby amended by  
987 inserting after the words "chapter 23K", in line 19, the following words:- and shall not apply to  
988 advertising of sports wagering conducted pursuant to chapter 23N.

989 SECTION 20. Section 20 of said chapter 271, as so appearing, is hereby amended by  
990 adding the following sentence:- Nothing in this section shall prohibit an operator licensed under  
991 chapter 23N from posting, advertising or displaying materials relevant to its sports wagering  
992 operations.

993 SECTION 21. Section 23 of said chapter 271, as so appearing, is hereby amended by  
994 inserting after the words "chapter 23K", in line 31, the following words:- and shall not apply to  
995 sports wagering conducted pursuant to chapter 23N.

996 SECTION 22. Section 27 of said chapter 271, as so appearing, is hereby amended by  
997 inserting after the word "thereto", in line 15, the following words:- ; provided, however, that  
998 such provisions shall not apply to sports wagering conducting pursuant to chapter 23N.

999 SECTION 23. Section 28 of said chapter 271, as so appearing, is hereby amended by  
1000 inserting after the word "prescribed", in line 12, the following words:- ; provided, however, that  
1001 such provisions shall not apply to sports wagering conducted pursuant to chapter 23N.

1002 SECTION 24. Section 42 of said chapter 271, as so appearing, is hereby amended by  
1003 inserting after the word "both", in line 4, the following words:- ; provided, however, that such  
1004 provisions shall not apply to sports wagering conducted pursuant to chapter 23N.

1005 SECTION 25. The Massachusetts gaming commission shall conduct a study on the  
1006 participation by minority business enterprises, women business enterprises and veteran business

1007 enterprises in the sports wagering industry in the commonwealth. The study shall include, but not  
1008 be limited to, an analysis of: (i) participation in activities related to the regulation, licensing and  
1009 promotion of sports wagering operators; (ii) the level of participation of women, minority and  
1010 veteran employees working for sports wagering licensees and employers; (iii) the level of  
1011 participation by minority-owned and women-owned businesses that contract with or provide  
1012 services to sports wagering licensees and employers; (iv) any barriers to employment of women  
1013 and minorities in the sports wagering industry; and (v) methods for increasing racial and gender  
1014 diversity in the workforce in the sports wagering industry, including whether to set reasonable  
1015 and appropriate goals and procedures for increasing the number of minority business enterprises  
1016 providing sports wagering industry-related services to sports wagering licensees and employers.  
1017 The commission shall report on its findings and submit any recommendations to the clerks of the  
1018 senate and house of representatives, the house and senate committees on ways and means, the  
1019 joint committee on racial equity, civil rights, and inclusion and the joint committee on economic  
1020 development and emerging technologies not later than December 31, 2022.

1021 SECTION 26. Section 135 of chapter 219 of the acts of 2016 is hereby repealed.

1022 SECTION 27. Sections 2 and 6 shall take effect 1 year after the effective date of this act.

# 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



December 14, 2023

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

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. *(Submitted by Councilor Dana Heath)*

At the Planning Board meeting on Tuesday, December 12, 2023, the Planning Board voted unanimously (5-0) to recommend the City Council approve and adopt the requested Zoning Amendment as referenced above to increase the quota. The Planning Board also voted to hold a Joint Public Hearing with the City Council.

Please do not hesitate to contact Trevor M. 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

**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 INCREASE THE QUOTE 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 "20%" with "35%" as follows:

b) The number of marijuana retail establishments shall not exceed 35% of liquor licenses issued for retail sale of alcohol not consumed on the premises in the City of Gardner, said number to be rounded up to the next whole number;

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

# CITY OF GARDNER

DEPARTMENT OF COMMUNITY DEVELOPMENT AND PLANNING



RECEIVED  
CITY CLERK'S OFFICE  
GARDNER, MA  
MAY 30 PM 1:50

March 30, 2023

Elizabeth Kazinskas, Council President  
C/o Titi Sirphan, City Clerk  
95 Pleasant Street, Room 121  
Gardner, MA 01440

RE: **Petition 10893** – 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 increase the quota allowed by the Code of the City of Gardner.

Dear President Kazinskas:

At its meeting on March 22, 2023, the Planning Board voted unanimously, 5-0, to recommend approving the proposed zoning amendment referenced above based on the information provided to them by the petitioner.

The Planning Board looks forward to joining the City Council at the joint public hearing scheduled on Monday, April 3, 2023, at 6:30 p.m. Please contact Trevor Beauregard if you have any questions or need additional information.

Sincerely,

Mark M. Schafron, Planning Board Chairman

C: Mayor Michael J. Nicholson  
Trevor M. Beauregard, Director  
Richard Hanks, Interim Building Commissioner





## City of Gardner - *Executive Department*

Mayor Michael J. Nicholson

2023 MAR 30 AM 8:43  
CITY CLERK'S OFFICE  
GARDNER, MA

March 29, 2023

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

Mr. Mark Schafron, Chair  
And Planning Board Members  
Gardner City Hall, Manca Annex, Rm 201  
115 Pleasant St  
Gardner, MA 01440

RE: Written Testimony: Item #10893: 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 increase the quota allowed by the Code of the City of Gardner

Dear Madam President, Councilors, Mr. Chairman, and Planning Board Members,

I am writing in support of the aforementioned zoning amendment proposal.

When the retail sale of cannabis products was legalized in the Commonwealth in 2019, several municipalities, including Gardner, took steps to heavily regulate the industry since we didn't really know what would happen once the cannabis industry became legalized.

Since then we have seen that commercial enterprises like these do not cause as much of a strain on our services as we had originally been concerned about and have not been a public safety concern at all for us.

This proposal seeks to loosen the market constraints in the City and simply let the economic market be the market. If the City does not have the capability of handling more up to four (4) retail cannabis stores, then the market will correct itself for that.

An example of this can be seen with the regular tobacco/vape smoke shops that used to exist in the Downtown area. These businesses, unregulated in terms of number of facilities that could open in the City, were not marketed by the City and simply opened and then consolidated from five (5) to one (1) on their own because that was all the market was able to carry.

The purpose of this amendment, while it also provides a financial benefit to the City through statutorily required sales tax and host community agreement fees, is simply to relax some of the regulations placed on this industry and let the City's economy play itself out. This does still regulate the retail cannabis industry to four (4) locations, but it at least loosens the restriction of only being able to allow two (2) locations in the City.

Respectfully,

Michael J. Nicholson  
Mayor, City of Gardner



**CITY of GARDNER**  
**Office of the City Clerk**  
 95 Pleasant Street, Room 121  
 Gardner, MA 01440  
 \*Tel. 978-630-4058 \*Fax: 978-630-2589

CITY OF GARDNER  
 NOTICE OF JOINT PUBLIC HEARING, continued

Pursuant to G.L. 40A, § 5, notice is hereby given that the City Council and Planning Board will conduct a **Joint Public Hearing** on **Monday, April 3, 2023 at 6:30 P.M.** in the City Council Chamber, Room 219, City Hall, 95 Pleasant Street, Gardner, to consider amending Chapter 675, the Zoning Code of the City of Gardner. The proposed Amendment involves changing items:

- **10891** – An Ordinance to Amend the Code of the City of Gardner, Chapter 675 Thereof, entitled “Zoning,” to Change the Classification of Certain Parcels of Land Along Route 140.
- **10892** – 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.
- **10893** – 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 increase the quota allowed by the Code of the City of Gardner

Information regarding this amendment is available for viewing in the City Clerk’s Office, the Department of Community Development and Planning (DCDP), or on the City’s webpage – [www.gardner-ma.gov](http://www.gardner-ma.gov).

All persons interested in this matter and desire to offer testimony are invited to attend the hearing.

*Titi Siriphan*  
 Titi Siriphan  
 City Clerk



**CITY of GARDNER**  
**Office of the City Clerk**  
95 Pleasant Street, Room 121  
Gardner, MA 01440  
\*Tel. 978-630-4058 \*Fax: 978-630-2589

CITY OF GARDNER  
NOTICE OF JOINT PUBLIC HEARING

Pursuant to G.L. 40A, § 5, notice is hereby given that the City Council and Planning Board will conduct a **Joint Public Hearing** on **Monday, March 20, 2023 at 6:30 P.M.** in the City Council Chamber, Room 219, City Hall, 95 Pleasant Street, Gardner, to consider amending Chapter 675, the Zoning Code of the City of Gardner. The proposed Amendment involves changing items:

- **10891** – An Ordinance to Amend the Code of the City of Gardner, Chapter 675 Thereof, entitled “Zoning,” to Change the Classification of Certain Parcels of Land Along Route 140.
- **10892** – 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.
- **10893** – 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 increase the quota allowed by the Code of the City of Gardner

Information regarding this amendment is available for viewing in the City Clerk’s Office, the Department of Community Development and Planning (DCDP), or on the City’s webpage – [www.gardner-ma.gov](http://www.gardner-ma.gov).

All persons interested in this matter and desire to offer testimony are invited to attend the hearing.

Titi Siriphan  
City Clerk



**City of Gardner - *Executive Department***

**Mayor Michael J. Nicholson**

February 3, 2023

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

RE: 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 increase the quota allowed by the Code of the City of Gardner.

Dear Madam President and Councilors,

As you are aware, in 2018, the retail sale of cannabis products became legalized in the Commonwealth.

When the City adopted the sale of Marijuana into our ordinances in November of 2018, the ordinances limited the number of establishments that could open in the City for the retail sale of cannabis to twenty percent (20%) of "license issues for retail sale of alcohol not consumed on the premises." (Code of the City of Gardner 675-1070(C)(8)(b)).

Whereas the City is currently issued ten (10) liquor licenses that fit this category, this provision of the City Code limited the number of retail cannabis locations to two (2) locations in the City.

One of the main reasons this quota limit was drafted was due to uncertainty as to how this new market would run its course in the City and the Commonwealth as a whole. However, since then, we have seen that these businesses do not provide a detriment to the City, and have seen the financial benefit the City receives from this as well.

The City currently has one retail location open with Sanctuary, with a second location – Bloc Cannabis – permitted at the Timpany Crossroads location.

This attached ordinance amendment proposal would increase the number of locations allowed in the City from two (2) to four (4). It is the belief of the Administration that this would allow more economic activity in the City based on inquiries that we have seen, keep the industry within a workable range that we are seeing in market trends with the cannabis industry around the Commonwealth, and done with the full support of our public safety departments.

Respectfully Submitted,

Michael J. Nicholson  
Mayor, City of Gardner

CC:  
City Council Public Welfare Committee  
Planning Board

**CITY OF GARDNER POLICE DEPARTMENT**

200 Main Street  
Gardner, Massachusetts 01440  
Phone: (978) 632-5600  
Fax: (978) 632-9045



Eric P. McAvene  
Chief of Police

Nicholas P. Maroni  
Deputy Chief of Police

February 2, 2023

The Honorable Michael J. Nicholson, Mayor  
Gardner City Hall  
95 Pleasant Street  
Gardner, MA 01440

Re: Retail Marijuana Ordinance

Dear Mayor,

After reviewing the proposed ordinance change from two retail dispensary licenses to four, I do not see any issue with this particular change moving forward. Retail marijuana dispensaries have been operating in the state for the past few years and are closely monitored and regulated by the Cannabis Control Commission. Any retail dispensaries are required to have pre-determined surveillance camera coverage (inside and outside) and purpose-built safes for stored retail product. This is in addition to physical security during operating hours.

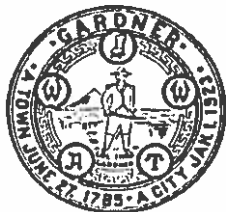
The Gardner Police Department has responded to calls at the current recreational retail dispensary, but the vast majority of the calls are general service calls (accidents, lockouts, burglar alarms, etc.). The police department rarely deals with anything else there.

We have conducted "compliance checks" at Sanctuary using underage youths to enter and purchase cannabis products. Sanctuary has never failed a compliance check. In fact, no youth has ever made it past the front door. I have spoken to law enforcement in other host dispensary locations and have not heard of any major issues.

If there are any further questions or concerns, please do not hesitate to contact me.

Very truly yours,

Eric P. McAvene  
Chief of Police



**City of Gardner**  
**Department of Inspectional Services**  
**115 Pleasant Street, Room 101**  
**Gardner, MA 01440**  
Tel. (978) 630-4007 Fax: (978) 632-3313

---

Feb. 7, 2023

RE: Marijuana Retail Establishments

Dear Mr. Mayor,

I believe the text amendment regarding the number of Marijuana Retail Establishments will only increase opportunities in the City for revenue, and jobs. From a Zoning standpoint I have seen no ill effects from the existing Marijuana Facility. I currently have an application for a Building permit for a second facility which would leave us with no additional licenses. This would in effect tie our hands regarding further growth. I am in full support of this proposal.

Do not hesitate to contact me should you need any further assistance.

Roland Jean  
Building Commissioner/Zoning Enforcement Officer  
City Hall Annex  
115 Pleasant St. RM 101  
Gardner, MA 01440  
(978) 630 4007  
rjean@gardner-ma.gov

**Mission Statement**

To promote the safe and compatible development of the community through fair and consistent enforcement of building codes and zoning ordinances



**Mayor**

---

**From:** John Richard  
**Sent:** Wednesday, February 1, 2023 11:14 AM  
**To:** Mayor  
**Subject:** Marijuana Fees History

Hi Mike

Here you go.

Description	2023 Actual	2022 Actual	2021 Actual	2020 Actual	2019 Actual
MARIJUANA HCA FEES	\$ 26,367.11	\$ 124,076.56	\$ 132,015.11	\$ 118,394.64	\$ 47,072.12
MARIJUANA SALES EXCISE TAX	\$ 104,773.64	\$ 237,668.25	\$ 306,969.74	\$ 383,850.54	\$ 50,330.46
<b>TOTAL</b>	<b>\$ 131,140.75</b>	<b>\$ 361,744.81</b>	<b>\$ 438,984.85</b>	<b>\$ 502,245.18</b>	<b>\$ 97,402.58</b>

John Richard  
 City Auditor



95 Pleasant Street, Room 114  
 Gardner, MA 01440-2630  
 978-632-1900 ext 8020

**Mayor**

---

**From:** Ashley Metivier  
**Sent:** Wednesday, February 1, 2023 11:04 AM  
**To:** Mayor  
**Subject:** Liquor Retail - Not Consumed on Premise

Hi Mike,

We have 10 locations licensed as retail sale, not consumed on premises:

Malt/Wine Packaged Goods

Town Convenience, 13 Pine St  
BP, 221 Main St  
South Gardner Mini Mart, 94 S. Main St  
Jays Variety, 32 E. Broadway  
Price Chopper, 500 Main St

All Alcohol Packaged Goods

Beauregard Liquors, 11 West St  
Brazells, 201 Pleasant St  
Hannaford, 14-20 Timpany Blvd  
Gardner Spirits, 364 Timpany Blvd  
Anthony's, 12 Pearson Blvd

Let me know if you need any more information!

**Ashley Metivier**  
**Administrative Assistant/License Commission Clerk**  
City of Gardner  
95 Pleasant St, Room 29  
Gardner, MA 01440  
P: 978-630-4013 Ext: 8042  
F: 978-632-4682  
E: [AMetivier@gardner-ma.gov](mailto:AMetivier@gardner-ma.gov)

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# Current Ordinance

City of Gardner, MA  
Friday, February 3, 2023

## Chapter 675. Zoning

### Article X. Supplemental Regulations

#### § 675-1070. Marijuana establishments.

##### A. Purpose.

- (1) To provide for the placement of marijuana establishments in appropriate places and under conditions in accordance with the provisions of MGL c. 94G.
- (2) To minimize the adverse impacts of marijuana establishments on adjacent properties, residential neighborhoods, schools and other places where children congregate, local historic districts, and other sensitive land uses potentially incompatible with said establishments.
- (3) To regulate the siting, design, placement, security, safety, monitoring, modification, and discontinuance of marijuana establishments.

##### B. Applicability.

- (1) No marijuana establishment shall be established except in compliance with the provisions of § 675-410 (Schedule of permitted uses) and this § 675-1070 (Marijuana establishments).
- (2) Nothing in this section shall be construed to supersede federal and state laws governing the sale and distribution of Class 1 Controlled Substances.
- (3) If any provision of this section or the application of any such provision to any person or circumstance shall be held invalid, the remainder of this section, to the extent it can be given effect, or the application of those provisions to persons or circumstances other than those to which it is held invalid, shall not be affected thereby, and to this end the provisions of this section are severable.

##### C. General requirements and conditions for all marijuana establishments.

- (1) All marijuana establishments shall be contained within a building or structure.
- (2) The hours of operation of marijuana establishments shall be set by the special permit granting authority.
- (3) No marijuana establishment property line shall be located within 500 linear feet of a lot line where the following districts, activity, or uses occur:
  - (a) (Reserved)<sup>[1]</sup>

**[1]** *Editor's Note: Former Subsection C(3)(a), regarding nonconforming residential dwellings, was repealed 9-3-2019 by Ord. No. 1625.*
  - (b) Any church, public or private school or child-care facility; or place where minors frequent (e.g., a library, ball field, park, sports or family recreation facility, religious facility or the like);
  - (c) Any other marijuana establishment;
  - (d) Any drug or alcohol rehabilitation facility; or
  - (e) Any correctional facility, halfway house or similar facility.
- (4) No smoking, burning or consumption of any product containing marijuana or marijuana-related products shall be permitted on the premises of a marijuana establishment.

- (5) No marijuana establishment shall be located inside a building containing residential units, including transient housing such as motels and dormitories, or inside a movable or mobile structure such as a van or truck.
- (6) Marijuana establishments shall provide the Gardner Police and Fire Departments, Building Commissioner, Board of Health, and the special permit granting authority with the names, phone numbers and e-mail addresses of all management staff and key holders to whom one can provide notice if there are operating problems associated with the establishment.
- (7) The City shall have access at any time to inspect the premises of the marijuana establishment to ensure compliance with local and state regulations, excluding client health information protected under the Health Insurance Portability and Accountability Act of 1996.
- (8) Pursuant to MGL c. 94G, § 3(a)(2)(i) to (iii), the maximum number of licensed marijuana establishments in the City shall be consistent with the following provisions:
  - (a) Shall not prohibit one or more types of marijuana establishment;
  - (b) The number of marijuana retail establishments shall not exceed 20% of liquor licenses issued for retail sale of alcohol not consumed on the premises in the City of Gardner, said number to be rounded up to the next whole number;
  - (c) The number of marijuana establishments shall not prevent the conversion of a medical marijuana treatment center licensed or registered no later than July 1, 2017, to a marijuana establishment engaged in the same type of activity.

[Amended 9-3-2019 by Ord. No. 1625]

D. Special permit requirements.

- (1) No special permit for any marijuana establishment shall be issued without site plan approval first having been obtained from the Planning Board, § 675-1010, Site plan review, of this chapter. In addition to the standards set forth within, the site plan must meet all dimensional, parking, landscaping, and signage requirements within this chapter.
- (2) A marijuana establishment shall only be allowed by special permit from the Gardner Planning Board in accordance with MGL c. 40A, § 9, subject to the following statements, regulations, requirements, conditions and limitations.
- (3) A special permit for a marijuana establishment shall be limited to one or more of the following uses that shall be specified by the special permit granting authority:
  - (a) Marijuana cultivator;
  - (b) Marijuana product manufacturer;
  - (c) Marijuana retailer;
  - (d) Marijuana testing facility;
  - (e) Marijuana transportation or distribution facility; and
  - (f) Any other type of licensed marijuana-related business.
- (4) In addition to the application requirements set forth above, a special permit application for a marijuana establishment shall include the following:
  - (a) The name and address of each owner of the establishment;
  - (b) Copies of all required licenses and permits issued to the applicant by the Commonwealth of Massachusetts Cannabis Control Commission and any of its other agencies for the establishment;
  - (c) Evidence of the applicant's right to use the site of the establishment for the establishment, such as a purchase and sale agreement, deed, owner's authorization, or lease;
  - (d) Proposed security measures for the marijuana establishment, including lighting, fencing, gates and alarms, etc., to ensure the safety of persons and to protect the premises from theft. A letter

from the City of Gardner Police Chief, or designee, acknowledging review and approval of the marijuana establishment security plan is required. To the extent allowed by law, all such documents shall be confidential.

- (5) Mandatory findings. The special permit granting authority shall not issue a special permit for a marijuana establishment unless it finds that:
  - (a) The establishment is designed to minimize any adverse impacts on abutters and other parties in interest, as defined in MGL c. 40A, § 11.
  - (b) The establishment demonstrates that it will meet all the permitting requirements of all applicable agencies within the Commonwealth of Massachusetts and will comply with all applicable state laws and regulations; and
  - (c) The applicant has satisfied all the conditions and requirements set forth herein.
- (6) A special permit granted under this section shall have a term limited to the duration of the applicant's ownership or leasehold of the premises as a marijuana establishment. A special permit may be transferred only with the approval of the special permit granting authority in the form of an amendment to the special permit with all information required in this § 675-1070.

E. Abandonment or discontinuance of use.

- (1) A special permit shall lapse if not exercised within one year of issuance.
- (2) A marijuana establishment shall be required to remove all personal property, including but not limited to all material, plants, equipment, accessories, paraphernalia, and any other property no later than the earliest of:
  - (a) Prior to surrendering its state-issued licenses or permits; or
  - (b) Within six months of ceasing operations.

# 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

11112



December 14, 2023

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

RECEIVED  
2023 DEC 14 PM 3:57  
CITY CLERK'S 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. (Submitted by Councilor Dana Heath)

Dear President Kazinskas:

At the Planning Board meeting on Tuesday, December 12, 2023, the Planning Board voted unanimously (5-0) to recommend the City Council approve and adopt the requested Zoning Amendment as referenced above. In addition, the Planning Board recommends to amend the Table of Uses by replacing Permitted by right (P) with Special Permit Planning Board (SPPB) in each of the relevant columns. The Planning Board also voted to hold Joint Public Hearing with the City Council.

Please do not hesitate to contact Trevor M. 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



**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 – An entity licensed by the Massachusetts Gaming Commission under the provisions of Chapter 173 of the Acts of 2022 of the General Laws to conduct sporting and wagering events.

**SECTION 2:** That Section 54 of Attachment 1 of Chapter 675 of the Code of the City of Gardner, entitled "Zoning- Table of Uses," be adding the term "Sports Betting Facility" to the description of use as follows:

54. Indoor amusement, fitness, or recreational place or place of assembly, provided that the building is so insulated and maintained as to confine noise to the premises and is located not less than 100 feet from a residential district, or a sports betting facility.

**SECTION 2:** That Section 56 of Attachment 1 of Chapter 675 of the Code of the City of Gardner, entitled "Zoning- Table of Uses," be adding the term "Sports Betting Facility" to the description of use as follows:

56. Public or commercial outdoor amusement or recreation use, or a sports betting facility, but not including outdoor drive-in movie theater.

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

# CITY OF GARDNER

DEPARTMENT OF COMMUNITY DEVELOPMENT AND PLANNING  
March 30, 2023



Elizabeth Kazinskas, Council President  
C/o Titi Sirphan, City Clerk  
95 Pleasant Street, Room 121  
Gardner, MA 01440

RE: **Petition 10892** – 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 its meeting on March 22, 2023, the Planning Board voted unanimously, 5-0, to recommend approving the proposed zoning amendment referenced above based on the information provided to them by the petitioner.

If the proposed amendment is approved, the Planning Board recommends the rewording of number 54 to read:

*Indoor amusement, fitness, recreational place, place of assembly, or a sports betting facility, provided that the building is so insulated and maintained as to confine noise to the premises and is located not less than 100 feet from a residential district.*

In addition, due to the potential significant scope and complexity of such a project if implemented under this proposed zoning amendment, the Board recommends changing the use table for number 54 from permitted by right (P) to Special Permit Planning Board (SPPB) for Commercial 1 and Commercial 2 zones; and number 56 from permitted by right (P) to Special Permit Planning Board (SPPB) for Commercial 2 and Industrial 1 zones.

The Planning Board looks forward to joining the City Council at the joint public hearing scheduled on Monday, April 3, 2023, at 6:30 p.m. Please contact Trevor Beauregard if you have any questions or need additional information.

Sincerely,

Mark M. Schafron, Planning Board Chairman

C: Mayor Michael J. Nicholson  
Trevor M. Beauregard, Director  
Richard Hanks, Interim Building Commissioner

City Hall Annex, 115 Pleasant Street, Room 201, Gardner, Massachusetts 01440  
Telephone: (978) 630-4011 ♦ Facsimile: (978) 632-1905 ♦ CDBG (978) 632-3800



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

RECEIVED  
2023 MAR 29 PM 1:21  
CITY CLERK'S OFFICE  
GARDNER, MA

March 29, 2023

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

RE: Item #: 10892 - Planning Board Follow Up

Dear Madam President and Councilors,

At the Planning Board Meeting of March 22, 2023, the Planning Board recommended changing the proposal from a permitted use ("P") in the table to a use requiring a special permit ("SP").

The Administration is more than acceptable to this proposal and would be amenable to it being made.

Respectfully Submitted,

Michael J. Nicholson  
Mayor, City of Gardner



# City of Gardner - Executive Department

Mayor Michael J. Nicholson

RECEIVED

2023 MAR 29 PM 1:21

CITY CLERK'S OFFICE  
GARDNER, MA

March 15, 2023

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

Mr. Mark Schafron, Chair  
And Planning Board Members  
Gardner City Hall, Manca Annex, Rm 201  
115 Pleasant St  
Gardner, MA 01440

RE: Joint Public Hearing Written Testimony – Item #10892: 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 Madam President and Councilors,

I am writing in favor of the Administration’s proposed Zoning Amendment to add the term “Sports Betting,” to line items 54 and 56 the Zoning Table of Uses.

In May of 2018, the United States Supreme Court struck down the federal Professional and Amateur Sports Protection Act (“PASPA”)<sup>1</sup>, also known as the Bradley Act, as unconstitutional in their ruling of *Murphy v. National Collegiate Athletic Association*<sup>2</sup>. This federal statute had effectively outlawed sports betting nationwide, except for a few excluded states. The Supreme Court had ruled this act as unconstitutional, thus paving the way for several states to legalize sports betting.

In August of 2023, former Governor Charlie Baker signed House Bill 5164 into law, legalizing online, retail, and kiosk sports betting in the Commonwealth for residents ages 21 and older. Retail sports betting went live on January 31, 2023, and online sports betting launched on March 10, 2023. Kiosk sports betting will go live later this year.

There are currently three (3) approved retail sites and ten (10) approved mobile betting applications. When kiosk sports betting goes live later this year, they will be allowed across the Commonwealth in locations that follow a specific procedure as outlined by the new law.

The Supreme Court of the United States has ruled on several occasions, that under the First Amendment of the Constitution, a municipality cannot outright ban a particular industry or business from opening within its borders, but can limit where these businesses are located.

Since the City cannot bar this type of business from opening in Gardner, and since this type of activity is not currently listed in the City’s Zoning Table of Uses, it leaves the City open to

<sup>1</sup> 28 U.S.C. ch.178 §3701 et seq.

<sup>2</sup> *Murphy v. NCAA*, 138 S.Ct. 1461 (2018).

liability of not being able to control whether these types of facility are located in largely residential neighborhoods or in areas in the City that may not be suited for this type of activity.

As such, it is the request of my Administration that this use be added to the City Code's Zoning table of uses under Line 54: Indoor Amusement, and Line 56: Outdoor Amusement, as these items fit the closest to the realm of sports betting.

This amendment to the Zoning Table of Uses, does not waive the other requirements these locations would have to go through should any sports betting facility open in Gardner in the future.

Per the requirements of the sports betting enabling legislation, any sports betting facility would have to enter into a Host Community Agreement ("HCA") similar to cannabis facilities in the Commonwealth. The Expanded Gaming Act requires that all applicants for sports betting licenses must first submit to the Massachusetts Gaming commission:

"a signed agreement between the host community and the applicant setting forth the conditions to have a gaming establishment located within the host community; provided, however, that the agreement shall include a community impact fee for the host community and all stipulations of responsibilities between the host community and the applicant, including stipulations of known impacts from the development and operation of a gaming establishment."

Additionally, after the HCA is approved by the City Council and signed by the Mayor, the City Council must then annually vote to allow the proposed establishment to operate a sports betting facility within the City at its location.

Lastly, before any facility should open, they must also go through the regular requirements for site plan approval and Development Review Committee vetting, both listed in Chapter §675-1010 of the City Code.

As such, this action to add this type of use to the Zoning Ordinances still requires this type of industry to be heavily regulated and vetted by the City by both branches of its government and its boards and commissions.

This action is simply being put forward to protect the City in the long run and pre-plan should one of these facilities come to Gardner rather than waiting and reacting if this should ever come up.

Respectfully Submitted,



Michael J. Nicholson  
Mayor, City of Gardner





**CITY of GARDNER**  
**Office of the City Clerk**  
95 Pleasant Street, Room 121  
Gardner, MA 01440  
\*Tel. 978-630-4058 \*Fax: 978-630-2589

CITY OF GARDNER  
NOTICE OF JOINT PUBLIC HEARING, continued

Pursuant to G.L. 40A, § 5, notice is hereby given that the City Council and Planning Board will conduct a **Joint Public Hearing** on **Monday, April 3, 2023 at 6:30 P.M.** in the City Council Chamber, Room 219, City Hall, 95 Pleasant Street, Gardner, to consider amending Chapter 675, the Zoning Code of the City of Gardner. The proposed Amendment involves changing items:

- **10891** – An Ordinance to Amend the Code of the City of Gardner, Chapter 675 Thereof, entitled “Zoning,” to Change the Classification of Certain Parcels of Land Along Route 140.
- **10892** – 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.
- **10893** – 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 increase the quota allowed by the Code of the City of Gardner

Information regarding this amendment is available for viewing in the City Clerk’s Office, the Department of Community Development and Planning (DCDP), or on the City’s webpage – [www.gardner-ma.gov](http://www.gardner-ma.gov).

All persons interested in this matter and desire to offer testimony are invited to attend the hearing.

Titi Siriphan  
City Clerk





**CITY of GARDNER**  
**Office of the City Clerk**  
95 Pleasant Street, Room 121  
Gardner, MA 01440  
\*Tel. 978-630-4058 \*Fax: 978-630-2589

CITY OF GARDNER  
NOTICE OF JOINT PUBLIC HEARING

Pursuant to G.L. 40A, § 5, notice is hereby given that the City Council and Planning Board will conduct a **Joint Public Hearing** on **Monday, March 20, 2023 at 6:30 P.M.** in the City Council Chamber, Room 219, City Hall, 95 Pleasant Street, Gardner, to consider amending Chapter 675, the Zoning Code of the City of Gardner. The proposed Amendment involves changing items:

- **10891** – An Ordinance to Amend the Code of the City of Gardner, Chapter 675 Thereof, entitled “Zoning,” to Change the Classification of Certain Parcels of Land Along Route 140.
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All persons interested in this matter and desire to offer testimony are invited to attend the hearing.

*Titi Siriphan*  
Titi Siriphan  
City Clerk



**City of Gardner - *Executive Department***

**Mayor Michael J. Nicholson**

February 3, 2023

Hon. Elizabeth J. Kazinskas, Council President

And City Councilors

Gardner City Hall, Rm 121

95 Pleasant St

Gardner, MA 01440

RE: Zoning Ordinance Proposal- Sports Betting Facilities

Dear Madam President and Councilors,

As you are likely aware, on August 10, 2022, former Governor Charlie Baker signed Chapter 173 of the Acts of 2022 into law, legalizing sports betting in the Commonwealth.

This new addition to the General Laws, some parts of which have already taken effect while others will within the next few months, allows for the opening of new facilities across the Commonwealth where individuals can gamble and place wagers on sporting games.

Currently, these types of facilities are not governed by our zoning ordinance, as they were not allowed prior to the passage of this act. The attached ordinance proposal is being presented to help protect the City so that we can regulate where facilities like this can go and make sure that in the event that a facility like this looks to open in Gardner, it locates in a location that fits this use rather than in a largely residential area that could cause disruptions to a neighborhood.

I believe it is in the best interest of the City to be proactive in this matter in order to make sure the City has the tools in place before any situations may arise.

Respectfully Submitted,

A handwritten signature in blue ink, appearing to read "Michael J. Nicholson", is written over a horizontal line.

Michael J. Nicholson  
Mayor, City of Gardner

CC:

City Council Public Welfare Committee  
Planning Board



## CITY OF GARDNER POLICE DEPARTMENT

200 Main Street  
Gardner, Massachusetts 01440  
Phone: (978) 632-5600  
Fax: (978) 632-9045



Eric P. McAvene  
Chief of Police

Nicholas P. Maroni  
Deputy Chief of Police

February 3, 2023

The Honorable Michael J. Nicholson, Mayor  
Gardner City Hall  
95 Pleasant Street  
Gardner, MA 01440

Re: Sports Betting Zoning Ordinance

Dear Mayor,

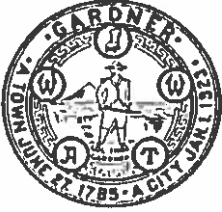
I have reviewed the proposed addition of the new Sports Betting Ordinance and do not see any issues from the police department. Any proposed facility should have a buffer between any residential zone and this ordinance reflects the new law.

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

Very truly yours,

A handwritten signature in black ink, appearing to read "CPA" followed by a stylized flourish.

Eric P. McAvene  
Chief of Police



**City of Gardner**  
**Department of Inspectional Services**  
**115 Pleasant Street, Room 101**  
**Gardner, MA 01440**  
Tel. (978) 630-4007 Fax: (978) 632-3313

---

Feb. 7, 2023

RE: Text Amendment

Dear Mr. Mayor,

Please accept this letter as my full support for your proposed text amendment to our Zoning Ordinance regarding sports betting. I believe when new laws are enacted at a state level that a municipalities Zoning must change to reflect the new law, or be forced to react to a potential problem.

Do not hesitate to contact me should you need any further assistance.

Roland Jean  
Building Commissioner/Zoning Enforcement Officer  
City Hall Annex  
115 Pleasant St. RM 101  
Gardner, MA 01440  
(978) 630 4007  
rjean@gardner-ma.gov

**Mission Statement**

To promote the safe and compatible development of the community through fair and consistent enforcement of building codes and zoning ordinances

*Current Ordinance*

GARDNER CODE

Description of Use	SFR1	RR2	GR3	COM1	COM2		IND1	IND2
					P	SP		
49. Restaurant	NP	SP	NP	P	P		P	NP
50. Restaurant, fast-food, including appurtenant structures to provide drive-through or drive-in services	NP	NP	NP	SP	SP		NP	NP
51. Restaurant serving food or beverages with live or mechanical entertainment	NP	SP	NP	SP	P		NP	NP
52. Wholesale office or showroom, with storage limited to floor samples only	NP	NP	NP	P	P		P	P
53. Wholesale office or showroom with storage permitted on property	NP	NP	NP	SP	P		P	P
54. Indoor amusement, fitness, or recreational place or place of assembly, provided that the building is so insulated and maintained as to confine noise to the premises and is located not less than 100 feet from a residential district	NP	NP	NP	P	P		NP	NP
55. Outdoor commercial clubs and/or recreational establishments or use such as swimming pools, tennis courts, ski clubs, camping areas, skating rinks or other commercial facilities offering outdoor recreation	NP	SP	NP	P	P		NP	NP
56. Public or commercial outdoor amusement or recreation use but not including outdoor drive-in movie theater	NP	NP	NP	NP	P		P	NP
57. Bus station or terminal or railroad station for passengers	NP	NP	NP	P	P		P	NP
58. Transport terminal, warehouse distribution facility	NP	NP	NP	NP	NP		P	P
59. Contracting business and contractor's yard, including storage in the open'	NP	NP	NP	NP	SP		P	NP

# HOUSE . . . . . No. 5164

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## The Commonwealth of Massachusetts

The committee of conference on the disagreeing votes of the two branches with reference to the Senate amendment (striking out all after the enacting clause and inserting in place thereof the text contained in Senate document numbered 2862) of the House Bill regulating sports wagering (House, No. 3993), reports recommending passage of the accompanying bill (House, No. 5164). August 1, 2022.

Jerald A. Parisella	Michael J. Rodrigues
Aaron Michlewitz	Eric P. Lesser
David K. Muradian	Patrick M. O'Connor



FILED ON: 8/1/2022

**HOUSE . . . . . No. 5164****The Commonwealth of Massachusetts**

\_\_\_\_\_  
**In the One Hundred and Ninety-Second General Court**  
**(2021-2022)**  
 \_\_\_\_\_

An Act regulating sports wagering.

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

1           SECTION 1. Section 7 of chapter 4 of the General Laws is hereby amended by striking  
 2 out clause Tenth, as appearing in the 2020 Official Edition, and inserting in place thereof the  
 3 following clause:-

4           Tenth, "Illegal gaming", a banking or percentage game played with cards, dice, tiles,  
 5 dominoes, or an electronic, electrical or mechanical device or machine for money, property,  
 6 checks, credit or any representative of value, but excluding: (i) a lottery game conducted by the  
 7 state lottery commission under sections 24, 24A and 27 of chapter 10; (ii) a game conducted  
 8 under chapter 23K; (iii) sports wagering conducted under chapter 23N; (iv) pari-mutuel wagering  
 9 on horse races under chapters 128A and 128C and greyhound races under said chapter 128C; (v)  
 10 a game of bingo conducted under chapter 271; (vi) charitable gaming conducted under said  
 11 chapter 271; and (vii) a fantasy contest conducted under section 11M½.

12           SECTION 2. Section 7 of chapter 4 of the General Laws is hereby amended by striking  
 13 out clause Tenth, as inserted by section 1, and inserting in place thereof the following clause:-

Tenth, “Illegal gaming”, a banking or percentage game played with cards, dice, tiles, dominoes, or an electronic, electrical or mechanical device or machine for money, property, checks, credit or any representative of value, but excluding: (i) a lottery game conducted by the state lottery commission under sections 24, 24A and 27 of chapter 10; (ii) a game conducted under chapter 23K; (iii) sports wagering conducted under chapter 23N; (iv) pari-mutuel wagering on horse races under chapters 128A and 128C; (v) a game of bingo conducted under chapter 271; and (vi) charitable gaming conducted under said chapter 271.

SECTION 3. Chapter 12 of the General Laws is hereby amended by inserting after section 11M the following section:-

Section 11M½. Notwithstanding sections 24, 24A and 27 of chapter 10, chapter 271 or any other general or special law to the contrary, a person or entity that offers fantasy contests for a cash prize to members of the public may offer a fantasy contest to residents of the commonwealth pursuant to and in accordance with regulations promulgated by the attorney general; provided further, for the purposes of section 7 of chapter 4, a fantasy contest shall not be considered illegal gaming. “Fantasy contest” includes any fantasy or simulated game or contest, including, but not limited to, any fantasy or simulated game or contest based on professional sports events in which: (i) the value of all prizes and awards offered to winning participants are established and made known to the participants in advance of the contest; (ii) all winning outcomes reflect the relative knowledge and skill of the participants and shall be determined predominantly by accumulated statistical results of the performance of individuals, including athletes in the case of sports events; and (iii) no winning outcome is based on the score, point spread, or any performance or performances of any single actual team or combination of such

36 teams or solely on any single performance of an individual athlete or player in any single actual  
37 event.

38 SECTION 4. Section 4 of chapter 23K of the General Laws, as appearing in the 2020  
39 Official Edition, is hereby amended by inserting the following subsection:-

40 (42) regulate and enforce chapter 23N relating to sports wagering.

41 SECTION 5. The General Laws are hereby amended by inserting after chapter 23M the  
42 following chapter:-

43 CHAPTER 23N

44 AUTHORIZATION AND REGULATION OF SPORTS WAGERING

45 Section 1. This chapter shall be known and may be cited as the "Massachusetts Sports  
46 Wagering Act".

47 Section 2. Notwithstanding any general or special law to the contrary, the operation of  
48 sports wagering and ancillary activities shall be lawful when conducted in accordance with this  
49 chapter and the rules and regulations of the commission.

50 Section 3. As used in this chapter the following words shall, unless the context clearly  
51 requires otherwise, have the following meanings:

52 "Adjusted gross fantasy wagering receipts", the total gross receipts from fantasy contests  
53 as defined in section 11M1/2 of chapter 12, less only the total of all cash prizes paid to  
54 participants in the fantasy contests; provided, however, that the total of all cash prizes paid to

55 participants shall not include the cash equivalent of any merchandise or thing of value awarded  
56 as a prize.

57 “Adjusted gross sports wagering receipts”, the total gross receipts from sports wagering  
58 less the sum of: (i) the total of all winnings paid to participants; and (ii) all excise taxes paid  
59 pursuant to federal law; provided, however, that the total of all winnings paid to participants  
60 shall not include the cash equivalent of any merchandise or thing of value awarded as a prize.

61 “Affiliate”, a person who directly or indirectly controls, or is controlled by, or is under  
62 common control with, a specified person.

63 “Applicant”, a person who has applied for a license to engage in activity regulated under  
64 this chapter.

65 “Breaks”, the odd cents over any multiple of 10 cents of winnings per \$1 wagered.

66 “Category 1 license”, a license issued by the commission that permits the operation of  
67 sports wagering in person at a gaming establishment, as defined in section 2 of chapter 23K, and  
68 through not more than 2 individually-branded mobile applications or other digital platforms  
69 approved by the commission; provided, that the mobile applications or other digital platforms  
70 shall be qualified for and issued a category 3 license.

71 “Category 2 license”, a license issued by the commission that permits the operation of  
72 sports wagering in-person on the premises where either: (1) live horse racing is conducted in  
73 accordance with chapter 128A or (2) the licensee is authorized by law to conduct simulcast  
74 wagering on horse or greyhound racing, and through not more than 1 individually branded  
75 mobile application or other digital platform approved by the commission; provided, that the

76 mobile applications or other digital platforms shall be qualified for and issued a category 3  
77 license; provided further, that the commission may issue a category 2 license to: (1) a person or  
78 entity licensed by the commission in accordance with said chapter 128A to conduct a live horse  
79 racing meeting, (2) a running horse racing licensee that conducted simulcast wagering as of  
80 December 31, 2020 as authorized by law, or (3) a greyhound meeting licensee that conducted  
81 simulcast wagering as of December 31, 2020 as authorized by law; provided further, a category 2  
82 licensee shall make a capital investment of not less than \$7,500,000 within 3 years after  
83 receiving a sports wagering license.

84 “Category 3 license”, a license issued by the commission that permits the operation of  
85 sports wagering through a mobile application and other digital platforms approved by the  
86 commission.

87 “Close associate”, a person who holds a relevant financial interest in, or is entitled to  
88 exercise power in, the business of an applicant or licensee and, by virtue of that interest or  
89 power, is able to exercise a significant influence over the management or operation of a gaming  
90 establishment or business licensed under this chapter.

91 “Collegiate sport or athletic event”, a sport or athletic event offered or sponsored by, or  
92 played in connection with, a public or private institution that offers educational services beyond  
93 the secondary level.

94 “Collegiate tournament”, a series of collegiate sports or athletic events involving four or  
95 more collegiate teams that make up a single unit of competition.

96 “Commission”, the Massachusetts gaming commission established in section 3 of chapter  
97 23K.

98           “Electronic sports”, a single or multiplayer video game played competitively for  
99   spectators.

100          “Governmental authority”, any governmental unit of a national, state or local body  
101   exercising governmental functions, except the United States government.

102          “License”, any license applied for or issued by the commission under this chapter,  
103   including, but not limited to: (i) an operator license or (ii) an occupational license.

104          “National criminal history background check”, a criminal history background check  
105   conducted using the criminal history record system maintained by the Federal Bureau of  
106   Investigation and based on fingerprint identification or any other method of positive  
107   identification.

108          “Occupational license”, a license required to be held by an employee of an operator when  
109   the employee performs duties directly related to the operation of sports wagering in the  
110   commonwealth in a supervisory role.

111          “Official league data”, statistics, results, outcomes and other data relating to a sporting  
112   event that is obtained pursuant to an agreement with the relevant sports governing body, or with  
113   an entity expressly authorized by the relevant sports governing body to provide such data to  
114   sports wagering operators, which authorizes the use of such data for determining the outcome of  
115   tier 2 sports wagers on such sporting event.

116          “Operator” or “sports wagering operator”, any entity permitted under this chapter to offer  
117   sports wagering to persons in the commonwealth through a category 1 license, category 2 license  
118   or category 3 license.



119           “Operator license”, a category 1 license, category 2 license or category 3 license to  
120   operate sports wagering.

121           “Person”, an individual, corporation, association, operation, firm, partnership, trust or  
122   other form of business association.

123           “Personal biometric data”, any information about an athlete that is derived from that  
124   athlete’s physical or physiological characteristics, including, but not limited to, deoxyribonucleic  
125   acid, heart rate, blood pressure, perspiration rate, internal or external body temperature, hormone  
126   levels, glucose levels, hydration levels, vitamin levels, bone density, muscle density or sleep  
127   patterns.

128           “Players association”, a professional sports association recognized by a sports governing  
129   body that represents professional athletes.

130           “Professional sport or athletic event”, an event at which 2 or more persons participate in a  
131   sport or athletic event and receive compensation in excess of actual expenses for their  
132   participation in such event.

133           “Promotional gaming credit”, a sports wagering credit or other item issued by an operator  
134   to a patron to enable the placement of a sports wager.

135           “Qualified gaming entity”, an entity that: (i) holds a gaming license as defined in section  
136   2 of chapter 23K; (ii) (a) is licensed by the commission in accordance with chapter 128A to  
137   conduct a live horse racing meeting, (b) is a running horse racing licensee that conducted  
138   simulcast wagering as of December 31, 2020 as authorized by law or (c) is a greyhound meeting  
139   licensee that conducted simulcast wagering as of December 31, 2020 as authorized by law; or

(iii) offers an interactive sports wagering platform through a mobile application or other digital platform.

“Sports event” or “sporting event”, a professional sport or athletic event, collegiate sport or athletic event, a collegiate tournament, motor race event, electronic sports event or other event authorized by the commission under this chapter; provided, however, that “sporting event” shall not include: (i) high school and youth sports or athletic events; or (ii) a collegiate sport or athletic event involving 1 or more collegiate teams from the commonwealth unless they are involved in a collegiate tournament.

“Sports governing body”, an organization that is headquartered in the United States and prescribes final rules and enforces codes of conduct with respect to a sporting event and participants therein; provided, however, that, notwithstanding the foregoing, the commission shall adopt regulations to determine the governing body for electronic sports for the purposes of this chapter.

“Sports wager”, a wager on a sporting event or a portion of a sporting event.

“Sports wagering”, the business of accepting wagers on sporting events or portions of sporting events, other events, the individual performance statistics of athletes in a sporting event or other events or a combination of any of the same by any system or method of wagering approved by the commission including, but not limited to, mobile applications and other digital platforms; provided, that sports wagering shall not include the acceptance of any wager: (i) with an outcome dependent on the performance of an individual athlete in any collegiate sport or athletic event, including, but not limited, to in-game or in-play wagers; (ii) on a high school or youth sporting event; (iii) on injuries, penalties, player discipline or replay review; and provided

further, that sports wagering shall not include fantasy contests as defined in section 11M½ of chapter 12. Sports wagering shall include, but shall not be limited to, single-game bets, teaser bets, parlays, over-under, moneyline, pools, exchange wagering, in-game wagering, in-play bets, proposition bets and straight bets.

“Sports wagering account”, a financial record established by an operator for a patron in which the patron may deposit by any method approved by the commission and withdraw funds for sports wagering and other authorized purchases and to which the operator may credit winnings or other amounts due to or authorized by that patron; provided, however, that such account may be established and funded by the patron electronically through an approved mobile application or digital platform; and provided further, that a deposit into a sports wagering account shall not be made using a credit card.

“Tier 1 sports wager”, a sports wager that is determined solely by the final score or outcome of a sporting event and is placed before the sporting event has begun.

“Tier 2 sports wager”, a sports wager that is not a tier 1 sports wager.

“Wager”, a sum of money or thing of value risked on an uncertain occurrence.

Section 4. (a) The commission shall regulate the conduct of sports wagering under this chapter.

(b) The commission shall promulgate rules and regulations necessary for the implementation, administration and enforcement of this chapter. The commission may promulgate emergency rules and regulations in accordance with applicable procedures for the promulgation of emergency rules and regulations.

(c) The commission shall promulgate regulations to prohibit: (i) the purchase or other use of any personal biometric data of an athlete for sports wagering or aiding a patron in placing a wager with sports wagering operators; and (ii) the following advertising, marketing and branding activities: (A) advertisements, marketing and branding in such a manner that it is deceptive, false, misleading, or untrue, or tends to deceive or create a misleading impression whether directly, or by ambiguity or omission; (B) use of unsolicited pop-up advertisements on the internet or by text message directed to an individual on the list of self-excluded persons established pursuant to paragraph (2) of subsection (e) of section 13; (C) any form of advertising, marketing or branding that the commission deems unacceptable or disruptive to the viewer experience at a sports event; (D) advertising, marketing and branding deemed to appeal directly to a person younger than 21 years old; and (E) advertising on any billboards, or any other public signage, which fails to comply with any federal, state or local law.

(d)(1) The commission may promulgate rules and regulations including, but not limited to, those governing the acceptance of wagers on a sports event, other event or a series of sports events; types of wagering receipts which may be used; methods of issuing receipts; methods of accounting to be used by operators; types of records to be kept; types of systems for wagering; and any other sports wagering-related issues.

(2) The commission shall promulgate rules and regulations regarding protections for patrons placing wagers and the promotion of social responsibility and responsible gaming that shall include, but not be limited to, a requirement that an operator: (i) implement responsible gaming programs that include comprehensive employee trainings on responding to circumstances in which individuals present signs of gambling addiction; (ii) assess, prevent and address problem gaming by an operator's consumers; (iii) permit a consumer to permanently

close an account registered to the consumer on any or all platforms owned or operated by the operator at any time and for any reason; (iv) offer consumers access to their account history and account details; (v) refrain from making claims as to a consumer's winnings or money earned that is not net of wagers placed; (vi) allow a consumer to withdraw funds without further solicitation or promotion in the manner in which the funds were deposited; (vii) annually submit a problem gaming plan for approval by the commission, in consultation with the department of public health, that includes the objectives of and timetables for implementing the plan, identification of the persons responsible for implementing and maintaining the plan, procedures for identifying consumers with suspected or known problem gaming behavior, procedures for providing information to consumers concerning problem gaming identification and resources, procedures to prevent gaming by minors and self-excluded persons and any other information the commission may require; and (viii) shall not offer or provide a line of credit to any consumer.

(3) The commission shall promulgate regulations that require mobile applications and digital platforms authorized for sports wagering to prominently display upon each entry into the application or platform the telephone number and website for a problem gambling hotline overseen by the department of public health.

(e) The commission shall: (i) determine the eligibility of a person to hold or continue to hold a license; (ii) issue all licenses; and (iii) maintain a record of all licenses issued under this chapter.

(f) The commission shall levy and collect all fees, surcharges, civil penalties and taxes on adjusted gross sports wagering receipts imposed by this chapter, except as otherwise provided under this chapter.

228 (g) The commission shall have the authority to enforce this chapter and any rule or  
229 regulation of the commission and may request that the attorney general bring an action to enforce  
230 this chapter or any rule or regulation of the commission by civil action or petition for injunctive  
231 relief.

232 (h) The commission may hold hearings, administer oaths and issue subpoenas or  
233 subpoenas duces tecum in order to enforce this chapter and the rules and regulations of the  
234 commission.

235 (i) The commission may exercise any other powers necessary to effectuate this chapter  
236 and the rules and regulations of the commission.

237 Section 5. (a) A person shall not engage in any activity in connection with sports  
238 wagering in the commonwealth unless all required licenses have been obtained in accordance  
239 with this chapter and the rules and regulations of the commission.

240 (b) The commission shall not grant an operator license until it determines that each  
241 person who has control of the applicant meets all qualifications for licensure. For the purposes of  
242 this chapter, the following shall be considered to have control of an applicant: (i) a person who  
243 owns 10 per cent or more of a corporate applicant and who has the ability to control the activities  
244 of the corporate applicant; provided, however, that a bank or other licensed lending institution  
245 that holds a mortgage or other lien acquired in the ordinary course of business shall not be  
246 considered to have control of an applicant; (ii) a person who holds a beneficial or proprietary  
247 interest of 10 per cent or more of a non-corporate applicant's business operation and who has the  
248 ability to control the activities of the non-corporate applicant; and (iii) at the commission's



discretion, an executive, employee or agent having the power to exercise significant influence over decisions concerning the applicant's sports wagering operations in the commonwealth.

(c) A person having control of an applicant pursuant to subsection (b) shall submit to the commission an application in a form determined by the commission. Each such person who is a natural person shall also submit to the commission: (i) fingerprints for a national criminal records check by the department of state police and the Federal Bureau of Investigation; and (ii) a signed authorization for the release of the person's information by the department of state police and the Federal Bureau of Investigation; provided, however, that a person having control of an applicant who is a natural person that has submitted to a national criminal records check in any jurisdiction within the previous year shall not be required to submit to another national criminal records check if such person submits to the commission the results of such previous national criminal records check. Any applicant convicted of any disqualifying offense, as determined by the commission, shall not be licensed.

(d) Each person licensed under this chapter shall give the commission written notice not more than 30 days after any change to any material information provided in the application for a license or renewal.

(e) A commission employee shall not be an applicant for any license issued under this chapter.

Section 6. (a) A licensed qualified gaming entity may operate sports wagering upon the approval of the commission.

(b)(1) The commission shall issue a category 1 license to any holder of a gaming license, as defined in section 2 of chapter 23K, that meets the requirements of this chapter and the rules

271 and regulations of the commission; provided, however, that any holder of a category 1 license  
272 shall not be issued a category 2 license.

273 (2) The commission shall issue a category 2 license to: (i) any holder of a license to  
274 conduct a live horse racing meeting in accordance with chapter 128A; (ii) a running horse racing  
275 licensee that conducted simulcast wagering as of December 31, 2020 as authorized by law; or  
276 (iii) a greyhound meeting licensee that conducted simulcast wagering as of December 31, 2020  
277 as authorized by law; that meets the requirements of this chapter and the rules and regulations of  
278 the commission; provided, however, that any holder of a category 2 license shall not be issued a  
279 category 1 license; and provided further, that no more than 1 category 2 license shall be issued to  
280 any 1 person, entity, or affiliate or close associate of such person or entity.

281 (3) The commission may issue a category 3 license to any entity that offers sports  
282 wagering through a mobile application or other digital platform that meets the requirements of  
283 this chapter and the rules and regulations of the commission; provided, however, the commission  
284 shall issue no more than 7 category 3 licenses that are not connected to a category 1 or category  
285 2 license.

286 (4) A category 1 or category 2 licensee may enter into agreements related to mobile or  
287 digital sports wagering with a category 3 licensee pursuant to the approval of the commission.  
288 Nothing in this chapter shall require a category 3 licensee to partner with or have any  
289 commercial relationship with a category 1 or 2 licensee.

290 (c)(1) A qualified gaming entity may submit to the commission a request for a temporary  
291 license for the immediate commencement of sports wagering operations. Such request shall  
292 include an initial licensing fee of \$1,000,000 payable to the commission.

293 (2) Upon receiving a request for a temporary license, the executive director of the  
294 commission shall review the request. If the executive director determines that the entity  
295 requesting the temporary license is a qualified gaming entity and has paid the sports wagering  
296 initial licensing fee pursuant to paragraph (1), the commission shall authorize the qualified  
297 gaming entity to conduct sports wagering for a period of 1 year under a temporary license or  
298 until a final determination on its operator license application is made.

299 (3) All sports wagering conducted under authority of a temporary license shall comply  
300 with the house rules adopted under section 10.

301 (d) Prior to issuing an operator license, the commission shall commence an investigation  
302 into the suitability of the applicant. The commission may use information obtained from the  
303 applicant pursuant to chapter 23K, chapter 128A, chapter 128C, or information from other  
304 jurisdictions where the applicant is authorized to conduct sports wagering. In evaluating the  
305 suitability of the applicant, the commission shall consider the overall reputation of the applicant  
306 including, but not limited to: (i) the integrity, honesty, good character and reputation of the  
307 applicant; (ii) the financial stability, integrity and background of the applicant; (iii) the business  
308 practices and the business ability of the applicant to establish and maintain a successful sports  
309 wagering operation; (iv) whether the applicant has a history of compliance with gaming or sports  
310 wagering licensing requirements in other jurisdictions; (v) whether the applicant, at the time of  
311 application, is a defendant in litigation involving its business practices; and (vi) the suitability of  
312 all parties in interest to the license, including affiliates and close associates, and the financial  
313 resources of the applicant.

314 (c) The commission may deny an application, if the commission determines during its  
315 investigation that an applicant has failed to: (i) establish the applicant's integrity or the integrity  
316 of any affiliate, close associate, financial resources or any person required to be qualified by the  
317 commission; (ii) demonstrate responsible business practices in any jurisdiction; or (iii) overcome  
318 any other reason, as determined by the commission, as to why it would be injurious to the  
319 interests of the commonwealth to award the applicant an operator license.

320 (f) Upon application by a qualified gaming entity that is not denied pursuant to subsection  
321 (e) and payment of a \$5,000,000 licensing fee, the commission shall grant an operator license to  
322 a qualified gaming entity that provides the right to conduct sports wagering; provided, that the  
323 qualified gaming entity shall meet the requirements for licensure under this chapter and the rules  
324 and regulations of the commission. Such license shall be issued for a 5-year period, and may be  
325 renewed for 5-year periods upon payment of a \$5,000,000 renewal fee; provided, that the  
326 operator shall continue to meet all requirements under this chapter and the rules and regulations  
327 of the commission. The commission shall credit any initial licensing fee paid pursuant to  
328 paragraph (1) of subsection (c) to a successful applicant for an operator license against the  
329 licensing fee due under this subsection.

330 (g) An operator shall submit to the commission such documentation or information as the  
331 commission may require to demonstrate that the operator continues to meet the requirements of  
332 this chapter and the rules and regulations of the commission. An operator shall submit required  
333 documentation or information no later than 5 years after issuance of its operator license and  
334 every 5 years thereafter, or within lesser periods based on circumstances specified by the  
335 commission.

(h) No licensee shall transfer an operator license, or any direct or indirect interest in the license, without the majority approval of the commission. A person seeking to acquire such license through a transfer shall qualify and otherwise be determined by the commission to be eligible for licensure under this chapter. The commission may reject a proposed license transfer or a proposed transfer of interest in the license to an unsuitable person and may reject a proposed transfer that, in the determination of the commission, would be injurious to the interests of the commonwealth. The commission may promulgate regulations governing this process which may include assessment of a fee to reflect the cost associated with reviewing the proposed transfer.

(i) Applications for operator licenses shall be public records under section 10 of chapter 66; provided however, that trade secrets, competitively-sensitive or other proprietary information provided in the course of an application for an operator license under this chapter, the disclosure of which would place the applicant at a competitive disadvantage, may be withheld from disclosure under said section 10 of said chapter 66.

Section 7. (a) An applicant for an operator license shall pay to the commission a nonrefundable processing fee of \$200,000 for the costs associated with the processing of the application and investigation of the applicant; provided, however, that if the costs of the investigation exceed the initial application fee, the applicant shall pay the additional amount to the commission not more than 30 days after notification of insufficient fees or the application shall be rejected.

(b) All fees in this section shall be deposited into the Sports Wagering Control Fund established in section 14.

Section 8. Section 8. (a) All persons employed by an operator to perform duties directly related to the operation of sports wagering in the commonwealth in a supervisory role shall maintain a valid occupational license issued by the commission. The commission shall issue such occupational license to a person who meets the requirements of this section.

(b) An occupational license authorizes the licensee to be employed in the capacity designated by the commission while the license is active. The commission may establish, by rule or regulation, job classifications with different requirements based on the extent to which a particular job impacts, or has the potential to impact, the lawful operation of sports wagering.

(c) An applicant for an occupational license shall submit any required application forms established by the commission and shall pay a nonrefundable application fee of \$100. An employer may pay an application fee on behalf of an applicant.

(d) Not later than March 1 of the third calendar year following the issuance or renewal of an occupational license, an occupational license holder shall pay a nonrefundable license renewal fee of \$100 and submit a renewal application on a form established by the commission. An employer may pay the license renewal fee on behalf of the licensed employee.

Section 9. Section 9. (a) The commission may deny a license to any applicant, reprimand any licensee or suspend or revoke a license if the applicant or licensee: (i) has knowingly made a false statement of a material fact to the commission; (ii) has had a license revoked by any governmental authority responsible for regulation of gaming activities; (iii) has been convicted of a felony or other crime involving embezzlement, theft, fraud, perjury, or a gambling-related offense; (iv) has not demonstrated to the satisfaction of the commission financial responsibility sufficient to adequately meet the requirements of the proposed enterprise; (v) has affiliates or



close associates that would not qualify for a license or whose relationship with the applicant may pose an injurious threat to the interests of the commonwealth in awarding an operator license to the applicant; or (vi) in the case of an operator or an applicant for an operator license, is not the true owner of the business or is not the sole owner and has not disclosed the existence or identity of other persons who have an ownership interest in the business.

(b) The commission may deny, suspend or revoke an operator license or reprimand any licensee if the applicant or licensee has not met the requirements of this chapter.

Section 10. (a) An operator shall adopt comprehensive house rules for game play governing sports wagering transactions with the operator's patrons. The house rules shall specify the amounts to be paid on winning wagers and the effect of sports event schedule changes. An operator shall not conduct sports wagering until the commission has approved the house rules and an operator shall not conduct sports wagering in a manner inconsistent with approved house rules.

(b) The house rules, together with any other information the commission deems appropriate, shall be accessible to any patrons of the sports wagering operator. The operator shall make copies readily available to patrons and shall post the house rules as required by the commission, including on a prominent place on the operator's public website and mobile application or other digital platform.

Section 11. (a) An operator shall employ commercially reasonable methods to: (i) prohibit the operator, directors, officers, owners and employees of the operator and any relative living in the same household as any such person from placing bets with the operator; (ii) prohibit athletes, coaches, referees, team owners, employees of a sports governing body or its member

401 teams and player and referee union personnel from wagering on any sporting event of their  
402 sport's governing body; provided, however, that the operator shall use lists of such persons that a  
403 sports governing body may provide to the commission to determine which persons are excluded  
404 from placing wagers under this subsection; and provided further, that the commission may use  
405 the list of barred employees from the operator and may work directly with a member team to  
406 determine the risk posed by certain employees for obtaining nonpublic confidential information  
407 on a sporting event and may remove an employee without knowledge of team strategy or game  
408 operations from such a list if the commission determines any such risk is de minimis; (iii)  
409 prohibit any individual with access to nonpublic confidential information held by the operator  
410 from placing wagers with the operator; (iv) prohibit persons from placing wagers as agents or  
411 proxies for others; and (v) maintain the security of wagering data, customer data and other  
412 confidential information from unauthorized access and dissemination; provided, however, that  
413 nothing in this chapter shall preclude the use of internet or cloud-based hosting of such data and  
414 information or disclosure as required by court order, other law or this chapter; and provided  
415 further, that such data and information shall be hosted in the United States.

416 (b) A sports governing body or players association representing athletes who participate  
417 in sporting events of the sports governing body may submit to the commission, in writing, by  
418 providing notice in a form and manner as the commission may require, a request to restrict, limit  
419 or exclude a certain type, form or category of sports wagering with respect to sporting events of  
420 the sports governing body, if the sports governing body or players association believes that such  
421 type, form or category of sports wagering with respect to sporting events of the sports governing  
422 body: (i) is contrary to public policy; (ii) unfair to consumers; (iii) may undermine the perceived  
423 integrity of the sports governing body, sporting events of the sports governing body or the

424 athletes participating therein; or (iv) affects the integrity of the sports governing body or sporting  
425 events of the sports governing body or the athletes participating therein.

426       The commission shall request comment from operators on all such requests. After giving  
427 due consideration to all comments received, the commission shall, upon a demonstration of good  
428 cause from the requestor, grant the request. The commission shall respond to a request  
429 concerning a particular event before the start of the event or, if it is not feasible to respond before  
430 the start of the event, not later than 7 days after the request is made; provided, however, that if  
431 the commission determines that the requestor is more likely than not to prevail in successfully  
432 demonstrating good cause for its request, the commission may provisionally grant the request  
433 until the commission makes a final determination as to whether the requestor has demonstrated  
434 good cause. Absent a provisional grant by the commission, an operator may continue to offer  
435 sports wagering on sporting events that are the subject of a request during the pendency of the  
436 consideration of the applicable request.

437       (c) The commission shall designate a state law enforcement entity to have primary  
438 responsibility for conducting, or assisting the commission in conducting, investigations into  
439 abnormal betting activity, match fixing and other conduct that corrupts a betting outcome of a  
440 sporting event for purposes of financial gain.

441       (d) The commission and operators shall use commercially reasonable efforts to cooperate  
442 with investigations conducted by sports governing bodies or law enforcement agencies,  
443 including, but not limited to, using commercially reasonable efforts to provide or facilitate the  
444 provision of anonymized account-level betting information and audio or video files relating to  
445 persons placing wagers. All disclosures under this section are subject to the obligation of an

446 operator to comply with all federal, state and local laws and regulations, including, but not  
447 limited to, laws and regulations relating to privacy and personally identifiable information.

448 (e) An operator shall immediately report to the commission any information relating to:  
449 (i) criminal or disciplinary proceedings commenced against the operator in connection with its  
450 operations; (ii) abnormal betting activity or patterns that may indicate a concern with the  
451 integrity of a sporting event; (iii) any potential breach of the internal rules and codes of conduct  
452 pertaining to sports wagering of a relevant sports governing body; (iv) any other conduct that  
453 corrupts a betting outcome of a sporting event for purposes of financial gain, including, but not  
454 limited to, match fixing; or (v) suspicious or illegal wagering activities, including, but not limited  
455 to: (A) use of funds derived from illegal activity; (B) wagers to conceal or launder funds derived  
456 from illegal activity; (C) use of agents to place wagers; and (D) use of false identification. An  
457 operator shall immediately report information relating to conduct described in clauses (ii), (iii)  
458 and (iv) of this subsection to the relevant sports governing body.

459 (f) The commission and operators shall maintain the confidentiality of information  
460 provided by a sports governing body for purposes of investigating or preventing the conduct  
461 described in clauses (ii), (iii) and (iv) of subsection (e), unless disclosure is required by this  
462 chapter, the commission, other law or court order or unless the sports governing body consents to  
463 disclosure.

464 (g) With respect to any information provided by an operator to a sports governing body  
465 relating to conduct described in clauses (ii), (iii) and (iv) of subsection (e), a sports governing  
466 body shall: (i) only use such information for integrity purposes and shall not use the information  
467 for any commercial or other purpose; and (ii) maintain the confidentiality of such information,

unless disclosure is required by this chapter, the commission, other law or court order or unless the operator consents to disclosure; provided, however, that the sports governing body may make any disclosure necessary to conduct and resolve integrity-related investigations and may publicly disclose such information if required by its integrity policies or if deemed by the sports governing body in its reasonable judgment to be necessary to maintain the actual or perceived integrity of its sporting events, and subject in all cases to the sports governing body's compliance with federal, state and local laws and regulations, including, but not limited to, laws and regulations relating to privacy and personally identifiable information; and provided further, that prior to any such public disclosure that would identify the operator by name, the sports governing body shall provide the operator with notice of such disclosure and an opportunity to object to such disclosure.

(h) An operator shall maintain records of all wagers placed by its patrons, including: (i) personally identifiable information of a patron who places a sports wager through a mobile application or other digital platform or a patron who places an in-person sports wager that exceeds an amount determined by the commission; (ii) amount and type of the bet; (iii) the time the bet was placed; (iv) the location of the bet, including the Internet Protocol address if applicable; (v) the outcome of the bet; and (vi) records of abnormal betting activity for 3 years after a sporting event occurs and video camera recordings in the case of in-person wagers for at least 1 year after a sporting event occurs. An operator shall make these records available for inspection upon request of the commission or as required by court order.

(i) An operator shall use commercially reasonable efforts to maintain, in real time and at the account level, anonymized information for each patron, including: (i) the amount and type of bet; (ii) the time the bet was placed; (iii) the location of the bet, including the Internet Protocol

491 address if applicable; (iv) the outcome of the bet; and (v) records of abnormal betting activity.  
492 The commission may request the information in the form and manner as it requires. Nothing in  
493 this section shall require an operator to provide any information prohibited by federal, state or  
494 local laws or regulations, including, but not limited to, laws and regulations relating to privacy  
495 and personally identifiable information.

496 (j) If a sports governing body has notified the commission and demonstrated a need for  
497 access to the information described in subsection (i) for wagers placed on sporting events of the  
498 sports governing body for integrity monitoring purposes and demonstrated the capability to use  
499 the data for the purpose of effectively monitoring the integrity of sporting events of the sports  
500 governing body, an operator shall share, in a commercially reasonable frequency, form and  
501 manner, with the sports governing body or its designee the same information the operator is  
502 required to maintain pursuant to said subsection (i) with respect to sports wagers on sporting  
503 events of the sports governing body. A sports governing body and its designee shall only use  
504 information received pursuant to this section for integrity-monitoring purposes and shall not use  
505 information received pursuant to this section for any commercial or other purpose. Nothing in  
506 this section shall require an operator to provide any information that is prohibited by federal,  
507 state or local law or regulation, including, but not limited to, laws and regulations relating to  
508 privacy and personally identifiable information.

509 (k)(1) An operator shall conduct a background check on each newly hired employee.  
510 Background checks shall search for criminal history, charges or convictions involving corruption  
511 or manipulation of sporting events and association with organized crime.

(2) An operator shall conduct a single background check on any employee hired before the operator was issued an operator license. Background checks shall search for criminal history, charges or convictions involving corruption or manipulation of sporting events and association with organized crime.

Section 12. (a) An operator shall: (i) employ a monitoring system utilizing software to identify irregularities in volume or changes in odds that could signal suspicious activities and promptly report such information to the commission for further investigation; provided, however, that system requirements and specifications shall be developed according to industry standards and implemented by the commission as part of the minimum internal control standards; (ii) promptly report to the commission any facts or circumstances related to the operation of a sports wagering license that constitute a violation of state or federal law and promptly report to the appropriate state or federal authorities any suspicious betting over a threshold set by the operator that has been approved by the commission; (iii) conduct all sports wagering activities and functions in a manner that does not pose a threat to the public health, safety or welfare of the residents of the commonwealth; (iv) keep current in all payments and obligations to the commission; (v) prevent any person from tampering or interfering with the operation of any sports wagering; (vi) ensure that mobile sports wagering occurs only using a commission-approved mobile application or other digital platform to accept wagers initiated within the commonwealth; (vii) maintain sufficient cash and other supplies to conduct sports wagering at all times; (viii) maintain daily records showing the gross sports wagering receipts and adjusted gross sports wagering receipts of the operator from sports wagering; (ix) timely file with the commission any additional reports required by this chapter or by any rule or regulation;



534 and (x) use commercially reasonable efforts to prevent a person under 21 years old from placing  
535 a wager.

536 (b) Sports wagering operators may use any data source for determining:

537 (1) the results of any and all tier 1 sports wagers on any and all sporting events; and

538 (2) the results of any and all tier 2 sports wagers on sporting events of an organization  
539 that is not headquartered in the United States.

540 (c) A sports governing body may notify the commission that it desires sports wagering  
541 operators to use official league data to settle tier 2 sports wagers on sporting events of such  
542 sports governing body. The notification shall be made in the form and manner as the commission  
543 may require. Within 5 days of receipt of the notification, the commission shall notify each sports  
544 wagering operator of the requirement to use official league data to settle tier 2 sports wagers. If a  
545 sports governing body does not notify the commission of its desire to supply official league data,  
546 a sports wagering operator may use any data source for determining the results of any and all tier  
547 2 sports wagers on sporting events of the sports governing body.

548 (d) Within 60 days of the commission notifying a sports wagering operator of the  
549 requirement to use official league data to settle tier 2 sports wagers pursuant to subsection (c), or  
550 such longer period as may be agreed between the sports governing body and the applicable  
551 sports wagering operator, a sports wagering operator shall use only official league data to  
552 determine the results of tier 2 sports wagers on sporting events of that sports governing body,  
553 unless:

554 (1) the sports governing body or its designee cannot provide a feed of official league data  
555 to determine the results of a particular type of tier 2 sports wager, in which case a sports  
556 wagering operator may use any data source for determining the results of the applicable tier 2  
557 sports wager until such time a data feed becomes available from the sports governing body on  
558 commercially reasonable terms and conditions; or

559 (2) a sports wagering operator can demonstrate to the commission that the sports  
560 governing body or its designee will not provide a feed of official league data to the sports  
561 wagering operator on commercially reasonable terms and conditions.

562 (e) In evaluating whether official league data is offered on commercially reasonable  
563 terms and conditions for purposes of paragraphs (1) and (2) of subsection (d), the commission  
564 may consider factors, including, but not limited to:

565 (1) the availability of official league data to a sports wagering operator from more than 1  
566 authorized source;

567 (2) market information, including, but not limited to, price and other terms and conditions  
568 regarding the purchase by sports wagering operators of comparable data for the purpose of  
569 settling sports wagers in the commonwealth and other jurisdictions;

570 (3) the nature and quantity of data, including the quality and complexity of the process  
571 used for collecting the data; and

572 (4) the extent to which a sports governing body or its designee has made data used to  
573 settle tier 2 wagers available to sports wagering operators and any terms and conditions relating  
574 to the use of that data.

575 (f) Notwithstanding subsection (d) or any provision of this subsection to the contrary,  
576 during the pendency of the determination of the commission as to whether a sports governing  
577 body or its designee may provide official league data on commercially reasonable terms, a sports  
578 wagering operator may use any data source to determine the results of tier 2 sports wagers. The  
579 determination shall be made within 120 days of the sports wagering operator notifying the  
580 commission that it requests to demonstrate that the sports governing body or its designee will not  
581 provide a feed of official league data to the sports wagering operator on commercially reasonable  
582 terms.

583 (g) A sports governing body may enter into commercial agreements with a sports  
584 wagering operator or other entity in which such sports governing body may share in the amount  
585 wagered or revenues derived from sports wagering on sporting events of the sports governing  
586 body. A sports governing body shall not be required to obtain a license or any other approval  
587 from the commission to lawfully accept such amounts or revenues.

588 Section 13. (a) Holders of category 1 and category 2 licenses may accept wagers on  
589 sports events and other events authorized pursuant to this chapter in person at authorized  
590 facilities.

591 (b) Holders of an operator license may accept wagers on sports events and other events  
592 authorized pursuant to this chapter from individuals physically located within the commonwealth  
593 using mobile applications or digital platforms approved by the commission, through the patron's  
594 sports wagering account. The branding for each mobile application or digital platform shall be  
595 determined by the operator. All bets authorized pursuant to this section must be initiated,  
596 received and otherwise made within the commonwealth. Consistent with the intent of the federal

597 Unlawful Internet Gambling Enforcement Act of 2006, 31 U.S.C. section 5361 to 5367,  
598 inclusive, the intermediate routing of electronic data related to a lawful intrastate wager  
599 authorized pursuant to this chapter shall not determine the location or locations in which the  
600 wager is initiated, received or otherwise made.

601 (c) An operator may: (i) accept wagers placed by other operators and (ii) place wagers  
602 with other operators; provided, that any operator that places a wager with another operator shall  
603 inform the operator accepting the wager that the wager is being placed by an operator and shall  
604 disclose the operator's identity.

605 (d) An operator shall not accept: (i) a wager from a person who is less than 21 years of  
606 age; or (ii) a credit card .

607 (e)(1) The commission or operator may ban any person from participating in the play or  
608 operation of any sports wagering consistent with rules and regulations promulgated by the  
609 commission. A list of all excluded patrons shall be kept by the commission and provided to each  
610 licensee. No patron on the exclusion list shall be permitted to conduct sports wagering pursuant  
611 to this chapter.

612 (2) The commission shall establish a list of self-excluded persons from sports wagering.  
613 A person may request their name to be placed on the list of self-excluded persons by filing a  
614 statement with the commission acknowledging that they are a problem gambler and by agreeing  
615 that, during any period of voluntary exclusion, they shall not collect any winnings or recover any  
616 losses resulting from any sports wagering. The commission shall adopt further regulations for the  
617 self-excluded persons list including procedures for placement, removal and transmittal of the list  
618 to sports wagering operators. The commission may revoke, limit, condition, suspend or fine a

619 sports wagering operator if the operator knowingly or recklessly fails to exclude or eject from its  
620 premises any person placed on the list of self-excluded persons. The list of self-excluded persons  
621 from sports wagering shall not be open to public inspection.

622 (3) An operator that operates sports wagering through a mobile application or other  
623 digital platform may allow patrons to set self-imposed limitations on sports wagering when the  
624 patron joins the mobile application or digital platform.

625 (f) No employee may place a sports wager at any facility or through any mobile  
626 application or digital platform owned or operated by their employer.

627 (g) Sections 24, 24A and 27 of chapter 10 of the General Laws shall not apply to an  
628 operator conducting sports wagering in accordance with this chapter.

629 (h) Unclaimed winning sports wagers shall be retained by the operator for the person  
630 entitled to the wager for 1 year after the game or event in which the wager was won. If no claim  
631 is made for the wager within 1 year, the cash or equivalent cash value of the wager shall be  
632 deposited in the Sports Wagering Control Fund established in section 15.

633 Section 14. (a) An excise is hereby imposed upon sports wagering operators in the  
634 commonwealth at the rate of: (i) 15 per cent of the operator's adjusted gross sports wagering  
635 receipts from the operation of in-person sports wagering; (ii) 20 per cent of the operator's  
636 adjusted gross sports wagering receipts from the operation of sports wagering through mobile  
637 applications and other digital platforms approved by the commission; and (iii) 15 per cent of the  
638 adjusted gross fantasy wagering receipts of a person or entity that offers fantasy contests, as  
639 defined in section 11M½. The accrual method of accounting shall be used for purposes of

calculating the amount of the tax owed by the licensee. The excise shall be paid to the commission at the time provided for filing the return pursuant to subsection (b).

(b)(1) The excise imposed and collected pursuant to subsection (a) shall be due and payable to the commission in monthly installments on or before the fifteenth calendar day following the calendar month in which the adjusted gross sports wagering receipts were received.

(2) On or before the fifteenth calendar day of each month, the operator shall complete and submit the return for the preceding month by electronic communication to the commission in a form prescribed by the commission that provides:

(i) the total gross sports wagering receipts and adjusted gross sports wagering receipts from operation of sports wagering during that month;

(ii) the total gross fantasy wagering receipts and adjusted gross fantasy wagering receipts from the offering of fantasy contests, as defined in section 11M½ of chapter 12, during that month;

(iii) the tax amount for which an operator or a person or entity that offers fantasy contests, as defined in said section 11M½ of said chapter 12, is liable; and

(iv) any additional information necessary in the computation and collection of the tax on adjusted gross sports wagering receipts and adjusted gross fantasy wagering receipts required by the commission.

(3) The excise amount shown to be due shall be remitted by electronic funds transfer simultaneously with the filing of the return.

660           (4) When an operator's adjusted gross sports wagering receipts for a month is a negative  
661   number because the winnings paid to wagerers and excise taxes paid pursuant to federal law  
662   exceed the operator's total gross receipts from sports wagering, the commission shall allow the  
663   operator to carry over the negative amount to returns filed for subsequent months. The negative  
664   amount of adjusted gross sports wagering receipts shall not be carried back to an earlier month  
665   and taxes previously received by the commission shall not be refunded unless the operator  
666   surrenders its license and the operator's last return reported negative adjusted gross sports  
667   wagering receipts.

668           (c) The excise on adjusted gross sports wagering receipts imposed by this section shall be  
669   in lieu of all other state and local taxes and fees imposed on the operation of, or the proceeds  
670   from operation of, sports wagering.

671           (d) Annually, not later than July 1, the commission shall publish on its website a report  
672   stating the amount in fees, surcharges and civil penalties received from operators and taxes  
673   received from operators and from people or entities that offer fantasy contests, as defined in  
674   section 11M½ of chapter 12.

675           Section 15. (a) There shall be established and set up on the books of the commonwealth a  
676   separate fund to be known as the Sports Wagering Control Fund. The commission shall be the  
677   trustee of the fund and shall expend money to finance the operational activities of the  
678   commission pertaining to sports wagering. The fund shall be credited with: (i) any appropriation,  
679   bond proceeds or other monies authorized by the general court and specifically designated to be  
680   credited thereto; (ii) the proceeds of any fees collected pursuant to this section unless otherwise  
681   specified; (iii) fees collected pursuant to sections 7 and 8; (iv) breaks; and (v) such additional



682 funds as are subject to the direction and control of the commission. All available money in the  
683 fund that is unexpended at the end of each fiscal year shall not revert to the General Fund and  
684 shall be available for expenditure in the subsequent fiscal year.

685 (b) The commission shall establish fees for any investigation into a violation of this  
686 chapter or regulation promulgated hereunder by a sports wagering operator to be paid by the  
687 sports wagering operator including, but not limited to, billable hours by commission staff  
688 involved in the investigation and the costs of services, equipment or other expenses that are  
689 incurred by the commission during the investigation.

690 (c) Any remaining costs of the commission necessary to maintain regulatory control over  
691 sports wagering operators that are not covered by: (i) the fees set forth in subsection (b); (ii) any  
692 other fees assessed pursuant to this chapter; or (iii) any other designated sources of funding, shall  
693 be annually assessed on sports wagering operators pursuant to this chapter in proportion to each  
694 operator's share of the commonwealth's total adjusted gross sports wagering receipts. Each  
695 operator shall pay the amount assessed against the operator not more than 30 days after the date  
696 of the notice of assessment from the commission.

697 (d) If the fees collected pursuant to subsections (b) and (c) exceed the cost required to  
698 maintain regulatory control, the surplus funds shall be credited in proportional shares against  
699 each sports wagering operator's next assessment.

700 (e) The commission shall annually assess and collect a \$1,000,000 fee in shares to be  
701 determined by the commission against each sports wagering operator that is not a category 1 or  
702 category 2 gaming licensee, as defined in section 2 of chapter 23K. The fee collected pursuant to  
703 this subsection shall be deposited into the Public Health Trust Fund established in section 58 of

704 said chapter 23K and shall be used for the costs of services and public health programs provided  
705 for in said section 58 of said chapter 23K.

706       Section 16. (a) The commission may assess a civil administrative penalty on an operator  
707 who fails to comply with any provision of this chapter, house rules or any regulation or order  
708 adopted by the commission; provided, however, that the noncompliance shall have occurred after  
709 the commission has given such operator written notice of the noncompliance and the time stated  
710 in the notice for coming into compliance has elapsed; provided further, that the commission may  
711 assess a penalty without providing written notice if the failure to comply: (i) was part of a pattern  
712 of noncompliance and not an isolated instance; (ii) was willful or neglectful and not the result of  
713 error; (iii) resulted in a significant breach to the integrity of the operator or the sports wagering  
714 laws of the commonwealth; or (iv) consisted of failure to promptly report to the commission any  
715 knowledge of evidence or circumstances that would cause a reasonable person to believe that a  
716 violation of this chapter has been committed. The civil administrative penalty shall be in addition  
717 to any other civil penalty that may be prescribed by law.

718       (b) For the purpose of determining whether such noncompliance was part of a pattern of  
719 noncompliance and not an isolated instance, the commission shall consider, but not be limited to;  
720 (i) whether the commission had previously notified the operator of such noncompliance on more  
721 than 1 occasion during the previous month or of any noncompliance with the same provision of a  
722 law, regulation, order, license or approval as the current noncompliance during the previous 6-  
723 month period; or (ii) whether the current and previous instances of noncompliance, considered  
724 together, indicate a potential threat to the integrity of the operator and sports wagering in the  
725 commonwealth or an interference with the commission's ability to efficiently and effectively  
726 regulate sports wagering in the commonwealth and enforce any regulation, license or order. If an

727 operator that has received a notice of noncompliance fails to come into compliance within the  
728 time period stated in the notice, the civil administrative penalty may be assessed by the  
729 commission upon the operator from the date of receipt of such notice.

730 (c) If the commission seeks to assess a civil administrative penalty on an operator, the  
731 commission shall cause to be served upon the operator, by service in hand or by certified mail,  
732 return receipt requested, a written notice of its intent to assess a civil administrative penalty that  
733 shall include: (i) a concise statement of the alleged act or omission for which such civil  
734 administrative penalty is sought to be assessed; (ii) each law, regulation, order, license or  
735 approval that has not been complied with as a result of such alleged act or omission; (iii) the  
736 amount that the commission seeks to assess as a civil administrative penalty for each alleged act  
737 or omission; (iv) a statement of the operator's right to an adjudicatory hearing on the proposed  
738 assessment; (v) the requirements the operator shall comply with to avoid being deemed to have  
739 waived the right to an adjudicatory hearing; and (vi) the manner of payment thereof if the  
740 operator elects to pay the penalty and waive an adjudicatory hearing. After written notice of  
741 noncompliance or intent to assess a civil administrative penalty has been given, each day  
742 thereafter during which noncompliance occurs or continues shall constitute a separate offense  
743 and shall be subject to a separate civil administrative penalty if reasonable efforts have not been  
744 made by the operator to promptly come into compliance.

745 (d) If the commission seeks to assess a civil administrative penalty on an operator, the  
746 operator shall have the right to an adjudicatory hearing under chapter 30A, the provisions of  
747 which shall apply except when they are inconsistent with the provisions of this chapter.

748 (c) An operator shall be deemed to have waived its right to an adjudicatory hearing  
749 unless, not more than 21 days after the date of the commission's notice that the commission  
750 seeks to assess a civil administrative penalty, the operator files with the commission a written  
751 statement denying the occurrence of any of the acts or omissions alleged by the commission in  
752 the notice or asserting that the amount of the proposed civil administrative penalty is excessive.  
753 In an adjudicatory hearing authorized under chapter 30A, the commission shall be required to  
754 prove, by a preponderance of the evidence, the occurrence of each act or omission alleged by the  
755 commission in the notice.

756 (f) If an operator waives the right to an adjudicatory hearing, the proposed civil  
757 administrative penalty shall be final immediately upon such waiver. If a civil administrative  
758 penalty is assessed at the conclusion of an adjudicatory hearing, the civil administrative penalty  
759 shall be final upon the expiration of 30 days unless an action for judicial review of the decision is  
760 commenced under chapter 30A.

761 (g) An operator who institutes proceedings for judicial review of the final assessment of a  
762 civil administrative penalty shall place the full amount of the final assessment in an interest-  
763 bearing escrow account in the custody of the clerk or magistrate of the reviewing court. The  
764 establishment of an interest-bearing escrow account shall be a condition precedent to the  
765 jurisdiction of the reviewing court unless the party seeking judicial review demonstrates, in a  
766 preliminary hearing held not more than 20 days after the filing of the complaint, the presence of  
767 a substantial question for review by the court or the operator's inability to pay. Upon such a  
768 demonstration, the court may grant an extension or waiver of the interest-bearing escrow account  
769 requirement or may require, in lieu of such interest-bearing escrow account, the posting of a

770 bond payable directly to the commonwealth in the amount of 125 per cent of the assessed  
771 penalty.

772 If, after judicial review, in a case where the escrow account requirement has been waived,  
773 and in cases where a bond has been posted in lieu of such requirement, the court affirms, in  
774 whole or in part, the assessment of a civil administrative penalty, the commission shall be paid  
775 the amount thereof together with interest at the rate provided in section 6C of chapter 231. If,  
776 after judicial review in a case where an interest-bearing escrow account has been established, the  
777 court affirms the assessment of such penalty, in whole or in part, the commission shall be paid  
778 the amount thereof together with the accumulated interest in the interest-bearing escrow account.  
779 If the court sets aside the assessment of a civil administrative penalty in a case where the amount  
780 of such penalty has been deposited in an interest-bearing escrow account, the operator on whom  
781 the civil administrative penalty was assessed shall be repaid the amount so set aside, together  
782 with the accumulated interest thereon.

783 (h) Each operator who fails to timely pay a civil administrative penalty and each operator  
784 who issues a bond under this section and fails to timely pay to the commission the amount  
785 required for the bond, shall be liable to the commonwealth for up to 3 times the amount of the  
786 civil administrative penalty, together with costs, plus interest accrued from the time the civil  
787 administrative penalty became final and attorneys' fees, including all costs and attorneys fees  
788 incurred directly in the collection of the penalty. The rate of interest shall be the rate provided in  
789 section 6C of chapter 231. The commission may require that the amount of a civil administrative  
790 penalty imposed under this section exceed any economic benefit realized by a person.

(i) The commission may impose conditions on, suspend or revoke an operator's license or reprimand or assess a fine on an operator upon a finding that the operator: (i) has committed a criminal or civil offense under this chapter or under any other law; (ii) is not in compliance with sports wagering regulations promulgated pursuant to this chapter; (iii) is under criminal investigation in another jurisdiction; (iv) has breached a condition of licensure; (v) has affiliates, close associates or employees that are not qualified or licensed under this chapter with whom the operator continues to conduct business or employ; (vi) is no longer capable of maintaining operations as a sports wagering operator; or (vii) whose business practice, upon a determination by the commission, is injurious to the policy objectives of this chapter.

Section 17. There shall be established and set up on the books of the commonwealth a Sports Wagering Fund which shall receive revenues collected pursuant to sections 6 and 14. The commission shall be the trustee of the fund and shall transfer monies from the fund as follows:

(1) 45 per cent to the General Fund;

(2) 17.5 per cent to the Workforce Investment Trust Fund established in section 18;

(3) 27.5 per cent to the Gaming Local Aid Fund established in section 63 of section 23K;

(4) 1 per cent to the Youth Development and Achievement Fund established in section 19; and

(5) 9 per cent to the Public Health Trust Fund established in section 58 of section 23K.

Section 18. (a) There is hereby established and set up on the books of the commonwealth a separate fund to be known as the Workforce Investment Trust Fund. There shall be credited to the fund any sports wagering revenue transferred from the Sports Wagering Fund pursuant to

section 16. Monies transferred to the fund shall be continuously expended, without regard for fiscal year, exclusively for carrying out the purposes of this section. Money remaining in the fund at the end of a fiscal year shall not revert to the General Fund.

(b) The fund shall be administered by the secretary of housing and economic development. Money in the fund shall be competitively granted to develop and strengthen workforce opportunities for low-income communities and vulnerable youth and young adults in the commonwealth, including providing opportunities and strategies to promote stable employment and wage growth.

(c) Eligible grant recipients shall provide opportunities which: (i) target at risk youth, including resources to empower youth to succeed in the workforce; (ii) provide job skills trainings, including programs offering trainings in multiple languages and areas for development, including education and hands on skills; (iii) promote adult literacy, including strategies to master reading and writing and providing digital formats to increase accessibility; and (iv) provide English language learning programs to promote access to the workforce. The secretary of housing and economic development shall establish criteria to evaluate applications for the grant program; provided, that the criteria shall include, but shall not be limited to, at risk populations; provided further, that preference shall be given to eligible grant recipients providing opportunities for individuals who meet at least 2 of the following: (i) is under 30 years of age; (ii) is a victim of violence; (iii) is over 18 years of age and does not have a high school diploma; (iv) has been convicted of a felony; (v) has been unemployed or has had a family income below 250 per cent of the federal poverty level for not less than 6 months; (vi) lives in a census tract where over 20 per cent of the populations fall below the federal poverty line; or (vii) is an immigrant, refugee or person of color.



835 (d) Annually, not later than October 1, the secretary of housing and economic  
836 development shall provide a report of the grants given and a breakdown of expenditures made by  
837 the fund. The report shall be posted on the website of the executive office of housing and  
838 economic development.

839 Section 18. There shall be established and set up on the books of the commonwealth a  
840 fund to be known as the Youth Development and Achievement Fund. The fund shall be credited  
841 any monies transferred from the Sports Wagering Fund pursuant to section 16 and all monies  
842 credited to or transferred to the fund from any other fund or source. Expenditures from the fund  
843 shall be subject to appropriation and shall be expended equally for the following purposes:

844 (1) For the purposes of providing financial assistance to students from the commonwealth  
845 enrolled in and pursuing a program of higher education in any approved public or independent  
846 college, university, school of nursing or any other approved institution furnishing a program of  
847 higher education;

848 (2) For the purposes of funding after-school and out-of-school activities, including, but  
849 not limited to, youth athletics and other activities that improve student health, literacy programs,  
850 English language learning programs, academic tutoring, art, theater and music programs and  
851 community service programs; and

852 (3) For the purposes of providing matching grants to elementary and secondary youth  
853 sports, organizations, clubs and other school groups to attend events including, but not limited to,  
854 academic events and programs, cultural events and award ceremonies both nationally and  
855 internationally.

Section 20. The commission shall conduct a study into the feasibility of allowing retail locations in the commonwealth to operate sports wagering kiosks. The study by the commission shall include, but not be limited to, an analysis of: (i) the economic impact of this chapter on retail establishments that serve alcoholic beverages for on premises consumption, such as restaurants and bars; (ii) which retail locations have the ability to operate a sports wagering kiosk; (iii) the economic impact to the commonwealth of authorizing retail locations to operate a sports wagering kiosk; (iv) the methods and availability of payouts of winnings by a sports wagering kiosks at retail locations; (v) the public health and safety impacts to the commonwealth of authorizing retail locations to operate a sports wagering kiosk; (vi) the potential effect of sports wagering kiosks at retail locations on problem gaming or gambling; (vii) the impact of sports wagering kiosks at retail locations on minors; (viii) the economic impact of authorizing this method of sports wagering on businesses owned by people of color; (ix) the public health and economic impact of this method of sports wagering as an alternative to the current black market, particularly in communities far from authorized in-person sports wagering; and (x) recommendations to ensure diversity, equity and inclusion are included in this method of sports wagering. As part of the study, the commission shall consult retailers, convenience stores, restaurants, women and minority owned businesses and small business owners. The commission shall report on its findings and submit any recommendations to the clerks of the house and senate, the house and senate committees on ways and means, the joint committee on consumer protection and professional licensure and the joint committee on economic development and emerging technologies no later than December 31, 2022.

Section 21. (a) The commission may impose on any person who violates this chapter a civil penalty not to exceed \$2,000 for each violation or \$5,000 for violations arising from the

879 same series of events. Such penalty shall be imposed on all persons and is not limited to persons  
880 licensed under this chapter.

881 (b) The commission may condition, suspend, reprimand, assess a fine or revoke an  
882 operator license upon a finding that a licensee: (i) has committed a criminal or civil offense  
883 under this chapter or under any other laws of the commonwealth; (ii) is not in compliance with  
884 sports wagering regulations; (iii) is under criminal investigation in another jurisdiction; (iv) has  
885 breached a condition of licensure; (v) has affiliates, close associates or employees that are not  
886 qualified or licensed under this chapter with whom the licensee continues to conduct business or  
887 employ; (vi) is no longer capable of maintaining operations as a sports wagering operator or data  
888 supplier; or (vii) whose business practice, upon a determination by the commission,  
889 is injurious to the policy objectives of this chapter.

890 Section 21. (a) Whoever, other than an operator under this chapter, engages in accepting,  
891 facilitating or operating a sports wagering operation shall be punished by imprisonment in the  
892 house of correction for not more than 90 days or by a fine not to exceed \$10,000, or both; and for  
893 a second offense, by imprisonment in the house of correction for not more than 6 months or by a  
894 fine of not more than \$50,000, or both; and in the case of a third or subsequent violation by  
895 imprisonment in the state prison for not less than 1 but not more than 5 years or by a fine of not  
896 less than \$25,000 and not more than \$100,000, or both.

897 Section 22. An operator shall not discharge, demote, suspend, threaten, harass or in any  
898 other manner discriminate against an employee because of any lawful act done by the employee  
899 to provide information, cause information to be provided or otherwise assist in an investigation

900 regarding any conduct that the employee reasonably believes constitutes a violation of this  
901 chapter.

902       Section 23. (a) The commission shall develop an annual research agenda in order to  
903 understand the social and economic effects of sports wagering in the commonwealth and to  
904 obtain scientific information relative to the neuroscience, psychology, sociology, epidemiology  
905 and etiology of sports wagering. The secretary of health and human services, with the advice and  
906 consent of the commission, may expend funds from the Public Health Trust Fund established in  
907 section 58 of chapter 23K to implement the objectives of the sports wagering research agenda;  
908 provided, however, that the objectives of the sports wagering research agenda shall, to the extent  
909 practicable, be substantially similar to the objectives of the research agenda established under  
910 section 71 of said chapter 23K. The sports wagering research agenda shall also include, but not  
911 be limited to: (i) an assessment of whether problem sports wagering is comorbid with problem  
912 gambling; (ii) an assessment as to whether the individuals participating in sports wagering are  
913 different than those who participate in other forms of gaming or gambling; (iii) an assessment of  
914 the impact of sports wagering on youth under the age of 25; (iv) an assessment of the impacts of  
915 sports wagering on college athletics and professional sports; and (v) the costs of implementing  
916 this chapter.

917       (b) Annually, the commission shall make scientifically-based recommendations that  
918 reflect the results of the research under clause (a) to the clerks of the senate and house of  
919 representatives, the senate and house committees on ways and means, the joint committee on  
920 economic development and emerging technologies, the joint committee on mental health,  
921 substance use and recovery and the joint committee on public health. The commission shall  
922 consider any such recommendations, research and findings in all decisions related to enhancing

923 responsible gambling and mitigating problem sports wagering. The recommendations shall be  
924 posted on the commission's website.

925 SECTION 6. Chapter 128C of the General Laws is hereby amended by inserting the  
926 following new section:-

927 Section 9. Notwithstanding sections 1 to 8, inclusive, or any other general or special law  
928 to the contrary, no racing meeting licensee, including licensees holding racing meetings in  
929 connection with a state or county fair as defined in section 1 of chapter 128A, shall simulcast or  
930 accept a wager on greyhound dog racing, and a running horse racing meeting licensee shall  
931 conduct not less than 20 live racing days at a thoroughbred horse racing track, provided, the  
932 commission may waive this requirement as necessary and appropriate to ensure the financial  
933 ability of the licensee to develop and operate a race track.

934 SECTION 7. Section 1 of chapter 137 of the General Laws, as appearing in the 2018  
935 Official Edition, is hereby amended by inserting after the figure "23K", in line 3, the following  
936 words:- or sports wagering conducted pursuant to chapter 23N.

937 SECTION 8. Section 2 of said chapter 137, as so appearing, is hereby amended by  
938 inserting after the figure "23K", in line 3, the following words:- or an operator who offers sports  
939 wagering pursuant to chapter 23N.

940 SECTION 9. Section 3 of said chapter 137, as so appearing, is hereby amended by  
941 inserting after the figure "23K", in line 7, the following words:- or sports wagering conducted  
942 pursuant to chapter 23N.

943           SECTION 10. Section 1 of chapter 271 of the General Laws, as so appearing, is hereby  
944 amended by striking out, in line 4, the words “chapter 23K” and inserting in place thereof the  
945 following words:- chapters 23K and 23N.

946           SECTION 11. Section 2 of said chapter 271, as so appearing, is hereby amended by  
947 striking out, in line 4, the words “chapter 23K” and inserting in place thereof the following  
948 words:- chapters 23K and 23N.

949           SECTION 12. Section 3 of said chapter 271, as so appearing, is hereby amended by  
950 striking out, in line 1, the words “chapter 23K” and inserting in place thereof the following  
951 words:- chapters 23K and 23N.

952           SECTION 13. Section 5 of said chapter 271, as so appearing, is hereby amended by  
953 striking out, in line 1, the words “chapter 23K” and inserting in place thereof the following  
954 words:- chapters 23K and 23N.

955           SECTION 14. Section 5A of said chapter 271, as so appearing, is further amended by  
956 inserting after the words “chapter 23K”, in line 32, the following words:- or sports wagering  
957 conducted pursuant to chapter 23N.

958           SECTION 15. Section 5B of said chapter 271, as so appearing, is hereby amended by  
959 striking out, in line 58, the words “chapter 23K” and inserting in place thereof the following  
960 words:- chapters 23K and 23N.

961           SECTION 16. Section 8 of said chapter 271, as so appearing, is hereby amended by  
962 striking out, in lines 10 to 11, the words “other game of chance that is not being conducted in a  
963 gaming establishment licensed under chapter 23K” and inserting in place thereof the following

964 words:- other game that is not being conducted pursuant to chapter 23K and any other sports  
965 wagering that is not being conducted pursuant to chapter 23N.

966 SECTION 17. Section 17 of said chapter 271, as so appearing, is hereby amended by  
967 inserting after the words "chapter 23K", in line 27, the following words:- or for the purpose of  
968 sports wagering conducted in accordance with chapter 23N.

969 SECTION 18. Said chapter 271, as so appearing, is hereby further amended by striking  
970 out section 17A and inserting in place thereof the following section:-

971 Section 17A. Except as permitted under chapter 23N, whoever uses a telephone, internet  
972 or other communications technology or, being the occupant in control of premises where a  
973 telephone, internet or other communications technology is located or a subscriber for such  
974 communications technology, knowingly permits another to use a telephone, internet or other  
975 communications technology so located or for which such person subscribes, as the case may be,  
976 for the purpose of accepting wagers or bets, or buying or selling of pools, or for placing all or  
977 any portion of a wager with another, upon the result of a trial or contest of skill, speed or  
978 endurance of man, beast, bird or machine, or upon the result of an athletic game or contest, or  
979 upon the lottery called the numbers game, or for the purpose of reporting the same to a  
980 headquarters or booking office, or who under another name or otherwise falsely or fictitiously  
981 procures telephone, internet or other communications technology service for oneself or another  
982 for such purposes, shall be punished by a fine of not more than \$2,000 or by imprisonment for  
983 not more than 1 year; provided, however, that this section shall not apply to use of telephones or  
984 other devices or means to place wagers authorized pursuant to the provisions of section 5C of  
985 chapter 128A.



986           SECTION 19. Section 19 of said chapter 271, as so appearing, is hereby amended by  
987 inserting after the words “chapter 23K”, in line 19, the following words:- and shall not apply to  
988 advertising of sports wagering conducted pursuant to chapter 23N.

989           SECTION 20. Section 20 of said chapter 271, as so appearing, is hereby amended by  
990 adding the following sentence:- Nothing in this section shall prohibit an operator licensed under  
991 chapter 23N from posting, advertising or displaying materials relevant to its sports wagering  
992 operations.

993           SECTION 21. Section 23 of said chapter 271, as so appearing, is hereby amended by  
994 inserting after the words “chapter 23K”, in line 31, the following words:- and shall not apply to  
995 sports wagering conducted pursuant to chapter 23N.

996           SECTION 22. Section 27 of said chapter 271, as so appearing, is hereby amended by  
997 inserting after the word “thereto”, in line 15, the following words:- ; provided, however, that  
998 such provisions shall not apply to sports wagering conducting pursuant to chapter 23N.

999           SECTION 23. Section 28 of said chapter 271, as so appearing, is hereby amended by  
1000 inserting after the word “prescribed”, in line 12, the following words:- ; provided, however, that  
1001 such provisions shall not apply to sports wagering conducted pursuant to chapter 23N.

1002           SECTION 24. Section 42 of said chapter 271, as so appearing, is hereby amended by  
1003 inserting after the word “both”, in line 4, the following words:- ; provided, however, that such  
1004 provisions shall not apply to sports wagering conducted pursuant to chapter 23N.

1005           SECTION 25. The Massachusetts gaming commission shall conduct a study on the  
1006 participation by minority business enterprises, women business enterprises and veteran business

1007 enterprises in the sports wagering industry in the commonwealth. The study shall include, but not  
1008 be limited to, an analysis of: (i) participation in activities related to the regulation, licensing and  
1009 promotion of sports wagering operators; (ii) the level of participation of women, minority and  
1010 veteran employees working for sports wagering licensees and employers; (iii) the level of  
1011 participation by minority-owned and women-owned businesses that contract with or provide  
1012 services to sports wagering licensees and employers; (iv) any barriers to employment of women  
1013 and minorities in the sports wagering industry; and (v) methods for increasing racial and gender  
1014 diversity in the workforce in the sports wagering industry, including whether to set reasonable  
1015 and appropriate goals and procedures for increasing the number of minority business enterprises  
1016 providing sports wagering industry-related services to sports wagering licensees and employers.  
1017 The commission shall report on its findings and submit any recommendations to the clerks of the  
1018 senate and house of representatives, the house and senate committees on ways and means, the  
1019 joint committee on racial equity, civil rights, and inclusion and the joint committee on economic  
1020 development and emerging technologies not later than December 31, 2022.

1021 SECTION 26. Section 135 of chapter 219 of the acts of 2016 is hereby repealed.

1022 SECTION 27. Sections 2 and 6 shall take effect 1 year after the effective date of this act.



**CITY of GARDNER**  
**Office of the City Clerk**  
 95 Pleasant Street, Room 121  
 Gardner, MA 01440  
 \*Tel. 978-630-4058 \*Fax: 978-630-2589

CITY OF GARDNER  
 NOTICE OF JOINT PUBLIC HEARING

Pursuant to G.L. 40A, § 5, notice is hereby given that the City Council and Planning Board will conduct a **Joint Public Hearing** on **Tuesday, January 16, 2024** at **6:45 P.M.** in the City Council Chamber, Room 219, City Hall, 95 Pleasant Street, Gardner, to consider amending Chapter 675, the Zoning Code of the City of Gardner. The proposed Amendment involves changing items:

**11112** – 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, Referred to Planning Board 12/4/2023, More Time 12/18/2023)*

**11113** – 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, Referred to Planning Board 12/4/2023; More Time 12/18/2023)*

Information regarding this amendment is available for viewing in the City Clerk’s Office, the Department of Community Development and Planning (DCDP), or on the City’s webpage – [www.gardner-ma.gov](http://www.gardner-ma.gov).

All persons interested in this matter and desire to offer testimony are invited to attend the hearing.

Titi Siriphan  
 City Clerk

# 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



December 14, 2023

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

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. *(Submitted by Councilor Dana Heath)*

At the Planning Board meeting on Tuesday, December 12, 2023, the Planning Board voted unanimously (5-0) to recommend the City Council approve and adopt the requested Zoning Amendment as referenced above to increase the quota. The Planning Board also voted to hold a Joint Public Hearing with the City Council.

Please do not hesitate to contact Trevor M. 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

**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 INCREASE THE QUOTE 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 "20%" with "35%" as follows:

b) The number of marijuana retail establishments shall not exceed 35% of liquor licenses issued for retail sale of alcohol not consumed on the premises in the City of Gardner, said number to be rounded up to the next whole number;

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

# CITY OF GARDNER

DEPARTMENT OF COMMUNITY DEVELOPMENT AND PLANNING



RECEIVED  
MAY 30 PM 1:50  
CITY CLERK'S OFFICE  
GARDNER, MA

March 30, 2023

Elizabeth Kazinskas, Council President  
C/o Titi Sirphan, City Clerk  
95 Pleasant Street, Room 121  
Gardner, MA 01440

RE: **Petition 10893** – 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 increase the quota allowed by the Code of the City of Gardner.

Dear President Kazinskas:

At its meeting on March 22, 2023, the Planning Board voted unanimously, 5-0, to recommend approving the proposed zoning amendment referenced above based on the information provided to them by the petitioner.

The Planning Board looks forward to joining the City Council at the joint public hearing scheduled on Monday, April 3, 2023, at 6:30 p.m. Please contact Trevor Beauregard if you have any questions or need additional information.

Sincerely,

Mark M. Schafron, Planning Board Chairman

C: Mayor Michael J. Nicholson  
Trevor M. Beauregard, Director  
Richard Hanks, Interim Building Commissioner



## City of Gardner - *Executive Department*

Mayor Michael J. Nicholson

2023 MAR 30 AM 8:43  
CITY CLERK'S OFFICE  
GARDNER, MA

March 29, 2023

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

Mr. Mark Schafron, Chair  
And Planning Board Members  
Gardner City Hall, Manca Annex, Rm 201  
115 Pleasant St  
Gardner, MA 01440

RE: Written Testimony: Item #10893: 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 increase the quota allowed by the Code of the City of Gardner

Dear Madam President, Councilors, Mr. Chairman, and Planning Board Members,

I am writing in support of the aforementioned zoning amendment proposal.

When the retail sale of cannabis products was legalized in the Commonwealth in 2019, several municipalities, including Gardner, took steps to heavily regulate the industry since we didn't really know what would happen once the cannabis industry became legalized.

Since then we have seen that commercial enterprises like these do not cause as much of a strain on our services as we had originally been concerned about and have not been a public safety concern at all for us.

This proposal seeks to loosen the market constraints in the City and simply let the economic market be the market. If the City does not have the capability of handling more up to four (4) retail cannabis stores, then the market will correct itself for that.

An example of this can be seen with the regular tobacco/vape smoke shops that used to exist in the Downtown area. These businesses, unregulated in terms of number of facilities that could open in the City, were not marketed by the City and simply opened and then consolidated from five (5) to one (1) on their own because that was all the market was able to carry.

The purpose of this amendment, while it also provides a financial benefit to the City through statutorily required sales tax and host community agreement fees, is simply to relax some of the regulations placed on this industry and let the City's economy play itself out. This does still regulate the retail cannabis industry to four (4) locations, but it at least loosens the restriction of only being able to allow two (2) locations in the City.

Respectfully,

Michael J. Nicholson  
Mayor, City of Gardner





**CITY of GARDNER**  
**Office of the City Clerk**  
 95 Pleasant Street, Room 121  
 Gardner, MA 01440  
 \*Tel. 978-630-4058 \*Fax: 978-630-2589

CITY OF GARDNER  
 NOTICE OF JOINT PUBLIC HEARING, continued

Pursuant to G.L. 40A, § 5, notice is hereby given that the City Council and Planning Board will conduct a **Joint Public Hearing** on **Monday, April 3, 2023 at 6:30 P.M.** in the City Council Chamber, Room 219, City Hall, 95 Pleasant Street, Gardner, to consider amending Chapter 675, the Zoning Code of the City of Gardner. The proposed Amendment involves changing items:

- **10891** – An Ordinance to Amend the Code of the City of Gardner, Chapter 675 Thereof, entitled “Zoning,” to Change the Classification of Certain Parcels of Land Along Route 140.
- **10892** – 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.
- **10893** – 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 increase the quota allowed by the Code of the City of Gardner

Information regarding this amendment is available for viewing in the City Clerk’s Office, the Department of Community Development and Planning (DCDP), or on the City’s webpage – [www.gardner-ma.gov](http://www.gardner-ma.gov).

All persons interested in this matter and desire to offer testimony are invited to attend the hearing.

*Titi Siriphan*  
 Titi Siriphan  
 City Clerk



**CITY of GARDNER**  
**Office of the City Clerk**  
95 Pleasant Street, Room 121  
Gardner, MA 01440  
\*Tel. 978-630-4058 \*Fax: 978-630-2589

CITY OF GARDNER  
NOTICE OF JOINT PUBLIC HEARING

Pursuant to G.L. 40A, § 5, notice is hereby given that the City Council and Planning Board will conduct a **Joint Public Hearing** on **Monday, March 20, 2023 at 6:30 P.M.** in the City Council Chamber, Room 219, City Hall, 95 Pleasant Street, Gardner, to consider amending Chapter 675, the Zoning Code of the City of Gardner. The proposed Amendment involves changing items:

- **10891** – An Ordinance to Amend the Code of the City of Gardner, Chapter 675 Thereof, entitled “Zoning,” to Change the Classification of Certain Parcels of Land Along Route 140.
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All persons interested in this matter and desire to offer testimony are invited to attend the hearing.

Titi Siriphan  
City Clerk



## City of Gardner - *Executive Department*

Mayor Michael J. Nicholson

February 3, 2023

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

RE: 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 increase the quota allowed by the Code of the City of Gardner.

Dear Madam President and Councilors,

As you are aware, in 2018, the retail sale of cannabis products became legalized in the Commonwealth.

When the City adopted the sale of Marijuana into our ordinances in November of 2018, the ordinances limited the number of establishments that could open in the City for the retail sale of cannabis to twenty percent (20%) of "license issues for retail sale of alcohol not consumed on the premises." (Code of the City of Gardner 675-1070(C)(8)(b)).

Whereas the City is currently issued ten (10) liquor licenses that fit this category, this provision of the City Code limited the number of retail cannabis locations to two (2) locations in the City.

One of the main reasons this quota limit was drafted was due to uncertainty as to how this new market would run its course in the City and the Commonwealth as a whole. However, since then, we have seen that these businesses do not provide a detriment to the City, and have seen the financial benefit the City receives from this as well.

The City currently has one retail location open with Sanctuary, with a second location – Bloc Cannabis – permitted at the Timpany Crossroads location.

This attached ordinance amendment proposal would increase the number of locations allowed in the City from two (2) to four (4). It is the belief of the Administration that this would allow more economic activity in the City based on inquiries that we have seen, keep the industry within a workable range that we are seeing in market trends with the cannabis industry around the Commonwealth, and done with the full support of our public safety departments.

Respectfully Submitted,

Michael J. Nicholson  
Mayor, City of Gardner

CC:  
City Council Public Welfare Committee  
Planning Board

**CITY OF GARDNER POLICE DEPARTMENT**

200 Main Street  
Gardner, Massachusetts 01440  
Phone: (978) 632-5600  
Fax: (978) 632-9045



Eric P. McAvene  
Chief of Police

Nicholas P. Maroni  
Deputy Chief of Police

February 2, 2023

The Honorable Michael J. Nicholson, Mayor  
Gardner City Hall  
95 Pleasant Street  
Gardner, MA 01440

Re: Retail Marijuana Ordinance

Dear Mayor,

After reviewing the proposed ordinance change from two retail dispensary licenses to four, I do not see any issue with this particular change moving forward. Retail marijuana dispensaries have been operating in the state for the past few years and are closely monitored and regulated by the Cannabis Control Commission. Any retail dispensaries are required to have pre-determined surveillance camera coverage (inside and outside) and purpose-built safes for stored retail product. This is in addition to physical security during operating hours.

The Gardner Police Department has responded to calls at the current recreational retail dispensary, but the vast majority of the calls are general service calls (accidents, lockouts, burglar alarms, etc.). The police department rarely deals with anything else there.

We have conducted "compliance checks" at Sanctuary using underage youths to enter and purchase cannabis products. Sanctuary has never failed a compliance check. In fact, no youth has ever made it past the front door. I have spoken to law enforcement in other host dispensary locations and have not heard of any major issues.

If there are any further questions or concerns, please do not hesitate to contact me.

Very truly yours,

Eric P. McAvene  
Chief of Police



**City of Gardner**  
**Department of Inspectional Services**  
**115 Pleasant Street, Room 101**  
**Gardner, MA 01440**  
Tel. (978) 630-4007 Fax: (978) 632-3313

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Feb. 7, 2023

RE: Marijuana Retail Establishments

Dear Mr. Mayor,

I believe the text amendment regarding the number of Marijuana Retail Establishments will only increase opportunities in the City for revenue, and jobs. From a Zoning standpoint I have seen no ill effects from the existing Marijuana Facility. I currently have an application for a Building permit for a second facility which would leave us with no additional licenses. This would in effect tie our hands regarding further growth. I am in full support of this proposal.

Do not hesitate to contact me should you need any further assistance.

Roland Jean  
Building Commissioner/Zoning Enforcement Officer  
City Hall Annex  
115 Pleasant St. RM 101  
Gardner, MA 01440  
(978) 630 4007  
rjean@gardner-ma.gov

**Mission Statement**

To promote the safe and compatible development of the community through fair and consistent enforcement of building codes and zoning ordinances

**Mayor**

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**From:** John Richard  
**Sent:** Wednesday, February 1, 2023 11:14 AM  
**To:** Mayor  
**Subject:** Marijuana Fees History

Hi Mike

Here you go.

Description	2023 Actual	2022 Actual	2021 Actual	2020 Actual	2019 Actual
MARIJUANA HCA FEES	\$ 26,367.11	\$ 124,076.56	\$ 132,015.11	\$ 118,394.64	\$ 47,072.12
MARIJUANA SALES EXCISE TAX	\$ 104,773.64	\$ 237,668.25	\$ 306,969.74	\$ 383,850.54	\$ 50,330.46
<b>TOTAL</b>	<b>\$ 131,140.75</b>	<b>\$ 361,744.81</b>	<b>\$ 438,984.85</b>	<b>\$ 502,245.18</b>	<b>\$ 97,402.58</b>

John Richard  
 City Auditor



95 Pleasant Street, Room 114  
 Gardner, MA 01440-2630  
 978-632-1900 ext 8020

**Mayor**

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**From:** Ashley Metivier  
**Sent:** Wednesday, February 1, 2023 11:04 AM  
**To:** Mayor  
**Subject:** Liquor Retail - Not Consumed on Premise

Hi Mike,

We have 10 locations licensed as retail sale, not consumed on premises:

**Malt/Wine Packaged Goods**

Town Convenience, 13 Pine St  
BP, 221 Main St  
South Gardner Mini Mart, 94 S. Main St  
Jays Variety, 32 E. Broadway  
Price Chopper, 500 Main St

**All Alcohol Packaged Goods**

Beauregard Liquors, 11 West St  
Brazells, 201 Pleasant St  
Hannaford, 14-20 Timpany Blvd  
Gardner Spirits, 364 Timpany Blvd  
Anthony's, 12 Pearson Blvd

Let me know if you need any more information!

**Ashley Metivier**  
**Administrative Assistant/License Commission Clerk**  
City of Gardner  
95 Pleasant St, Room 29  
Gardner, MA 01440  
P: 978-630-4013 Ext: 8042  
F: 978-632-4682  
E: [AMetivier@gardner-ma.gov](mailto:AMetivier@gardner-ma.gov)

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# Current Ordinance

City of Gardner, MA  
Friday, February 3, 2023

## Chapter 675. Zoning

### Article X. Supplemental Regulations

#### § 675-1070. Marijuana establishments.

##### A. Purpose.

- (1) To provide for the placement of marijuana establishments in appropriate places and under conditions in accordance with the provisions of MGL c. 94G.
- (2) To minimize the adverse impacts of marijuana establishments on adjacent properties, residential neighborhoods, schools and other places where children congregate, local historic districts, and other sensitive land uses potentially incompatible with said establishments.
- (3) To regulate the siting, design, placement, security, safety, monitoring, modification, and discontinuance of marijuana establishments.

##### B. Applicability.

- (1) No marijuana establishment shall be established except in compliance with the provisions of § 675-410 (Schedule of permitted uses) and this § 675-1070 (Marijuana establishments).
- (2) Nothing in this section shall be construed to supersede federal and state laws governing the sale and distribution of Class 1 Controlled Substances.
- (3) If any provision of this section or the application of any such provision to any person or circumstance shall be held invalid, the remainder of this section, to the extent it can be given effect, or the application of those provisions to persons or circumstances other than those to which it is held invalid, shall not be affected thereby, and to this end the provisions of this section are severable.

##### C. General requirements and conditions for all marijuana establishments.

- (1) All marijuana establishments shall be contained within a building or structure.
- (2) The hours of operation of marijuana establishments shall be set by the special permit granting authority.
- (3) No marijuana establishment property line shall be located within 500 linear feet of a lot line where the following districts, activity, or uses occur:
  - (a) (Reserved)<sup>[1]</sup>

<sup>[1]</sup> *Editor's Note: Former Subsection C(3)(a), regarding nonconforming residential dwellings, was repealed 9-3-2019 by Ord. No. 1625.*
  - (b) Any church, public or private school or child-care facility; or place where minors frequent (e.g., a library, ball field, park, sports or family recreation facility, religious facility or the like);
  - (c) Any other marijuana establishment;
  - (d) Any drug or alcohol rehabilitation facility; or
  - (e) Any correctional facility, halfway house or similar facility.
- (4) No smoking, burning or consumption of any product containing marijuana or marijuana-related products shall be permitted on the premises of a marijuana establishment.

- (5) No marijuana establishment shall be located inside a building containing residential units, including transient housing such as motels and dormitories, or inside a movable or mobile structure such as a van or truck.
- (6) Marijuana establishments shall provide the Gardner Police and Fire Departments, Building Commissioner, Board of Health, and the special permit granting authority with the names, phone numbers and e-mail addresses of all management staff and key holders to whom one can provide notice if there are operating problems associated with the establishment.
- (7) The City shall have access at any time to inspect the premises of the marijuana establishment to ensure compliance with local and state regulations, excluding client health information protected under the Health Insurance Portability and Accountability Act of 1996.
- (8) Pursuant to MGL c. 94G, § 3(a)(2)(i) to (iii), the maximum number of licensed marijuana establishments in the City shall be consistent with the following provisions:
  - (a) Shall not prohibit one or more types of marijuana establishment;
  - (b) The number of marijuana retail establishments shall not exceed 20% of liquor licenses issued for retail sale of alcohol not consumed on the premises in the City of Gardner, said number to be rounded up to the next whole number;
  - (c) The number of marijuana establishments shall not prevent the conversion of a medical marijuana treatment center licensed or registered no later than July 1, 2017, to a marijuana establishment engaged in the same type of activity.

[Amended 9-3-2019 by Ord. No. 1625]

D. Special permit requirements.

- (1) No special permit for any marijuana establishment shall be issued without site plan approval first having been obtained from the Planning Board, § 675-1010, Site plan review, of this chapter. In addition to the standards set forth within, the site plan must meet all dimensional, parking, landscaping, and signage requirements within this chapter.
- (2) A marijuana establishment shall only be allowed by special permit from the Gardner Planning Board in accordance with MGL c. 40A, § 9, subject to the following statements, regulations, requirements, conditions and limitations.
- (3) A special permit for a marijuana establishment shall be limited to one or more of the following uses that shall be specified by the special permit granting authority:
  - (a) Marijuana cultivator;
  - (b) Marijuana product manufacturer;
  - (c) Marijuana retailer;
  - (d) Marijuana testing facility;
  - (e) Marijuana transportation or distribution facility; and
  - (f) Any other type of licensed marijuana-related business.
- (4) In addition to the application requirements set forth above, a special permit application for a marijuana establishment shall include the following:
  - (a) The name and address of each owner of the establishment;
  - (b) Copies of all required licenses and permits issued to the applicant by the Commonwealth of Massachusetts Cannabis Control Commission and any of its other agencies for the establishment;
  - (c) Evidence of the applicant's right to use the site of the establishment for the establishment, such as a purchase and sale agreement, deed, owner's authorization, or lease;
  - (d) Proposed security measures for the marijuana establishment, including lighting, fencing, gates and alarms, etc., to ensure the safety of persons and to protect the premises from theft. A letter

from the City of Gardner Police Chief, or designee, acknowledging review and approval of the marijuana establishment security plan is required. To the extent allowed by law, all such documents shall be confidential.

- (5) Mandatory findings. The special permit granting authority shall not issue a special permit for a marijuana establishment unless it finds that:
  - (a) The establishment is designed to minimize any adverse impacts on abutters and other parties in interest, as defined in MGL c. 40A, § 11.
  - (b) The establishment demonstrates that it will meet all the permitting requirements of all applicable agencies within the Commonwealth of Massachusetts and will comply with all applicable state laws and regulations; and
  - (c) The applicant has satisfied all the conditions and requirements set forth herein.
- (6) A special permit granted under this section shall have a term limited to the duration of the applicant's ownership or leasehold of the premises as a marijuana establishment. A special permit may be transferred only with the approval of the special permit granting authority in the form of an amendment to the special permit with all information required in this § 675-1070.

E. Abandonment or discontinuance of use.

- (1) A special permit shall lapse if not exercised within one year of issuance.
- (2) A marijuana establishment shall be required to remove all personal property, including but not limited to all material, plants, equipment, accessories, paraphernalia, and any other property no later than the earliest of:
  - (a) Prior to surrendering its state-issued licenses or permits; or
  - (b) Within six months of ceasing operations.