



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

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**CALENDAR FOR THE MEETING  
of  
TUESDAY, FEBRUARY 20, 2024  
CITY COUNCIL CHAMBER  
7:30 P.M.**

**ORDER OF BUSINESS**

**I. CALL TO ORDER**

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

**III. OPENING PRAYER**

**IV. PLEDGE OF ALLEGIANCE**

**V. ANNOUNCEMENT OF OPEN MEETING RECORDINGS**

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

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

January 16, 2024, Joint Convention with the School Committee

**VII. PUBLIC HEARINGS**

**VIII. COMMUNICATIONS FROM THE MAYOR**

**APPOINTMENTS**

**11190** – A Measure Confirming the Mayor's Appointment of Nathan Golisano, to the position of Police Officer, permanent.

**11191** – A Measure Confirming the Mayor's Appointment of Corinne Smith, to the position of Conservation Commission Member, for term expiring February 1, 2027. (*Appointments Committee*)

**11192** – A Measure Confirming the Mayor's Appointment of Laura Cassady, to the position of Cultural Council Member, for term expiring February 9, 2027. (*Appointments Committee*)

**11193** – A Measure Confirming the Mayor’s Appointment of Robert Swartz, to the position of Planning Board Member, for term expiring January 4, 2026.  
*(Appointments Committee)*

**11194** – A Measure Confirming the Mayor’s Appointment of Robert Bettez, to the position of Planning Board Member, for term expiring January 4, 2025.  
*(Appointments Committee)*

**11195** – A Measure Confirming the Mayor’s Appointment of Stephen Cormier, to the position of Planning Board Member, for term expiring January 4, 2027.  
*(Appointments Committee)*

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

**11188** – An Open Meeting Law Complaint Filed by Paul DeMeo Regarding Executive Session Minutes of the City Council.

**11197** – District Update from State Representative Jonathan Zlotnik.

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

### **FINANCE COMMITTEE**

**11118** – An Order Authorizing \$106.24 Payment of Prior Year Salary Expenditure. *(In the City Council and Referred to Finance Committee 1/16/2024; More Time 2/5/2024)*

**11172** – A Measure to Establish a Special Revenue Fund under the provisions of Section 53K of Chapter 44 of the General Laws of the Commonwealth for the Waterford Street Community Center Project. *(In the City Council and Referred to Finance Committee 2/5/2024)*

**11173** – A Measure Authorizing an Intermunicipal Agreement between the City of Gardner and Town of Westminster for Veteran’s Services. *(In the City Council and Referred to Finance Committee 2/5/2024)*

**11174** – A Measure Authorizing an Intermunicipal Agreement between the City of Gardner and Town of Ashburnham for Veteran’s Services. *(In the City Council and Referred to Finance Committee 2/5/2024)*

**11187** – A Measure Relative to the March 5, 2024, Presidential Primary Election Order. *(In the City Council and Referred to Finance Committee 2/5/2024)*

## **SAFETY COMMITTEE**

- 11086** – An Ordinance to Amend the Code of the City of Gardner Chapter 600, Entitled “Vehicles and Traffic”, Section 24, Entitled “Parking Prohibited on Certain Streets” – Comee Street. *(In the City Council and Referred to the Public Safety Committee 11/6/2023; More Time 11/20/2023, 12/4/2023, 12/18/2023, 1/2/2024, 1/16/2024, 2/5/2024)*
- 11115** – An Ordinance to Amend the Code of the City of Gardner Chapter 600, Entitled “Vehicles and Traffic”, Section 24, Entitled “Parking Prohibited on Certain Streets.” – Douglas Road. *(In the City Council & Referred to Safety Committee 12/18/2023; More Time 1/2/2024, 1/16/2024, 2/5/2024)*

## **APPOINTMENTS COMMITTEE**

- 11124** – A Measure Confirming the Mayor’s Appointment of Alan Agnelli, to the position of Historical Commission Member, for term expiring January 8, 2027. *(In the City Council and Referred to the Appointments Committee 1/16/2024)*
- 11125** – A Measure Confirming the Mayor’s Appointment of Barbara LeBlanc, to the position of Council on Aging Member, for term expiring January 8, 2027. *(In the City Council and Referred to the Appointments Committee 1/16/2024)*
- 11126** – A Measure Confirming the Mayor’s Appointment of Tammy Erdmann, to the position of Municipal Grounds Commission Member, for term expiring January 9, 2027. *(In the City Council and Referred to the Appointments Committee 1/16/2024)*
- 11127** – A Measure Confirming the Mayor’s Appointment of Thomas Zuppa, to the position of Building Commissioner, for term expiring January 9, 2027. *(In the City Council and Referred to the Appointments Committee 1/16/2024)*
- 11128** – A Measure Confirming the Mayor’s Appointment of Robert Charland, Esq., to the position of Assistant City Solicitor, for term expiring January 1, 2025. *(In the City Council and Referred to the Appointments Committee 1/16/2024)*
- 11129** – A Measure Confirming the Mayor’s Appointment of Dane Arnold, to the position of Public Works Director, for term expiring January 4, 2027. *(In the City Council and Referred to the Appointments Committee 1/16/2024)*
- 11130** – A Measure Confirming the Mayor’s Appointment of Michael F. Ellis, to the position of Senior Citizen’s Director, for term expiring January 4, 2027. *(In the City Council and Referred to the Appointments Committee 1/16/2024)*

- 11131** – A Measure Confirming the Mayor’s Appointment of Lynette R. Gabrila, to the position of Veteran’s Agent/Veterans’ Burial Agent, for term expiring January 4, 2025. *(In the City Council and Referred to the Appointments Committee 1/16/2024)*
- 11132** – A Measure Confirming the Mayor’s Appointment of Gregory Lagoy, to the position of Fire Chief, for term expiring January 4, 2027. *(In the City Council and Referred to the Appointments Committee 1/16/2024)*
- 11133** – A Measure Confirming the Mayor’s Appointment of Paul Topolski, to the position of Civil Defense Director, for term expiring January 4, 2027. *(In the City Council and Referred to the Appointments Committee 1/16/2024)*
- 11134** – A Measure Confirming the Mayor’s Appointment of Carla J. Wojtukiewicz, to the position of Trustee, Williams-Rockwell Educational Gift Fund, for term expiring January 4, 2027. *(In the City Council and Referred to the Appointments Committee 1/16/2024)*
- 11135** – A Measure Confirming the Mayor’s Appointment of Robert Rice, Esq., to the position of Trustee, Williams-Rockwell Educational Gift Fund, for term expiring January 4, 2027. *(In the City Council and Referred to the Appointments Committee 1/16/2024)*
- 11136** – A Measure Confirming the Mayor’s Appointment of Cheryl Slack, to the position of Animal Control Officer, for term expiring January 4, 2025. *(In the City Council and Referred to the Appointments Committee 1/16/2024)*
- 11137** – A Measure Confirming the Mayor’s Appointment of Autumn Brown, to the position of Animal Control Officer, for term expiring January 4, 2025. *(In the City Council and Referred to the Appointments Committee 1/16/2024)*
- 11138** – A Measure Confirming the Mayor’s Appointment of Alana Meserve, to the position of Animal Control Officer, for term expiring January 4, 2025. *(In the City Council and Referred to the Appointments Committee 1/16/2024)*
- 11139** – A Measure Confirming the Mayor’s Appointment of Robert Bettez, to the position of Planning Board Member, for term expiring January 4, 2027. *(In the City Council and Referred to the Appointments Committee 1/16/2024)*
- 11140** – A Measure Confirming the Mayor’s Appointment of Robert Swartz, to the position of Planning Board Member, for term expiring January 4, 2027. *(In the City Council and Referred to the Appointments Committee 1/16/2024)*
- 11141** – A Measure Confirming the Mayor’s Appointment of Stephen Cormier, to the position of Planning Board Member, for term expiring January 4, 2027. *(In the City Council and Referred to the Appointments Committee 1/16/2024)*



- 11142** – A Measure Confirming the Mayor’s Appointment of Charles LeBlanc, to the position of Board of Assessors, for term expiring January 4, 2027 *(In the City Council and Referred to the Appointments Committee 1/16/2024)*
- 11143** – A Measure Confirming the Mayor’s Appointment of Rick Germano, to the position of Local Inspector, for term expiring January 4, 2027. *(In the City Council and Referred to the Appointments Committee 1/16/2024)*
- 11144** – A Measure Confirming the Mayor’s Appointment of James E. Imprescia, to the position of Plumbing & Gas Inspector, for term expiring January 4, 2027. *(In the City Council and Referred to the Appointments Committee 1/16/2024)*
- 11145** – A Measure Confirming the Mayor’s Appointment of Michael Fitzsimmons, to the position of License Commission Member, for term expiring January 4, 2027. *(In the City Council and Referred to the Appointments Committee 1/16/2024)*
- 11146** – A Measure Confirming the Mayor’s Appointment of Kenneth Arsenault, to the position of License Commission Member, for term expiring January 4, 2027. *(In the City Council and Referred to the Appointments Committee 1/16/2024)*
- 11147** – A Measure Confirming the Mayor’s Appointment of Nancy Binder, to the position of License Commission Member, for term expiring January 4, 2027. *(In the City Council and Referred to the Appointments Committee 1/16/2024)*
- 11148** – A Measure Confirming the Mayor’s Appointment of Ann Twohig, to the position of Golf Commission Member, for term expiring January 4, 2027. *(In the City Council and Referred to the Appointments Committee 1/16/2024)*
- 11149** – A Measure Confirming the Mayor’s Appointment of Kathy O’Brien, to the position of Council on Aging Member, for term expiring January 8, 2027. *(In the City Council and Referred to the Appointments Committee 1/16/2024)*
- 11150** – A Measure Confirming the Mayor’s Appointment of Timothy Horrigan, to the position of Redevelopment Authority, for term expiring January 8, 2027. *(In the City Council and Referred to the Appointments Committee 1/16/2024)*
- 11151** – A Measure Confirming the Mayor’s Appointment of Theresa Hillman, to the position of Council on Aging Member, for term expiring January 8, 2027. *(In the City Council and Referred to the Appointments Committee 1/16/2024)*
- 11152** – A Measure Confirming the Mayor’s Appointment of Gloria Tarpey, to the position of Council on Aging Member, for term expiring January 8, 2027. *(In the City Council and Referred to the Appointments Committee 1/16/2024)*

- 11153** – A Measure Confirming the Mayor’s Appointment of Susan Avallone, RN, to the position of Board of Health Member, for term expiring January 8, 2027. *(In the City Council and Referred to the Appointments Committee 1/16/2024)*
- 11154** – A Measure Confirming the Mayor’s Appointment of Geoffrey Tobia, to the position of Board of Health Member, for term expiring January 8, 2027. *(In the City Council and Referred to the Appointments Committee 1/16/2024)*
- 11155** – A Measure Confirming the Mayor’s Appointment of Michele Parker, to the position of MD, Board of Health Member, for term expiring January 8, 2027. *(In the City Council and Referred to the Appointments Committee 1/16/2024)*
- 11156** – A Measure Confirming the Mayor’s Appointment of Marcelle S. Cormier, to the position of Board of Registrar Member, for term expiring January 8, 2027. *(In the City Council and Referred to the Appointments Committee 1/16/2024)*
- 11157** – A Measure Confirming the Mayor’s Appointment of Patricia Darby, to the position of Board of Registrar Member, for term expiring January 9, 2027. *(In the City Council and Referred to the Appointments Committee 1/16/2024)*
- 11158** – A Measure Confirming the Mayor’s Appointment of Kevin McNerney, to the position of Contributory Retirement Board, for term expiring January 11, *(In the City Council and Referred to the Appointments Committee 1/16/2024)*
- 11181** – A Measure Confirming the Mayor’s Appointment of Paul Cormier, to the position of Golf Commission Member, for term expiring January 22, 2027. *(In the City Council and Referred to Appointments Committee 2/5/2024)*
- 11182** – A Measure Confirming the Mayor’s Appointment of Frimpong Antwi, to the position of Police Officer, permanent. *(In the City Council and Referred to Appointments Committee 2/5/2024)*

### **COMMITTEE OF THE WHOLE**

- 11180** – An Order Appropriating \$625,000.00 from Stabilization to DPW Salt Shed. *(In the City Council and Referred to Committee of the Whole 2/5/2024)*

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

- 11112** – An Ordinance to Amend the Code of the City of Gardner, Chapter 675 thereof, entitled “Zoning,” to Add “Sports Betting” to the Zoning Table of Uses. *(Submitted by Councilor Dana Heath; In the City Council, Referred to Planning Board 12/4/2023; More Time 12/18/23, 1/2/2024, 1/16/2024, 2/5/2024)*

**11113** – An Ordinance to Amend the Code of the City of Gardner, Chapter 675 thereof, entitled “Zoning,” to Amend Section 1070 thereof, entitled, “Marijuana Establishments” to Change the Method to Increase the Quota Allowed by the Code of the City of Gardner. *(Submitted by Councilor Dana Heath; In the City Council, Referred to Planning Board 12/4/2023; More time 12/18/23, 1/2/2024, 1/16/2024, 2/5/2024)*

**XII. NEW BUSINESS**

**XII. COUNCIL COMMENTS AND REMARKS**

**XIV. CLOSING PRAYER**

**XV. ADJOURNMENT**

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Items listed on the Council Calendar are those reasonably anticipated by the Council President to be discussed at the meeting. Not all items listed may in fact be discussed and other items not listed may also be brought up for discussion to the extent permitted by law.

JOINT CONVENTION OF JANUARY 16, 2024

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Tuesday evening, January 16, 2024. The Joint Convention of the City Council and School Committee, held in the City Council Chamber, was called to order by Council President Elizabeth Kazinskas at 6:025 o'clock p.m. for the purpose of appointing a Representative to the Montachusett Regional Vocational Technical School District Committee.

City Clerk Titi Siriphan called the Roll of Convention. Present were:

**Members of the City Council (9)**

Elizabeth J. Kazinskas, President  
Craig R. Cormier  
Ronald F. Cormier  
Aleksander Dernalowicz  
Karen G. Hardern  
Dana M. Heath  
Paul Tassone  
David Thibault-Muñoz  
George C. Tyros

**Members of the School Committee (6)**

Rachel Cormier  
Anne F. Hurst  
John M. LaFreniere  
Jennifer Z. Pelavin  
Robert J. Swartz  
Shannon Ward-Leighton

Councillor Judy A. Mack was absent.

President Elizabeth Kazinskas announced that Mayor Nicholson would be recusing from the proceedings of this Joint Convention due to a conflict of interest. President Elizabeth Kazinskas will be serving as chair of the evening's proceedings.

Council President Elizabeth Kazinskas called for nominations from the floor.

School Committee Member John LaFrenier nominated Calvin D. Brooks. Councillor Paul Tassone seconded the nomination.

School Committee Member Shannon Ward-Leighton nominated Alexander Commodore.

On a motion by Councillor Paul Tassone and seconded by School Committee Member Robert Swartz, it was voted viva voce to close nominations.

The City Clerk called the roll.

JOINT CONVENTION OF JANUARY 16, 2024

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## On Call of the Roll:

Councillor Craig R. Cormier voting for Alexander Commodore  
Councillor Ronald F. Cormier voting for Calvin D. Brooks  
Councillor Aleksander Dernalowicz voting for Calvin D. Brooks  
Councillor Karen G. Hardern voting for Calvin D. Brooks  
Councillor Dana M. Heath voting for Calvin D. Brooks  
Councillor Elizabeth J. Kazinskas voting for Calvin D. Brooks  
Councillor Paul Tassone voting for Calvin D. Brooks  
Councillor David Thibault-Muñoz voting for Calvin D. Brooks  
Councillor George C. Tyros voting for Calvin D. Brooks  
Rachel Cormier voting for Calvin D. Brooks  
Anne F. Hurst voting for Calvin D. Brooks  
John LaFreniere voting for Calvin D. Brooks  
Jennifer Z. Pelavin voting for Calvin D. Brooks  
Robert J. Swartz voting for Calvin D. Brooks  
Shannon Ward-Leighton voting for Alexander Commodore

Having received fourteen (12) votes, Calvin D. Brooks was appointed Representative to the MONTACHUSETT REGIONAL VOCATIONAL TECHNICAL SCHOOL DISTRICT COMMITTEE for term expiring January 16, 2028.

On a motion by Jennifer Z. Pelavin and seconded by Councillor Ronald Cormier, it was voted viva voce to adjourn at 6:34 p.m.

**Accepted by the City Council:**

RECEIVED

February 6, 2024

2024 FEB -6 AM 10:05

CITY CLERK'S OFFICE  
GARDNER, MA

## Commonwealth of Massachusetts

Worcester County

City of Gardner

## CERTIFICATE OF APPOINTMENT

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

 Mayor  
Michael J. Nicholson

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

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

Expires: Permanent

Worcester, ss., \_\_\_\_\_ 2024

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

Before me,

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

Chapter 303 Acts of 1975  
and  
Chapter 409 Acts of 1983

Received \_\_\_\_\_

February 1, 2024

RECEIVED

2024 FEB -1 PM 1:41

**Commonwealth of Massachusetts**

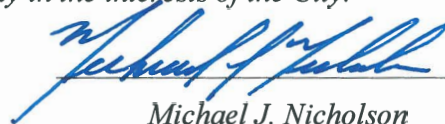
Worcester County

OFFICE

City of Gardner

**CERTIFICATE OF APPOINTMENT**

I appoint **Corinne Smith** to the position of **Member, Conservation Commission** and I certify that in my opinion he/she is a person specially fitted by education, training, or experience to perform the duties of said office, and that I make the appointment solely in the interests of the City.



Mayor

Michael J. Nicholson

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

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

Titi Siriphan

Expires: February 1, 2027

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

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

Before me,

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

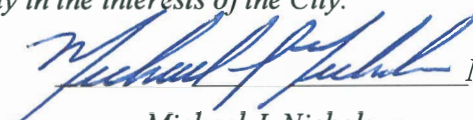
Chapter 303 Acts of 1975  
and  
Chapter 409 Acts of 1983

Received \_\_\_\_\_

RECEIVED

February 9, 2024

2024 FEB -9 AM 9:39

**Commonwealth of Massachusetts****Worcester County**CITY CLERK'S OFFICE  
GARDNER, MA**City of Gardner****CERTIFICATE OF APPOINTMENT***I appoint **Laura Cassady** to the position of **Member, Cultural Council**, and I certify**that in my opinion he/she is a person specially fitted by education, training, or experience to perform the duties of said office, and that I make the appointment solely in the interests of the City.*

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

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

 \_\_\_\_\_ City Clerk  
 Titi Siriphan
Expires: February 9, 2027

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

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

*Before me,*

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

Chapter 303 Acts of 1975  
 and  
 Chapter 409 Acts of 1983

Received \_\_\_\_\_



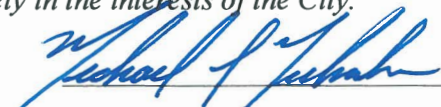
January 4, 2024

RECEIVED

2024 FEB -2 11:13:08

**Commonwealth of Massachusetts****Worcester County****City of Gardner****CERTIFICATE OF APPOINTMENT**

I appoint **Robert Swartz** to the position of **Member, Planning Board**, and I certify that in my opinion he/she is a person specially fitted by education, training, or experience to perform the duties of said office, and that I make the appointment solely in the interests of the City.

 Mayor  
Michael J. Nicholson

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

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

Expires: January 4, 2026

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

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

Before me,

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

Chapter 303 Acts of 1975  
and  
Chapter 409 Acts of 1983

Received \_\_\_\_\_

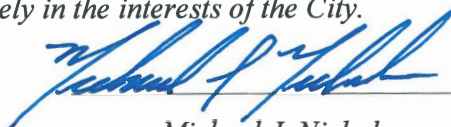
RECEIVED

January 4, 2024

2024 FEB -2 10:06

**Commonwealth of Massachusetts****Worcester County****City of Gardner****CERTIFICATE OF APPOINTMENT**

I appoint **Robert Bettez** to the position of **Member, Planning Board**, and I certify that in my opinion he/she is a person specially fitted by education, training, or experience to perform the duties of said office, and that I make the appointment solely in the interests of the City.

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

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

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

Expires: January 4, 2025

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

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

Before me,

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

Chapter 303 Acts of 1975  
 and  
 Chapter 409 Acts of 1983

Received \_\_\_\_\_

January 4, 2024

RECEIVED

2024 FEB -2 AM 10:10

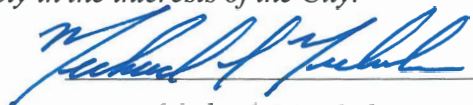
**Commonwealth of Massachusetts**

Worcester County

City of Gardner

**CERTIFICATE OF APPOINTMENT**

I appoint **Stephen Cormier** to the position of **Member, Planning Board**, and I certify that in my opinion he/she is a person specially fitted by education, training, or experience to perform the duties of said office, and that I make the appointment solely in the interests of the City.

 Mayor  
Michael J. Nicholson

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

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

Titi Siriphan

Expires: January 4, 2027

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

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

Before me,

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

Chapter 303 Acts of 1975  
and  
Chapter 409 Acts of 1983

Received \_\_\_\_\_



The Commonwealth of Massachusetts  
Office of the Attorney General  
One Ashburton Place  
Boston, Massachusetts 02108

## OPEN MEETING LAW COMPLAINT FORM

### Instructions for completing the Open Meeting Law Complaint Form

The Attorney General's Division of Open Government interprets and enforces the Open Meeting Law, Chapter 30A of the Massachusetts General Laws, Sections 18-25. Below is the procedure for filing and responding to an Open Meeting Law complaint.

#### Instructions for filing a complaint:

- o Fill out the attached two-page form completely. Sign and date the second page. File the complaint with the public body within 30 days of the alleged violation. If the violation was not reasonably discoverable at the time it occurred, you must file the complaint within 30 days of the date the violation was reasonably discoverable. A violation that occurs during an open session of a meeting is reasonably discoverable on the date of the meeting.
- o To file the complaint:
  - o For a local or municipal public body, you must submit a copy of the complaint to the chair of the public body AND to the municipal clerk.
  - o For all other public bodies, you must submit a copy of the complaint to the chair of the public body.
  - o Complaints may be filed by mail, by email, or by hand. Please retain a copy for your records.
- o If the public body does not respond within 14 business days and does not request an extension to respond, contact the Division for further assistance.

#### Instructions for a public body that receives a complaint:

- o The chair must disseminate the complaint to the members of the public body.
- o The public body must meet to review the complaint within 14 business days (usually 20-22 calendar days).
- o After review, but within 14 business days, the public body must respond to the complaint in writing and must send the complainant a response and a description of any action the public body has taken to address the allegations in the complaint. At the same time, the body must send the Attorney General a copy of the complaint and a copy of the response. The public body may delegate this responsibility to an individual member of the public body, its counsel, or a staff member, but only after the public body has met to review the complaint.
- o If a public body requires more time to review the complaint and respond, it may request an extension of time for good cause by contacting the Division of Open Government.

#### Once the public body has responded to the complaint:

- o If you are not satisfied with the public body's response to your complaint, you may file a copy of the complaint with the Division by mail, by email, or by hand, but only once you have waited for 30 days after filing the complaint with the public body. Mail may be sent to: The Division of Open Government, Office of the Attorney General, One Ashburton Place - 20<sup>th</sup> Floor, Boston, MA 02108. Emails may be sent to: [openmeeting@state.ma.us](mailto:openmeeting@state.ma.us).
- o When you file your complaint with the Division, please include the complaint form and all documentation relevant to the alleged violation. You may wish to attach a cover letter explaining why the public body's response does not adequately address your complaint.
- o The Division will not review complaints filed with us more than 90 days after the violation, unless we granted an extension to the public body or you can demonstrate good cause for the delay.

If you have questions concerning the Open Meeting Law complaint process, we encourage you to contact the Division of Open Government by phone at (617) 963-2540 or by email at [openmeeting@state.ma.us](mailto:openmeeting@state.ma.us).





# OPEN MEETING LAW COMPLAINT FORM

11188

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

Please note that all fields are required unless otherwise noted.

## Your Contact Information:

First Name: Paul Last Name: DeMeo

Address: 9 Willis Road

City: Gardner State: MA Zip Code: 01440

Phone Number: 978-632-1300 Ext. \_\_\_\_\_

Email: ryanrealty@comcast.net

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

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

(For statistical purposes only)

☒ Individual ☐ Organization ☐ Media

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

☒ City/Town ☐ County ☐ Regional/District ☐ State

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

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

Date of alleged violation: 1/16/2024

## Description of alleged violation:

11188

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

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

Gardner City Council president Elizabeth Kazinskas and Gardner City Clerk Titi Siriphan have once again failed to release City Council Meeting Minutes in a timely fashion and in violation of Massachusetts Open Meeting Law.

The Executive Session Meeting Minutes of April 3rd, 2023, August 7th, 2023, and September 18th, 2023 have not been released to the Public though the issues in which the executive sessions were held, have been voted on and resolved.

The Gardner City Council and its president Elizabeth Kazinskas were found guilty of violating Massachusetts Open Meeting Law in 2023 (OML 2023 – 179) and were warned by the Asst. Attorney General Lindberg that any further violations would result in punitive sanctions as a refresher course on the Open Meeting Law was held and attended by all city councilors.

"The Open Meeting Law was enacted " to eliminate much of the secrecy surrounding the deliberations and decisions on which public policy is based." Ghiglione v. School Board of Southbridge , 376 Mass. 70, 72 (1978). The Open Meeting Law requires public bodies to create and approve meeting minutes in a timely manner. G.L. c. 30A, § 22(c). " Timely manner" means " within the next three public body meetings or within 30 days, whichever is later, unless the public body can show good cause for further delay." 940 CMR 29.11; see OML 2018- 48. Whenever possible, we recommend that minutes of a meeting be approved at the next meeting. See OML 2018- 67; OML 2017- "

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

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

Comply with the Massachusetts Open Meeting Law and release the Executive Minutes of the Gardner City Council for April 3rd, Aug. 7th, and Sept. 18th in its entirety immediately.

Self report the violation to the office of the Mass Attorney General, Open Meeting Division.

Comply with the Massachusetts Open Meeting Law

## Review, sign, and submit your complaint

### I. Disclosure of Your Complaint.

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

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

### II. Consulting With a Private Attorney.

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

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

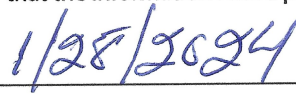
The complaint must be filed first with the public body. If you have any questions, please contact the Division of Open Government by calling (617) 963-2540 or by email to [openmeeting@state.ma.us](mailto:openmeeting@state.ma.us).

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

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



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



For Use By Public Body

Date Received by Public Body:

For Use By AGO

Date Received by AGO:



City of Gardner - *Executive Department*

Mayor Michael J. Nicholson

January 9, 2024

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

RE: Authorization of Previous Year Salary Expenditure

Dear Madam President and Councilors,

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

Respectfully Submitted,

Michael J. Nicholson  
Mayor, City of Gardner

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

## AUTHORIZING PAYMENT OF PRIOR YEAR SALARY EXPENDITURE

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

|        |                    |        |
|--------|--------------------|--------|
| FY2023 | DPW SALARY ACCOUNT | 106.24 |
|--------|--------------------|--------|



**Mayor**

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

Hi Mike

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

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

John Richard  
City Auditor



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



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

RECEIVED

2024 JAN 24 AM 9:53

CITY CLERK'S OFFICE  
GARDNER, MA

January 24, 2024

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

RE: Vote to Establish a Special Revenue Fund under the provisions of Section 53K of Chapter 44 of the General Laws of the Commonwealth for the Waterford Street Community Center Project

Dear Madam President and Councilors,

At the City Council Meeting of January 16, 2024, I notified the City Council that the Administration was looking into the merits of creating a new special revenue account for the Waterford Street Community Center project.

This is a new financial process that was created when Governor Healey signed the FY2024 Supplemental Budget into law in December of 2023. This process allows revenue collected for a particular purpose to be put into a separate account to fund activities related to that purpose, rather than falling to the general fund and leading to an eventual free cash appropriation in the subsequent fiscal year.

I hereby request that the City Council vote to create this separate revenue account as allowed by the General Laws for the rent payments given to the City by those entities who will be using the former Waterford Street School facility.

A copy of the City's license agreement with Growing Places, LLC is hereby attached. As of the time of this submission, they are the only active tenant of the building who is in operation.

Respectfully submitted,

Michael J. Nicholson  
Mayor, City of Gardner

ESTABLISHING A  
SEPARATE REVENUE FUND  
M.G.L. CH.44, S.53K

VOTED:

To authorize and direct the City Treasurer to establish a separate revenue fund in accordance with M.G.L. Chapter 44, section 53K for associated costs imposed upon the city by the operation or location of the party in the city.

Monies in such account shall be expended for the purposes for which the monies were received.

Search all cases and statutes...

JX

Statutes, codes, and regulations / GENERAL LAWS OF ... / ...  
/ Chapter 44 - MUNICI... / Section 44:53K - Sep...

# Mass. Gen. Laws ch. 44 § 53K

Current through Chapter 71 of the 2023 Legislative Session

## Section 44:53K - Separate revenue accounts

Notwithstanding section 53, any city or town may, upon the approval of its chief executive officer, establish in the treasury of the city or town a separate revenue account into which shall be deposited the monies received from:

- (i) a party under a host agreement or other agreement in connection with the costs imposed upon the city or town by the operation or location of the party in the city or town; or
- (ii) an applicant to meet any condition or obligation required for the approval or issuance of a permit or license, including those issued under section 8C of chapter 40, chapter 40A, chapter 40B, sections 81K to 81GG, inclusive, of chapter 41, chapter 111, chapter 138 or any other municipal permitting or licensing general or special law, ordinance, by-law or rules and regulations promulgated by a municipal permit or license-granting officer or board when implementing any authority conferred under any law, regulation, ordinance or by-law. An account established pursuant

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further appropriation only for the purposes for which the monies were received.

*Mass. Gen. Laws ch. 44, § 53K*

Added by Acts 2023 , c. 77, § 10, eff. 12/4/2023.

Previous Section

[Section 44:53J - Reservation of revenues from improvements or special assessments to repay debt in connection to improvements](#)

Next Section

[Section 44:54 - Investment of trust funds](#)

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## **LICENSE AGREEMENT**

This License Agreement is effective January 1, 2024, between the City of Gardner, a Massachusetts municipal corporation with an address of 95 Pleasant Street, Gardner, MA 01440 (the "Licensor"), and Growing Places (the "Licensee") a Massachusetts not for profit corporation with a usual place of business at 325 Lindell Ave., Leominster, MA 01453.

### **RECITALS**

A. The Licensor owns the property located at 70 Waterford Street, Gardner, MA, as improved with a former school building and a parking area (the "Licensed Premises").

B. The Licensee desires to use portions of the Licensed Premises, for the operation of a Local Food Works Regional Processing Center, subject however to the terms, conditions and limitations set forth herein. Such portions of the building shall be confined to the kitchen of the building.

### **TERMS AND CONDITIONS**

In consideration of the payments to be made by Licensee as provided in this Agreement, and in consideration of the full performance of all the terms and conditions to be performed by Licensee as set forth herein, Licensor grants Licensee the license right to use the Licensed Premises under the following terms and conditions:

#### **SECTION ONE - USE.**

A. Any signage proposed for the site shall be in a form approved by Licensor prior to placement and shall be performed at the sole expense of Licensee.

B. Any modifications, required by the Licensee, to the building or premises shall be approved by Licensor prior to construction, reconfiguration or modification and shall be performed at the sole expense of the Licensee. Any such improvements made by the Licensee shall remain the property of the Licensor upon termination of this Agreement.

C. The Licensee will utilize the Licensed Premises in a lawful manner and in compliance with all laws, ordinances, rules, regulations, permit requirements, orders and directives of any governmental official, agency or entity of competent jurisdiction orders. To the extent that compliance with this paragraph requires some modification to the Leased Premises Licensee shall submit a request for such modifications to the Licensor in writing. Licensor shall consider such requests. Licensor's approval shall be subject to any necessary appropriations and other approvals as may be required. In the event that compliance with this paragraph requires some modifications to this Agreement, consent to such modification shall not be unreasonably withheld by Licensor.

D. Licensee shall at all times comply with reasonable special use requests as Licensor may make from time to time in the event of weather conditions.



## **SECTION TWO – TERM.**

A. Licensor grants Licensee the license right to use the Designated Area from February 1, 2024 to, January 1, 2025 (the “License Term”). This Agreement may be renewed at the sole discretion of Licensor. Absent any such extension there shall be no holding over by Licensee following expiration of the said license term.

**LICENSOR SPECIFICALLY RESERVES THE RIGHT TO TERMINATE THIS LICENSE AGREEMENT PRIOR TO THE END OF THE LICENSE TERM HEREIN SPECIFIED, WITHOUT CAUSE, IF LICENSOR REASONABLY DETERMINES THAT IT IS IN THE BEST INTERESTS OF THE CITY OF GARDNER TO DO SO.**

## **SECTION THREE – PAYMENT.**

Licensee shall pay to Licensor the sum of \$2,083.00 per month during the license term, on or before the 1<sup>st</sup> of each month.

## **SECTION FOUR – NO TRANSFER OR ASSIGNMENT.**

This License is personal to the Licensee and shall not be assigned in whole or in part, nor shall any rights or privileges granted in this Agreement be sold, transferred or assigned without the prior written consent of Licensor. Any permitted assignment or sublicensing, shall not relieve the Licensee from its covenants and agreements under this Agreement, including without limitation, payment of the License Fee, unless the Licensor shall specifically in writing release the Licensee from that requirement.

## **SECTION FIVE – REPAIRS AND MAINTENANCE.**

As a condition of entering into this License Agreement, Licensee shall during the term of this License and at its sole cost and expense keep the Licensed Premises in as good condition and repair as they are at the commencement date of this Agreement, reasonable wear and tear excepted.

- (a) The Licensee shall be responsible for its costs incurred by the Licensor for cleaning, maintenance or repairs which are made necessary by the Licensee’s use of the Licensed Premises, or any maintenance or repairs which are made necessary by the Licensee’s negligence or failure to perform any obligation hereunder or by the negligence of those for whose conduct the Licensee is responsible.
- (b) Nothing in this Agreement shall require the Licensor to make any capital improvements to or replacements of any portion of the Licensed Premises. The Licensee may not modify or alter the Licensed Premises without the prior written consent of the Licensor, which consent shall not be unreasonably withheld.

- (c) The Licensee shall pay any alteration or repairs approved by the Licensor without any expectation for compensation unless agreed to in writing.

#### **SECTION SIX – INDEMNITY.**

Licensee shall hold the Licensor (including for purposes of this paragraph, its officers and employees) harmless from, indemnify it for and defend it (with legal counsel reasonably acceptable to the Licensor) against any liability for damage, injury or other casualty to property, whether it be that of either of the parties to this Agreement or of third persons, and costs or expenses, including reasonable attorneys' fees, to the extent the same is caused by or arising from any act or negligence by or of the Licensee or any of its agents, servants, authorized visitors, licensees or employees occurring during the term of this Agreement.

#### **SECTION SEVEN - RISK OF LOSS.**

The Licensee hereby acknowledges that all of its equipment, fixtures and other property of any kind which may be on the Premises at any time during the term of this License is to be at the sole risk and hazard of the Licensee and that, if the whole or any part thereof shall be destroyed or damaged by fire, water, or otherwise, no part of said loss or damage is to be charged to, or be borne by, Licensor, except and to the extent that said damage or destruction is caused by the Licensor. Licensee agrees to maintain property and casualty and liability insurance on the premises throughout the term of this License.

#### **SECTION EIGHT - DEFAULT**

In the event that Licensee shall default in the observance or performance of any Licensee's covenants, agreements, or obligations hereunder and reasonable steps are not taken to correct the default within thirty (30) days after written notice thereof, then the Licensor shall have the right to declare the Term of this License ended and to remove the Licensee's effects, without prejudice to any remedies that might otherwise be available. If the Licensor makes any expenditures or incurs any obligations for the payment of money in connection with any such default by Licensee, including but not limited to reasonable attorney's fees in instituting, prosecuting or defending any action or proceeding, such sums paid or obligations incurred, and other costs shall be paid to the Licensor by the Licensee as additional license fees.

#### **SECTION NINE - NON-WAIVER**

The failure on part of the Licensor or Licensee to act upon a default of any covenants or agreements in this License shall, in no way, constitute a waiver of the rights of the Licensor or Licensee to act upon such a breach at any time in the future, or may act upon any other or future default of Licensee or Licensor. Any and all rights and remedies



created for Licensor or Licensee herein shall be cumulative, and the use of one remedy shall not be taken to exclude the right to use any other.

#### **SECTION TEN- RIGHT OF ENTRY.**

The Licensor and its agents shall have the right to enter the Licensed Premises at such reasonable times as will not interfere with the Licensee's use of the License Premises pursuant to this Agreement.

#### **SECTION ELEVEN- SEVERABILITY.**

In the event that any one or more provisions of this Agreement shall be held to be invalid, illegal or unenforceable in any respect, the remainder of this Agreement shall not be affected.

#### **SECTION TWELVE- GOVERNING LAW.**

This License shall be governed by and construed in accordance with the substantive law of the Commonwealth of Massachusetts and shall have the effect of a sealed instrument.

#### **SECTION THIRTEEN - MODIFICATION.**

Any modification of this Agreement or additional obligation assumed by either partying connection with this Agreements shall be binding only if evidenced in a writing signed by each party or an authorized representative of each party.


IN WITNESS WHEREOF the parties to this Agreement have executed same as of the date first written above.

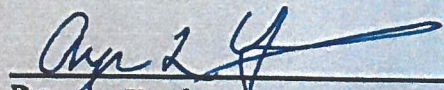
LICENSOR:

LICENSEE:

CITY OF GARDNER

GROWING PLACES

  
By: Michael J. Nicholson  
Its: Mayor

  
By: Ayn Yeagle  
Its: Executive Director





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

RECEIVED

2024 JAN 23 PM 4:00

CITY CLERK'S OFFICE  
GARDNER, MA

January 23, 2024

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

RE: Vote to Authorize an Intermunicipal Agreement with the Town of Westminster for Veterans Services

Dear Madam President and Councilors,

As you are aware, for the last three years, the City of Gardner has been providing regional veterans services to the towns of Westminster, Ashburnham, Ashby, and Princeton. While the City Council did authorize the City to enter into an agreement with Templeton, they chose to go a different route at the last minute, so they are not part of our Veterans Service District.

These agreements, per the General Laws of the Commonwealth, must be renewed every three years.

Attached, please find the proposed new Intermunicipal Agreement between the City of Gardner and the Town of Westminster for a renewal of these services for Fiscal Years 2025, 2026, and 2027.

While these agreements do not go into effect until July 1, 2024, the Administration would like to get these settled as early as possible to assist in proper budgeting both for revenue on Gardner's side and so that Westminster can present a fully and proper budget to their Town Meeting in May.

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

**TOWN OF WESTMINSTER AND CITY OF GARDNER  
MUNICIPAL AGREEMENT  
VETERAN SERVICES**

This Intermunicipal Agreement, made and entered into this \_\_\_\_ day of \_\_\_\_\_ 2024, pursuant to the provisions of Massachusetts General Laws, Chapter 40, Section 4A, by and between the town of Westminster, a municipal corporation within the County of Worcester and the Commonwealth of Massachusetts, acting by and through its Board of Selectmen, hereinafter referred to as "Westminster," and the City of Gardner, a municipal corporation within the County of Worcester and the Commonwealth of Massachusetts, acting by and through its Mayor, hereinafter referred to as "Gardner" (collectively referred to as the "Municipalities").

**WITNESSETH**

WHEREAS, the Municipalities have determined that they share a need for veteran services; and

WHEREAS, the Municipalities have determined that the sharing of the benefits and costs of those services would be beneficial to each Municipality, and

WHEREAS, this Agreement shall provide for the terms, conditions and liabilities of the parties with respect to these services, including, but not limited to terms of cooperation and obligations of each Municipality relative to cost of shared human resources, training, facilities, and operating costs; and

WHEREAS, the voters at Westminster Town Meeting authorized the Board of Selectmen and the Gardner City Council authorized the Mayor to enter into this agreement in accordance with the provisions of G.L.c. 40, Section 4A.

NOW, THEREFORE, in consideration of the promises and mutual benefits to be derived by the parties hereto, the parties agree as follows:

1. The Westminster Town Administrator and the Gardner Mayor will be the Municipalities respective representatives to oversee the cooperative arrangement. The approval of the Westminster Board of Selectman and Gardner Mayor will be required to amend this Agreement.
2. All the privileges and immunities from liability and exemptions from laws, by-laws, ordinances and regulations that veteran services officers employed by any of the parties hereto have in their own jurisdictions shall be effective in the jurisdiction in which they are giving assistance unless otherwise prohibited by law.
3. The shared veteran services officer shall have all of the authority under the applicable provisions of the Massachusetts General Laws as well as the by-laws of

Westminster and the City of Gardner city ordinances in which veteran services are being provided.

4. Term. The term of this Agreement is for three (3) years from FY2025 to FY2027 commencing on **July 1, 2024** and ending on **June 30, 2027** unless or until terminated by the parties hereto on written notice. Such notice shall be provided one hundred eighty (180) days prior to the end of the then current fiscal year and withdrawal from the agreement will be effective as of the last day of the succeeding fiscal year. In the event that Westminster fails to pay any invoice to Gardner in a timely manner, or in the event Westminster fails to approve a veteran services budget, as provided for herein and that is subject to appropriation by the Westminster Town Meetings, then Gardner may immediately suspend its services under this Agreement for non-performance. Upon receipt of the past due payments, together with adequate assurances of payment for future services, Gardner may commence performing its services again.
5. Cost sharing. During the term of this Agreement, Westminster will bear the costs of the Veteran's Service Officer according to the following fee schedules:
  - a. Westminster:
    - i. Fiscal Year 2025: \$17,675.00
    - ii. Fiscal Year 2026: \$18,200.00
    - iii. Fiscal Year 2027: \$18,750.00

with said costs based upon an approved veteran service budget subject to appropriation by Town Meeting and appropriation by the Gardner City Council, which will provide for the complete cost of wages, maintenance of the Veterans' Services Office, employee stipends, and supplies and training. Any modification(s) to this schedule must be agreed to in writing by each of the respective Town Select Boards and Gardner City Council and will take effect in the following fiscal year.

6. Services and Office Community Hours. Veterans' Services to be provided as part of the intermunicipal agreement are outlined in Massachusetts General Law Chapter 115, the by-laws of Westminster, Gardner ordinances, and the job description of the Veteran Services Officer, incorporated herein by reference.

Gardner, as the host municipality, shall provide office space and adequate support during designated office hours. Each municipality will allow the Veteran Services Officer to assist veterans and other eligible persons from each of the participating municipalities in this agreement during designated office hours to facilitate regional service delivery.

7. Dispute Resolution. In the event any disputes or questions arise between the parties as to the interpretation of the agreement or the satisfactory performance by any of the parties of the services and other responsibilities provided for in the contract, the parties first agree to try in good faith to settle the dispute through

negotiation, then try resorting to other dispute resolution procedures, before proceeding to litigation.

8. Reports. Gardner shall, upon request of Westminster, provide Westminster with reports on the services provided and annual reports of expenditures and revenues of all accounts necessary to provide a complete picture of the financial condition of the shared function.
9. Notice. Any and all notices, or other communications required or permitted under this Agreement, shall be in writing and delivered by hand or mailed postage prepaid, return receipt requested, by registered or certified mail or by other reputable delivery service, to the Boards of Selectmen and the Gardner Mayor at the addresses set forth below or furnished from time to time in writing hereafter by one party to the other party. Any such notice or correspondence shall be deemed given when so delivery by hand, if so mailed, when deposited with the U.S. Postal Service or, if sent by private overnight or other delivery service, when deposited with such delivery service.

Town Administrator  
Town of Westminster  
11 South Street  
Westminster, MA 01473

Mayor  
City of Gardner  
95 Pleasant Street  
Gardner, MA 01440

10. This Agreement constitutes the entire agreement of the parties and supersedes any prior agreements or understandings, whether oral or in writing, between them. This Agreement may not be changed or modified except by a written instrument in accordance with the provisions above.
11. This Agreement shall be governed by, construed and enforced in accordance with the laws of the Commonwealth of Massachusetts, the provisions of which shall not be deemed waived by any provision hereof, and the parties hereto submit to the jurisdiction of any of its appropriate courts for the adjudication of disputes arising out of this Agreement.
12. If any provision of this Agreement is declared to be illegal, unenforceable, or void, then the parties shall be relieved of all obligations under that provision provided, however, that the remainder of the Agreement shall be enforced to the fullest extent permitted by law.

In witness thereof, the parties hereto have executed this Agreement as of the first date written above.

**For the City of Gardner**

---

Michael J. Nicholson, Mayor

**For Town of Westminster**

---

Stephanie Lahtinen, Town Administrator



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

2024 JAN 23 PM 4:00

CITY CLERK'S OFFICE  
GARDNER, MA

January 23, 2024

Hon. Elizabeth J. Kazinskas, Council President

And City Councilors

Gardner City Hall, Rm 121

95 Pleasant Street

Gardner, MA 01440

RE: Vote to Authorize an Intermunicipal Agreement with the Town of Ashburnham for Veterans Services

Dear Madam President and Councilors,

As you are aware, for the last three years, the City of Gardner has been providing regional veterans services to the towns of Westminster, Ashburnham, Ashby, and Princeton. While the City Council did authorize the City to enter into an agreement with Templeton, they chose to go a different route at the last minute, so they are not part of our Veterans Service District.

These agreements, per the General Laws of the Commonwealth, must be renewed every three years.

Attached, please find the proposed new Intermunicipal Agreement between the City of Gardner and the Town of Ashburnham for a renewal of these services for Fiscal Years 2025, 2026, and 2027.

While these agreements do not go into effect until July 1, 2024, the Administration would like to get these settled as early as possible to assist in proper budgeting both for revenue on Gardner's side and so that Ashburnham can present a fully and proper budget to their Town Meeting in May.

Respectfully submitted,

Michael J. Nicholson

Mayor, City of Gardner

**TOWN OF ASHBURNHAM AND CITY OF GARDNER  
MUNICIPAL AGREEMENT  
VETERAN SERVICES**

This Intermunicipal Agreement, made and entered into this \_\_\_\_ day of \_\_\_\_\_ 2024, pursuant to the provisions of Massachusetts General Laws, Chapter 40, Section 4A, by and between the town of Ashburnham, a municipal corporation within the County of Worcester and the Commonwealth of Massachusetts, acting by and through its Board of Selectmen, hereinafter referred to as "Ashburnham," and the City of Gardner, a municipal corporation within the County of Worcester and the Commonwealth of Massachusetts, acting by and through its Mayor, hereinafter referred to as "Gardner" (collectively referred to as the "Municipalities").

WITNESSETH

WHEREAS, the Municipalities have determined that they share a need for veteran services; and

WHEREAS, the Municipalities have determined that the sharing of the benefits and costs of those services would be beneficial to each Municipality, and

WHEREAS, this Agreement shall provide for the terms, conditions and liabilities of the parties with respect to these services, including, but not limited to terms of cooperation and obligations of each Municipality relative to cost of shared human resources, training, facilities, and operating costs; and

WHEREAS, the voters at Ashburnham Town Meeting authorized the Board of Selectmen and the Gardner City Council authorized the Mayor to enter into this agreement in accordance with the provisions of G.L.c. 40, Section 4A.

NOW, THEREFORE, in consideration of the promises and mutual benefits to be derived by the parties hereto, the parties agree as follows:

1. The Ashburnham Town Administrator and the Gardner Mayor will be the Municipalities respective representatives to oversee the cooperative arrangement. The approval of the Ashburnham Board of Selectman and Gardner Mayor will be required to amend this Agreement.
2. All the privileges and immunities from liability and exemptions from laws, by-laws, ordinances and regulations that veteran services officers employed by any of the parties hereto have in their own jurisdictions shall be effective in the jurisdiction in which they are giving assistance unless otherwise prohibited by law.
3. The shared veteran services officer shall have all of the authority under the applicable provisions of the Massachusetts General Laws as well as the by-laws of



Ashburnham and the City of Gardner city ordinances in which veteran services are being provided.

4. Term. The term of this Agreement is for three (3) years from FY2025 to FY2027 commencing on July 1, 2024 and ending on June 30, 2027 unless or until terminated by the parties hereto on written notice. Such notice shall be provided one hundred eighty (180) days prior to the end of the then current fiscal year and withdrawal from the agreement will be effective as of the last day of the succeeding fiscal year. In the event that Ashburnham fails to pay any invoice to Gardner in a timely manner, or in the event Ashburnham fails to approve a veteran services budget, as provided for herein and that is subject to appropriation by the Ashburnham Town Meetings, then Gardner may immediately suspend its services under this Agreement for non-performance. Upon receipt of the past due payments, together with adequate assurances of payment for future services, Gardner may commence performing its services again.
5. Cost sharing. During the term of this Agreement, Ashburnham will bear the costs of the Veteran's Service Officer according to the following fee schedules:
  - a. Ashburnham:
    - i. Fiscal Year 2025: \$13,400.00
    - ii. Fiscal Year 2026: \$13,800.00
    - iii. Fiscal Year 2027: \$14,200.00

with said costs based upon an approved veteran service budget subject to appropriation by Town Meeting and appropriation by the Gardner City Council, which will provide for the complete cost of wages, maintenance of the Veterans' Services Office, employee stipends, and supplies and training. Any modification(s) to this schedule must be agreed to in writing by each of the respective Town Select Boards and Gardner City Council and will take effect in the following fiscal year.

6. Services and Office Community Hours. Veterans' Services to be provided as part of the intermunicipal agreement are outlined in Massachusetts General Law Chapter 115, the by-laws of Ashburnham, Gardner ordinances, and the job description of the Veteran Services Officer, incorporated herein by reference.

Gardner, as the host municipality, shall provide office space and adequate support during designated office hours. Each municipality will allow the Veteran Services Officer to assist veterans and other eligible persons from each of the participating municipalities in this agreement during designated office hours to facilitate regional service delivery.

7. Dispute Resolution. In the event any disputes or questions arise between the parties as to the interpretation of the agreement or the satisfactory performance by any of the parties of the services and other responsibilities provided for in the contract, the parties first agree to try in good faith to settle the dispute through

negotiation, then try resorting to other dispute resolution procedures, before proceeding to litigation.

8. Reports. Gardner shall, upon request of Ashburnham, provide Ashburnham with reports on the services provided and annual reports of expenditures and revenues of all accounts necessary to provide a complete picture of the financial condition of the shared function.
9. Notice. Any and all notices, or other communications required or permitted under this Agreement, shall be in writing and delivered by hand or mailed postage prepaid, return receipt requested, by registered or certified mail or by other reputable delivery service, to the Boards of Selectmen and the Gardner Mayor at the addresses set forth below or furnished from time to time in writing hereafter by one party to the other party. Any such notice or correspondence shall be deemed given when so delivery by hand, if so mailed, when deposited with the U.S. Postal Service or, if sent by private overnight or other delivery service, when deposited with such delivery service.

Town Administrator  
Town of Ashburnham  
7 Main Street, Unit #3  
Ashburnham, MA 01473

Mayor  
City of Gardner  
95 Pleasant Street  
Gardner, MA 01440

10. This Agreement constitutes the entire agreement of the parties and supersedes any prior agreements or understandings, whether oral or in writing, between them. This Agreement may not be changed or modified except by a written instrument in accordance with the provisions above.
11. This Agreement shall be governed by, construed and enforced in accordance with the laws of the Commonwealth of Massachusetts, the provisions of which shall not be deemed waived by any provision hereof, and the parties hereto submit to the jurisdiction of any of its appropriate courts for the adjudication of disputes arising out of this Agreement.
12. If any provision of this Agreement is declared to be illegal, unenforceable, or void, then the parties shall be relieved of all obligations under that provision provided, however, that the remainder of the Agreement shall be enforced to the fullest extent permitted by law.

In witness thereof, the parties hereto have executed this Agreement as of the first date written above.

**For the City of Gardner**

---

Michael J. Nicholson, Mayor

**For Town of Ashburnham**

---

Brian Doheny, Town Administrator

## CITY OF GARDNER, MASSACHUSETTS

## PRESIDENTIAL PRIMARY ORDER

TUESDAY, MARCH 5, 2024

*VOTED:* It is ordered that meetings of the citizens of this City qualified to vote in the Presidential Primaries shall be held on TUESDAY, MARCH 5, 2024 for the purpose of casting their votes in the Presidential Primaries for the candidates of political parties for the following offices:

PRESIDENTIAL PREFERENCE.....FOR THIS COMMONWEALTH  
 STATE COMMITTEE MAN.....WORCESTER & MIDDLESEX DISTRICT  
 STATE COMMITTEE WOMAN.....WORCESTER & MIDDLESEX DISTRICT  
 WARD COMMITTEE .....CITY OF GARDNER

It is further ordered that the polls shall open at 7:00 o'clock in the morning and close at 8:00 o'clock in the evening and that the following polling places are designated by this Council:

WARD 1, PRECINCT A – Elk’s Home, 31 Park Street  
 WARD 1, PRECINCT B – Elk’s Home, 31 Park Street  
 WARD 2, PRECINCT A – Levi Heywood Memorial Library, 55 West Lynde Street  
 WARD 2, PRECINCT B – Levi Heywood Memorial Library, 55 West Lynde Street  
 WARD 3, PRECINCT A – City Hall, Perry Auditorium, 95 Pleasant Street  
 WARD 3, PRECINCT B – City Hall, Perry Auditorium, 95 Pleasant Street  
 WARD 4, PRECINCT A – Gardner Police Headquarters, 200 Main Street  
 WARD 4, PRECINCT B – Gardner Police Headquarters, 200 Main Street  
 WARD 5, PRECINCT A – Polish American Club, 171 Kendall Pond Rd W  
 WARD 5, PRECINCT B – Polish American Club, 171 Kendall Pond Rd W

ORDER posted in public places as follows: Elm Street School, Gardner Visiting Nursing Association, Gardner High School, Gardner Fish & Gun Club, Holy Family Academy, High Rise Lounge, Heywood Place (Boland Room), Gardner City Hall, Heywood Library, and DPW Office.

---

 (Constable)

---

 (Date)

Warrant must be posted by **February 27, 2024** (at least 7 days prior to **March 5, 2024** Presidential Preference Primary)

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<br>of 30 feet |



# CITY OF GARDNER POLICE DEPARTMENT

200 Main Street • Gardner, Massachusetts 01440

**Emergency-Dial 911**

Main line: (978) 632-5600

Fax Line: (978) 630-4027



## **TRAFFIC COMMISSION - MEETING MINUTES**

Date: Thursday August 10, 2023 Time: 10am

Location: Community Classroom, GPD

Provided by Dept. Chief of Police Nick Maroni

1. Members in attendance: Call to Order: 10:03 am by D.C. Nicholas Maroni  
Dane Arnold – Director of DPW  
Rob Oliva – City Engineer  
Josh Cormier – Director of Civil Enforcement  
Craig Cormier – Councilor at large

Member(s) not in attendance- Trevor Beauregard

2. Waive reading / acceptance of meeting minutes from April 24, 2023
  - a. Motion by Dane, 2<sup>nd</sup> by Rob, All in favor – Unanimous.
3. Rob- updated on flashing school zone signs on Catherine St
  - a. Future updates to city ordinance to define current school zones.
4. Gardner ale house renting a parking spot on Parker St to designate as Pick up parking.
  - a. Josh- if allowed would this cause other businesses to ask too.
  - b. Dane-not in favor, large parking area behind business and across the street
  - c. Nick- limited parking already in the downtown area
  - d. Dane motion to not allow pick up parking for all of downtown, Rob 2<sup>nd</sup>, unanimous vote.
5. Pedestrian traffic concerns with new Tap House going in at Bullnose Park.
  - a. Rob- ask Tap house to help enhance crosswalks in area, flashing lights, push button to activate when pedestrians cross. Recommends city work with building owner to install flashing lights
6. New School Traffic and speeding on Catherine St.
  - a. Dane worked with school on new traffic pattern for drop off and pick up that should cut down on traffic. Tabled until start of school to see how it works.
7. Eliminate Parking Spot on Central St near the cross walk at Lake St on the Southwest travel side of Central St so pedestrians can be seen by motor vehicles.
  - a. Dane motioned, Josh 2<sup>nd</sup> All in Favor-Unanimous
  - b. Forwarded to Public Safety Committee
8. Remove handicap spot in front of 144 Central St and recommend city council to approve new Handicap spots on Central St at Monument Park.
  - a. Dane motioned, Josh 2<sup>nd</sup>, all in favor, unanimous.
  - b. Forwarded to Public Safety Committee
  - c. Let property owner know about removing Handicap spot in front of 144 Central.

9. Eliminate parking spot in front of crosswalk on west bound side of East Broadway at Prospect St so motor vehicles can see pedestrians in the cross walk.
  - a. Dane motioned, Rob 2<sup>nd</sup> all in favor, unanimous.
  - b. Forwarded to Public Safety Committee.
10. New Business
  - a. Rob suggested making whole length of westside of Comee St no parking and making no parking 30 ft from stop sign on east side heading from Pearl St
    - i. Dane motioned, Josh 2<sup>nd</sup> all in favor, unanimous will be forwarded to public safety committee.
  - b. Speeding on Elm St & Lawrence St, request more enforcement with school starting.
  - c. Craig asked about speeding issues on Chesley St
    - i. Nick stated Officers did enforcement in that area and we have not received any further complaints.

Conclusion: At 10:56 am Dane made a motion to adjourn the meeting, seconded by Craig

All in favor - Unanimous

Next Traffic Committee Meeting Schedule: TBD

AN ORDINANCE TO AMEND THE CODE OF THE CITY OF GARDNER CHAPTER 600, ENTITLED  
“VEHICLES AND TRAFFIC”, SECTION 24, ENTITLED “PARKING PROHIBITED ON CERTAIN STREETS”

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

SECTION 1: Section 24, of Chapter 600 of the Code of the City of Gardner, entitled “Parking  
Prohibited on Certain Streets” be amended by adding the following

| <u>Name of Street</u> | <u>Side</u> | <u>Location</u>                                           |
|-----------------------|-------------|-----------------------------------------------------------|
| Douglas Rd            | South       | From Coleman Street westerly for a distance<br>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.

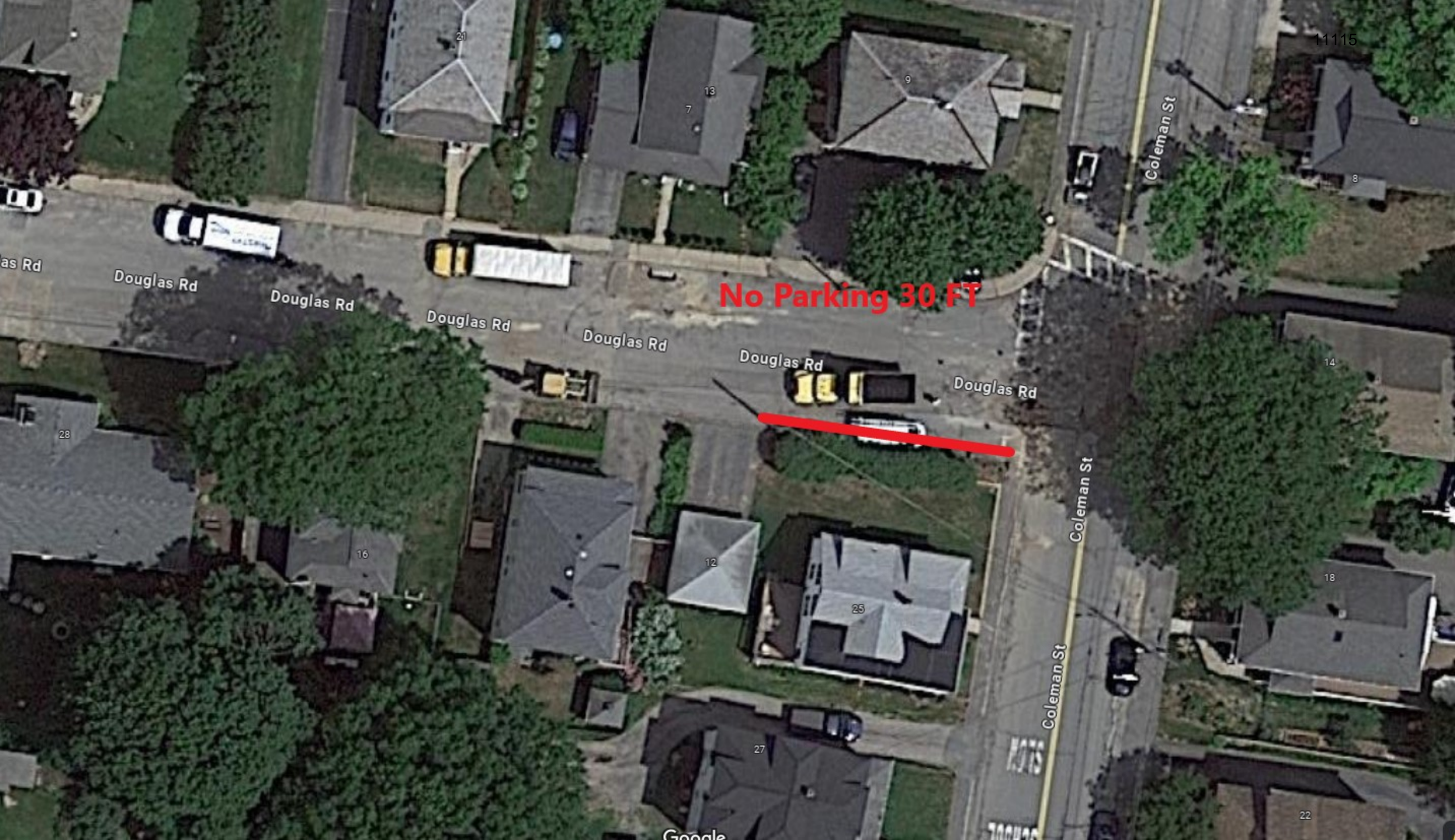
The commission appreciates your attention to these matters and members can be made available if further clarification is needed. Photos of the proposed areas have been attached.

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

Google





Cherry St

11115

Westford St

No parking

Comee St

Edgell St

Edgell St

Lawrence St

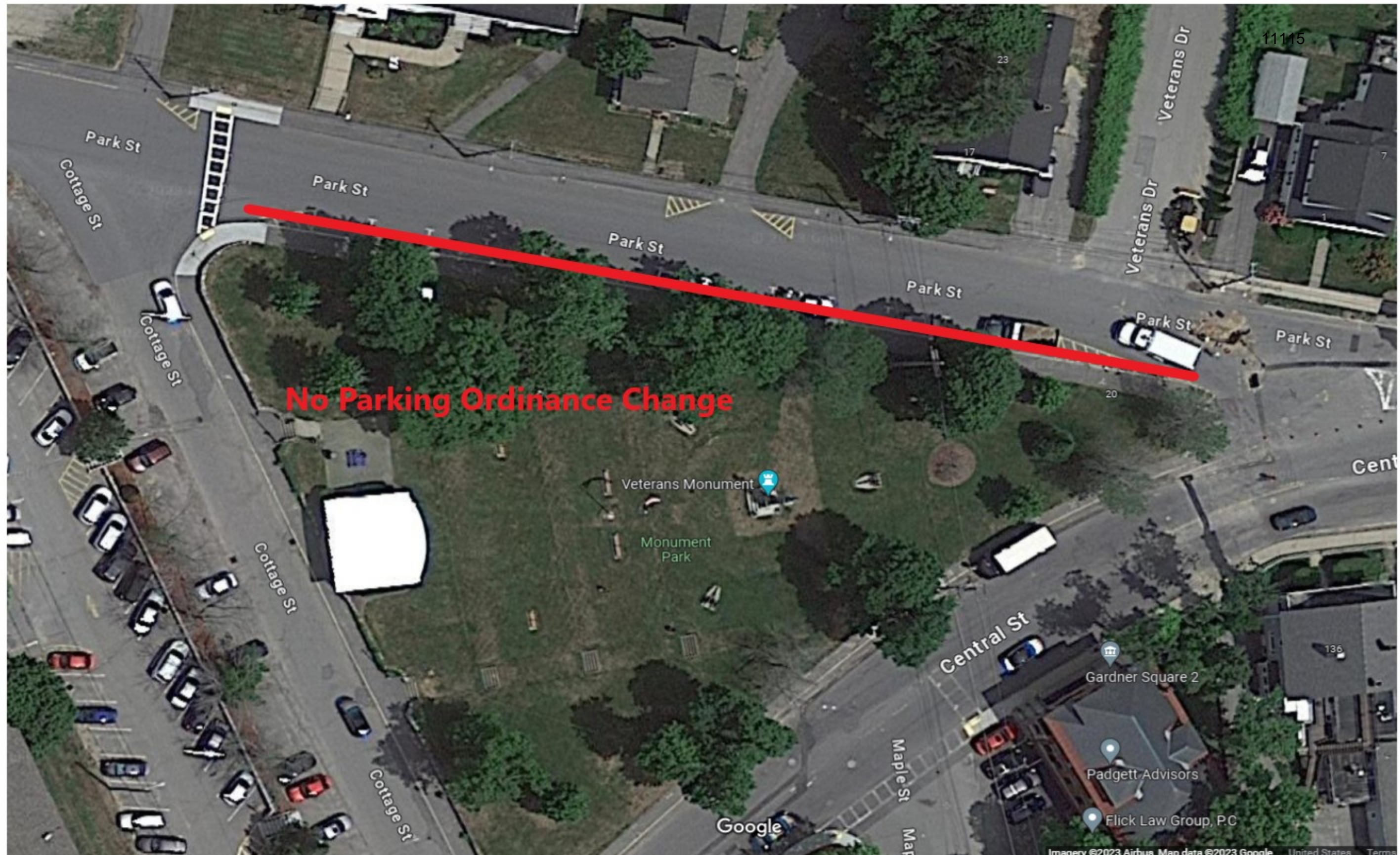
Westford St

Edgell St

Edgell St

Edgell St





**No Parking Ordinance Change**



RECEIVED

January 8, 2024

2024 JAN 11 AM 8:37

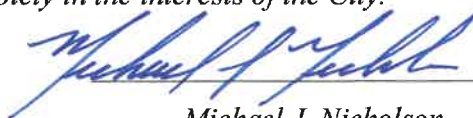
Commonwealth of Massachusetts

CITY CLERK'S OFFICE  
Worcester County, MA

City of Gardner

## CERTIFICATE OF APPOINTMENT

I appoint Alan Agnelli to the position of Member, Historical Commission, and I certify that in my opinion he/she is a person specially fitted by education, training, or experience to perform the duties of said office, and that I make the appointment solely in the interests of the City.

 Mayor  
Michael J. Nicholson

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

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

Expires: January 8, 2027

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

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

Before me,

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

Chapter 303 Acts of 1975  
and  
Chapter 409 Acts of 1983

Received \_\_\_\_\_



January 8, 2024

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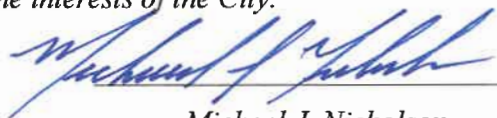
## Commonwealth of Massachusetts

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

City of Gardner

## CERTIFICATE OF APPOINTMENT

I appoint **Barbara LeBlanc** to the position of **Member, Council on Aging**, and I certify that in my opinion he/she is a person specially fitted by education, training, or experience to perform the duties of said office, and that I make the appointment solely in the interests of the City.



Mayor

Michael J. Nicholson

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

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

Titi Siriphan

Expires: January 8, 2027

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

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

Before me,

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

Chapter 303 Acts of 1975  
 and  
 Chapter 409 Acts of 1983

Received \_\_\_\_\_

RECEIVED

January 17, 2024

2024 JAN 17 AM 8:59

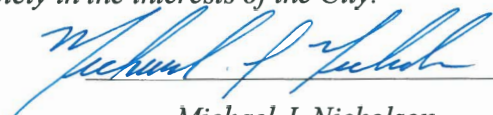
Commonwealth of Massachusetts

CITY CLERK'S OFFICE  
Worcester County  
GARDNER, MA

City of Gardner

## CERTIFICATE OF APPOINTMENT

I appoint **Tammy Erdmann** to the position of **Member, Municipal Grounds Commission** and I certify that in my opinion he/she is a person specially fitted by education, training, or experience to perform the duties of said office, and that I make the appointment solely in the interests of the City.

 Mayor  
Michael J. Nicholson

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

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

Expires: January 9, 2027

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

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

Before me,

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

Chapter 303 Acts of 1975  
and  
Chapter 409 Acts of 1983

Received \_\_\_\_\_

RECEIVED

January 9, 2024

2024 JAN 11 AM 10:00

## Commonwealth of Massachusetts

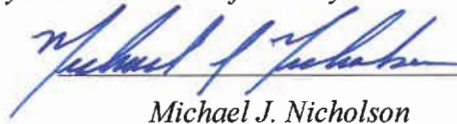
Worcester County

CITY CLERKS OFFICE  
GARDNER, MA

City of Gardner

## CERTIFICATE OF APPOINTMENT

I appoint **Thomas Zuppa** to the position of **Building Commissioner**, and I certify that in my opinion he/she is a person specially fitted by education, training, or experience to perform the duties of said office, and that I make the appointment solely in the interests of the City.

 Mayor  
Michael J. Nicholson

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

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

Expires: January 9, 2027

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

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

Before me,

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

Chapter 303 Acts of 1975  
and  
Chapter 409 Acts of 1983

Received \_\_\_\_\_

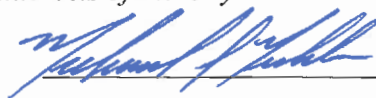
Effective: January 1, 2024

RECEIVED

2024 JAN 11 AM 8:38

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

that in my opinion he/she is a person specially fitted by education, training, or experience to perform the duties of said office, and that I make the appointment solely in the interests of the City.

  
 Mayor  
 Michael J. Nicholson

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

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

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

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

Before me,

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

 Chapter 303 Acts of 1975  
 and  
 Chapter 409 Acts of 1983

Received \_\_\_\_\_

RECEIVED

January 4, 2024

2024 JAN 11

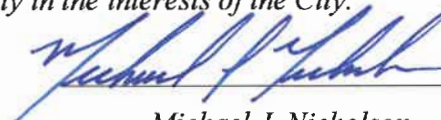
Commonwealth of Massachusetts

CITY CLERK'S OFFICE  
WORCESTER, MA  
Worcester County

City of Gardner

## CERTIFICATE OF APPOINTMENT

I appoint Dane Arnold to the position of Public Works Director and I certify that in my opinion he/she is a person specially fitted by education, training, or experience to perform the duties of said office, and that I make the appointment solely in the interests of the City.

 Mayor  
Michael J. Nicholson

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

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

Expires: January 4, 2027

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

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

Before me,

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

Chapter 303 Acts of 1975  
and  
Chapter 409 Acts of 1983

Received \_\_\_\_\_



RECEIVED

January 4, 2024

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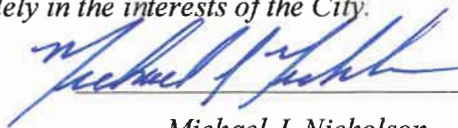
Commonwealth of Massachusetts

CITY CLERK'S OFFICE  
Worcester County  
GARDNER, MA

City of Gardner

## CERTIFICATE OF APPOINTMENT

I appoint Michael F. Ellis to the position of Senior Citizen's Director, and I certify that in my opinion he/she is a person specially fitted by education, training, or experience to perform the duties of said office, and that I make the appointment solely in the interests of the City.

 Mayor  
Michael J. Nicholson

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

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

Expires: January 4, 2027

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

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

Before me,

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

Chapter 303 Acts of 1975  
and  
Chapter 409 Acts of 1983

Received \_\_\_\_\_

January 4, 2024

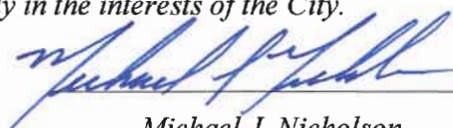
RECEIVED

2024 JAN 11 AM 8:38

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

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

that in my opinion he/she is a person specially fitted by education, training, or experience to perform the duties of said office, and that I make the appointment solely in the interests of the City.



Mayor

Michael J. Nicholson

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

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

Titi Siriphan

Expires: January 4, 2025

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

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

Before me,

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

Chapter 303 Acts of 1975  
and  
Chapter 409 Acts of 1983

Received \_\_\_\_\_

January 4, 2024

11132

RECEIVED

# Commonwealth of Massachusetts

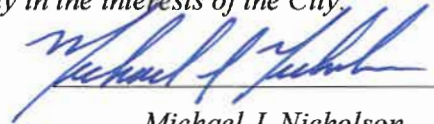
Worcester County

City of Gardner

CITY CLERK'S OFFICE  
GARDNER, MA

## CERTIFICATE OF APPOINTMENT

I appoint Gregory Lagoy to the position of Fire Chief, and I certify that in my opinion he/she is a person specially fitted by education, training, or experience to perform the duties of said office, and that I make the appointment solely in the interests of the City.

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

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

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

Expires: January 4, 2027

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

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

Before me,

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

Chapter 303 Acts of 1975  
and  
Chapter 409 Acts of 1983

Received \_\_\_\_\_

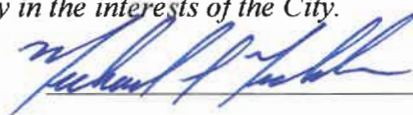
RECEIVED

January 4, 2024

2024 JAN 11 AM 8:38

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

that in my opinion he/she is a person specially fitted by education, training, or experience to perform the duties of said office, and that I make the appointment solely in the interests of the City.



Mayor

Michael J. Nicholson

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

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

Titi Siriphan

Expires January 4, 2027

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

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

Before me,

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

Chapter 303 Acts of 1975  
and  
Chapter 409 Acts of 1983

Received \_\_\_\_\_

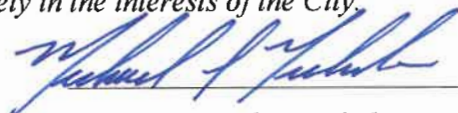
January 4, 2024

RECEIVED

2024 JAN 11 AM 8:38

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

I appoint Carla J. Wojtukiewicz to the position of Trustee, Williams-Rockwell Educational Gift Fund, and I certify that in my opinion he/she is a person specially fitted by education, training, or experience to perform the duties of said office, and that I make the appointment solely in the interests of the City.



Mayor

Michael J. Nicholson

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

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

Titi Siriphan

Expires: January 4, 2027

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

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

Before me,

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

Chapter 303 Acts of 1975  
and  
Chapter 409 Acts of 1983

Received \_\_\_\_\_



January 4, 2024

RECEIVED

2024 JAN 11 AM 8:38

**Commonwealth of Massachusetts**

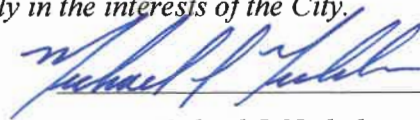
Worcester County

CITY CLERK'S OFFICE  
GARDNER, MA

City of Gardner

**CERTIFICATE OF APPOINTMENT**

I appoint **Robert Rice, Esq.** to the position of **Trustee, Williams-Rockwell Educational Gift Fund,** and I certify that in my opinion he/she is a person specially fitted by education, training, or experience to perform the duties of said office, and that I make the appointment solely in the interests of the City.



Mayor

Michael J. Nicholson

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

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

Titi Siriphan

Expires: January 4, 2027

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

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

Before me,

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

Chapter 303 Acts of 1975  
and  
Chapter 409 Acts of 1983

Received \_\_\_\_\_

RECEIVED

January 4, 2024

2024 JAN 11 AM 9:00

Commonwealth of Massachusetts

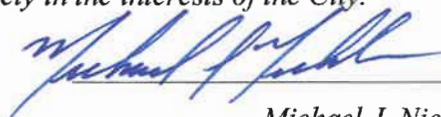
Worcester County  
CITY CLERK'S OFFICE  
GARDNER, MA

City of Gardner

## CERTIFICATE OF APPOINTMENT

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

that in my opinion he/she is a person specially fitted by education, training, or experience to perform the duties of said office, and that I make the appointment solely in the interests of the City.

 Mayor  
Michael J. Nicholson

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

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

Expires: January 4, 2025

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

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

Before me,

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

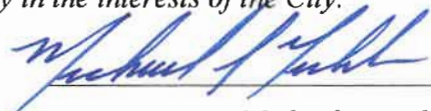
Chapter 303 Acts of 1975  
and  
Chapter 409 Acts of 1983

Received \_\_\_\_\_

RECEIVED

January 4, 2024

2024 JAN 11 AM 8:38

**Commonwealth of Massachusetts**Worcester County  
CITY CLERK'S OFFICE  
GARDNER, MA**City of Gardner****CERTIFICATE OF APPOINTMENT***I appoint Autumn Brown to the position of Animal Control Officer, and I certify**that in my opinion he/she is a person specially fitted by education, training, or experience to perform the duties of said office, and that I make the appointment solely in the interests of the City.*
  
 \_\_\_\_\_ Mayor  
 Michael J. Nicholson

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

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

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

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

Before me,

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

Chapter 303 Acts of 1975  
 and  
 Chapter 409 Acts of 1983

Received \_\_\_\_\_

RECEIVED

January 4, 2024

2024 JAN 11 AM 9:30

## Commonwealth of Massachusetts

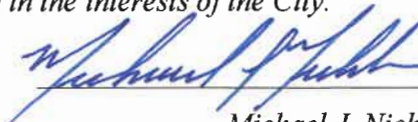
Worcester County  
CITY CLERK'S OFFICE  
GARDNER, MA

City of Gardner

## CERTIFICATE OF APPOINTMENT

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

that in my opinion he/she is a person specially fitted by education, training, or experience to perform the duties of said office, and that I make the appointment solely in the interests of the City.

 Mayor  
Michael J. Nicholson

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

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

Expires: January 4, 2025

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

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

Before me,

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

Chapter 303 Acts of 1975  
and  
Chapter 409 Acts of 1983

Received \_\_\_\_\_

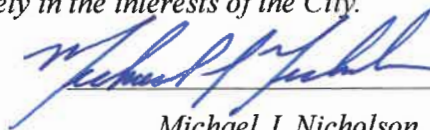
RECEIVED

January 4, 2024

2024 JAN 11 AM 8:39

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

I appoint **Robert Bettez** to the position of **Member, Planning Board**, and I certify that in my opinion he/she is a person specially fitted by education, training, or experience to perform the duties of said office, and that I make the appointment solely in the interests of the City.



Mayor

Michael J. Nicholson

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

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

Titi Siriphan

Expires: January 4, 2027

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

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

Before me,

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

Chapter 303 Acts of 1975  
and  
Chapter 409 Acts of 1983

Received \_\_\_\_\_

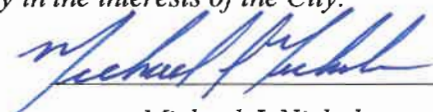
RECEIVED

January 4, 2024

2024 JAN 11 AM 8:39

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

I appoint **Robert Swartz** to the position of **Member, Planning Board**, and I certify that in my opinion he/she is a person specially fitted by education, training, or experience to perform the duties of said office, and that I make the appointment solely in the interests of the City.

 Mayor  
Michael J. Nicholson

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

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

Expires: January 4, 2027

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

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

Before me,

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

Chapter 303 Acts of 1975  
and  
Chapter 409 Acts of 1983

Received \_\_\_\_\_



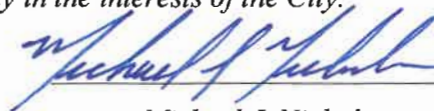
RECEIVED

January 4, 2024

2024 JAN 11 AM 8:39

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

I appoint **Stephen Cormier** to the position of **Member, Planning Board**, and I certify that in my opinion he/she is a person specially fitted by education, training, or experience to perform the duties of said office, and that I make the appointment solely in the interests of the City.



Mayor

Michael J. Nicholson

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

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

Titi Siriphan

Expires: January 4, 2027

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

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

Before me,

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

Chapter 303 Acts of 1975  
and  
Chapter 409 Acts of 1983

Received \_\_\_\_\_

RECEIVED

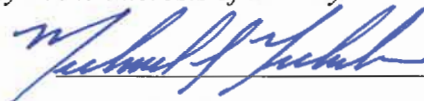
January 4, 2024

2024 JAN 11 AM 8:45

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

I appoint Charles LeBlanc to the position of Member, Board of Assessors, and I certify

that in my opinion he/she is a person specially fitted by education, training, or experience to perform the duties of said office, and that I make the appointment solely in the interests of the City.



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

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

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

Expires: January 4, 2027

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

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

Before me,

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

Chapter 303 Acts of 1975  
and  
Chapter 409 Acts of 1983

Received \_\_\_\_\_

RECEIVED

January 12, 2024

2024 JAN 12 AM 10:17

Commonwealth of Massachusetts

CITY CLERK'S OFFICE

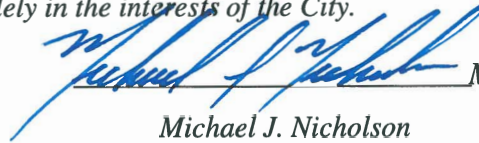
Worcester County GARDNER, MA

City of Gardner

## CERTIFICATE OF APPOINTMENT

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

that in my opinion he/she is a person specially fitted by education, training, or experience to perform the duties of said office, and that I make the appointment solely in the interests of the City.

 Mayor  
Michael J. Nicholson

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

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

Expires: January 4, 2027

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

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

Before me,

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

Chapter 303 Acts of 1975  
and  
Chapter 409 Acts of 1983

Received \_\_\_\_\_

RECEIVED

January 4, 2024

## Commonwealth of Massachusetts

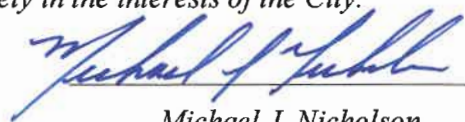
2024 JAN 11 AM 8:40

Worcester County  
GARDNER, MA

City of Gardner

## CERTIFICATE OF APPOINTMENT

I appoint James E. Imprescia to the position of Plumbing & Gas Inspector, and I certify that in my opinion he/she is a person specially fitted by education, training, or experience to perform the duties of said office, and that I make the appointment solely in the interests of the City.

  
 Michael J. Nicholson Mayor

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

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

Titi Siriphan

Expires: January 4, 2027

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

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

Before me,

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

Chapter 303 Acts of 1975  
 and  
 Chapter 409 Acts of 1983

Received \_\_\_\_\_

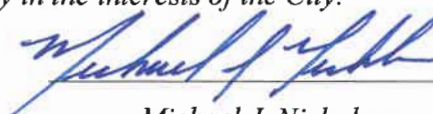
RECEIVED

January 4, 2024

2024 JAN 11 AM 8:41

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

I appoint **Michael Fitzsimmons** to the position of **Member, License Commission**, and I certify that in my opinion he/she is a person specially fitted by education, training, or experience to perform the duties of said office, and that I make the appointment solely in the interests of the City.

 Mayor  
Michael J. Nicholson

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

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

Expires: January 4, 2027

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

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

Before me,

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

Chapter 303 Acts of 1975  
and  
Chapter 409 Acts of 1983

Received \_\_\_\_\_



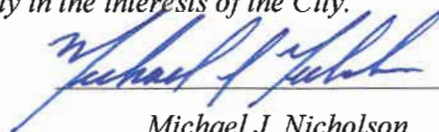
RECEIVED

January 4, 2024

2024 JAN 11 AM 8:41

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

I appoint **Kenneth Arsenault** to the position of **Member, License Commission**, and I certify that in my opinion he/she is a person specially fitted by education, training, or experience to perform the duties of said office, and that I make the appointment solely in the interests of the City.



Mayor

Michael J. Nicholson

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

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

Titi Siriphan

Expires: January 4, 2027

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

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

Before me,

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

Chapter 303 Acts of 1975  
and  
Chapter 409 Acts of 1983

Received \_\_\_\_\_

RECEIVED

January 4, 2024

2024 JAN 11

**Commonwealth of Massachusetts**

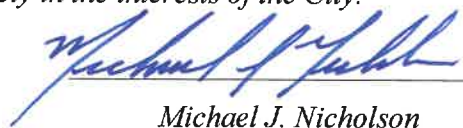
Worcester County

CITY CLERK'S OFFICE  
GARDNER, MA

City of Gardner

**CERTIFICATE OF APPOINTMENT**

I appoint Nancy Binder to the position of Member, License Commission, and I certify that in my opinion he/she is a person specially fitted by education, training, or experience to perform the duties of said office, and that I make the appointment solely in the interests of the City.

 Mayor  
Michael J. Nicholson

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

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

Expires: January 4, 2027

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

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

Before me,

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

Chapter 303 Acts of 1975  
and  
Chapter 409 Acts of 1983

Received \_\_\_\_\_

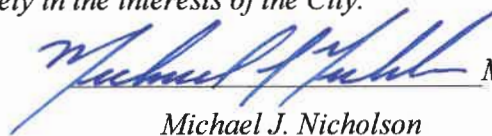
RECEIVED

January 8, 2024

2024 JAN 11 AM 8:41

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

I appoint Ann Twohig to the position of Member, Golf Commission, and I certify that in my opinion he/she is a person specially fitted by education, training, or experience to perform the duties of said office, and that I make the appointment solely in the interests of the City.

 Mayor  
Michael J. Nicholson

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

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

Expires: January 8, 2027

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

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

Before me,

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

Chapter 303 Acts of 1975  
and  
Chapter 409 Acts of 1983

Received \_\_\_\_\_

January 8, 2024

RECEIVED **Commonwealth of Massachusetts**

2024 JAN 11 AM 9:41  
Worcester County 41

City of Gardner

CITY CLERK'S OFFICE  
GARDNER, MA

**CERTIFICATE OF APPOINTMENT**

I appoint **Kathy O'Brien** to the position of **Member, Council on Aging**, and I certify that in my opinion he/she is a person specially fitted by education, training, or experience to perform the duties of said office, and that I make the appointment solely in the interests of the City.

 Mayor  
Michael J. Nicholson

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

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

Expires: January 8, 2027

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

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

Before me,

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

Chapter 303 Acts of 1975  
and  
Chapter 409 Acts of 1983

Received \_\_\_\_\_

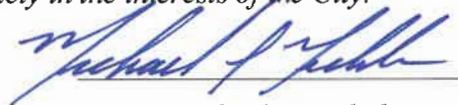
RECEIVED

January 8, 2024

2024 JAN 11 AM 9:47

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

I appoint **Timothy Horrigan** to the position of **Member, Redevelopment Authority**, and I certify that in my opinion he/she is a person specially fitted by education, training, or experience to perform the duties of said office, and that I make the appointment solely in the interests of the City.

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

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

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

Expires: January 8, 2027

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

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

Before me,

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

Chapter 303 Acts of 1975  
 and  
 Chapter 409 Acts of 1983

Received \_\_\_\_\_



January 8, 2024

RECEIVED

## Commonwealth of Massachusetts

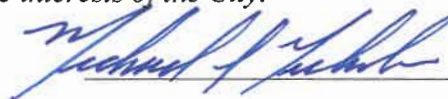
2024 JAN 11 11:04  
Worcester County

City of Gardner

CITY CLERK'S OFFICE  
GARDNER, MA

## CERTIFICATE OF APPOINTMENT

I appoint Theresa Hillman to the position of Member, Council on Aging, and I certify that in my opinion he/she is a person specially fitted by education, training, or experience to perform the duties of said office, and that I make the appointment solely in the interests of the City.



Mayor

Michael J. Nicholson

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

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

Titi Siriphan

Expires: January 8, 2027

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

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

Before me,

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

Chapter 303 Acts of 1975  
and  
Chapter 409 Acts of 1983

Received \_\_\_\_\_

January 8, 2024

RECEIVED  
**Commonwealth of Massachusetts**

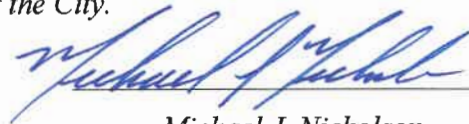
Worcester County

City of Gardner

2024 JAN 11 AM 8:41  
 CITY CLERK'S OFFICE  
 GARDNER, MA

**CERTIFICATE OF APPOINTMENT**

I appoint Gloria Tarpey to the position of Member, Council on Aging, and I certify that in my opinion he/she is a person specially fitted by education, training, or experience to perform the duties of said office, and that I make the appointment solely in the interests of the City.



Mayor

Michael J. Nicholson

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

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

Titi Siriphan

Expires: January 8, 2027

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

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

Before me,

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

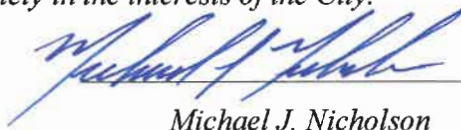
Chapter 303 Acts of 1975  
 and  
 Chapter 409 Acts of 1983

Received \_\_\_\_\_

January 8, 2024

RECEIVED

2024 JAN 11 AM 8:42

CITY CLERK OF THE  
Worcester County  
GARDNER, MA**Commonwealth of Massachusetts****City of Gardner****CERTIFICATE OF APPOINTMENT***I appoint **Susan Avallone, RN** to the position of **Member, Board of Health** and I certify**that in my opinion he/she is a person specially fitted by education, training, or experience to perform the duties of said office, and that I make the appointment solely in the interests of the City.*

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

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

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

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

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

*Before me,*

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

Chapter 303 Acts of 1975  
 and  
 Chapter 409 Acts of 1983

Received \_\_\_\_\_

RECEIVED

January 8, 2024

2024 JAN 11 AM 8:42

## Commonwealth of Massachusetts

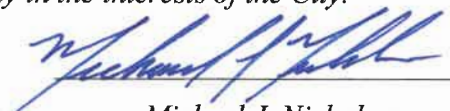
Worcester County  
CITY CLERK'S OFFICE  
GARDNER, MA

City of Gardner

## CERTIFICATE OF APPOINTMENT

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

that in my opinion he/she is a person specially fitted by education, training, or experience to perform the duties of said office, and that I make the appointment solely in the interests of the City.

 Mayor  
Michael J. Nicholson

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

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

Expires: January 8, 2027

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

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

Before me,

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

Chapter 303 Acts of 1975  
and  
Chapter 409 Acts of 1983

Received \_\_\_\_\_

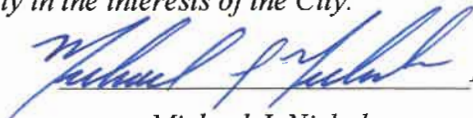
RECEIVED

January 8, 2024

2024 JAN 11 AM 8:42

**Commonwealth of Massachusetts**Worcester County  
CITY CLERK'S OFFICE  
GARDNER, MA**City of Gardner****CERTIFICATE OF APPOINTMENT**I appoint **Michele Parker, MD** to the position of **Member, Board of Health** and I certify

that in my opinion he/she is a person specially fitted by education, training, or experience to perform the duties of said office, and that I make the appointment solely in the interests of the City.


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

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

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

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

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

Before me,

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

 Chapter 303 Acts of 1975  
 and  
 Chapter 409 Acts of 1983

Received \_\_\_\_\_



RECEIVED

January 8, 2024

2024 JAN 11 AM 8:41


## Commonwealth of Massachusetts

Worcester County  
GARDNER, MA

City of Gardner

## CERTIFICATE OF APPOINTMENT

I appoint Marcelle S. Cormier to the position of Member, Board of Registrars, and I certify that in my opinion he/she is a person specially fitted by education, training, or experience to perform the duties of said office, and that I make the appointment solely in the interests of the City.

 Mayor  
Michael J. Nicholson

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

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

Expires: January 8, 2027

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

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

Before me,

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

Chapter 303 Acts of 1975  
and  
Chapter 409 Acts of 1983

Received \_\_\_\_\_

RECEIVED

January 9, 2024

2024 JAN 11 10:10

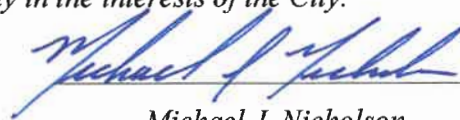
Commonwealth of Massachusetts

Worcester County  
CITY CLERK'S OFFICE  
GARDNER, MA

City of Gardner

## CERTIFICATE OF APPOINTMENT

I appoint Patricia Darby to the position of Member, Board of Registrars, and I certify that in my opinion he/she is a person specially fitted by education, training, or experience to perform the duties of said office, and that I make the appointment solely in the interests of the City.

 Mayor  
Michael J. Nicholson

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

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

Expires: January 9, 2027

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

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

Before me,

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

Chapter 303 Acts of 1975  
and  
Chapter 409 Acts of 1983

Received \_\_\_\_\_

RECEIVED

January 11, 2024

2024 JAN 11 PM

Commonwealth of Massachusetts

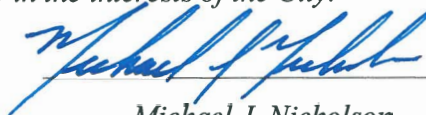
Worcester County  
GARDNER, MA

City of Gardner

## CERTIFICATE OF APPOINTMENT

I appoint Kevin McInerney to the position of Mayor's Appointee, Contributory Retirement Board and I certify

that in my opinion he/she is a person specially fitted by education, training, or experience to perform the duties of said office, and that I make the appointment solely in the interests of the City.



Mayor

Michael J. Nicholson

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

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

Titi Siriphan

Expires: January 11, 2027

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

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

Before me,

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

Chapter 303 Acts of 1975  
and  
Chapter 409 Acts of 1983

Received \_\_\_\_\_

RECEIVED

January 22, 2024

2024 JAN 22 PM 4:01

## Commonwealth of Massachusetts

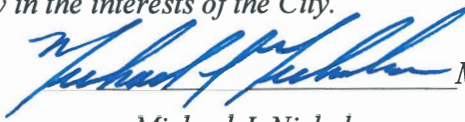
Worcester County

City of Gardner

## CERTIFICATE OF APPOINTMENT

I appoint Paul Cormier to the position of Member, Golf Commission, and I certify

that in my opinion he/she is a person specially fitted by education, training, or experience to perform the duties of said office, and that I make the appointment solely in the interests of the City.

 Mayor  
Michael J. Nicholson

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

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

Expires: January 22, 2027

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

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

Before me,

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

Chapter 303 Acts of 1975  
and  
Chapter 409 Acts of 1983

Received \_\_\_\_\_

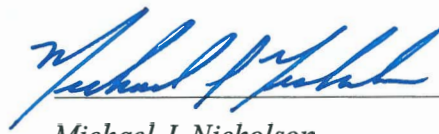
RECEIVED

2024 JAN 25 PM 1:50

January 25, 2024

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

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

 Mayor  
Michael J. Nicholson

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

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

Expires: Permanent

Worcester, ss., \_\_\_\_\_ 2024

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

Before me,

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

Chapter 303 Acts of 1975  
and  
Chapter 409 Acts of 1983

Received \_\_\_\_\_





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

2024 JAN 25 PM 1:39

CITY CLERK'S OFFICE  
 GARDNER, MA

January 25, 2024

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

RE: Stabilization Appropriation Request- DPW Salt Shed

Dear Madam President and Councilors,

The current salt storage shed at the Department of Public Works is in large amounts of disrepair and it is the opinion of the Administration that this forty-year-old building will no longer be able to accommodate the City's needs come next winter.

In order to allow enough time for the construction of the new salt shed to be constructed, I am submitting this request to the City Council asking for an appropriation from the City's Stabilization Account to build this structure that is necessary for our winter road safety operations.

Once the winter is over, and we have a better picture as to what we expended for Snow and Ice removal this year, the Administration will be reviewing replenishing the stabilization account with a free cash appropriation, however, I do not feel comfortable requesting an appropriation of this size out of free cash until we see the full financial picture that this winter will bring.

Respectfully Submitted,

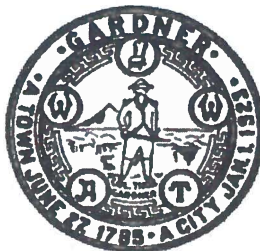
Michael J. Nicholson  
 Mayor, City of Gardner

AN ORDER APPROPRIATING FROM STABILIZATION TO DPW SALT  
SHED

ORDERED:

That there be and is hereby appropriated the sum of Six Hundred Twenty-Five  
Thousand Dollars and No Cents (\$625,000.00) from Stabilization to DPW Salt Shed.

**CITY OF GARDNER**  
**Department of Public Works**



Highway  
Water  
Sewer  
Forestry  
Parks/Playgrounds  
Cemeteries

Dane E. Arnold, Director  
50 Manca Drive  
Gardner, MA 01440-2687  
Telephone (978) 630-8195  
darnold@gardner-ma.gov

Mayor Micheal J. Nicholson  
95 Pleasant Street  
Gardner, MA 01440

January 25, 2024

Dear Mayor Nicholson,

I am writing to express my concern about the current state of our city's salt storage shed and to urge you to consider allocating funds for its replacement. The current salt storage shed is approximately 50 years old and in significant disrepair. The attached pictures show larger portions of the roof missing and the walls bowed out of plumb from rot. I do not believe the building has much time left before a catastrophic failure.

The proposed replacement salt storage shed is a pre-engineered galvanized metal truss structure with fabric covering. These buildings are the most cost-efficient method for construction when total storage area is prioritized. The shed will be built in a new location across the street from the DPW administration building at 50 Manca Drive. This new site, which is already owned by the City of Gardner, will allow the shed to be approximately 3 times larger. Having this additional storage volume will enable the DPW to stockpile enough salt to treat 12-15 storms. The DPW has already contracted with an engineering firm to complete the site plan design in order to comply with all Massachusetts Stormwater Regulations.

The cost estimate for this project is \$625,000.00. This price includes \$465,000 for the physical structure and its installation along with an additional \$160,000 for site work, paving, lighting, stormwater mitigation and fencing. Once funding is secured work will be able to start in the spring and hopefully be completed for the 24'-25' winter season. We plan on trying to do as much of the work in-house to reduce costs.

Please contact me if you need any further information.

Sincerely,

Dane E. Arnold, Director  
Department of Public Works

**Mayor**

---

**From:** Dane Arnold  
**Sent:** Wednesday, January 17, 2024 2:52 PM  
**To:** Mayor; Rob Oliva; Chris Coughlin  
**Subject:** RE: Cost Estimate- New Salt Shed

Hello,  
Please find the Salt Shed Estimate below:

**Salt Shed**

|                     |                   |
|---------------------|-------------------|
| Building            | \$ 185,000.00     |
| Installation        | \$ 200,000.00     |
| Equipment Rentals   | \$ 28,000.00      |
| Tree Removal        | \$ -              |
| Clear and Grub      | \$ 20,000.00      |
| Site Materials      | \$ 10,000.00      |
| Site Work/D-Basins  | \$ 50,000.00      |
| Paving              | \$ 30,000.00      |
| Electrical/Lighting | \$ 35,000.00      |
| Concrete Blocks     | \$ 35,000.00      |
| Plywood Interior    | \$ 10,000.00      |
| <br>Total           | <br>\$ 603,000.00 |
| Contingency         | \$ 22,000.00      |
| <br>Total           | <br>\$ 625,000.00 |

Thank You,

**Dane E. Arnold, Director**

**Department of Public Works**

**50 Manca Drive**

**Gardner, MA 01440**

**978-630-8195**



*Existing Salt Shed*





Existing Salt Shed













*Design of Proposed new Shed*





*Location of Proposed New School*



| CURRENT OWNER                                                                                                                 |            |                |             |        |           |        |            |            |            | TOPO TYPE              |       | UTILITY    |         | STREET         |       | LOCATION        |                         | CURRENT ASSESSMENT            |       | 316                     |  |                                                                     |  |          |  |                  |         |         |  |          |  |        |  |      |  |          |  |        |  |       |  |        |  |
|-------------------------------------------------------------------------------------------------------------------------------|------------|----------------|-------------|--------|-----------|--------|------------|------------|------------|------------------------|-------|------------|---------|----------------|-------|-----------------|-------------------------|-------------------------------|-------|-------------------------|--|---------------------------------------------------------------------|--|----------|--|------------------|---------|---------|--|----------|--|--------|--|------|--|----------|--|--------|--|-------|--|--------|--|
| CITY OF GARDNER<br><br>95 PLEASANT ST STE 125<br><br>GARDNER MA 01440<br><br>Alt Prcl ID<br>Sub-Div<br>Photo<br>Ward<br>Prec. |            |                |             |        |           |        |            |            |            | TOPO WET               |       | EASEMENT   |         | TRAFFIC        |       | CORNER          |                         | Description                   |       | Code                    |  | Appraised                                                           |  | Assessed |  |                  |         |         |  |          |  |        |  |      |  |          |  |        |  |       |  |        |  |
|                                                                                                                               |            |                |             |        |           |        |            |            |            | DRAINAGE               |       |            |         | VIEW           |       | COMMUNITY       |                         | EXM LAND                      |       | 9300                    |  | 110400                                                              |  | 110,400  |  |                  |         |         |  |          |  |        |  |      |  |          |  |        |  |       |  |        |  |
|                                                                                                                               |            |                |             |        |           |        |            |            |            | SUPPLEMENTAL DATA      |       |            |         |                |       |                 |                         |                               |       |                         |  |                                                                     |  |          |  |                  |         |         |  |          |  |        |  |      |  |          |  |        |  |       |  |        |  |
|                                                                                                                               |            |                |             |        |           |        |            |            |            |                        |       |            |         |                |       |                 |                         |                               |       |                         |  |                                                                     |  |          |  |                  |         |         |  |          |  |        |  |      |  |          |  |        |  |       |  |        |  |
| GIS ID M 159103 923523                                                                                                        |            |                |             |        |           |        |            |            |            | Assoc Pld#             |       |            |         |                |       |                 |                         |                               |       | Total                   |  | 110,400                                                             |  | 110,400  |  |                  |         |         |  |          |  |        |  |      |  |          |  |        |  |       |  |        |  |
| RECORD OF OWNERSHIP                                                                                                           |            |                |             |        |           |        |            |            |            | BK-VOL/PAGE            |       | SALE DATE  |         | QU             |       | VII             |                         | SALE PRICE                    |       | VC                      |  | PREVIOUS ASSESSMENTS (HISTORY)                                      |  |          |  |                  |         |         |  |          |  |        |  |      |  |          |  |        |  |       |  |        |  |
| CITY OF GARDNER                                                                                                               |            |                |             |        |           |        |            |            |            | 1 0                    |       | 01-01-1900 |         | Q              |       | V               |                         | 0 1E                          |       |                         |  | Year                                                                |  | Code     |  | Year             |         | Code    |  | Assessed |  | Year   |  | Code |  | Assessed |  |        |  |       |  |        |  |
|                                                                                                                               |            |                |             |        |           |        |            |            |            |                        |       |            |         |                |       |                 |                         |                               |       |                         |  |                                                                     |  | 2023     |  | 9300             |         |         |  | 68,300   |  | 2022   |  | 9300 |  | 60,500   |  | 2021   |  | 9300  |  | 60,500 |  |
|                                                                                                                               |            |                |             |        |           |        |            |            |            |                        |       |            |         |                |       |                 |                         |                               |       |                         |  |                                                                     |  |          |  |                  |         |         |  | Total    |  | 68,300 |  |      |  | Total    |  | 60,500 |  | Total |  | 60,500 |  |
| EXEMPTIONS                                                                                                                    |            |                |             |        |           |        |            |            |            | Amount                 |       | Code       |         | Description    |       | Number          |                         | Amount                        |       | Comm Int                |  | This signature acknowledges a visit by a Data Collector or Assessor |  |          |  |                  |         |         |  |          |  |        |  |      |  |          |  |        |  |       |  |        |  |
| Total                                                                                                                         |            |                |             |        |           |        |            |            |            | 0.00                   |       |            |         |                |       |                 |                         |                               |       | APPRAISED VALUE SUMMARY |  |                                                                     |  |          |  |                  |         |         |  |          |  |        |  |      |  |          |  |        |  |       |  |        |  |
| Nbhd                                                                                                                          |            |                |             |        |           |        |            |            |            | Nbhd Name              |       | B          |         | Tracing        |       | Batch           |                         | Appraised Bldg. Value (Card)  |       |                         |  |                                                                     |  |          |  |                  |         | 0       |  |          |  |        |  |      |  |          |  |        |  |       |  |        |  |
| 0001                                                                                                                          |            |                |             |        |           |        |            |            |            |                        |       |            |         |                |       |                 |                         | Appraised Xf (B) Value (Bldg) |       |                         |  |                                                                     |  |          |  |                  |         | 0       |  |          |  |        |  |      |  |          |  |        |  |       |  |        |  |
|                                                                                                                               |            |                |             |        |           |        |            |            |            |                        |       |            |         |                |       |                 |                         | Appraised Ob (B) Value (Bldg) |       |                         |  |                                                                     |  |          |  |                  |         | 0       |  |          |  |        |  |      |  |          |  |        |  |       |  |        |  |
|                                                                                                                               |            |                |             |        |           |        |            |            |            |                        |       |            |         |                |       |                 |                         | Appraised Land Value (Bldg)   |       |                         |  |                                                                     |  |          |  |                  |         | 110,400 |  |          |  |        |  |      |  |          |  |        |  |       |  |        |  |
|                                                                                                                               |            |                |             |        |           |        |            |            |            |                        |       |            |         |                |       |                 |                         | Special Land Value            |       |                         |  |                                                                     |  |          |  |                  |         | 0       |  |          |  |        |  |      |  |          |  |        |  |       |  |        |  |
|                                                                                                                               |            |                |             |        |           |        |            |            |            |                        |       |            |         |                |       |                 |                         | Total Appraised Parcel Value  |       |                         |  |                                                                     |  |          |  |                  |         | 110,400 |  |          |  |        |  |      |  |          |  |        |  |       |  |        |  |
|                                                                                                                               |            |                |             |        |           |        |            |            |            |                        |       |            |         |                |       |                 |                         | Valuation Method              |       |                         |  |                                                                     |  |          |  |                  |         | C       |  |          |  |        |  |      |  |          |  |        |  |       |  |        |  |
|                                                                                                                               |            |                |             |        |           |        |            |            |            |                        |       |            |         |                |       |                 |                         | Exemption                     |       |                         |  |                                                                     |  |          |  |                  |         | 0       |  |          |  |        |  |      |  |          |  |        |  |       |  |        |  |
|                                                                                                                               |            |                |             |        |           |        |            |            |            |                        |       |            |         |                |       |                 |                         | Adjustment                    |       |                         |  |                                                                     |  |          |  |                  |         |         |  |          |  |        |  |      |  |          |  |        |  |       |  |        |  |
|                                                                                                                               |            |                |             |        |           |        |            |            |            |                        |       |            |         |                |       |                 |                         |                               |       |                         |  |                                                                     |  |          |  |                  |         | 110,400 |  |          |  |        |  |      |  |          |  |        |  |       |  |        |  |
| BUILDING PERMIT RECORD                                                                                                        |            |                |             |        |           |        |            |            |            | VISIT / CHANGE HISTORY |       |            |         |                |       |                 |                         |                               |       |                         |  |                                                                     |  |          |  |                  |         |         |  |          |  |        |  |      |  |          |  |        |  |       |  |        |  |
| Permit Id                                                                                                                     | Issue Date | Type           | Description | Amount | Insp Date | % Comp | Date Comp  | Comments   | Date       | Type                   | Is    | Id         | Cd      | Purpost/Result |       |                 |                         |                               |       |                         |  |                                                                     |  |          |  |                  |         |         |  |          |  |        |  |      |  |          |  |        |  |       |  |        |  |
|                                                                                                                               |            |                |             |        |           |        |            |            | 05-25-2022 |                        |       | CK         | 22      | Vacant Parcel  |       |                 |                         |                               |       |                         |  |                                                                     |  |          |  |                  |         |         |  |          |  |        |  |      |  |          |  |        |  |       |  |        |  |
|                                                                                                                               |            |                |             |        |           |        |            |            | 10-28-2008 |                        |       | JAG        | 00      | Measur+Listed  |       |                 |                         |                               |       |                         |  |                                                                     |  |          |  |                  |         |         |  |          |  |        |  |      |  |          |  |        |  |       |  |        |  |
|                                                                                                                               |            |                |             |        |           |        |            |            | 06-30-1981 |                        |       | 43         | 00      | Measur+Listed  |       |                 |                         |                               |       |                         |  |                                                                     |  |          |  |                  |         |         |  |          |  |        |  |      |  |          |  |        |  |       |  |        |  |
| LAND LINE VALUATION SECTION                                                                                                   |            |                |             |        |           |        |            |            |            |                        |       |            |         |                |       |                 |                         |                               |       |                         |  |                                                                     |  |          |  |                  |         |         |  |          |  |        |  |      |  |          |  |        |  |       |  |        |  |
| B                                                                                                                             | Use Co     | Description    | Zone        | D      | Fronta    | Depth  | Land Units | Unit Price | I. Fact    | S.A.                   | Ac Di | C. Fact    | St. Idx | Adj            | Notes | Special Pricing | Size A                  | Adj Unit                      | Pric  | Land Value              |  |                                                                     |  |          |  |                  |         |         |  |          |  |        |  |      |  |          |  |        |  |       |  |        |  |
| 1                                                                                                                             | 9300       | City of Gardne | C1          | 2      | 0         | 0      | 43,560     | SF         | 2,31       | 1,000                  | A     | 1,000      | 1.00    | C1             | 1.00  |                 | 0                       | 1,000                         | 2.31  | 100,600                 |  |                                                                     |  |          |  |                  |         |         |  |          |  |        |  |      |  |          |  |        |  |       |  |        |  |
| 1                                                                                                                             | 9300       | City of Gardne | C1          | 2      | 0         | 0      | 1,960      | AC         | 5,000.00   | 1,000                  | 0     | 1,000      | 1.00    | 1.00           | 1.00  |                 | 0                       | 1,000                         | 5,000 | 9,800                   |  |                                                                     |  |          |  |                  |         |         |  |          |  |        |  |      |  |          |  |        |  |       |  |        |  |
| Total Card Land Units                                                                                                         |            |                |             |        |           |        |            |            |            |                        |       |            |         |                | 2.96  | AC              | Parcel Total Land Area: | 2.96                          |       |                         |  |                                                                     |  |          |  | Total Land Value | 110,400 |         |  |          |  |        |  |      |  |          |  |        |  |       |  |        |  |

[illegible]





VICINITY MAP

VICINITY MAP

VICINITY MAP

VICINITY MAP

VICINITY MAP



VICINITY MAP





PROJECT INFORMATION

LAND INFORMATION  
MAP SHEET NO. 104-1  
PROPOSED PROJECT: 104-1  
PROPOSED PROJECT: 104-1  
PROPOSED PROJECT: 104-1

GENERAL NOTES:  
1. THE PROPOSED PROJECT IS A REVISION OF THE PREVIOUS PROJECT.  
2. THE PROPOSED PROJECT IS A REVISION OF THE PREVIOUS PROJECT.  
3. THE PROPOSED PROJECT IS A REVISION OF THE PREVIOUS PROJECT.

LAND INFORMATION  
MAP SHEET NO. 104-1  
PROPOSED PROJECT: 104-1  
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LAND INFORMATION  
MAP SHEET NO. 104-1  
PROPOSED PROJECT: 104-1  
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LAND INFORMATION  
MAP SHEET NO. 104-1  
PROPOSED PROJECT: 104-1  
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LAND INFORMATION  
MAP SHEET NO. 104-1  
PROPOSED PROJECT: 104-1  
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PROPOSED PROJECT: 104-1

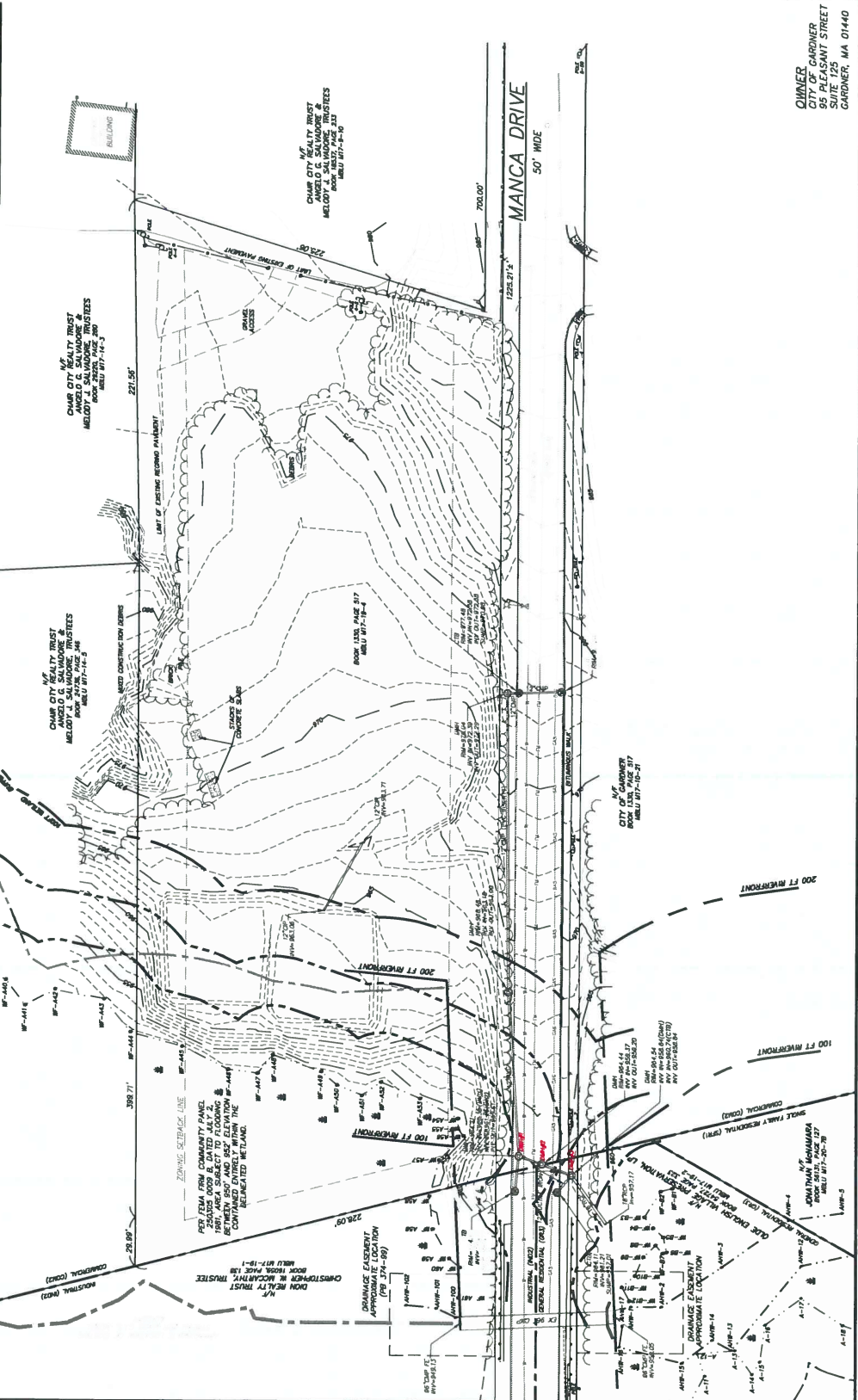
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LAND INFORMATION  
MAP SHEET NO. 104-1  
PROPOSED PROJECT: 104-1  
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LAND INFORMATION  
MAP SHEET NO. 104-1  
PROPOSED PROJECT: 104-1  
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GENERAL NOTES:  
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3. THE PROPOSED PROJECT IS A REVISION OF THE PREVIOUS PROJECT.



OWNER:  
GARDNER, INC.  
65 PLEASANT STREET  
SUITE 125  
GARDNER, MA 01440

DATE: JAN 1, 2022  
JOB NO: 3104  
SHEET 1 OF 1  
PLAN NO: 104-1



**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*  
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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- **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: 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.

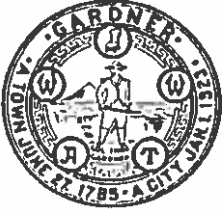
If you have any questions, please do not hesitate to contact me.

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

---

## The Commonwealth of Massachusetts

The committee of conference on the disagreeing votes of the two branches with reference to the Senate amendment (striking out all after the enacting clause and inserting in place thereof the text contained in Senate document numbered 2862) of the House Bill regulating sports wagering (House, No. 3993), reports recommending passage of the accompanying bill (House, No. 5164). August 1, 2022.

|                     |                      |
|---------------------|----------------------|
| Jerald A. Parisella | Michael J. Rodrigues |
| Aaron Michlewitz    | Eric P. Lesser       |
| David K. Muradian   | Patrick M. O'Connor  |

FILED ON: 8/1/2022

**HOUSE . . . . . No. 5164****The Commonwealth of Massachusetts**

\_\_\_\_\_  
**In the One Hundred and Ninety-Second General Court**  
**(2021-2022)**  
 \_\_\_\_\_

An Act regulating sports wagering.

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

1           SECTION 1. Section 7 of chapter 4 of the General Laws is hereby amended by striking  
 2 out clause Tenth, as appearing in the 2020 Official Edition, and inserting in place thereof the  
 3 following clause:-

4           Tenth, "Illegal gaming", a banking or percentage game played with cards, dice, tiles,  
 5 dominoes, or an electronic, electrical or mechanical device or machine for money, property,  
 6 checks, credit or any representative of value, but excluding: (i) a lottery game conducted by the  
 7 state lottery commission under sections 24, 24A and 27 of chapter 10; (ii) a game conducted  
 8 under chapter 23K; (iii) sports wagering conducted under chapter 23N; (iv) pari-mutuel wagering  
 9 on horse races under chapters 128A and 128C and greyhound races under said chapter 128C; (v)  
 10 a game of bingo conducted under chapter 271; (vi) charitable gaming conducted under said  
 11 chapter 271; and (vii) a fantasy contest conducted under section 11M½.

12           SECTION 2. Section 7 of chapter 4 of the General Laws is hereby amended by striking  
 13 out clause Tenth, as inserted by section 1, and inserting in place thereof the following clause:-



Tenth, "Illegal gaming", a banking or percentage game played with cards, dice, tiles, dominoes, or an electronic, electrical or mechanical device or machine for money, property, checks, credit or any representative of value, but excluding: (i) a lottery game conducted by the state lottery commission under sections 24, 24A and 27 of chapter 10; (ii) a game conducted under chapter 23K; (iii) sports wagering conducted under chapter 23N; (iv) pari-mutuel wagering on horse races under chapters 128A and 128C; (v) a game of bingo conducted under chapter 271; and (vi) charitable gaming conducted under said chapter 271.

SECTION 3. Chapter 12 of the General Laws is hereby amended by inserting after section 11M the following section:-

Section 11M½. Notwithstanding sections 24, 24A and 27 of chapter 10, chapter 271 or any other general or special law to the contrary, a person or entity that offers fantasy contests for a cash prize to members of the public may offer a fantasy contest to residents of the commonwealth pursuant to and in accordance with regulations promulgated by the attorney general; provided further, for the purposes of section 7 of chapter 4, a fantasy contest shall not be considered illegal gaming. "Fantasy contest" includes any fantasy or simulated game or contest, including, but not limited to, any fantasy or simulated game or contest based on professional sports events in which: (i) the value of all prizes and awards offered to winning participants are established and made known to the participants in advance of the contest; (ii) all winning outcomes reflect the relative knowledge and skill of the participants and shall be determined predominantly by accumulated statistical results of the performance of individuals, including athletes in the case of sports events; and (iii) no winning outcome is based on the score, point spread, or any performance or performances of any single actual team or combination of such

36 teams or solely on any single performance of an individual athlete or player in any single actual  
37 event.

38 SECTION 4. Section 4 of chapter 23K of the General Laws, as appearing in the 2020  
39 Official Edition, is hereby amended by inserting the following subsection:-

40 (42) regulate and enforce chapter 23N relating to sports wagering.

41 SECTION 5. The General Laws are hereby amended by inserting after chapter 23M the  
42 following chapter:-

43 CHAPTER 23N

44 AUTHORIZATION AND REGULATION OF SPORTS WAGERING

45 Section 1. This chapter shall be known and may be cited as the "Massachusetts Sports  
46 Wagering Act".

47 Section 2. Notwithstanding any general or special law to the contrary, the operation of  
48 sports wagering and ancillary activities shall be lawful when conducted in accordance with this  
49 chapter and the rules and regulations of the commission.

50 Section 3. As used in this chapter the following words shall, unless the context clearly  
51 requires otherwise, have the following meanings:

52 "Adjusted gross fantasy wagering receipts", the total gross receipts from fantasy contests  
53 as defined in section 11M1/2 of chapter 12, less only the total of all cash prizes paid to  
54 participants in the fantasy contests; provided, however, that the total of all cash prizes paid to

55 participants shall not include the cash equivalent of any merchandise or thing of value awarded  
56 as a prize.

57 “Adjusted gross sports wagering receipts”, the total gross receipts from sports wagering  
58 less the sum of: (i) the total of all winnings paid to participants; and (ii) all excise taxes paid  
59 pursuant to federal law; provided, however, that the total of all winnings paid to participants  
60 shall not include the cash equivalent of any merchandise or thing of value awarded as a prize.

61 “Affiliate”, a person who directly or indirectly controls, or is controlled by, or is under  
62 common control with, a specified person.

63 “Applicant”, a person who has applied for a license to engage in activity regulated under  
64 this chapter.

65 “Breaks”, the odd cents over any multiple of 10 cents of winnings per \$1 wagered.

66 “Category 1 license”, a license issued by the commission that permits the operation of  
67 sports wagering in person at a gaming establishment, as defined in section 2 of chapter 23K, and  
68 through not more than 2 individually-branded mobile applications or other digital platforms  
69 approved by the commission; provided, that the mobile applications or other digital platforms  
70 shall be qualified for and issued a category 3 license.

71 “Category 2 license”, a license issued by the commission that permits the operation of  
72 sports wagering in-person on the premises where either: (1) live horse racing is conducted in  
73 accordance with chapter 128A or (2) the licensee is authorized by law to conduct simulcast  
74 wagering on horse or greyhound racing, and through not more than 1 individually branded  
75 mobile application or other digital platform approved by the commission; provided, that the

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

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

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

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

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

96 “Commission”, the Massachusetts gaming commission established in section 3 of chapter  
97 23K.



98           “Electronic sports”, a single or multiplayer video game played competitively for  
99   spectators.

100          “Governmental authority”, any governmental unit of a national, state or local body  
101   exercising governmental functions, except the United States government.

102          “License”, any license applied for or issued by the commission under this chapter,  
103   including, but not limited to: (i) an operator license or (ii) an occupational license.

104          “National criminal history background check”, a criminal history background check  
105   conducted using the criminal history record system maintained by the Federal Bureau of  
106   Investigation and based on fingerprint identification or any other method of positive  
107   identification.

108          “Occupational license”, a license required to be held by an employee of an operator when  
109   the employee performs duties directly related to the operation of sports wagering in the  
110   commonwealth in a supervisory role.

111          “Official league data”, statistics, results, outcomes and other data relating to a sporting  
112   event that is obtained pursuant to an agreement with the relevant sports governing body, or with  
113   an entity expressly authorized by the relevant sports governing body to provide such data to  
114   sports wagering operators, which authorizes the use of such data for determining the outcome of  
115   tier 2 sports wagers on such sporting event.

116          “Operator” or “sports wagering operator”, any entity permitted under this chapter to offer  
117   sports wagering to persons in the commonwealth through a category 1 license, category 2 license  
118   or category 3 license.

119           “Operator license”, a category 1 license, category 2 license or category 3 license to  
120   operate sports wagering.

121           “Person”, an individual, corporation, association, operation, firm, partnership, trust or  
122   other form of business association.

123           “Personal biometric data”, any information about an athlete that is derived from that  
124   athlete’s physical or physiological characteristics, including, but not limited to, deoxyribonucleic  
125   acid, heart rate, blood pressure, perspiration rate, internal or external body temperature, hormone  
126   levels, glucose levels, hydration levels, vitamin levels, bone density, muscle density or sleep  
127   patterns.

128           “Players association”, a professional sports association recognized by a sports governing  
129   body that represents professional athletes.

130           “Professional sport or athletic event”, an event at which 2 or more persons participate in a  
131   sport or athletic event and receive compensation in excess of actual expenses for their  
132   participation in such event.

133           “Promotional gaming credit”, a sports wagering credit or other item issued by an operator  
134   to a patron to enable the placement of a sports wager.

135           “Qualified gaming entity”, an entity that: (i) holds a gaming license as defined in section  
136   2 of chapter 23K; (ii) (a) is licensed by the commission in accordance with chapter 128A to  
137   conduct a live horse racing meeting, (b) is a running horse racing licensee that conducted  
138   simulcast wagering as of December 31, 2020 as authorized by law or (c) is a greyhound meeting  
139   licensee that conducted simulcast wagering as of December 31, 2020 as authorized by law; or

(iii) offers an interactive sports wagering platform through a mobile application or other digital platform.

“Sports event” or “sporting event”, a professional sport or athletic event, collegiate sport or athletic event, a collegiate tournament, motor race event, electronic sports event or other event authorized by the commission under this chapter; provided, however, that “sporting event” shall not include: (i) high school and youth sports or athletic events; or (ii) a collegiate sport or athletic event involving 1 or more collegiate teams from the commonwealth unless they are involved in a collegiate tournament.

“Sports governing body”, an organization that is headquartered in the United States and prescribes final rules and enforces codes of conduct with respect to a sporting event and participants therein; provided, however, that, notwithstanding the foregoing, the commission shall adopt regulations to determine the governing body for electronic sports for the purposes of this chapter.

“Sports wager”, a wager on a sporting event or a portion of a sporting event.

“Sports wagering”, the business of accepting wagers on sporting events or portions of sporting events, other events, the individual performance statistics of athletes in a sporting event or other events or a combination of any of the same by any system or method of wagering approved by the commission including, but not limited to, mobile applications and other digital platforms; provided, that sports wagering shall not include the acceptance of any wager: (i) with an outcome dependent on the performance of an individual athlete in any collegiate sport or athletic event, including, but not limited, to in-game or in-play wagers; (ii) on a high school or youth sporting event; (iii) on injuries, penalties, player discipline or replay review; and provided

further, that sports wagering shall not include fantasy contests as defined in section 11M½ of chapter 12. Sports wagering shall include, but shall not be limited to, single-game bets, teaser bets, parlays, over-under, moneyline, pools, exchange wagering, in-game wagering, in-play bets, proposition bets and straight bets.

“Sports wagering account”, a financial record established by an operator for a patron in which the patron may deposit by any method approved by the commission and withdraw funds for sports wagering and other authorized purchases and to which the operator may credit winnings or other amounts due to or authorized by that patron; provided, however, that such account may be established and funded by the patron electronically through an approved mobile application or digital platform; and provided further, that a deposit into a sports wagering account shall not be made using a credit card.

“Tier 1 sports wager”, a sports wager that is determined solely by the final score or outcome of a sporting event and is placed before the sporting event has begun.

“Tier 2 sports wager”, a sports wager that is not a tier 1 sports wager.

“Wager”, a sum of money or thing of value risked on an uncertain occurrence.

Section 4. (a) The commission shall regulate the conduct of sports wagering under this chapter.

(b) The commission shall promulgate rules and regulations necessary for the implementation, administration and enforcement of this chapter. The commission may promulgate emergency rules and regulations in accordance with applicable procedures for the promulgation of emergency rules and regulations.



(c) The commission shall promulgate regulations to prohibit: (i) the purchase or other use of any personal biometric data of an athlete for sports wagering or aiding a patron in placing a wager with sports wagering operators; and (ii) the following advertising, marketing and branding activities: (A) advertisements, marketing and branding in such a manner that it is deceptive, false, misleading, or untrue, or tends to deceive or create a misleading impression whether directly, or by ambiguity or omission; (B) use of unsolicited pop-up advertisements on the internet or by text message directed to an individual on the list of self-excluded persons established pursuant to paragraph (2) of subsection (e) of section 13; (C) any form of advertising, marketing or branding that the commission deems unacceptable or disruptive to the viewer experience at a sports event; (D) advertising, marketing and branding deemed to appeal directly to a person younger than 21 years old; and (E) advertising on any billboards, or any other public signage, which fails to comply with any federal, state or local law.

(d)(1) The commission may promulgate rules and regulations including, but not limited to, those governing the acceptance of wagers on a sports event, other event or a series of sports events; types of wagering receipts which may be used; methods of issuing receipts; methods of accounting to be used by operators; types of records to be kept; types of systems for wagering; and any other sports wagering-related issues.

(2) The commission shall promulgate rules and regulations regarding protections for patrons placing wagers and the promotion of social responsibility and responsible gaming that shall include, but not be limited to, a requirement that an operator: (i) implement responsible gaming programs that include comprehensive employee trainings on responding to circumstances in which individuals present signs of gambling addiction; (ii) assess, prevent and address problem gaming by an operator's consumers; (iii) permit a consumer to permanently

close an account registered to the consumer on any or all platforms owned or operated by the operator at any time and for any reason; (iv) offer consumers access to their account history and account details; (v) refrain from making claims as to a consumer's winnings or money earned that is not net of wagers placed; (vi) allow a consumer to withdraw funds without further solicitation or promotion in the manner in which the funds were deposited; (vii) annually submit a problem gaming plan for approval by the commission, in consultation with the department of public health, that includes the objectives of and timetables for implementing the plan, identification of the persons responsible for implementing and maintaining the plan, procedures for identifying consumers with suspected or known problem gaming behavior, procedures for providing information to consumers concerning problem gaming identification and resources, procedures to prevent gaming by minors and self-excluded persons and any other information the commission may require; and (viii) shall not offer or provide a line of credit to any consumer.

(3) The commission shall promulgate regulations that require mobile applications and digital platforms authorized for sports wagering to prominently display upon each entry into the application or platform the telephone number and website for a problem gambling hotline overseen by the department of public health.

(e) The commission shall: (i) determine the eligibility of a person to hold or continue to hold a license; (ii) issue all licenses; and (iii) maintain a record of all licenses issued under this chapter.

(f) The commission shall levy and collect all fees, surcharges, civil penalties and taxes on adjusted gross sports wagering receipts imposed by this chapter, except as otherwise provided under this chapter.

228 (g) The commission shall have the authority to enforce this chapter and any rule or  
229 regulation of the commission and may request that the attorney general bring an action to enforce  
230 this chapter or any rule or regulation of the commission by civil action or petition for injunctive  
231 relief.

232 (h) The commission may hold hearings, administer oaths and issue subpoenas or  
233 subpoenas duces tecum in order to enforce this chapter and the rules and regulations of the  
234 commission.

235 (i) The commission may exercise any other powers necessary to effectuate this chapter  
236 and the rules and regulations of the commission.

237 Section 5. (a) A person shall not engage in any activity in connection with sports  
238 wagering in the commonwealth unless all required licenses have been obtained in accordance  
239 with this chapter and the rules and regulations of the commission.

240 (b) The commission shall not grant an operator license until it determines that each  
241 person who has control of the applicant meets all qualifications for licensure. For the purposes of  
242 this chapter, the following shall be considered to have control of an applicant: (i) a person who  
243 owns 10 per cent or more of a corporate applicant and who has the ability to control the activities  
244 of the corporate applicant; provided, however, that a bank or other licensed lending institution  
245 that holds a mortgage or other lien acquired in the ordinary course of business shall not be  
246 considered to have control of an applicant; (ii) a person who holds a beneficial or proprietary  
247 interest of 10 per cent or more of a non-corporate applicant's business operation and who has the  
248 ability to control the activities of the non-corporate applicant; and (iii) at the commission's

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

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

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

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

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

(b)(1) The commission shall issue a category 1 license to any holder of a gaming license, as defined in section 2 of chapter 23K, that meets the requirements of this chapter and the rules



271 and regulations of the commission; provided, however, that any holder of a category 1 license  
272 shall not be issued a category 2 license.

273 (2) The commission shall issue a category 2 license to: (i) any holder of a license to  
274 conduct a live horse racing meeting in accordance with chapter 128A; (ii) a running horse racing  
275 licensee that conducted simulcast wagering as of December 31, 2020 as authorized by law; or  
276 (iii) a greyhound meeting licensee that conducted simulcast wagering as of December 31, 2020  
277 as authorized by law; that meets the requirements of this chapter and the rules and regulations of  
278 the commission; provided, however, that any holder of a category 2 license shall not be issued a  
279 category 1 license; and provided further, that no more than 1 category 2 license shall be issued to  
280 any 1 person, entity, or affiliate or close associate of such person or entity.

281 (3) The commission may issue a category 3 license to any entity that offers sports  
282 wagering through a mobile application or other digital platform that meets the requirements of  
283 this chapter and the rules and regulations of the commission; provided, however, the commission  
284 shall issue no more than 7 category 3 licenses that are not connected to a category 1 or category  
285 2 license.

286 (4) A category 1 or category 2 licensee may enter into agreements related to mobile or  
287 digital sports wagering with a category 3 licensee pursuant to the approval of the commission.  
288 Nothing in this chapter shall require a category 3 licensee to partner with or have any  
289 commercial relationship with a category 1 or 2 licensee.

290 (c)(1) A qualified gaming entity may submit to the commission a request for a temporary  
291 license for the immediate commencement of sports wagering operations. Such request shall  
292 include an initial licensing fee of \$1,000,000 payable to the commission.

293 (2) Upon receiving a request for a temporary license, the executive director of the  
294 commission shall review the request. If the executive director determines that the entity  
295 requesting the temporary license is a qualified gaming entity and has paid the sports wagering  
296 initial licensing fee pursuant to paragraph (1), the commission shall authorize the qualified  
297 gaming entity to conduct sports wagering for a period of 1 year under a temporary license or  
298 until a final determination on its operator license application is made.

299 (3) All sports wagering conducted under authority of a temporary license shall comply  
300 with the house rules adopted under section 10.

301 (d) Prior to issuing an operator license, the commission shall commence an investigation  
302 into the suitability of the applicant. The commission may use information obtained from the  
303 applicant pursuant to chapter 23K, chapter 128A, chapter 128C, or information from other  
304 jurisdictions where the applicant is authorized to conduct sports wagering. In evaluating the  
305 suitability of the applicant, the commission shall consider the overall reputation of the applicant  
306 including, but not limited to: (i) the integrity, honesty, good character and reputation of the  
307 applicant; (ii) the financial stability, integrity and background of the applicant; (iii) the business  
308 practices and the business ability of the applicant to establish and maintain a successful sports  
309 wagering operation; (iv) whether the applicant has a history of compliance with gaming or sports  
310 wagering licensing requirements in other jurisdictions; (v) whether the applicant, at the time of  
311 application, is a defendant in litigation involving its business practices; and (vi) the suitability of  
312 all parties in interest to the license, including affiliates and close associates, and the financial  
313 resources of the applicant.

314 (c) The commission may deny an application, if the commission determines during its  
315 investigation that an applicant has failed to: (i) establish the applicant's integrity or the integrity  
316 of any affiliate, close associate, financial resources or any person required to be qualified by the  
317 commission; (ii) demonstrate responsible business practices in any jurisdiction; or (iii) overcome  
318 any other reason, as determined by the commission, as to why it would be injurious to the  
319 interests of the commonwealth to award the applicant an operator license.

320 (f) Upon application by a qualified gaming entity that is not denied pursuant to subsection  
321 (e) and payment of a \$5,000,000 licensing fee, the commission shall grant an operator license to  
322 a qualified gaming entity that provides the right to conduct sports wagering; provided, that the  
323 qualified gaming entity shall meet the requirements for licensure under this chapter and the rules  
324 and regulations of the commission. Such license shall be issued for a 5-year period, and may be  
325 renewed for 5-year periods upon payment of a \$5,000,000 renewal fee; provided, that the  
326 operator shall continue to meet all requirements under this chapter and the rules and regulations  
327 of the commission. The commission shall credit any initial licensing fee paid pursuant to  
328 paragraph (1) of subsection (c) to a successful applicant for an operator license against the  
329 licensing fee due under this subsection.

330 (g) An operator shall submit to the commission such documentation or information as the  
331 commission may require to demonstrate that the operator continues to meet the requirements of  
332 this chapter and the rules and regulations of the commission. An operator shall submit required  
333 documentation or information no later than 5 years after issuance of its operator license and  
334 every 5 years thereafter, or within lesser periods based on circumstances specified by the  
335 commission.

(h) No licensee shall transfer an operator license, or any direct or indirect interest in the license, without the majority approval of the commission. A person seeking to acquire such license through a transfer shall qualify and otherwise be determined by the commission to be eligible for licensure under this chapter. The commission may reject a proposed license transfer or a proposed transfer of interest in the license to an unsuitable person and may reject a proposed transfer that, in the determination of the commission, would be injurious to the interests of the commonwealth. The commission may promulgate regulations governing this process which may include assessment of a fee to reflect the cost associated with reviewing the proposed transfer.

(i) Applications for operator licenses shall be public records under section 10 of chapter 66; provided however, that trade secrets, competitively-sensitive or other proprietary information provided in the course of an application for an operator license under this chapter, the disclosure of which would place the applicant at a competitive disadvantage, may be withheld from disclosure under said section 10 of said chapter 66.

Section 7. (a) An applicant for an operator license shall pay to the commission a nonrefundable processing fee of \$200,000 for the costs associated with the processing of the application and investigation of the applicant; provided, however, that if the costs of the investigation exceed the initial application fee, the applicant shall pay the additional amount to the commission not more than 30 days after notification of insufficient fees or the application shall be rejected.

(b) All fees in this section shall be deposited into the Sports Wagering Control Fund established in section 14.



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.

(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)

**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>

<sup>[1]</sup> *Editor's Note: Former Subsection C(3)(a), regarding nonconforming residential dwellings, was repealed 9-3-2019 by Ord. No. 1625.*
  - (b) Any church, public or private school or child-care facility; or place where minors frequent (e.g., a library, ball field, park, sports or family recreation facility, religious facility or the like);
  - (c) Any other marijuana establishment;
  - (d) Any drug or alcohol rehabilitation facility; or
  - (e) Any correctional facility, halfway house or similar facility.
- (4) No smoking, burning or consumption of any product containing marijuana or marijuana-related products shall be permitted on the premises of a marijuana establishment.

- (5) No marijuana establishment shall be located inside a building containing residential units, including transient housing such as motels and dormitories, or inside a movable or mobile structure such as a van or truck.
- (6) Marijuana establishments shall provide the Gardner Police and Fire Departments, Building Commissioner, Board of Health, and the special permit granting authority with the names, phone numbers and e-mail addresses of all management staff and key holders to whom one can provide notice if there are operating problems associated with the establishment.
- (7) The City shall have access at any time to inspect the premises of the marijuana establishment to ensure compliance with local and state regulations, excluding client health information protected under the Health Insurance Portability and Accountability Act of 1996.
- (8) Pursuant to MGL c. 94G, § 3(a)(2)(i) to (iii), the maximum number of licensed marijuana establishments in the City shall be consistent with the following provisions:
  - (a) Shall not prohibit one or more types of marijuana establishment;
  - (b) The number of marijuana retail establishments shall not exceed 20% of liquor licenses issued for retail sale of alcohol not consumed on the premises in the City of Gardner, said number to be rounded up to the next whole number;
  - (c) The number of marijuana establishments shall not prevent the conversion of a medical marijuana treatment center licensed or registered no later than July 1, 2017, to a marijuana establishment engaged in the same type of activity.

[Amended 9-3-2019 by Ord. No. 1625]

**D. Special permit requirements.**

- (1) No special permit for any marijuana establishment shall be issued without site plan approval first having been obtained from the Planning Board, § 675-1010, Site plan review, of this chapter. In addition to the standards set forth within, the site plan must meet all dimensional, parking, landscaping, and signage requirements within this chapter.
- (2) A marijuana establishment shall only be allowed by special permit from the Gardner Planning Board in accordance with MGL c. 40A, § 9, subject to the following statements, regulations, requirements, conditions and limitations.
- (3) A special permit for a marijuana establishment shall be limited to one or more of the following uses that shall be specified by the special permit granting authority:
  - (a) Marijuana cultivator;
  - (b) Marijuana product manufacturer;
  - (c) Marijuana retailer;
  - (d) Marijuana testing facility;
  - (e) Marijuana transportation or distribution facility; and
  - (f) Any other type of licensed marijuana-related business.
- (4) In addition to the application requirements set forth above, a special permit application for a marijuana establishment shall include the following:
  - (a) The name and address of each owner of the establishment;
  - (b) Copies of all required licenses and permits issued to the applicant by the Commonwealth of Massachusetts Cannabis Control Commission and any of its other agencies for the establishment;
  - (c) Evidence of the applicant's right to use the site of the establishment for the establishment, such as a purchase and sale agreement, deed, owner's authorization, or lease;
  - (d) Proposed security measures for the marijuana establishment, including lighting, fencing, gates and alarms, etc., to ensure the safety of persons and to protect the premises from theft. A letter

from the City of Gardner Police Chief, or designee, acknowledging review and approval of the marijuana establishment security plan is required. To the extent allowed by law, all such documents shall be confidential.

- (5) Mandatory findings. The special permit granting authority shall not issue a special permit for a marijuana establishment unless it finds that:
  - (a) The establishment is designed to minimize any adverse impacts on abutters and other parties in interest, as defined in MGL c. 40A, § 11.
  - (b) The establishment demonstrates that it will meet all the permitting requirements of all applicable agencies within the Commonwealth of Massachusetts and will comply with all applicable state laws and regulations; and
  - (c) The applicant has satisfied all the conditions and requirements set forth herein.
- (6) A special permit granted under this section shall have a term limited to the duration of the applicant's ownership or leasehold of the premises as a marijuana establishment. A special permit may be transferred only with the approval of the special permit granting authority in the form of an amendment to the special permit with all information required in this § 675-1070.

E. Abandonment or discontinuance of use.

- (1) A special permit shall lapse if not exercised within one year of issuance.
- (2) A marijuana establishment shall be required to remove all personal property, including but not limited to all material, plants, equipment, accessories, paraphernalia, and any other property no later than the earliest of:
  - (a) Prior to surrendering its state-issued licenses or permits; or
  - (b) Within six months of ceasing operations.



# CITY OF GARDNER

## DEPARTMENT OF COMMUNITY DEVELOPMENT AND PLANNING

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

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

11112



December 14, 2023

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

RECEIVED  
2023 DEC 14 PM 3:57  
CITY CLERK'S OFFICE  
GARDNER, MA

Subject: An Ordinance to Amend the Code of the City of Gardner, Chapter 675 thereof, entitled "Zoning," to Add "Sports Betting" to the Zoning Table of Uses. (Submitted by Councilor Dana Heath)

Dear President Kazinskas:

At the Planning Board meeting on Tuesday, December 12, 2023, the Planning Board voted unanimously (5-0) to recommend the City Council approve and adopt the requested Zoning Amendment as referenced above. In addition, the Planning Board recommends to amend the Table of Uses by replacing Permitted by right (P) with Special Permit Planning Board (SPPB) in each of the relevant columns. The Planning Board also voted to hold Joint Public Hearing with the City Council.

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

Sincerely,

Mark M. Schafron  
Chairman

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

**AN ORDINANCE TO AMEND THE CODE OF THE CITY OF GARDNER, CHAPTER 675 THEREOF, ENTITLED "ZONING," TO ADD "SPORTS BETTING" TO THE ZONING TABLE OF USES.**

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

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

Sports Betting Facility – An entity licensed by the Massachusetts Gaming Commission under the provisions of Chapter 173 of the Acts of 2022 of the General Laws to conduct sporting and wagering events.

**SECTION 2:** That Section 54 of Attachment 1 of Chapter 675 of the Code of the City of Gardner, entitled "Zoning- Table of Uses," be adding the term "Sports Betting Facility" to the description of use as follows:

54. Indoor amusement, fitness, or recreational place or place of assembly, provided that the building is so insulated and maintained as to confine noise to the premises and is located not less than 100 feet from a residential district, or a sports betting facility.

**SECTION 2:** That Section 56 of Attachment 1 of Chapter 675 of the Code of the City of Gardner, entitled "Zoning- Table of Uses," be adding the term "Sports Betting Facility" to the description of use as follows:

56. Public or commercial outdoor amusement or recreation use, or a sports betting facility, but not including outdoor drive-in movie theater.

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

# CITY OF GARDNER

DEPARTMENT OF COMMUNITY DEVELOPMENT AND PLANNING  
March 30, 2023



Elizabeth Kazinskas, Council President  
C/o Titi Sirphan, City Clerk  
95 Pleasant Street, Room 121  
Gardner, MA 01440

RE: **Petition 10892** – An Ordinance to Amend the Code of the City of Gardner, Chapter 675 thereof, entitled “Zoning,” to add “Sports Betting” to the Zoning Table of Uses.

Dear President Kazinskas:

At its meeting on March 22, 2023, the Planning Board voted unanimously, 5-0, to recommend approving the proposed zoning amendment referenced above based on the information provided to them by the petitioner.

If the proposed amendment is approved, the Planning Board recommends the rewording of number 54 to read:

*Indoor amusement, fitness, recreational place, place of assembly, or a sports betting facility, provided that the building is so insulated and maintained as to confine noise to the premises and is located not less than 100 feet from a residential district.*

In addition, due to the potential significant scope and complexity of such a project if implemented under this proposed zoning amendment, the Board recommends changing the use table for number 54 from permitted by right (P) to Special Permit Planning Board (SPPB) for Commercial 1 and Commercial 2 zones; and number 56 from permitted by right (P) to Special Permit Planning Board (SPPB) for Commercial 2 and Industrial 1 zones.

The Planning Board looks forward to joining the City Council at the joint public hearing scheduled on Monday, April 3, 2023, at 6:30 p.m. Please contact Trevor Beauregard if you have any questions or need additional information.

Sincerely,

Mark M. Schafron, Planning Board Chairman

C: Mayor Michael J. Nicholson  
Trevor M. Beauregard, Director  
Richard Hanks, Interim Building Commissioner

City Hall Annex, 115 Pleasant Street, Room 201, Gardner, Massachusetts 01440  
Telephone: (978) 630-4011 ♦ Facsimile: (978) 632-1905 ♦ CDBG (978) 632-3800



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

RECEIVED  
2023 MAR 29 PM 1:21  
CITY CLERK'S OFFICE  
GARDNER, MA

March 29, 2023

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

RE: Item #: 10892 - Planning Board Follow Up

Dear Madam President and Councilors,

At the Planning Board Meeting of March 22, 2023, the Planning Board recommended changing the proposal from a permitted use ("P") in the table to a use requiring a special permit ("SP").

The Administration is more than acceptable to this proposal and would be amenable to it being made.

Respectfully Submitted,

Michael J. Nicholson  
Mayor, City of Gardner





# City of Gardner - Executive Department

Mayor Michael J. Nicholson

RECEIVED

2023 MAR 29 PM 1:21

CITY CLERK'S OFFICE  
GARDNER, MA

March 15, 2023

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

Mr. Mark Schafron, Chair  
And Planning Board Members  
Gardner City Hall, Manca Annex, Rm 201  
115 Pleasant St  
Gardner, MA 01440

RE: Joint Public Hearing Written Testimony – Item #10892: An Ordinance to Amend the Code of the City of Gardner, Chapter 675, thereof entitled “Zoning,” to add “Sports Betting” to the Zoning Table of Uses

Dear Madam President and Councilors,

I am writing in favor of the Administration’s proposed Zoning Amendment to add the term “Sports Betting,” to line items 54 and 56 the Zoning Table of Uses.

In May of 2018, the United States Supreme Court struck down the federal Professional and Amateur Sports Protection Act (“PASPA”)<sup>1</sup>, also known as the Bradley Act, as unconstitutional in their ruling of *Murphy v. National Collegiate Athletic Association*<sup>2</sup>. This federal statute had effectively outlawed sports betting nationwide, except for a few excluded states. The Supreme Court had ruled this act as unconstitutional, thus paving the way for several states to legalize sports betting.

In August of 2023, former Governor Charlie Baker signed House Bill 5164 into law, legalizing online, retail, and kiosk sports betting in the Commonwealth for residents ages 21 and older. Retail sports betting went live on January 31, 2023, and online sports betting launched on March 10, 2023. Kiosk sports betting will go live later this year.

There are currently three (3) approved retail sites and ten (10) approved mobile betting applications. When kiosk sports betting goes live later this year, they will be allowed across the Commonwealth in locations that follow a specific procedure as outlined by the new law.

The Supreme Court of the United States has ruled on several occasions, that under the First Amendment of the Constitution, a municipality cannot outright ban a particular industry or business from opening within its borders, but can limit where these businesses are located.

Since the City cannot bar this type of business from opening in Gardner, and since this type of activity is not currently listed in the City’s Zoning Table of Uses, it leaves the City open to

<sup>1</sup> 28 U.S.C. ch.178 §3701 et seq.

<sup>2</sup> *Murphy v. NCAA*, 138 S.Ct. 1461 (2018).

liability of not being able to control whether these types of facility are located in largely residential neighborhoods or in areas in the City that may not be suited for this type of activity.

As such, it is the request of my Administration that this use be added to the City Code's Zoning table of uses under Line 54: Indoor Amusement, and Line 56: Outdoor Amusement, as these items fit the closest to the realm of sports betting.

This amendment to the Zoning Table of Uses, does not waive the other requirements these locations would have to go through should any sports betting facility open in Gardner in the future.

Per the requirements of the sports betting enabling legislation, any sports betting facility would have to enter into a Host Community Agreement ("HCA") similar to cannabis facilities in the Commonwealth. The Expanded Gaming Act requires that all applicants for sports betting licenses must first submit to the Massachusetts Gaming commission:

"a signed agreement between the host community and the applicant setting forth the conditions to have a gaming establishment located within the host community; provided, however, that the agreement shall include a community impact fee for the host community and all stipulations of responsibilities between the host community and the applicant, including stipulations of known impacts from the development and operation of a gaming establishment."

Additionally, after the HCA is approved by the City Council and signed by the Mayor, the City Council must then annually vote to allow the proposed establishment to operate a sports betting facility within the City at its location.

Lastly, before any facility should open, they must also go through the regular requirements for site plan approval and Development Review Committee vetting, both listed in Chapter §675-1010 of the City Code.

As such, this action to add this type of use to the Zoning Ordinances still requires this type of industry to be heavily regulated and vetted by the City by both branches of its government and its boards and commissions.

This action is simply being put forward to protect the City in the long run and pre-plan should one of these facilities come to Gardner rather than waiting and reacting if this should ever come up.

Respectfully Submitted,



Michael J. Nicholson  
Mayor, City of Gardner





**CITY of GARDNER**  
**Office of the City Clerk**  
95 Pleasant Street, Room 121  
Gardner, MA 01440  
\*Tel. 978-630-4058 \*Fax: 978-630-2589

CITY OF GARDNER  
NOTICE OF JOINT PUBLIC HEARING, continued

Pursuant to G.L. 40A, § 5, notice is hereby given that the City Council and Planning Board will conduct a **Joint Public Hearing** on **Monday, April 3, 2023 at 6:30 P.M.** in the City Council Chamber, Room 219, City Hall, 95 Pleasant Street, Gardner, to consider amending Chapter 675, the Zoning Code of the City of Gardner. The proposed Amendment involves changing items:

- **10891** – An Ordinance to Amend the Code of the City of Gardner, Chapter 675 Thereof, entitled “Zoning,” to Change the Classification of Certain Parcels of Land Along Route 140.
- **10892** – An Ordinance to Amend the Code of the City of Gardner, Chapter 675 thereof, entitled “Zoning,” to add “Sports Betting” to the Zoning Table of Uses.
- **10893** – An Ordinance to Amend the Code of the City of Gardner, Chapter 675 thereof, entitled “Zoning,” to Amend Section 1070 thereof, entitled, “Marijuana Establishments” to increase the quota allowed by the Code of the City of Gardner

Information regarding this amendment is available for viewing in the City Clerk’s Office, the Department of Community Development and Planning (DCDP), or on the City’s webpage – [www.gardner-ma.gov](http://www.gardner-ma.gov).

All persons interested in this matter and desire to offer testimony are invited to attend the hearing.

*Titi Siriphan*  
Titi Siriphan  
City Clerk



**CITY of GARDNER**  
**Office of the City Clerk**  
95 Pleasant Street, Room 121  
Gardner, MA 01440  
\*Tel. 978-630-4058 \*Fax: 978-630-2589

CITY OF GARDNER  
NOTICE OF JOINT PUBLIC HEARING

Pursuant to G.L. 40A, § 5, notice is hereby given that the City Council and Planning Board will conduct a **Joint Public Hearing** on **Monday, March 20, 2023 at 6:30 P.M.** in the City Council Chamber, Room 219, City Hall, 95 Pleasant Street, Gardner, to consider amending Chapter 675, the Zoning Code of the City of Gardner. The proposed Amendment involves changing items:

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All persons interested in this matter and desire to offer testimony are invited to attend the hearing.

Titi Siriphan  
City Clerk



**City of Gardner - *Executive Department***

**Mayor Michael J. Nicholson**

February 3, 2023

Hon. Elizabeth J. Kazinskas, Council President

And City Councilors

Gardner City Hall, Rm 121

95 Pleasant St

Gardner, MA 01440

RE: Zoning Ordinance Proposal- Sports Betting Facilities

Dear Madam President and Councilors,

As you are likely aware, on August 10, 2022, former Governor Charlie Baker signed Chapter 173 of the Acts of 2022 into law, legalizing sports betting in the Commonwealth.

This new addition to the General Laws, some parts of which have already taken effect while others will within the next few months, allows for the opening of new facilities across the Commonwealth where individuals can gamble and place wagers on sporting games.

Currently, these types of facilities are not governed by our zoning ordinance, as they were not allowed prior to the passage of this act. The attached ordinance proposal is being presented to help protect the City so that we can regulate where facilities like this can go and make sure that in the event that a facility like this looks to open in Gardner, it locates in a location that fits this use rather than in a largely residential area that could cause disruptions to a neighborhood.

I believe it is in the best interest of the City to be proactive in this matter in order to make sure the City has the tools in place before any situations may arise.

Respectfully Submitted,

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

Michael J. Nicholson  
Mayor, City of Gardner

CC:

City Council Public Welfare Committee

Planning Board



## CITY OF GARDNER POLICE DEPARTMENT

200 Main Street  
Gardner, Massachusetts 01440  
Phone: (978) 632-5600  
Fax: (978) 632-9045



Eric P. McAvene  
Chief of Police

Nicholas P. Maroni  
Deputy Chief of Police

February 3, 2023

The Honorable Michael J. Nicholson, Mayor  
Gardner City Hall  
95 Pleasant Street  
Gardner, MA 01440

Re: Sports Betting Zoning Ordinance

Dear Mayor,

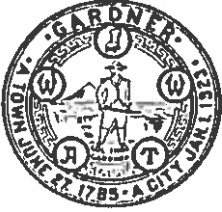
I have reviewed the proposed addition of the new Sports Betting Ordinance and do not see any issues from the police department. Any proposed facility should have a buffer between any residential zone and this ordinance reflects the new law.

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

Very truly yours,

A handwritten signature in black ink, appearing to read "CPA" followed by a stylized flourish.

Eric P. McAvene  
Chief of Police



**City of Gardner**  
**Department of Inspectional Services**  
**115 Pleasant Street, Room 101**  
**Gardner, MA 01440**  
Tel. (978) 630-4007 Fax: (978) 632-3313

---

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

---

## 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.

(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.

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

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

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

770 bond payable directly to the commonwealth in the amount of 125 per cent of the assessed  
771 penalty.

772 If, after judicial review, in a case where the escrow account requirement has been waived,  
773 and in cases where a bond has been posted in lieu of such requirement, the court affirms, in  
774 whole or in part, the assessment of a civil administrative penalty, the commission shall be paid  
775 the amount thereof together with interest at the rate provided in section 6C of chapter 231. If,  
776 after judicial review in a case where an interest-bearing escrow account has been established, the  
777 court affirms the assessment of such penalty, in whole or in part, the commission shall be paid  
778 the amount thereof together with the accumulated interest in the interest-bearing escrow account.  
779 If the court sets aside the assessment of a civil administrative penalty in a case where the amount  
780 of such penalty has been deposited in an interest-bearing escrow account, the operator on whom  
781 the civil administrative penalty was assessed shall be repaid the amount so set aside, together  
782 with the accumulated interest thereon.

783 (h) Each operator who fails to timely pay a civil administrative penalty and each operator  
784 who issues a bond under this section and fails to timely pay to the commission the amount  
785 required for the bond, shall be liable to the commonwealth for up to 3 times the amount of the  
786 civil administrative penalty, together with costs, plus interest accrued from the time the civil  
787 administrative penalty became final and attorneys' fees, including all costs and attorneys fees  
788 incurred directly in the collection of the penalty. The rate of interest shall be the rate provided in  
789 section 6C of chapter 231. The commission may require that the amount of a civil administrative  
790 penalty imposed under this section exceed any economic benefit realized by a person.

(i) The commission may impose conditions on, suspend or revoke an operator's license or reprimand or assess a fine on an operator upon a finding that the operator: (i) has committed a criminal or civil offense under this chapter or under any other law; (ii) is not in compliance with sports wagering regulations promulgated pursuant to this chapter; (iii) is under criminal investigation in another jurisdiction; (iv) has breached a condition of licensure; (v) has affiliates, close associates or employees that are not qualified or licensed under this chapter with whom the operator continues to conduct business or employ; (vi) is no longer capable of maintaining operations as a sports wagering operator; or (vii) whose business practice, upon a determination by the commission, is injurious to the policy objectives of this chapter.

Section 17. There shall be established and set up on the books of the commonwealth a Sports Wagering Fund which shall receive revenues collected pursuant to sections 6 and 14. The commission shall be the trustee of the fund and shall transfer monies from the fund as follows:

(1) 45 per cent to the General Fund;

(2) 17.5 per cent to the Workforce Investment Trust Fund established in section 18;

(3) 27.5 per cent to the Gaming Local Aid Fund established in section 63 of section 23K;

(4) 1 per cent to the Youth Development and Achievement Fund established in section 19; and

(5) 9 per cent to the Public Health Trust Fund established in section 58 of section 23K.

Section 18. (a) There is hereby established and set up on the books of the commonwealth a separate fund to be known as the Workforce Investment Trust Fund. There shall be credited to the fund any sports wagering revenue transferred from the Sports Wagering Fund pursuant to

section 16. Monies transferred to the fund shall be continuously expended, without regard for fiscal year, exclusively for carrying out the purposes of this section. Money remaining in the fund at the end of a fiscal year shall not revert to the General Fund.

(b) The fund shall be administered by the secretary of housing and economic development. Money in the fund shall be competitively granted to develop and strengthen workforce opportunities for low-income communities and vulnerable youth and young adults in the commonwealth, including providing opportunities and strategies to promote stable employment and wage growth.

(c) Eligible grant recipients shall provide opportunities which: (i) target at risk youth, including resources to empower youth to succeed in the workforce; (ii) provide job skills trainings, including programs offering trainings in multiple languages and areas for development, including education and hands on skills; (iii) promote adult literacy, including strategies to master reading and writing and providing digital formats to increase accessibility; and (iv) provide English language learning programs to promote access to the workforce. The secretary of housing and economic development shall establish criteria to evaluate applications for the grant program; provided, that the criteria shall include, but shall not be limited to, at risk populations; provided further, that preference shall be given to eligible grant recipients providing opportunities for individuals who meet at least 2 of the following: (i) is under 30 years of age; (ii) is a victim of violence; (iii) is over 18 years of age and does not have a high school diploma; (iv) has been convicted of a felony; (v) has been unemployed or has had a family income below 250 per cent of the federal poverty level for not less than 6 months; (vi) lives in a census tract where over 20 per cent of the populations fall below the federal poverty line; or (vii) is an immigrant, refugee or person of color.

835 (d) Annually, not later than October 1, the secretary of housing and economic  
836 development shall provide a report of the grants given and a breakdown of expenditures made by  
837 the fund. The report shall be posted on the website of the executive office of housing and  
838 economic development.

839 Section 18. There shall be established and set up on the books of the commonwealth a  
840 fund to be known as the Youth Development and Achievement Fund. The fund shall be credited  
841 any monies transferred from the Sports Wagering Fund pursuant to section 16 and all monies  
842 credited to or transferred to the fund from any other fund or source. Expenditures from the fund  
843 shall be subject to appropriation and shall be expended equally for the following purposes:

844 (1) For the purposes of providing financial assistance to students from the commonwealth  
845 enrolled in and pursuing a program of higher education in any approved public or independent  
846 college, university, school of nursing or any other approved institution furnishing a program of  
847 higher education;

848 (2) For the purposes of funding after-school and out-of-school activities, including, but  
849 not limited to, youth athletics and other activities that improve student health, literacy programs,  
850 English language learning programs, academic tutoring, art, theater and music programs and  
851 community service programs; and

852 (3) For the purposes of providing matching grants to elementary and secondary youth  
853 sports, organizations, clubs and other school groups to attend events including, but not limited to,  
854 academic events and programs, cultural events and award ceremonies both nationally and  
855 internationally.



Section 20. The commission shall conduct a study into the feasibility of allowing retail locations in the commonwealth to operate sports wagering kiosks. The study by the commission shall include, but not be limited to, an analysis of: (i) the economic impact of this chapter on retail establishments that serve alcoholic beverages for on premises consumption, such as restaurants and bars; (ii) which retail locations have the ability to operate a sports wagering kiosk; (iii) the economic impact to the commonwealth of authorizing retail locations to operate a sports wagering kiosk; (iv) the methods and availability of payouts of winnings by a sports wagering kiosks at retail locations; (v) the public health and safety impacts to the commonwealth of authorizing retail locations to operate a sports wagering kiosk; (vi) the potential effect of sports wagering kiosks at retail locations on problem gaming or gambling; (vii) the impact of sports wagering kiosks at retail locations on minors; (viii) the economic impact of authorizing this method of sports wagering on businesses owned by people of color; (ix) the public health and economic impact of this method of sports wagering as an alternative to the current black market, particularly in communities far from authorized in-person sports wagering; and (x) recommendations to ensure diversity, equity and inclusion are included in this method of sports wagering. As part of the study, the commission shall consult retailers, convenience stores, restaurants, women and minority owned businesses and small business owners. The commission shall report on its findings and submit any recommendations to the clerks of the house and senate, the house and senate committees on ways and means, the joint committee on consumer protection and professional licensure and the joint committee on economic development and emerging technologies no later than December 31, 2022.

Section 21. (a) The commission may impose on any person who violates this chapter a civil penalty not to exceed \$2,000 for each violation or \$5,000 for violations arising from the

879 same series of events. Such penalty shall be imposed on all persons and is not limited to persons  
880 licensed under this chapter.

881 (b) The commission may condition, suspend, reprimand, assess a fine or revoke an  
882 operator license upon a finding that a licensee: (i) has committed a criminal or civil offense  
883 under this chapter or under any other laws of the commonwealth; (ii) is not in compliance with  
884 sports wagering regulations; (iii) is under criminal investigation in another jurisdiction; (iv) has  
885 breached a condition of licensure; (v) has affiliates, close associates or employees that are not  
886 qualified or licensed under this chapter with whom the licensee continues to conduct business or  
887 employ; (vi) is no longer capable of maintaining operations as a sports wagering operator or data  
888 supplier; or (vii) whose business practice, upon a determination by the commission,  
889 is injurious to the policy objectives of this chapter.

890 Section 21. (a) Whoever, other than an operator under this chapter, engages in accepting,  
891 facilitating or operating a sports wagering operation shall be punished by imprisonment in the  
892 house of correction for not more than 90 days or by a fine not to exceed \$10,000, or both; and for  
893 a second offense, by imprisonment in the house of correction for not more than 6 months or by a  
894 fine of not more than \$50,000, or both; and in the case of a third or subsequent violation by  
895 imprisonment in the state prison for not less than 1 but not more than 5 years or by a fine of not  
896 less than \$25,000 and not more than \$100,000, or both.

897 Section 22. An operator shall not discharge, demote, suspend, threaten, harass or in any  
898 other manner discriminate against an employee because of any lawful act done by the employee  
899 to provide information, cause information to be provided or otherwise assist in an investigation

900 regarding any conduct that the employee reasonably believes constitutes a violation of this  
901 chapter.

902       Section 23. (a) The commission shall develop an annual research agenda in order to  
903 understand the social and economic effects of sports wagering in the commonwealth and to  
904 obtain scientific information relative to the neuroscience, psychology, sociology, epidemiology  
905 and etiology of sports wagering. The secretary of health and human services, with the advice and  
906 consent of the commission, may expend funds from the Public Health Trust Fund established in  
907 section 58 of chapter 23K to implement the objectives of the sports wagering research agenda;  
908 provided, however, that the objectives of the sports wagering research agenda shall, to the extent  
909 practicable, be substantially similar to the objectives of the research agenda established under  
910 section 71 of said chapter 23K. The sports wagering research agenda shall also include, but not  
911 be limited to: (i) an assessment of whether problem sports wagering is comorbid with problem  
912 gambling; (ii) an assessment as to whether the individuals participating in sports wagering are  
913 different than those who participate in other forms of gaming or gambling; (iii) an assessment of  
914 the impact of sports wagering on youth under the age of 25; (iv) an assessment of the impacts of  
915 sports wagering on college athletics and professional sports; and (v) the costs of implementing  
916 this chapter.

917       (b) Annually, the commission shall make scientifically-based recommendations that  
918 reflect the results of the research under clause (a) to the clerks of the senate and house of  
919 representatives, the senate and house committees on ways and means, the joint committee on  
920 economic development and emerging technologies, the joint committee on mental health,  
921 substance use and recovery and the joint committee on public health. The commission shall  
922 consider any such recommendations, research and findings in all decisions related to enhancing

923 responsible gambling and mitigating problem sports wagering. The recommendations shall be  
924 posted on the commission's website.

925 SECTION 6. Chapter 128C of the General Laws is hereby amended by inserting the  
926 following new section:-

927 Section 9. Notwithstanding sections 1 to 8, inclusive, or any other general or special law  
928 to the contrary, no racing meeting licensee, including licensees holding racing meetings in  
929 connection with a state or county fair as defined in section 1 of chapter 128A, shall simulcast or  
930 accept a wager on greyhound dog racing, and a running horse racing meeting licensee shall  
931 conduct not less than 20 live racing days at a thoroughbred horse racing track, provided, the  
932 commission may waive this requirement as necessary and appropriate to ensure the financial  
933 ability of the licensee to develop and operate a race track.

934 SECTION 7. Section 1 of chapter 137 of the General Laws, as appearing in the 2018  
935 Official Edition, is hereby amended by inserting after the figure "23K", in line 3, the following  
936 words:- or sports wagering conducted pursuant to chapter 23N.

937 SECTION 8. Section 2 of said chapter 137, as so appearing, is hereby amended by  
938 inserting after the figure "23K", in line 3, the following words:- or an operator who offers sports  
939 wagering pursuant to chapter 23N.

940 SECTION 9. Section 3 of said chapter 137, as so appearing, is hereby amended by  
941 inserting after the figure "23K", in line 7, the following words:- or sports wagering conducted  
942 pursuant to chapter 23N.

943           SECTION 10. Section 1 of chapter 271 of the General Laws, as so appearing, is hereby  
944 amended by striking out, in line 4, the words “chapter 23K” and inserting in place thereof the  
945 following words:- chapters 23K and 23N.

946           SECTION 11. Section 2 of said chapter 271, as so appearing, is hereby amended by  
947 striking out, in line 4, the words “chapter 23K” and inserting in place thereof the following  
948 words:- chapters 23K and 23N.

949           SECTION 12. Section 3 of said chapter 271, as so appearing, is hereby amended by  
950 striking out, in line 1, the words “chapter 23K” and inserting in place thereof the following  
951 words:- chapters 23K and 23N.

952           SECTION 13. Section 5 of said chapter 271, as so appearing, is hereby amended by  
953 striking out, in line 1, the words “chapter 23K” and inserting in place thereof the following  
954 words:- chapters 23K and 23N.

955           SECTION 14. Section 5A of said chapter 271, as so appearing, is further amended by  
956 inserting after the words “chapter 23K”, in line 32, the following words:- or sports wagering  
957 conducted pursuant to chapter 23N.

958           SECTION 15. Section 5B of said chapter 271, as so appearing, is hereby amended by  
959 striking out, in line 58, the words “chapter 23K” and inserting in place thereof the following  
960 words:- chapters 23K and 23N.

961           SECTION 16. Section 8 of said chapter 271, as so appearing, is hereby amended by  
962 striking out, in lines 10 to 11, the words “other game of chance that is not being conducted in a  
963 gaming establishment licensed under chapter 23K” and inserting in place thereof the following

964 words:- other game that is not being conducted pursuant to chapter 23K and any other sports  
965 wagering that is not being conducted pursuant to chapter 23N.

966 SECTION 17. Section 17 of said chapter 271, as so appearing, is hereby amended by  
967 inserting after the words "chapter 23K", in line 27, the following words:- or for the purpose of  
968 sports wagering conducted in accordance with chapter 23N.

969 SECTION 18. Said chapter 271, as so appearing, is hereby further amended by striking  
970 out section 17A and inserting in place thereof the following section:-

971 Section 17A. Except as permitted under chapter 23N, whoever uses a telephone, internet  
972 or other communications technology or, being the occupant in control of premises where a  
973 telephone, internet or other communications technology is located or a subscriber for such  
974 communications technology, knowingly permits another to use a telephone, internet or other  
975 communications technology so located or for which such person subscribes, as the case may be,  
976 for the purpose of accepting wagers or bets, or buying or selling of pools, or for placing all or  
977 any portion of a wager with another, upon the result of a trial or contest of skill, speed or  
978 endurance of man, beast, bird or machine, or upon the result of an athletic game or contest, or  
979 upon the lottery called the numbers game, or for the purpose of reporting the same to a  
980 headquarters or booking office, or who under another name or otherwise falsely or fictitiously  
981 procures telephone, internet or other communications technology service for oneself or another  
982 for such purposes, shall be punished by a fine of not more than \$2,000 or by imprisonment for  
983 not more than 1 year; provided, however, that this section shall not apply to use of telephones or  
984 other devices or means to place wagers authorized pursuant to the provisions of section 5C of  
985 chapter 128A.



986           SECTION 19. Section 19 of said chapter 271, as so appearing, is hereby amended by  
987 inserting after the words “chapter 23K”, in line 19, the following words:- and shall not apply to  
988 advertising of sports wagering conducted pursuant to chapter 23N.

989           SECTION 20. Section 20 of said chapter 271, as so appearing, is hereby amended by  
990 adding the following sentence:- Nothing in this section shall prohibit an operator licensed under  
991 chapter 23N from posting, advertising or displaying materials relevant to its sports wagering  
992 operations.

993           SECTION 21. Section 23 of said chapter 271, as so appearing, is hereby amended by  
994 inserting after the words “chapter 23K”, in line 31, the following words:- and shall not apply to  
995 sports wagering conducted pursuant to chapter 23N.

996           SECTION 22. Section 27 of said chapter 271, as so appearing, is hereby amended by  
997 inserting after the word “thereto”, in line 15, the following words:- ; provided, however, that  
998 such provisions shall not apply to sports wagering conducting pursuant to chapter 23N.

999           SECTION 23. Section 28 of said chapter 271, as so appearing, is hereby amended by  
1000 inserting after the word “prescribed”, in line 12, the following words:- ; provided, however, that  
1001 such provisions shall not apply to sports wagering conducted pursuant to chapter 23N.

1002           SECTION 24. Section 42 of said chapter 271, as so appearing, is hereby amended by  
1003 inserting after the word “both”, in line 4, the following words:- ; provided, however, that such  
1004 provisions shall not apply to sports wagering conducted pursuant to chapter 23N.

1005           SECTION 25. The Massachusetts gaming commission shall conduct a study on the  
1006 participation by minority business enterprises, women business enterprises and veteran business

1007 enterprises in the sports wagering industry in the commonwealth. The study shall include, but not  
1008 be limited to, an analysis of: (i) participation in activities related to the regulation, licensing and  
1009 promotion of sports wagering operators; (ii) the level of participation of women, minority and  
1010 veteran employees working for sports wagering licensees and employers; (iii) the level of  
1011 participation by minority-owned and women-owned businesses that contract with or provide  
1012 services to sports wagering licensees and employers; (iv) any barriers to employment of women  
1013 and minorities in the sports wagering industry; and (v) methods for increasing racial and gender  
1014 diversity in the workforce in the sports wagering industry, including whether to set reasonable  
1015 and appropriate goals and procedures for increasing the number of minority business enterprises  
1016 providing sports wagering industry-related services to sports wagering licensees and employers.  
1017 The commission shall report on its findings and submit any recommendations to the clerks of the  
1018 senate and house of representatives, the house and senate committees on ways and means, the  
1019 joint committee on racial equity, civil rights, and inclusion and the joint committee on economic  
1020 development and emerging technologies not later than December 31, 2022.

1021 SECTION 26. Section 135 of chapter 219 of the acts of 2016 is hereby repealed.

1022 SECTION 27. Sections 2 and 6 shall take effect 1 year after the effective date of this act.



**CITY of GARDNER**  
**Office of the City Clerk**  
 95 Pleasant Street, Room 121  
 Gardner, MA 01440  
 \*Tel. 978-630-4058 \*Fax: 978-630-2589

CITY OF GARDNER  
 NOTICE OF JOINT PUBLIC HEARING

Pursuant to G.L. 40A, § 5, notice is hereby given that the City Council and Planning Board will conduct a **Joint Public Hearing** on **Tuesday, January 16, 2024** at **6:45 P.M.** in the City Council Chamber, Room 219, City Hall, 95 Pleasant Street, Gardner, to consider amending Chapter 675, the Zoning Code of the City of Gardner. The proposed Amendment involves changing items:

- 11112** – An Ordinance to Amend the Code of the City of Gardner, Chapter 675 thereof, entitled “Zoning,” to Add “Sports Betting” to the Zoning Table of Uses. *(Submitted by Councillor Dana Heath; In the City Council, Referred to Planning Board 12/4/2023, More Time 12/18/2023)*
- 11113** – An Ordinance to Amend the Code of the City of Gardner, Chapter 675 thereof, entitled “Zoning,” to Amend Section 1070 thereof, entitled, “Marijuana Establishments” to Change the Method to Increase the Quota Allowed by the Code of the City of Gardner. *(Submitted by Councillor Dana Heath; In the City Council, Referred to Planning Board 12/4/2023; More Time 12/18/2023)*

Information regarding this amendment is available for viewing in the City Clerk’s Office, the Department of Community Development and Planning (DCDP), or on the City’s webpage – [www.gardner-ma.gov](http://www.gardner-ma.gov).

All persons interested in this matter and desire to offer testimony are invited to attend the hearing.

Titi Siriphan  
 City Clerk

# CITY OF GARDNER

## DEPARTMENT OF COMMUNITY DEVELOPMENT AND PLANNING

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

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



December 14, 2023

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

Subject: An Ordinance to Amend the Code of the City of Gardner, Chapter 675 thereof, entitled "Zoning," to Amend Section 1070 thereof, entitled, "Marijuana Establishments" to Change the Method to Increase the Quota Allowed by the Code of the City of Gardner. *(Submitted by Councilor Dana Heath)*

At the Planning Board meeting on Tuesday, December 12, 2023, the Planning Board voted unanimously (5-0) to recommend the City Council approve and adopt the requested Zoning Amendment as referenced above to increase the quota. The Planning Board also voted to hold a Joint Public Hearing with the City Council.

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

Sincerely,

Mark M. Schafron  
Chairman

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

**AN ORDINANCE TO AMEND THE CODE OF THE CITY OF GARDNER, CHAPTER 675 THEREOF, ENTITLED "ZONING," TO AMEND SECTION 1070 THEREOF, ENTITLED, "MARIJUANA ESTABLISHMENTS" TO INCREASE THE QUOTE ALLOWED BY THE CODE OF THE CITY OF GARDNER.**

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

**SECTION 1:** Subsection (C)(8)(b) of Section 1070 of Chapter 675 of the Code of the City of Gardner be amended by replacing "20%" with "35%" as follows:

b) The number of marijuana retail establishments shall not exceed 35% of liquor licenses issued for retail sale of alcohol not consumed on the premises in the City of Gardner, said number to be rounded up to the next whole number;

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

# CITY OF GARDNER

DEPARTMENT OF COMMUNITY DEVELOPMENT AND PLANNING



RECEIVED  
MAY 30 PM 1:50  
CITY CLERK'S OFFICE  
GARDNER, MA

March 30, 2023

Elizabeth Kazinskas, Council President  
C/o Titi Sirphan, City Clerk  
95 Pleasant Street, Room 121  
Gardner, MA 01440

RE: **Petition 10893** – An Ordinance to Amend the Code of the City of Gardner, Chapter 675 thereof, entitled “Zoning,” to Amend Section 1070 thereof, entitled, “Marijuana Establishments” to increase the quota allowed by the Code of the City of Gardner.

Dear President Kazinskas:

At its meeting on March 22, 2023, the Planning Board voted unanimously, 5-0, to recommend approving the proposed zoning amendment referenced above based on the information provided to them by the petitioner.

The Planning Board looks forward to joining the City Council at the joint public hearing scheduled on Monday, April 3, 2023, at 6:30 p.m. Please contact Trevor Beauregard if you have any questions or need additional information.

Sincerely,

Mark M. Schafron, Planning Board Chairman

C: Mayor Michael J. Nicholson  
Trevor M. Beauregard, Director  
Richard Hanks, Interim Building Commissioner





## City of Gardner - *Executive Department*

Mayor Michael J. Nicholson

2023 MAR 30 AM 8:43  
CITY CLERK'S OFFICE  
GARDNER, MA

March 29, 2023

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

Mr. Mark Schafron, Chair  
And Planning Board Members  
Gardner City Hall, Manca Annex, Rm 201  
115 Pleasant St  
Gardner, MA 01440

RE: Written Testimony: Item #10893: An Ordinance to Amend the Code of the City of Gardner, Chapter 675 thereof, entitled "Zoning," to amend Section 1070 thereof, entitled "Marijuana Establishments" to increase the quota allowed by the Code of the City of Gardner

Dear Madam President, Councilors, Mr. Chairman, and Planning Board Members,

I am writing in support of the aforementioned zoning amendment proposal.

When the retail sale of cannabis products was legalized in the Commonwealth in 2019, several municipalities, including Gardner, took steps to heavily regulate the industry since we didn't really know what would happen once the cannabis industry became legalized.

Since then we have seen that commercial enterprises like these do not cause as much of a strain on our services as we had originally been concerned about and have not been a public safety concern at all for us.

This proposal seeks to loosen the market constraints in the City and simply let the economic market be the market. If the City does not have the capability of handling more up to four (4) retain cannabis stores, then the market will correct itself for that.

An example of this can be seen with the regular tobacco/vape smoke shops that used to exist in the Downtown area. These businesses, unregulated in terms of number of facilities that could open in the City, were not marketed by the City and simply opened and then consolidated from five (5) to one (1) on their own because that was all the market was able to carry.

The purpose of this amendment, while it also provides a financial benefit to the City through statutorily required sales tax and host community agreement fees, is simply to relax some of the regulations placed on this industry and let the City's economy play itself out. This does still regulate the retail cannabis industry to four (4) locations, but it at least loosens the restriction of only being able to allow two (2) locations in the City.

Respectfully,

Michael J. Nicholson  
Mayor, City of Gardner



**CITY of GARDNER**  
**Office of the City Clerk**  
 95 Pleasant Street, Room 121  
 Gardner, MA 01440  
 \*Tel. 978-630-4058 \*Fax: 978-630-2589

CITY OF GARDNER  
 NOTICE OF JOINT PUBLIC HEARING, continued

Pursuant to G.L. 40A, § 5, notice is hereby given that the City Council and Planning Board will conduct a **Joint Public Hearing** on **Monday, April 3, 2023 at 6:30 P.M.** in the City Council Chamber, Room 219, City Hall, 95 Pleasant Street, Gardner, to consider amending Chapter 675, the Zoning Code of the City of Gardner. The proposed Amendment involves changing items:

- **10891** – An Ordinance to Amend the Code of the City of Gardner, Chapter 675 Thereof, entitled “Zoning,” to Change the Classification of Certain Parcels of Land Along Route 140.
- **10892** – An Ordinance to Amend the Code of the City of Gardner, Chapter 675 thereof, entitled “Zoning,” to add “Sports Betting” to the Zoning Table of Uses.
- **10893** – An Ordinance to Amend the Code of the City of Gardner, Chapter 675 thereof, entitled “Zoning,” to Amend Section 1070 thereof, entitled, “Marijuana Establishments” to increase the quota allowed by the Code of the City of Gardner

Information regarding this amendment is available for viewing in the City Clerk’s Office, the Department of Community Development and Planning (DCDP), or on the City’s webpage – [www.gardner-ma.gov](http://www.gardner-ma.gov).

All persons interested in this matter and desire to offer testimony are invited to attend the hearing.

*Titi Siriphan*  
 Titi Siriphan  
 City Clerk



**CITY of GARDNER**  
**Office of the City Clerk**  
95 Pleasant Street, Room 121  
Gardner, MA 01440  
\*Tel. 978-630-4058 \*Fax: 978-630-2589

CITY OF GARDNER  
NOTICE OF JOINT PUBLIC HEARING

Pursuant to G.L. 40A, § 5, notice is hereby given that the City Council and Planning Board will conduct a **Joint Public Hearing** on **Monday, March 20, 2023 at 6:30 P.M.** in the City Council Chamber, Room 219, City Hall, 95 Pleasant Street, Gardner, to consider amending Chapter 675, the Zoning Code of the City of Gardner. The proposed Amendment involves changing items:

- **10891** – An Ordinance to Amend the Code of the City of Gardner, Chapter 675 Thereof, entitled “Zoning,” to Change the Classification of Certain Parcels of Land Along Route 140.
- **10892** – An Ordinance to Amend the Code of the City of Gardner, Chapter 675 thereof, entitled “Zoning,” to add “Sports Betting” to the Zoning Table of Uses.
- **10893** – An Ordinance to Amend the Code of the City of Gardner, Chapter 675 thereof, entitled “Zoning,” to Amend Section 1070 thereof, entitled, “Marijuana Establishments” to increase the quota allowed by the Code of the City of Gardner

Information regarding this amendment is available for viewing in the City Clerk’s Office, the Department of Community Development and Planning (DCDP), or on the City’s webpage – [www.gardner-ma.gov](http://www.gardner-ma.gov).

All persons interested in this matter and desire to offer testimony are invited to attend the hearing.

Titi Siriphan  
City Clerk



## City of Gardner - *Executive Department*

Mayor Michael J. Nicholson

February 3, 2023

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

RE: An Ordinance to Amend the Code of the City of Gardner, Chapter 675 thereof, entitled "Zoning," to amend Section 1070 thereof, entitled, "Marijuana Establishments" to increase the quota allowed by the Code of the City of Gardner.

Dear Madam President and Councilors,

As you are aware, in 2018, the retail sale of cannabis products became legalized in the Commonwealth.

When the City adopted the sale of Marijuana into our ordinances in November of 2018, the ordinances limited the number of establishments that could open in the City for the retail sale of cannabis to twenty percent (20%) of "license issues for retail sale of alcohol not consumed on the premises." (Code of the City of Gardner 675-1070(C)(8)(b)).

Whereas the City is currently issued ten (10) liquor licenses that fit this category, this provision of the City Code limited the number of retail cannabis locations to two (2) locations in the City.

One of the main reasons this quota limit was drafted was due to uncertainty as to how this new market would run its course in the City and the Commonwealth as a whole. However, since then, we have seen that these businesses do not provide a detriment to the City, and have seen the financial benefit the City receives from this as well.

The City currently has one retail location open with Sanctuary, with a second location – Bloc Cannabis – permitted at the Timpany Crossroads location.

This attached ordinance amendment proposal would increase the number of locations allowed in the City from two (2) to four (4). It is the belief of the Administration that this would allow more economic activity in the City based on inquiries that we have seen, keep the industry within a workable range that we are seeing in market trends with the cannabis industry around the Commonwealth, and done with the full support of our public safety departments.

Respectfully Submitted,

Michael J. Nicholson  
Mayor, City of Gardner

CC:  
City Council Public Welfare Committee  
Planning Board

**CITY OF GARDNER POLICE DEPARTMENT**

200 Main Street  
Gardner, Massachusetts 01440  
Phone: (978) 632-5600  
Fax: (978) 632-9045



Eric P. McAvene  
Chief of Police

Nicholas P. Maroni  
Deputy Chief of Police

February 2, 2023

The Honorable Michael J. Nicholson, Mayor  
Gardner City Hall  
95 Pleasant Street  
Gardner, MA 01440

Re: Retail Marijuana Ordinance

Dear Mayor,

After reviewing the proposed ordinance change from two retail dispensary licenses to four, I do not see any issue with this particular change moving forward. Retail marijuana dispensaries have been operating in the state for the past few years and are closely monitored and regulated by the Cannabis Control Commission. Any retail dispensaries are required to have pre-determined surveillance camera coverage (inside and outside) and purpose-built safes for stored retail product. This is in addition to physical security during operating hours.

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

We have conducted "compliance checks" at Sanctuary using underage youths to enter and purchase cannabis products. Sanctuary has never failed a compliance check. In fact, no youth has ever made it past the front door. I have spoken to law enforcement in other host dispensary locations and have not heard of any major issues.

If there are any further questions or concerns, please do not hesitate to contact me.

Very truly yours,

Eric P. McAvene  
Chief of Police



**City of Gardner**  
**Department of Inspectional Services**  
**115 Pleasant Street, Room 101**  
**Gardner, MA 01440**  
Tel. (978) 630-4007 Fax: (978) 632-3313

---

Feb. 7, 2023

RE: Marijuana Retail Establishments

Dear Mr. Mayor,

I believe the text amendment regarding the number of Marijuana Retail Establishments will only increase opportunities in the City for revenue, and jobs. From a Zoning standpoint I have seen no ill effects from the existing Marijuana Facility. I currently have an application for a Building permit for a second facility which would leave us with no additional licenses. This would in effect tie our hands regarding further growth. I am in full support of this proposal.

Do not hesitate to contact me should you need any further assistance.

Roland Jean  
Building Commissioner/Zoning Enforcement Officer  
City Hall Annex  
115 Pleasant St. RM 101  
Gardner, MA 01440  
(978) 630 4007  
rjean@gardner-ma.gov

**Mission Statement**

To promote the safe and compatible development of the community through fair and consistent enforcement of building codes and zoning ordinances

**Mayor**

---

**From:** John Richard  
**Sent:** Wednesday, February 1, 2023 11:14 AM  
**To:** Mayor  
**Subject:** Marijuana Fees History

Hi Mike

Here you go.

| Description                | 2023 Actual          | 2022 Actual          | 2021 Actual          | 2020 Actual          | 2019 Actual         |
|----------------------------|----------------------|----------------------|----------------------|----------------------|---------------------|
| MARIJUANA HCA FEES         | \$ 26,367.11         | \$ 124,076.56        | \$ 132,015.11        | \$ 118,394.64        | \$ 47,072.12        |
| MARIJUANA SALES EXCISE TAX | \$ 104,773.64        | \$ 237,668.25        | \$ 306,969.74        | \$ 383,850.54        | \$ 50,330.46        |
| <b>TOTAL</b>               | <b>\$ 131,140.75</b> | <b>\$ 361,744.81</b> | <b>\$ 438,984.85</b> | <b>\$ 502,245.18</b> | <b>\$ 97,402.58</b> |

John Richard  
 City Auditor



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



**Mayor**

---

**From:** Ashley Metivier  
**Sent:** Wednesday, February 1, 2023 11:04 AM  
**To:** Mayor  
**Subject:** Liquor Retail - Not Consumed on Premise

Hi Mike,

We have 10 locations licensed as retail sale, not consumed on premises:

Malt/Wine Packaged Goods

Town Convenience, 13 Pine St  
 BP, 221 Main St  
 South Gardner Mini Mart, 94 S. Main St  
 Jays Variety, 32 E. Broadway  
 Price Chopper, 500 Main St

All Alcohol Packaged Goods

Beauregard Liquors, 11 West St  
 Brazells, 201 Pleasant St  
 Hannaford, 14-20 Timpany Blvd  
 Gardner Spirits, 364 Timpany Blvd  
 Anthony's, 12 Pearson Blvd

Let me know if you need any more information!

**Ashley Metivier**  
**Administrative Assistant/License Commission Clerk**  
 City of Gardner  
 95 Pleasant St, Room 29  
 Gardner, MA 01440  
 P: 978-630-4013 Ext: 8042  
 F: 978-632-4682  
 E: [AMetivier@gardner-ma.gov](mailto:AMetivier@gardner-ma.gov)

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# Current Ordinance

City of Gardner, MA  
Friday, February 3, 2023

## Chapter 675. Zoning

### Article X. Supplemental Regulations

#### § 675-1070. Marijuana establishments.

##### A. Purpose.

- (1) To provide for the placement of marijuana establishments in appropriate places and under conditions in accordance with the provisions of MGL c. 94G.
- (2) To minimize the adverse impacts of marijuana establishments on adjacent properties, residential neighborhoods, schools and other places where children congregate, local historic districts, and other sensitive land uses potentially incompatible with said establishments.
- (3) To regulate the siting, design, placement, security, safety, monitoring, modification, and discontinuance of marijuana establishments.

##### B. Applicability.

- (1) No marijuana establishment shall be established except in compliance with the provisions of § 675-410 (Schedule of permitted uses) and this § 675-1070 (Marijuana establishments).
- (2) Nothing in this section shall be construed to supersede federal and state laws governing the sale and distribution of Class 1 Controlled Substances.
- (3) If any provision of this section or the application of any such provision to any person or circumstance shall be held invalid, the remainder of this section, to the extent it can be given effect, or the application of those provisions to persons or circumstances other than those to which it is held invalid, shall not be affected thereby, and to this end the provisions of this section are severable.

##### C. General requirements and conditions for all marijuana establishments.

- (1) All marijuana establishments shall be contained within a building or structure.
- (2) The hours of operation of marijuana establishments shall be set by the special permit granting authority.
- (3) No marijuana establishment property line shall be located within 500 linear feet of a lot line where the following districts, activity, or uses occur:
  - (a) (Reserved)<sup>[1]</sup>

<sup>[1]</sup> *Editor's Note: Former Subsection C(3)(a), regarding nonconforming residential dwellings, was repealed 9-3-2019 by Ord. No. 1625.*
  - (b) Any church, public or private school or child-care facility; or place where minors frequent (e.g., a library, ball field, park, sports or family recreation facility, religious facility or the like);
  - (c) Any other marijuana establishment;
  - (d) Any drug or alcohol rehabilitation facility; or
  - (e) Any correctional facility, halfway house or similar facility.
- (4) No smoking, burning or consumption of any product containing marijuana or marijuana-related products shall be permitted on the premises of a marijuana establishment.

- (5) No marijuana establishment shall be located inside a building containing residential units, including transient housing such as motels and dormitories, or inside a movable or mobile structure such as a van or truck.
- (6) Marijuana establishments shall provide the Gardner Police and Fire Departments, Building Commissioner, Board of Health, and the special permit granting authority with the names, phone numbers and e-mail addresses of all management staff and key holders to whom one can provide notice if there are operating problems associated with the establishment.
- (7) The City shall have access at any time to inspect the premises of the marijuana establishment to ensure compliance with local and state regulations, excluding client health information protected under the Health Insurance Portability and Accountability Act of 1996.
- (8) Pursuant to MGL c. 94G, § 3(a)(2)(i) to (iii), the maximum number of licensed marijuana establishments in the City shall be consistent with the following provisions:
  - (a) Shall not prohibit one or more types of marijuana establishment;
  - (b) The number of marijuana retail establishments shall not exceed 20% of liquor licenses issued for retail sale of alcohol not consumed on the premises in the City of Gardner, said number to be rounded up to the next whole number;
  - (c) The number of marijuana establishments shall not prevent the conversion of a medical marijuana treatment center licensed or registered no later than July 1, 2017, to a marijuana establishment engaged in the same type of activity.

[Amended 9-3-2019 by Ord. No. 1625]

D. Special permit requirements.

- (1) No special permit for any marijuana establishment shall be issued without site plan approval first having been obtained from the Planning Board, § 675-1010, Site plan review, of this chapter. In addition to the standards set forth within, the site plan must meet all dimensional, parking, landscaping, and signage requirements within this chapter.
- (2) A marijuana establishment shall only be allowed by special permit from the Gardner Planning Board in accordance with MGL c. 40A, § 9, subject to the following statements, regulations, requirements, conditions and limitations.
- (3) A special permit for a marijuana establishment shall be limited to one or more of the following uses that shall be specified by the special permit granting authority:
  - (a) Marijuana cultivator;
  - (b) Marijuana product manufacturer;
  - (c) Marijuana retailer;
  - (d) Marijuana testing facility;
  - (e) Marijuana transportation or distribution facility; and
  - (f) Any other type of licensed marijuana-related business.
- (4) In addition to the application requirements set forth above, a special permit application for a marijuana establishment shall include the following:
  - (a) The name and address of each owner of the establishment;
  - (b) Copies of all required licenses and permits issued to the applicant by the Commonwealth of Massachusetts Cannabis Control Commission and any of its other agencies for the establishment;
  - (c) Evidence of the applicant's right to use the site of the establishment for the establishment, such as a purchase and sale agreement, deed, owner's authorization, or lease;
  - (d) Proposed security measures for the marijuana establishment, including lighting, fencing, gates and alarms, etc., to ensure the safety of persons and to protect the premises from theft. A letter

from the City of Gardner Police Chief, or designee, acknowledging review and approval of the marijuana establishment security plan is required. To the extent allowed by law, all such documents shall be confidential.

- (5) Mandatory findings. The special permit granting authority shall not issue a special permit for a marijuana establishment unless it finds that:
  - (a) The establishment is designed to minimize any adverse impacts on abutters and other parties in interest, as defined in MGL c. 40A, § 11.
  - (b) The establishment demonstrates that it will meet all the permitting requirements of all applicable agencies within the Commonwealth of Massachusetts and will comply with all applicable state laws and regulations; and
  - (c) The applicant has satisfied all the conditions and requirements set forth herein.
- (6) A special permit granted under this section shall have a term limited to the duration of the applicant's ownership or leasehold of the premises as a marijuana establishment. A special permit may be transferred only with the approval of the special permit granting authority in the form of an amendment to the special permit with all information required in this § 675-1070.

E. Abandonment or discontinuance of use.

- (1) A special permit shall lapse if not exercised within one year of issuance.
- (2) A marijuana establishment shall be required to remove all personal property, including but not limited to all material, plants, equipment, accessories, paraphernalia, and any other property no later than the earliest of:
  - (a) Prior to surrendering its state-issued licenses or permits; or
  - (b) Within six months of ceasing operations.