



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

**CALENDAR FOR THE MEETING**

*of*

**TUESDAY, JANUARY 2, 2024**

**CITY COUNCIL CHAMBER**

**7:30 P.M.**

**ORDER OF BUSINESS**

**I. CALL TO ORDER**

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

**\*\* ELECTION OF THE COUNCIL PRESIDENT**

**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)**

- November 20, 2023, Regular Meeting

**VII. PUBLIC HEARINGS**

**VIII. COMMUNICATIONS FROM THE MAYOR**

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

**11116** – Applications for Motor Vehicle Dealers License, Class II, Gardner Five Star Auto Sales, 407 Chestnut Street. *(Safety Committee)*

**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)*

## **SAFETY COMMITTEE, continued**

**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)*

## **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)*

**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)*

**11114** – Scheduling a Joint Convention with the Gardner School Committee to Appoint a Gardner Representative/Member to the Montachusett Regional Vocational Technical School District Committee. *(In the City Council & Voted to schedule a joint convention with the School Committee 12/18/2023)*

## **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.

**REGULAR MEETING OF NOVEMBER 20, 2023**

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Regular Meeting of the City Council was held in the Council Chambers, Room 219, City Hall, on Monday evening, November 20, 2023.

**CALL TO ORDER**

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

**CALL OF THE ROLL**

City Clerk Titi Siriphan called the Roll of Members. Ten (10) Councillors were present including Councillors James Boone, Ronald Cormier, Aleksander Dernalowicz, Karen Hardern, Dana Heath, Elizabeth Kazinskas, Judy Mack (via phone conference), Paul Tassone, and George Tyros. Councillors Craig Cormier and James Walsh were absent.

**OPENING PRAYER**

President Kazinskas led the Council in reciting the Opening Prayer.

**PLEDGE OF ALLEGIANCE**

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

**OPEN MEETING RECORDING & PUBLIC RECORDS ANNOUNCEMENT**

President Elizabeth Kazinskas announced to the assembly that the Open Meeting Recording and Public Records Announcement. Any person may make a video or audio recording of an open session of a meeting or may transmit the meeting through any medium subject to reasonable requirements of the chair as to the number placement and operation of equipment used so as not to interfere with the conduct of the meeting. Any person intending to make such recordings shall notify the Chair forthwith. All documents and exhibits used or referenced at the meeting must be submitted in duplicate to the chair as they become part of the meeting minutes pursuant to General Law Chapter 38 Section 20.

**PUBLIC HEARINGS****Notice of FY2024 Tax Classification Hearing**

President Kazinskas read the Notice of FY2024 Tax Classification Hearing. Pursuant to Chapter 40, Section 56 M.G.L. the Gardner City Council will hold a public hearing on Monday, November 20, 2023, at 7:30pm in the Council Chamber, Room 219, at City Hall, 95 Pleasant Street, Gardner, MA. The purpose of the hearing is to determine the percentage of the local tax levy to be borne by each class of real property. The hearing will include the

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options available under Chapter 40, Section 56 of the Massachusetts General Laws. The public is welcome to attend.

President Kazinskas asked if anyone would like to speak in favor.

Mayor Michael Nicholson spoke in favor:

- The Administration is proposing to adopt real estate Factor One (1).
- The proposed rate is \$14.97, which is a \$1.16 reduction from the current tax rate.
- This is the lowest tax rate they have had since 2010.
- Valuations for houses have gone up for the different classifications of properties.

Christine Kumar, City Assessor, also spoke in favor:

- On October 17, 2023, the Board of Assessors did vote unanimously to recommend to the City Council a residential factor of one. This results in a single tax rate estimated to be \$14.97, pending approval of the City's annual recap by the Massachusetts Department of Revenue.
- City Assessor has also included a copy of the top 10 tax payers.

President Kazinskas asked thrice if anyone would like to speak in opposition.

No one spoke in opposition.

The public hearing closed at 7:43 P.M.

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

**#11089**

On a motion made by Councillor Ronald Cormier and seconded by Councillor Aleksander Dernalowicz, it was voted on call of the roll, nine (9) yeas, President Elizabeth Kazinskas and Councillors James Boone, Ronald Cormier, Aleksander Dernalowicz, Karen Hardern, Dana Heath, Judy Mack, Paul Tassone, and George Tyros, that the following order ought to pass:

AN ORDER APPROPRIATING FROM FREE CASH TO THE ENGINEERING DEPT - CAPITAL IMPROVEMENT UPTOWN ROTARY ACCOUNT.

ORDERED: That there be and is hereby appropriated the sum of Twenty-Four Thousand Five Hundred Dollars and No Cents (\$24,500.00) from Free Cash to the Engineering Dept. – Capital Improvement Uptown Rotary Account.



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**#11090**

On a motion made by Councillor Ronald Cormier and seconded by Councillor Aleksander Dernalowicz, it was voted on call of the roll, nine (9) yeas, President Elizabeth Kazinskas and Councillors James Boone, Ronald Cormier, Aleksander Dernalowicz, Karen Hardern, Dana Heath, Judy Mack, Paul Tassone, and George Tyros, that the following order ought to pass:

AN ORDER APPROPRIATING FROM FREE CASH TO THE WAYSIDE POND/DAM PROJECT ACCOUNT.

ORDERED: That there be and is hereby appropriated the sum of Thirteen Thousand Six Hundred Dollars and No Cents (\$13,600.00) from Free Cash to the Wayside Pond/Dam Account.

**#11091**

On a motion made by Councillor Ronald Cormier and seconded by Councillor Aleksander Dernalowicz, it was voted on call of the roll, nine (9) yeas, President Elizabeth Kazinskas and Councillors James Boone, Ronald Cormier, Aleksander Dernalowicz, Karen Hardern, Dana Heath, Judy Mack, Paul Tassone, and George Tyros, that the following order ought to pass:

AN ORDER APPROPRIATING FROM FREE CASH TO PARC GRANT MATCH ACCOUNT.

ORDERED: That there be and is hereby appropriated the sum of One Hundred Fifty-Six Thousand Four Hundred Twenty Dollars and No Cents (\$156,420.00) from Free Cash to the PARC Grant Match Account.

**#11092**

On a motion made by Councillor Ronald Cormier and seconded by Councillor Aleksander Dernalowicz, it was voted on call of the roll, nine (9) yeas, President Elizabeth Kazinskas and Councillors James Boone, Ronald Cormier, Aleksander Dernalowicz, Karen Hardern, Dana Heath, Judy Mack, Paul Tassone, and George Tyros, that the following order ought to pass:

AN ORDER APPROPRIATING FROM FREE CASH TO MASS TRAIL GRANT MATCH ACCOUNT.

ORDERED: That there be and is hereby appropriated the sum of Two Hundred Twenty Thousand Dollars and No Cents (\$220,000.00) from Free Cash to the Mass Trail Grant Match Account.

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**#11093**

On a motion made by Councillor Aleksander Dernalowicz and seconded by Councillor Ronald Cormier, it was voted on call of the roll, nine (9) yeas, President Elizabeth Kazinskas and Councillors James Boone, Ronald Cormier, Aleksander Dernalowicz, Karen Hardern, Dana Heath, Judy Mack, Paul Tassone, and George Tyros, that the following order ought to pass:

AN ORDER TO RAISE AND APPROPRIATE A SUM OF MONEY FOR THE VARIOUS DEPARTMENTS FOR THE SALARY AND LABOR BUDGET FOR THE FISCAL YEAR BEGINNING JULY 1, 2023 TO JUNE 30, 2024.

*ORDERED:* To raise and appropriate for the expense of the City of Gardner for the Fiscal Year beginning July 1, 2023 to June 30, 2024 sums as designated for the expenditures of the various departments, Salary and Labor budgets, in the amount of THIRTY-SEVEN THOUSAND EIGHT HUNDRED FOURTY-NINE DOLLARS 00/100 (\$37,849.00):

Police Dept	Salaries & Wages	\$10,800.00
Fire Dept	Salaries & Wages	\$27,049.00

**#11094**

On a motion made by Councillor Aleksander Dernalowicz and seconded by Councillor Ronald Cormier, it was voted on call of the roll, nine (9) yeas, President Elizabeth Kazinskas and Councillors James Boone, Ronald Cormier, Aleksander Dernalowicz, Karen Hardern, Dana Heath, Judy Mack, Paul Tassone, and George Tyros, that the following order ought to pass:

AN ORDER TO RAISE AND APPROPRIATE A SUM OF MONEY FOR THE VARIOUS DEPARTMENT FOR OPERATING EXPENDITURE BUDGET FOR THE FISCAL YEAR BEGINNING JULY 1, 2023 TO JUNE 30, 2024.

*ORDERED:* To raise and appropriate for the expense of the City of Gardner for the Fiscal Year beginning July 1, 2023 to June 30, 2024 sums as designated for the expenditures of the various departments, Operating Expenditure budgets, in the amount of FIFTY-NINE THOUSAND NINE HUNDRED SIXTY DOLLARS 00/100 (\$59,960.00):

Police Dept	Armory Equipment Expense	\$47,460.00
Fire Dept	Prof Services Expense-Stump Grinding	\$12,500.00

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**#11095**

On a motion made by Councillor Aleksander Dernalowicz and seconded by Councillor Ronald Cormier, it was voted on call of the roll, nine (9) yeas, President Elizabeth Kazinskas and Councillors James Boone, Ronald Cormier, Aleksander Dernalowicz, Karen Hardern, Dana Heath, Judy Mack, Paul Tassone, and George Tyros, that the following order ought to pass:

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

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

A BOND ORDER TO PAY COSTS OF A NEW LADDER TRUCK FOR THE FIRE DEPARTMENT

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

That there be raised and appropriated the sum of Two Million Two Hundred Thousand Dollars (\$2,200,000) to pay for the purchase a new ladder truck for the Fire Department, and for the payment of all other costs incidental and related thereto, and to meet this appropriation, the City Treasurer, with the approval of the Mayor, be and hereby is authorized to borrow said amount under and pursuant to M.G.L. c. 44, §7(1), or pursuant to any other enabling authority, and to issue bonds or notes of the City therefor; and that the Mayor is authorized to take any other actions necessary to carry out this project.

**#11096**

On a motion made by Councillor Aleksander Dernalowicz and seconded by Councillor Ronald Cormier, it was voted on call of the roll, nine (9) yeas, President Elizabeth Kazinskas and Councillors James Boone, Ronald Cormier, Aleksander Dernalowicz, Karen Hardern, Dana Heath, Judy Mack, Paul Tassone, and George Tyros, that the following order ought to pass:

AN ORDER APPROPRIATING FROM SPECIAL PURPOSE STABILIZATION FUND TO FIRE DEPARTMENT NEW VEHICLE EXPENDITURES.

ORDERED: That there be and is hereby appropriated the sum of Five Hundred Thirteen Thousand Five Hundred Six Dollars and 11/100 Cents (\$513,506.11) from Special Purpose Stabilization fund to Fire Department New Vehicle Expenditures.

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COMMUNICATIONS FROM THE MAYOR  
COMMUNICATIONS

**#11097**

On a motion made by Councillor Aleksander Dernalowicz and seconded by Councillor Ronald Cormier, it was voted on call of the roll, nine (9) yeas, President Elizabeth Kazinskas and Councillors James Boone, Ronald Cormier, Aleksander Dernalowicz, Karen Hardern, Dana Heath, Judy Mack, Paul Tassone, and George Tyros, to adopt the following order:

ACCEPTANCE OF CHAPTER 59, SECTION 5(22H)  
TO ESTABLISH TAX EXEMPTION FOR GOLD STAR FAMILIES

VOTED: To accept the provisions of Massachusetts General Law, Chapter 59, Section 5(22H), establishing tax exemption for Gold Star Families.

**#11098**

On a motion made by Councillor Aleksander Dernalowicz and seconded by Councillor Ronald Cormier, it was voted on call of the roll, nine (9) yeas, President Elizabeth Kazinskas and Councillors James Boone, Ronald Cormier, Aleksander Dernalowicz, Karen Hardern, Dana Heath, Judy Mack, Paul Tassone, and George Tyros, to place on file, *A Notification from the Mayor Regarding Upcoming Appropriation Request for Fire Department Roof Repairs*.

**#11099**

On a motion made by Councillor Aleksander Dernalowicz and seconded by Councillor Ronald Cormier, it was voted on call of the roll, nine (9) yeas, President Elizabeth Kazinskas and Councillors James Boone, Ronald Cormier, Aleksander Dernalowicz, Karen Hardern, Dana Heath, Judy Mack, Paul Tassone, and George Tyros, to send the home rule petition to the Great and General Court of the Commonwealth of Massachusetts for consideration to move this proposal on to the next step in the process. (Home Rule Petition, attached)

**#11100**

On a motion made by Councillor Aleksander Dernalowicz and seconded by Councillor Paul Tassone, it was voted on call of the roll, nine (9) yeas, President Elizabeth Kazinskas and Councillors James Boone, Ronald Cormier, Aleksander Dernalowicz, Karen Hardern, Dana Heath, Judy Mack, Paul Tassone, and George Tyros to adopt the following measure:

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CREATION OF DISTRICT IMPROVEMENT FINANCING DISTRICTS FOR THE  
DOWNTOWN AND MILL STREET URBAN RENEWAL AREAS

VOTED: To create two district improvement financing districts with one located within the same boundaries of the Downtown Urban Renewal District as adopted by the City Council in July of 2011 and the Mill Street Urban Renewal District as adopted by the City Council in August of 2012, in accordance with the provisions of Chapter 40Q of the General Laws of the Commonwealth.

**#11101**

On a motion made by Councillor Aleksander Dernalowicz and seconded by Councillor George Tyros, it was voted on call of the roll, nine (9) yeas, President Elizabeth Kazinskas and Councillors James Boone, Ronald Cormier, Aleksander Dernalowicz, Karen Hardern, Dana Heath, Judy Mack, Paul Tassone, and George Tyros, to place on file, *A Notification from the Mayor Regarding Parking Meter Study Committee.*

**#11102**

On a motion made by Councillor George Tyros and seconded by Councillor Aleksander Dernalowicz, it was voted on call of the roll, nine (9) yeas, President Elizabeth Kazinskas and Councillors James Boone, Ronald Cormier, Aleksander Dernalowicz, Karen Hardern, Dana Heath, Judy Mack, Paul Tassone, and George Tyros, to place on file, *A Notification from the Mayor Regarding Grant Funding – Community One Stop for Growth Awards.*

**#11103**

On a motion made by Councillor George Tyros and seconded by Councillor Aleksander Dernalowicz, it was voted on call of the roll, nine (9) yeas, President Elizabeth Kazinskas and Councillors James Boone, Ronald Cormier, Aleksander Dernalowicz, Karen Hardern, Dana Heath, Judy Mack, Paul Tassone, and George Tyros, to place on file, *A Notification from the Mayor Regarding Gubernatorial Appointments of Gardner Residents/Employees.*

**#11104**

On a motion made by Councillor George Tyros and seconded by Councillor Aleksander Dernalowicz, it was voted on call of the roll, nine (9) yeas, President Elizabeth Kazinskas and Councillors James Boone, Ronald Cormier, Aleksander Dernalowicz, Karen Hardern, Dana Heath, Judy Mack, Paul Tassone, and George Tyros, to place on file, *A Notification from the Mayor Regarding Employee/Retiree Insurance Plan Change.*

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REPORTS OF STANDING COMMITTEES  
FINANCE COMMITTEE

**#11061**

On a motion made by Councillor George Tyros and seconded by Councillor Aleksander Dernalowicz, it was voted on call of the roll, nine (9) yeas, President Elizabeth Kazinskas and Councillors James Boone, Ronald Cormier, Aleksander Dernalowicz, Karen Hardern, Dana Heath, Judy Mack, Paul Tassone, and George Tyros, to send to First Printing, *An Ordinance to Amend the Code of the City of Gardner by Adding a New Chapter to be Entitled, Chapter 504: Wage Theft Protection, Which Shall Provide for Protections for Workers and Employees of Contractors Working on City Projects.*

REPORTS OF STANDING COMMITTEES  
APPOINTMENTS

**#11083**

Councillor George Tyros requests More time on, *A Measure Confirming the Mayor's Appointment of Debra Pond to the Position of Human Resources Director, for term expiring October 31, 2026.*

There were no objections, more time was granted.

**#11084**

Councillor George Tyros requests More time on, *A Measure Confirming the Mayor's Appointment of David Hackett to the Position of Disability Commission Member, for term expiring October 30, 2026.*

There were no objections, more time was granted.

**#11085**

Councillor George Tyros requests More time on, *A Measure Confirming the Mayor's Appointment of Debra Pond to the Position of Disability Commission Member, for term expiring October 30, 2026.*

There were no objections, more time was granted.

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**REPORTS OF STANDING COMMITTEES**  
**SAFETY COMMITTEE****#11086**

Councillor Craig Cormier requests More Time, *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.*

There were no objections, more time was granted.

**UNFINISHED BUSINESS AND MATTERS FOR RECONSIDERATION****#11080**

On a motion made by Councillor Ronald Cormier and seconded by Councillor Aleksander Dernalowicz, it was voted on call of the roll, nine (9) yeas, President Elizabeth Kazinskas and Councillors James Boone, Ronald Cormier, Aleksander Dernalowicz, Karen Hardern, Dana Heath, Judy Mack, Paul Tassone, and George Tyros to adopt the following measure:

**ADOPTION OF FACTOR 1 FISCAL YEAR 2024**  
**REAL ESTATE AND PERSONAL PROPERTY TAX RATE**

*VOTED:* To adopt Factor 1 for each class of Real Estate and Personal Property Tax Rate for Fiscal Year 2024.

**#11081**

On a motion made by Councillor Aleksander Dernalowicz and seconded by Councillor George Tyros, it was voted on call of the roll, nine (9) yeas, President Elizabeth Kazinskas and Councillors James Boone, Ronald Cormier, Aleksander Dernalowicz, Karen Hardern, Dana Heath, Judy Mack, Paul Tassone, and George Tyros, to place on file, *A Notification from the Mayor Regarding Certification of LA-4 Assessment/Classification Report FY2024.*

**#11082**

On a motion made by Councillor Aleksander Dernalowicz and seconded by Councillor George Tyros, it was voted on call of the roll, nine (9) yeas, President Elizabeth Kazinskas and Councillors James Boone, Ronald Cormier, Aleksander Dernalowicz, Karen Hardern, Dana Heath, Judy Mack, Paul Tassone, and George Tyros, to place on file, *A Notification from the Mayor Regarding Certification of Gardner LA13 Tax Base Levy Growth.*



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**#11088**

Councillor George Tyros informed the Council that this item was discussed during the November 3<sup>rd</sup> Public Service Committee meeting. Having a presentation from one vendor could be in violation of procurement laws.

Councillor Ronald Cormier stated that this could lead to a potential lawsuit.

Councillor Aleksander Dernalowicz mentioned that during the Public Service meeting on November 3<sup>rd</sup>, the DPW director and City Engineer properly vetted the project. There is only one other municipality, that he is aware of, in the United States using this process. It is an untested “product”. It could put the city in harm if the product doesn’t work. It is under the executive department purview to vet out this project.

On a motion made by Councillor James Boone and seconded by Councillor Paul Tassone to request a Special Meeting *of the Council as a Whole to Hear a Presentation by SoMax Circular Solutions*, it was voted on call of the roll, two (2) yeas, Councillor James Boone and Paul Tassone; seven (7) nays, President Elizabeth Kazinskas and Councillors Ronald Cormier, Aleksander Dernalowicz, Karen Hardern, Dana Heath, Judy Mack and George Tyros. The request was defeated.

**CLOSING PRAYER**

President Elizabeth Kazinskas led the Council in the Closing Prayer.

**ADJOURNMENT**

On a motion made by Councillor Paul Tassone and seconded by Councillor James Boone, it was voted on call of the roll, nine (9) yeas, President Elizabeth Kazinskas and Councillors James Boone, Ronald Cormier, Aleksander Dernalowicz, Karen Hardern, Dana Heath, Judy Mack, Paul Tassone, and George Tyros to adjourn at 8:32 p.m.

**Accepted by the City Council:**



## TOP 10 TAXPAYERS

	OWNER	TOTAL VALUE	TYPE	ESTIMATED TAXES
1	MASS ELECTRIC	27,005,270	UTILITY	\$404,269
2	UNITIL	22,374,618	UTILITY	\$334,948
3	OLDE ENGLISH VILLAGE PRESERVATION LP	11,618,900	APARTMENTS	\$173,935
4	CEDAR TIMPANY LLC	11,377,800	RETAIL/COMMERCIAL	\$170,326
5	MOUNTAIN CLIMBER LLC	11,278,400	APARTMENTS	\$168,838
6	WAKEFIELD PLACE ASSOC LTD PTNR	11,125,100	APARTMENTS	\$166,543
7	URQUHART FAMILY LLC/NEW ENGLAND WOODEN WARE	10,684,300	COMMERCIAL	\$159,944
8	NEW ENGLAND POWER	10,447,567	UTILITY	\$156,400
9	MOLINA LANDMARK LLC/MOLINA REALTY LLC	10,197,700	APARTMENTS/COMMERCIAL	\$152,660
10	BINNALL HOUSE RHF PARTNERS	8,879,900	APARTMENTS	\$132,932
11	JENNY/JESSIE/MIKEY REALTY LLC	8,215,600	CONDOS	\$122,988
12	EXCHANGERIGHT NET-LEASED PORTFOLIO 54 DST	7,292,300	RETAIL/COMMERCIAL	\$109,166
13	C B & B INC	6,794,100	HOTEL/COMMERCIAL	\$101,708

*\* using an estimated tax rate of \$14.97*

## CITY OF GARDNER

### VOTE OF THE CITY COUNCIL

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

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

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

Making the following changes to the City Charter:

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

#### CERTIFICATE OF APPOINTMENT

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

Mayor.

Or the following form, as the case may be:

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

Mayor.”

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

Section 11: Strike the first paragraph in its entirety and replace it with the following: “The mayor shall receive for services such salary as the city council by ordinance shall determine and shall receive no other compensation from the city. The mayor’s salary shall not be increased or diminished during the term to which the mayor was elected.

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

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

And be further amended by striking the second sentence of the first paragraph under the heading “PETITION ACCOMPANYING STATEMENT OF CANDIDATE and replacing it with the following: “We further state that we believe this person to be of good moral character and qualified to perform the duties of the office.”

Section 15: Strike the first paragraph in its entirety and replace it with the following: “The name of each person, and of none other, who has filed a statement and accompanying petition as aforesaid with the official residence and the title and term of the office for which the individual is a candidate for nomination, shall be printed on said ballots under the designation of office in the order in which they may be drawn by the city clerk, whose duty it shall be to make such drawing and to give each candidate an opportunity to be present in person or by one representative. Blank space shall be left at the end of each list of candidates for nomination for the different offices

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

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

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

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

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

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

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

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

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

Section 34: Delete in its entirety.

Section 35: Delete in its entirety.

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

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

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

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

Section 51: Delete in its entirety.

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

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

---

Titi Siriphan  
City of Gardner City Clerk

## CITY OF GARDNER

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

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

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

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

Making the following changes to the City Charter:

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

### CERTIFICATE OF APPOINTMENT

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

Mayor.

Or the following form, as the case may be:

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

Mayor.”

- Section 8: Strike the existing language and replace it with the following: “The mayor may, with the approval of a majority of the members of the city council, remove any head of a department or member of a board before the

expiration of the appointee's term of office, except members of the school committee, officers elected by the city council, officers whose election is provided for by this act, and officials appointed by the governor. The person removed shall receive a copy of the reasons for such removal in writing and may contest the same at a hearing to be given by the city council, at which the person removed shall have the right to be represented by counsel."

Section 11: Strike the first paragraph in its entirety and replace it with the following:  
"The mayor shall receive for services such salary as the city council by ordinance shall determine and shall receive no other compensation from the city. The mayor's salary shall not be increased or diminished during the term to which the mayor was elected.

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

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

And be further amended by striking the second sentence of the first paragraph under the heading "PETITION ACCOMPANYING STATEMENT OF CANDIDATE and replacing it with the following:  
"We further state that we believe this person to be of good moral character and qualified to perform the duties of the office."

Section 15: Strike the first paragraph in its entirety and replace it with the following:  
"The name of each person, and of none other, who has filed a statement and accompanying petition as aforesaid with the official residence and the title and term of the office for which the individual is a candidate for nomination, shall be printed on said ballots under the designation of office in the order in which they may be drawn by the city clerk, whose duty it shall be to make such drawing and to give each candidate an opportunity to be present in person or by one representative. Blank space shall be left at the end of each list of candidates for nomination for the different offices equal to the number to be nominated therefore, in which the voter may insert the name of any person not printed on the ballot for whom the voter desires to vote for nomination for such office. There shall be printed on said ballots such directions as will aid the voter, as to wit: "vote for one",



“vote for not more than two”, and the like. (G.L. Chap 54, sec. 42 as amended).

Section 16: Strike the existing language and replace it with the following: “No ballot used at any preliminary, special or regular city election shall have printed thereon any party or other political designation or mark, and there shall not be appended to the name of any candidate any such party or other political designation or mark, or anything showing the method of nomination, or indicating the candidate’s views or opinions. (See also G.L. Chap. 53, sec. 34 as amended).

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

Section 19: Strike the second sentence in the second paragraph in its entirety and replace it with the following: “In case two or more candidates should receive an equal number of votes for the same office at any preliminary election held under this act and one of such candidates would otherwise be entitled to the candidate’s name upon the official ballot, then the names of all such persons shall be placed on the ballot.”

Section 24: Strike the second sentence in paragraph 3 in its entirety and replace it with the following: “The city clerk shall keep the records of the meetings of the council.

Section 25: Strike the first sentence in its entirety and replace it with the following: “The city council may at any time request from the mayor specific information upon any municipal matter within its jurisdiction, and may request the mayor’s presence to answer written questions relating thereto at a meeting to be held not earlier than one week after the date of the receipt by the mayor of said questions.”

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

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mayor's objections, which the city council shall enter at large on its records, and again consider it. If the city council, notwithstanding such disapproval of the mayor, shall again pass such order, ordinance, resolution or vote by a two-thirds vote of all the members of the city council, it shall then be in force, but such vote shall not be taken for seven days after its return to the city council. Every such order, ordinance, resolution or vote shall be in force if it is not returned by the mayor within ten days after it was presented. This section shall not apply to budgets submitted under section thirty-two of chapter forty-four of the General Laws or to appropriations by the city council under section thirty-three of said chapter."

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

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Section 34: Delete in its entirety.

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

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

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

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

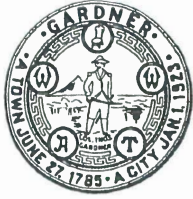
Section 51: Delete in its entirety.

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

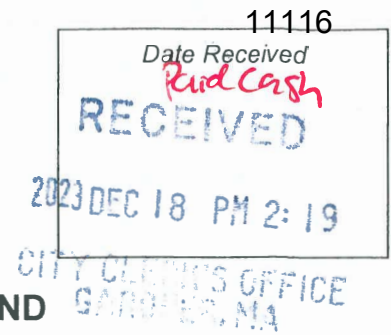
Note that the City of Gardner vote also included the following, which is not part of the Home Rule Petition but relates thereto.

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

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



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 L 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.**

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.

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.

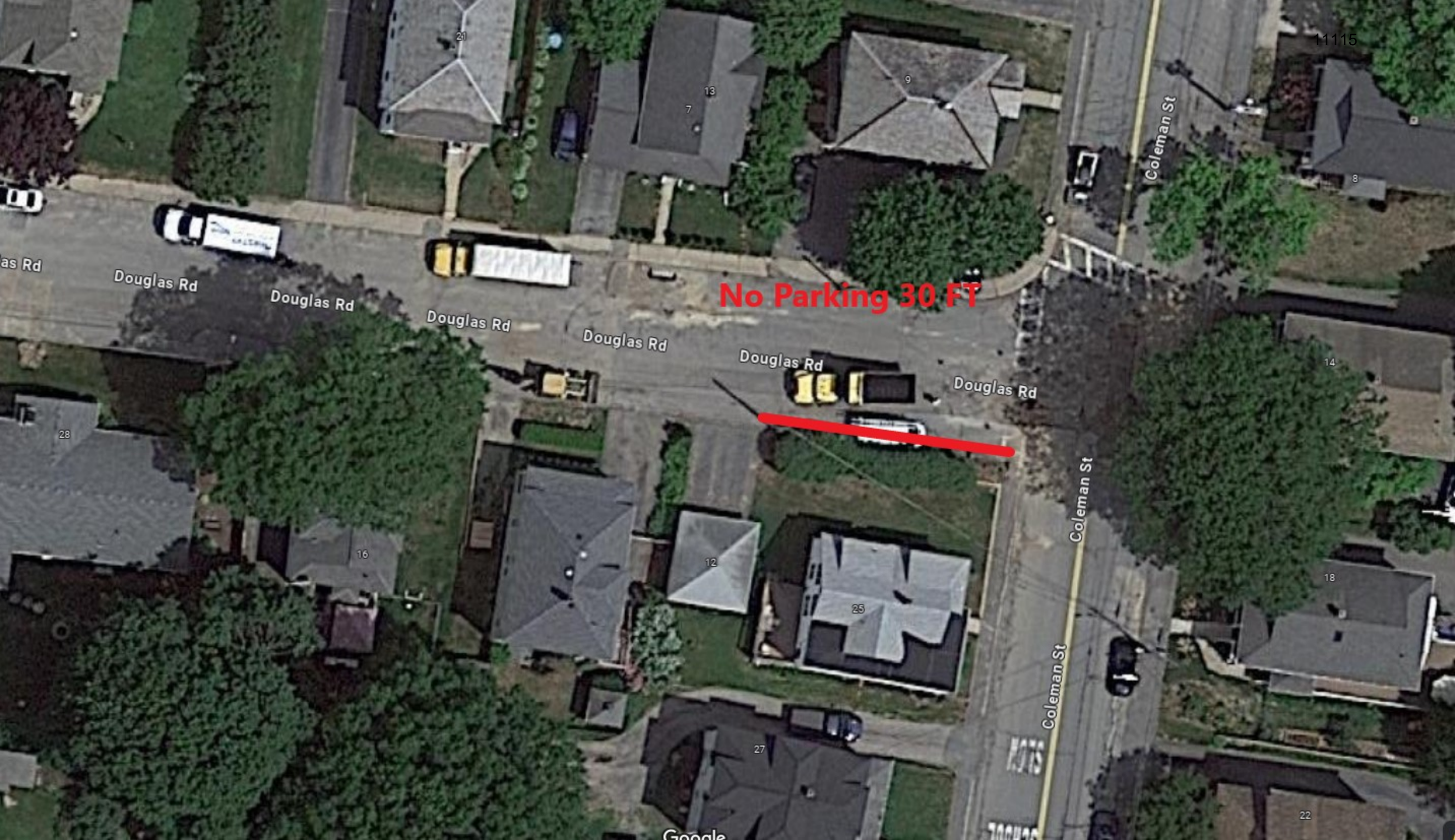
The commission appreciates your attention to these matters and members can be made available if further clarification is needed. Photos of the proposed areas have been attached.

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





11115

Cherry St

Westford St

Westford St

No parking

Comee St

Edgell St

Edgell St

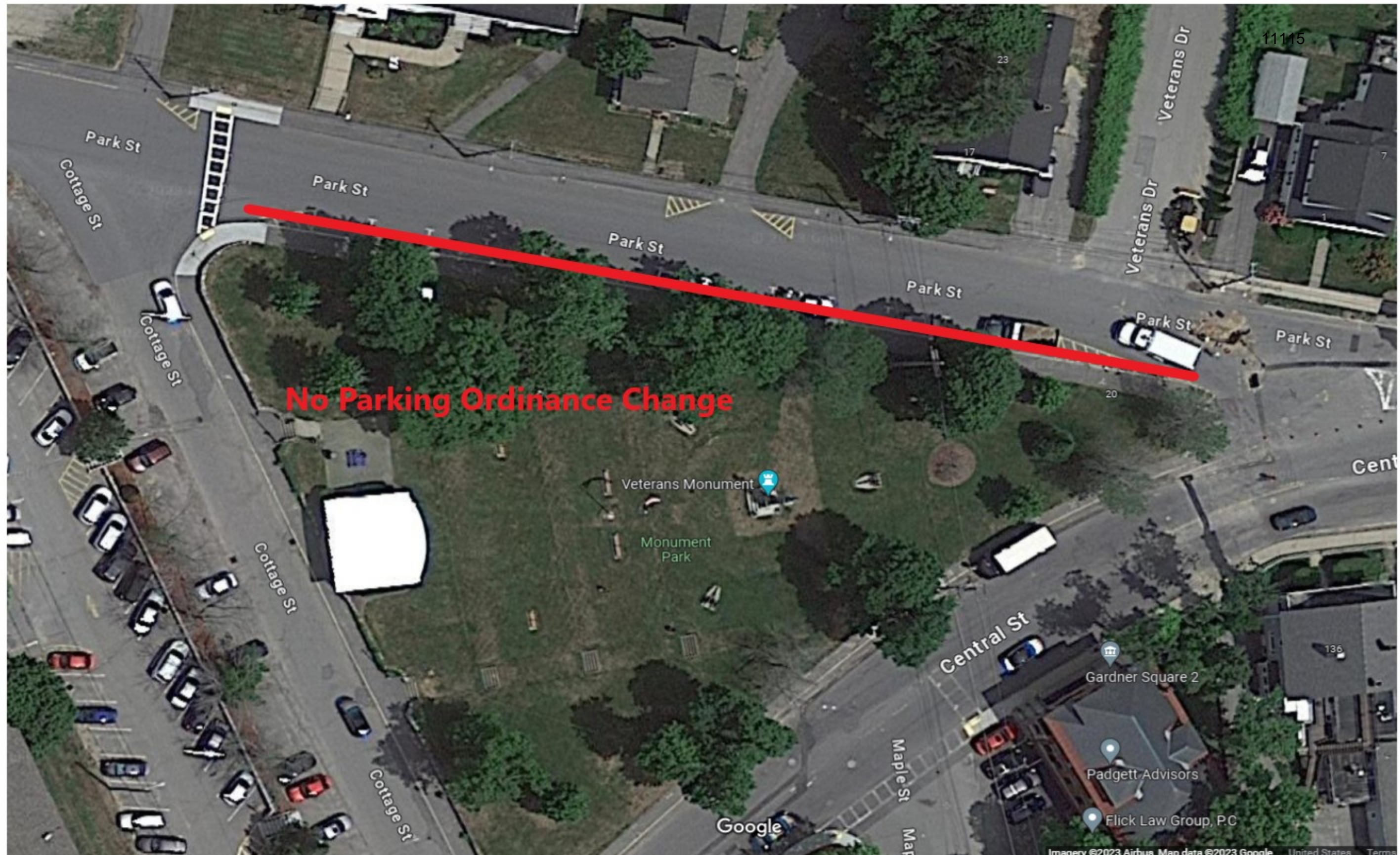
Edgell St

Edgell St

Edgell St

Lawrence St





**No Parking Ordinance Change**

Veterans Monument

Monument Park

Central St

Gardner Square 2

Padgett Advisors

Flick Law Group, P.C.

Google

Maple St

Veterans Dr

Park St

Park St

Park St

Park St

Park St

Cottage St

Cottage St

Cottage St

Cottage St



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



**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,

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





**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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- **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 - *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.

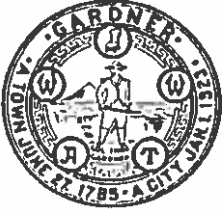
If you have any questions, please do not hesitate to contact me.

Very truly yours,

A handwritten signature in black ink, appearing to read "CP McAvene".

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:*

SECTION 1. Section 7 of chapter 4 of the General Laws is hereby amended by striking out clause Tenth, as appearing in the 2020 Official Edition, 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 and greyhound races under said chapter 128C; (v) a game of bingo conducted under chapter 271; (vi) charitable gaming conducted under said chapter 271; and (vii) a fantasy contest conducted under section 11M½.

SECTION 2. Section 7 of chapter 4 of the General Laws is hereby amended by striking 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

249 discretion, an executive, employee or agent having the power to exercise significant influence  
250 over decisions concerning the applicant's sports wagering operations in the commonwealth.

251 (c) A person having control of an applicant pursuant to subsection (b) shall submit to the  
252 commission an application in a form determined by the commission. Each such person who is a  
253 natural person shall also submit to the commission: (i) fingerprints for a national criminal records  
254 check by the department of state police and the Federal Bureau of Investigation; and (ii) a signed  
255 authorization for the release of the person's information by the department of state police and the  
256 Federal Bureau of Investigation; provided, however, that a person having control of an applicant  
257 who is a natural person that has submitted to a national criminal records check in any jurisdiction  
258 within the previous year shall not be required to submit to another national criminal records  
259 check if such person submits to the commission the results of such previous national criminal  
260 records check. Any applicant convicted of any disqualifying offense, as determined by the  
261 commission, shall not be licensed.

262 (d) Each person licensed under this chapter shall give the commission written notice not  
263 more than 30 days after any change to any material information provided in the application for a  
264 license or renewal.

265 (e) A commission employee shall not be an applicant for any license issued under this  
266 chapter.

267 Section 6. (a) A licensed qualified gaming entity may operate sports wagering upon the  
268 approval of the commission.

269 (b)(1) The commission shall issue a category 1 license to any holder of a gaming license,  
270 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.

(c) An operator shall be deemed to have waived its right to an adjudicatory hearing unless, not more than 21 days after the date of the commission's notice that the commission seeks to assess a civil administrative penalty, the operator files with the commission a written statement denying the occurrence of any of the acts or omissions alleged by the commission in the notice or asserting that the amount of the proposed civil administrative penalty is excessive. In an adjudicatory hearing authorized under chapter 30A, the commission shall be required to prove, by a preponderance of the evidence, the occurrence of each act or omission alleged by the commission in the notice.

(f) If an operator waives the right to an adjudicatory hearing, the proposed civil administrative penalty shall be final immediately upon such waiver. If a civil administrative penalty is assessed at the conclusion of an adjudicatory hearing, the civil administrative penalty shall be final upon the expiration of 30 days unless an action for judicial review of the decision is commenced under chapter 30A.

(g) An operator who institutes proceedings for judicial review of the final assessment of a civil administrative penalty shall place the full amount of the final assessment in an interest-bearing escrow account in the custody of the clerk or magistrate of the reviewing court. The establishment of an interest-bearing escrow account shall be a condition precedent to the jurisdiction of the reviewing court unless the party seeking judicial review demonstrates, in a preliminary hearing held not more than 20 days after the filing of the complaint, the presence of a substantial question for review by the court or the operator's inability to pay. Upon such a demonstration, the court may grant an extension or waiver of the interest-bearing escrow account 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  
 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.

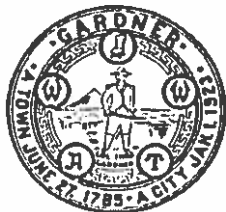
The Gardner Police Department has responded to calls at the current recreational retail dispensary, but the vast majority of the calls are general service calls (accidents, lockouts, burglar alarms, etc.). The police department rarely deals with anything else there.

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

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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  
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,

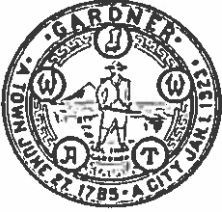
I have reviewed the proposed addition of the new Sports Betting Ordinance and do not see any issues from the police department. Any proposed facility should have a buffer between any residential zone and this ordinance reflects the new law.

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

Very truly yours,

A handwritten signature in black ink, appearing to read "CP McAvene".

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:*

SECTION 1. Section 7 of chapter 4 of the General Laws is hereby amended by striking out clause Tenth, as appearing in the 2020 Official Edition, 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 and greyhound races under said chapter 128C; (v) a game of bingo conducted under chapter 271; (vi) charitable gaming conducted under said chapter 271; and (vii) a fantasy contest conducted under section 11M½.

SECTION 2. Section 7 of chapter 4 of the General Laws is hereby amended by striking 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.

357           Section 8. Section 8. (a) All persons employed by an operator to perform duties directly  
358 related to the operation of sports wagering in the commonwealth in a supervisory role shall  
359 maintain a valid occupational license issued by the commission. The commission shall issue such  
360 occupational license to a person who meets the requirements of this section.

361           (b) An occupational license authorizes the licensee to be employed in the capacity  
362 designated by the commission while the license is active. The commission may establish, by rule  
363 or regulation, job classifications with different requirements based on the extent to which a  
364 particular job impacts, or has the potential to impact, the lawful operation of sports wagering.

365           (c) An applicant for an occupational license shall submit any required application forms  
366 established by the commission and shall pay a nonrefundable application fee of \$100. An  
367 employer may pay an application fee on behalf of an applicant.

368           (d) Not later than March 1 of the third calendar year following the issuance or renewal of  
369 an occupational license, an occupational license holder shall pay a nonrefundable license renewal  
370 fee of \$100 and submit a renewal application on a form established by the commission. An  
371 employer may pay the license renewal fee on behalf of the licensed employee.

372           Section 9. Section 9. (a) The commission may deny a license to any applicant, reprimand  
373 any licensee or suspend or revoke a license if the applicant or licensee: (i) has knowingly made a  
374 false statement of a material fact to the commission; (ii) has had a license revoked by any  
375 governmental authority responsible for regulation of gaming activities; (iii) has been convicted  
376 of a felony or other crime involving embezzlement, theft, fraud, perjury, or a gambling-related  
377 offense; (iv) has not demonstrated to the satisfaction of the commission financial responsibility  
378 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**  
**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

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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,

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



**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:

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- **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 - *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,

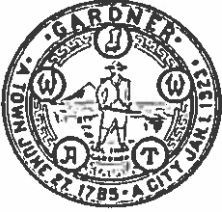
I have reviewed the proposed addition of the new Sports Betting Ordinance and do not see any issues from the police department. Any proposed facility should have a buffer between any residential zone and this ordinance reflects the new law.

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

Very truly yours,

A handwritten signature in black ink, appearing to read "CP McAvene".

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

mobile applications or other digital platforms shall be qualified for and issued a category 3 license; provided further, that the commission may issue a category 2 license to: (1) a person or entity licensed by the commission in accordance with said chapter 128A to conduct a live horse racing meeting, (2) a running horse racing licensee that conducted simulcast wagering as of December 31, 2020 as authorized by law, or (3) a greyhound meeting licensee that conducted simulcast wagering as of December 31, 2020 as authorized by law; provided further, a category 2 licensee shall make a capital investment of not less than \$7,500,000 within 3 years after receiving a sports wagering license.

“Category 3 license”, a license issued by the commission that permits the operation of sports wagering through a mobile application and other digital platforms approved by the commission.

“Close associate”, a person who holds a relevant financial interest in, or is entitled to exercise power in, the business of an applicant or licensee and, by virtue of that interest or power, is able to exercise a significant influence over the management or operation of a gaming establishment or business licensed under this chapter.

“Collegiate sport or athletic event”, a sport or athletic event offered or sponsored by, or played in connection with, a public or private institution that offers educational services beyond the secondary level.

“Collegiate tournament”, a series of collegiate sports or athletic events involving four or more collegiate teams that make up a single unit of competition.

“Commission”, the Massachusetts gaming commission established in section 3 of chapter 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

249 discretion, an executive, employee or agent having the power to exercise significant influence  
250 over decisions concerning the applicant's sports wagering operations in the commonwealth.

251 (c) A person having control of an applicant pursuant to subsection (b) shall submit to the  
252 commission an application in a form determined by the commission. Each such person who is a  
253 natural person shall also submit to the commission: (i) fingerprints for a national criminal records  
254 check by the department of state police and the Federal Bureau of Investigation; and (ii) a signed  
255 authorization for the release of the person's information by the department of state police and the  
256 Federal Bureau of Investigation; provided, however, that a person having control of an applicant  
257 who is a natural person that has submitted to a national criminal records check in any jurisdiction  
258 within the previous year shall not be required to submit to another national criminal records  
259 check if such person submits to the commission the results of such previous national criminal  
260 records check. Any applicant convicted of any disqualifying offense, as determined by the  
261 commission, shall not be licensed.

262 (d) Each person licensed under this chapter shall give the commission written notice not  
263 more than 30 days after any change to any material information provided in the application for a  
264 license or renewal.

265 (e) A commission employee shall not be an applicant for any license issued under this  
266 chapter.

267 Section 6. (a) A licensed qualified gaming entity may operate sports wagering upon the  
268 approval of the commission.

269 (b)(1) The commission shall issue a category 1 license to any holder of a gaming license,  
270 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.

(f) Notwithstanding subsection (d) or any provision of this subsection to the contrary, during the pendency of the determination of the commission as to whether a sports governing body or its designee may provide official league data on commercially reasonable terms, a sports wagering operator may use any data source to determine the results of tier 2 sports wagers. The determination shall be made within 120 days of the sports wagering operator notifying the commission that it requests to demonstrate that the sports governing body or its designee will not provide a feed of official league data to the sports wagering operator on commercially reasonable terms.

(g) A sports governing body may enter into commercial agreements with a sports wagering operator or other entity in which such sports governing body may share in the amount wagered or revenues derived from sports wagering on sporting events of the sports governing body. A sports governing body shall not be required to obtain a license or any other approval from the commission to lawfully accept such amounts or revenues.

Section 13. (a) Holders of category 1 and category 2 licenses may accept wagers on sports events and other events authorized pursuant to this chapter in person at authorized facilities.

(b) Holders of an operator license may accept wagers on sports events and other events authorized pursuant to this chapter from individuals physically located within the commonwealth using mobile applications or digital platforms approved by the commission, through the patron's sports wagering account. The branding for each mobile application or digital platform shall be determined by the operator. All bets authorized pursuant to this section must be initiated, 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.

(c) An operator shall be deemed to have waived its right to an adjudicatory hearing unless, not more than 21 days after the date of the commission's notice that the commission seeks to assess a civil administrative penalty, the operator files with the commission a written statement denying the occurrence of any of the acts or omissions alleged by the commission in the notice or asserting that the amount of the proposed civil administrative penalty is excessive. In an adjudicatory hearing authorized under chapter 30A, the commission shall be required to prove, by a preponderance of the evidence, the occurrence of each act or omission alleged by the commission in the notice.

(f) If an operator waives the right to an adjudicatory hearing, the proposed civil administrative penalty shall be final immediately upon such waiver. If a civil administrative penalty is assessed at the conclusion of an adjudicatory hearing, the civil administrative penalty shall be final upon the expiration of 30 days unless an action for judicial review of the decision is commenced under chapter 30A.

(g) An operator who institutes proceedings for judicial review of the final assessment of a civil administrative penalty shall place the full amount of the final assessment in an interest-bearing escrow account in the custody of the clerk or magistrate of the reviewing court. The establishment of an interest-bearing escrow account shall be a condition precedent to the jurisdiction of the reviewing court unless the party seeking judicial review demonstrates, in a preliminary hearing held not more than 20 days after the filing of the complaint, the presence of a substantial question for review by the court or the operator's inability to pay. Upon such a demonstration, the court may grant an extension or waiver of the interest-bearing escrow account 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:

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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.

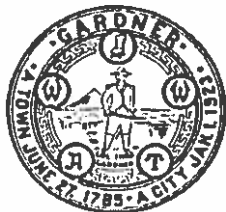
The Gardner Police Department has responded to calls at the current recreational retail dispensary, but the vast majority of the calls are general service calls (accidents, lockouts, burglar alarms, etc.). The police department rarely deals with anything else there.

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

---

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)

**Confidentiality Notice:** This email message, including any attachments, is for the use of the intended recipient(s) only and may contain information that is privileged, confidential, and prohibited from unauthorized disclosure under applicable law. If you are not the intended recipient of this message, any dissemination, distribution, or copying of this message is strictly prohibited. If you received this message in error, please notify the sender by reply email and destroy all copies of the original message and attachments. Please be advised that the Massachusetts Secretary of State considers e-mail to be a public record, and therefore subject to public access under the Massachusetts Public Records Law, M.G.L. c. 66 section 10

# 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



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.**

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**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



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

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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**

---

**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

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

OFFICE OF THE  
CITY COUNCIL



**NOTICE OF JOINT CONVENTION OF  
CITY COUNCIL AND GARDNER SCHOOL COMMITTEE**  
**Montachusett Regional Vocational Technical  
School District Committee Appointment**

The City Council and School Committee will meet in Joint Convention on **Tuesday, January 16 at 6:25 p.m.** in the City Council Chamber, Room 219, City Hall, to appoint a Gardner resident to serve on the Montachusett Regional Vocational Technical School District Committee for four years.

Any Gardner registered voter interested in being considered for the position shall submit a Letter of Interest with qualifications to the City Council and School Committee, delivered to the City Clerk, 95 Pleasant Street, Room 121, no later than 12:00 p.m. on Thursday, January 11, 2024.

**TITI SIRIPHAN**  
**CITY CLERK**

# CITY OF GARDNER MASSACHUSETTS



## **MONTY TECH SCHOOL COMMITTEE VACANCY NOMINATION AND APPOINTMENT PROCEDURE**

Nomination process outlined under Robert's Rules of Order, Chapter XIV, §46 (pp.416-418)  
Requirements for Appointment outlined under the 3<sup>rd</sup> Amendment (1989)  
to the Montachusett Regional Vocational School District Agreement

- ❖ Nominations from the floor will be recognized.
- ❖ A nomination does not require a second; however, a nomination may be seconded to indicate endorsement.
- ❖ No one may nominate more than one person, if an objection is made, until every member wishing to nominate has had an opportunity to do so.
- ❖ If no further nominations are offered, the Presiding Officer will call for a motion to close nominations.
- ❖ A two-thirds vote is required to close nominations.
- ❖ A majority vote is required to reopen nominations.
- ❖ The City Clerk will call the roll, whereupon each Councillor and School Committee member shall state the name of the person whom they choose.
- ❖ The nominees receiving a majority vote of those present and voting shall be declared appointed.
- ❖ Further balloting shall be undertaken until someone is appointed.

\*\*\*\*\*

**3rd AMENDMENT 1989****Appointive Method**

This Amendment amends the agreement among the cities of Fitchburg and Gardner and the Towns of Ashburnham, Ashby, Athol, Barre, Harvard, Hubbardston, Lunenburg, Petersham, Phillipston, Princeton, Royalston, Sterling, Templeton, Westminster and Winchendon with respect to the establishment of the Montachusett Regional Vocational Technical School District pursuant to Chapter 568 of the Acts of 1964, as amended by Chapter 543 of the Acts of 1965 (the "Agreement") as follows:

- A. Section I(A) - "Composition" shall be amended by Striking out said paragraph and inserting in lieu thereof the following: "The Committee shall consist of four members from the city of Fitchburg, two members from the city of Gardner, and one member from each of the member towns. Except as provided in subsection I(B), members shall be appointed (i) from the Cities of Fitchburg and Gardner by majority vote of the members of the Cities Council, Mayor, and School Committee, and (ii) from each town by majority vote of the members of the Board of Selectmen, Town Moderator, and local School Committee members. All members shall be residents of the municipalities they represent and they shall serve until their respective successors are appointed and qualified."
- B. Section I(C) of the Agreement is stricken and the following language inserted in lieu thereof: "Within thirty days after the annual town meeting in each town and within thirty days after January 1st in each city, members of the Regional District School Committee shall be appointed for a term of four years as set forth in Section I(A)."

Within ten days after admission of any new municipality to the Montachusett Regional Vocational Technical School District, each such municipality shall appoint in accordance with subsection I(A) one member to serve on the committee until the municipality shall appoint a member as set forth in the preceding paragraph of this section.

Notwithstanding the foregoing, all members of the Committee elected to office under the terms of the Agreement as enacted July 1965 shall continue to serve until the expiration of their elected terms.

- C. Section I(D) - "Vacancies" shall be amended by striking out said paragraph and inserting in lieu thereof the following: "Any vacancy occurring among the members of the Committee during appointed or elected term shall be filled by appointment in the manner set forth in subsection I(A) to serve for the balance of the unexpired term."



# City of Gardner Massachusetts



## Certificate of Appointment

At at a Joint Convention of the City Council and School Committee  
held on the 18<sup>th</sup> day of February 2020

**James S. Boone**

was appointed

**Gardner Representative**

**To the Montachusett Regional Vocational  
Technical School District Committee**

for the term expiring the 18<sup>th</sup> day of February in the Year Two Thousand Twenty-four. Said action taken in accordance with the provisions of Section I(A) of the Montachusett Regional Vocational Technical School District Agreement.

Further, in accordance with the provisions of Section 107 of Chapter 41 of the General Laws of Massachusetts, **James S. Boone** was administered the Oath of Office for the faithful performance of duties on the 1 day of March in the Year Two Thousand Twenty Two.

*Before me,*

*Faith A Glover* <sup>Asst</sup> City Clerk

Received

*James S Boone*

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.