



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

CALENDAR FOR THE MEETING

of

MONDAY, FEBRUARY 5, 2024

CITY COUNCIL CHAMBER

7:30 P.M.

ORDER OF BUSINESS

I. CALL TO ORDER

II. CALL OF THE ROLL OF COUNCILLORS

11189 – Remembrance of Councillor Ronald Cormier

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)

- December 4, 2023, Regular Meeting
- December 18, 2023, Regular Meeting

VII. PUBLIC HEARINGS

VIII. COMMUNICATIONS FROM THE MAYOR

COMMUNICATIONS

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. *(Finance Committee)*

11173 – A Measure Authorizing an Intermunicipal Agreement between the City of Gardner and Town of Westminster for Veteran's Services. *(Finance Committee)*

11174 – A Measure Authorizing an Intermunicipal Agreement between the City of Gardner and Town of Ashburnham for Veteran's Services. *(Finance Committee)*

COMMUNICATIONS, continued

- 11175** – A Resolution in support of the City of Gardner’s Statement of Interest to the Massachusetts School Building Authority for funding to replace the roof of the Gardner Middle School. *(Finance Committee)*
- 11176** – A Resolution in support of the City of Gardner’s Application for the RAISE Discretionary Grant from the United States Department of Transportation. *(Finance Committee)*
- 11177** – A Notification from the Mayor Regarding receipt of Prison Mitigation Funds from the Commonwealth. *(Finance Committee)*
- 11178** – A Notification from the Mayor Regarding the Fully executed Collective Bargaining Agreement between the City of Gardner and the Gardner Patrol Union for the period of July 1, 2023, through June 30, 2026. *(Finance Committee)*

ORDERS

- 11180** – An Order Appropriating \$625,000.00 from Stabilization to DPW Salt Shed.

APPOINTMENTS

- 11181** – A Measure Confirming the Mayor’s Appointment of Paul Cormier, to the position of Golf Commission Member, for term expiring January 22, 2027. *(Appointments Committee)*
- 11182** – A Measure Confirming the Mayor’s Appointment of Frimpong Antwi, to the position of Police Officer, permanent. *(Appointments Committee)*
- 11183** – A Measure Confirming the Mayor’s Appointment of Elijah Williams, to the position of Police Officer, permanent. *(Appointments Committee)*

IX. PETITIONS, APPLICATIONS, COMMUNICATIONS, ETC.

- 11179** – Applications for Motor Vehicle Dealers License, Class II, Gardner Motors, LLC., 119 Pearson Blvd. *(Safety Committee)*
- 11184** – A Measure Confirming the Fire Chief’s Appointment of Lorenzo Calderon, Jr., to the position of Firefighter, permanent. *(Approval not Required)*
- 11185** – A Measure Confirming the Fire Chief’s Appointment of Jacob Logan, to the position of Firefighter, permanent. *(Approval not Required)*
- 11186** – A Measure Confirming the Fire Chief’s Appointment of Richard Belanger, III, to the position of Firefighter, permanent. *(Approval not Required)*

PETITIONS, APPLICATIONS, COMMUNICATIONS, ETC., continue

11187 – A Measure Relative to the March 5, 2025, Presidential Primary Election Order. *(Finance Committee)*

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

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)*

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)*

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)*

11116 – Applications for Motor Vehicle Dealers License, Class II, Gardner Five Star Auto Sales, 407 Chestnut Street. *(In City Council and Referred to Safety Committee 1/2/2024; More Time 1/16/2024)*

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)*

APPOINTMENTS, continue

- 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)*

APPOINTMENTS, continue

- 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 Richard 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)*

APPOINTMENTS, continue

- 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)*

XI. UNFINISHED BUSINESS AND MATTERS FOR RECONSIDERATION

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

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

XII. NEW BUSINESS

XII. COUNCIL COMMENTS AND REMARKS

XIV. CLOSING PRAYER

XV. ADJOURNMENT

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

REGULAR MEETING OF DECEMBER 4, 2023

Regular Meeting of the City Council was held in the Council Chambers, Room 219, City Hall, on Monday evening, December 4, 2023.

CALL TO ORDER

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

CALL OF THE ROLL

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

OPENING PRAYER

President Kazinskas led the Council in reciting the Opening Prayer.

PLEDGE OF ALLEGIANCE

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

OPEN MEETING RECORDING & PUBLIC RECORDS ANNOUNCEMENT

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

COMMUNICATIONS FROM THE MAYOR
ORDERS

#11105

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

REGULAR MEETING OF DECEMBER 4, 2023

AUTHORIZING PAYMENT OF PRIOR YEAR SALARY EXPENDITURE

ORDERED: To authorize payment of prior year COA & BOH salary expenditure account for prior year, as follows:

FY2022	COA SALARY ACCOUNT	\$ 465.90
FY2023	COA SALARY ACCOUNT	2,021.88
FY2023	BOH SALARY ACCOUNT	597.69

COMMUNICATIONS FROM THE MAYOR
COMMUNICATIONS

#11106

On a motion made by Councillor Ronald Cormier and seconded by Councillor Aleksander Dernalowicz, it was voted viva voce, eleven (11) yeas, President Elizabeth Kazinskas and Councillors James Boone, Craig Cormier, Ronald Cormier, Aleksander Dernalowicz, Karen Hardern, Dana Heath, Judy Mack, Paul Tassone, George Tyros and James Walsh, to PLACE ON FILE, *A Notification from the Mayor Regarding Certification of FY2024 Tax Levy.*

#11107

On a motion made by Councillor Ronald Cormier and seconded by Councillor Aleksander Dernalowicz, it was voted viva voce, eleven (11) yeas, President Elizabeth Kazinskas and Councillors James Boone, Craig Cormier, Ronald Cormier, Aleksander Dernalowicz, Karen Hardern, Dana Heath, Judy Mack, Paul Tassone, George Tyros and James Walsh, to PLACE ON FILE, *A Notification from the Mayor Regarding FY2024 Tax Rate and FY2024 Tax Recapitulation.*

#11108

On a motion made by Councillor Dana Heath and seconded by Councillor Judy Mack, it was voted viva voce, eleven (11) yeas, President Elizabeth Kazinskas and Councillors James Boone, Craig Cormier, Ronald Cormier, Aleksander Dernalowicz, Karen Hardern, Dana Heath, Judy Mack, Paul Tassone, George Tyros and James Walsh, to PLACE ON FILE, *A Notification from the Mayor Regarding Insurance Change – Removal of 30-Day Grace Period Following Resignation or Termination.*

REGULAR MEETING OF DECEMBER 4, 2023

PETITIONS, APPLICATIONS, COMMUNICATIONS, ETC.

#11109

On a motion made by Councillor Craig Cormier and seconded by Councillor Paul Tassone, it was voted viva voce, eleven (11) yeas, President Elizabeth Kazinskas and Councillors James Boone, Craig Cormier, Ronald Cormier, Aleksander Dernalowicz, Karen Hardern, Dana Heath, Judy Mack, Paul Tassone, George Tyros and James Walsh, to refer to the Public Safety Committee, *Applications for Motor Vehicle Dealers Licenses, Class I.*

- (a) Salvadore Chevrolet, 442 West Broadway
- (b) Salvadore Chrysler-Dodge-Jeep-Ram, 442 West Broadway

#11110

On a motion made by Councillor Craig Cormier and seconded by Councillor Paul Tassone, it was voted viva voce, eleven (11) yeas, President Elizabeth Kazinskas and Councillors James Boone, Craig Cormier, Ronald Cormier, Aleksander Dernalowicz, Karen Hardern, Dana Heath, Judy Mack, Paul Tassone, George Tyros and James Walsh, to refer to the Public Safety Committee, *Applications for Motor Vehicle Dealers Licenses, Class II*

- (a) AC Auto Clinic, 411 Parker Street
- (b) Brian's Auto Sales, 549 W Broadway
- (c) Gardner Automart, Inc., 182 West Street
- (d) Gardner Motors, LLC, 119 Pearson Blvd
- (e) JPJ Automotive, LLC, 78 East Broadway
- (f) Mike's Auto, 251 E Broadway
- (g) Osagi Enterprise, LLC., 43 Tobey Street
- (h) Ric's Radiator Repair Used Car Sales, 800 W Broadway
- (i) Salvadore Chevrolet, 421 W Broadway
- (j) Salvadore Chevrolet, 249 Timpany Blvd.
- (k) Rob's Dyno Services, LLC, 268 Coleman Street
- (l) J. Wood Inc., 361 West Street

#11111

On a motion made by Councillor Craig Cormier and seconded by Councillor Karen Hardern#11112, it was voted viva voce, eleven (11) yeas, President Elizabeth Kazinskas and Councillors James Boone, Craig Cormier, Ronald Cormier, Aleksander Dernalowicz, Karen Hardern, Dana Heath, Judy Mack, Paul Tassone, George Tyros and James Walsh, to refer to the Public Safety Committee, *Applications for Motor Vehicle Dealers Licenses, Class III*, Applications for Motor Vehicle Dealers Licenses, Class III, Osagi Enterprise, LLC., Used Auto Parts Sales, 43 Tobey Street.

REGULAR MEETING OF DECEMBER 4, 2023

#11112

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

#11113

Councillor James Walsh said that this is the second time that these items were before the City Council and referred to the Planning Board. The materials submitted in the packet are the same ones provided earlier this year that were later withdrawn from the Mayor. The Mayor had withdrawn the petition because it was determined that the Mayor could not initiate a zoning amendment. There is an opinion from the City Solicitor that says that by reference to the statute, people or entities who can initiate is the City Council, but an individual City Councilor, Councilor Walsh is unsure. He said that this is an issue that should be resolved at some point.

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

REPORTS OF STANDING COMMITTEES**APPOINTMENTS**

#11083

Councillor George Tyros informed the Council that the Appointments Committee did meet at the reappointment. He mentioned that Director Pond has been the Human Resource Director since 2002. He thanks her for her many years of service and the challenges during the COVID pandemic. Concerns were raised during the past three years of challenges. The Director did respond to those concerns and provided a letter. A motion to recommend the Mayor's appointment failed to pass the committee. Councillor Tyros was one of the members who chose not to recommend the reappointment because he stated, "we need improvement as a city."

REGULAR MEETING OF DECEMBER 4, 2023

Councillor Judy Mack also did not vote in favor of the reappointment. Her reason is that the human resource professionals are expected to exhibit individual leadership as a role model for maintaining exhibiting higher standard of ethics. Councillor Mack had some concerns on some of these things that go on withing the office.

On a motion made by Councillor George Tyros and seconded by Councillor James Walsh, it was voted on call of the roll, nine (9) yeas, President Elizabeth Kazinskas and Councillors James Boone, Craig Cormier, Ronald Cormier, Aleksander Dernalowicz, Karen Hardern, Dana Heath, Paul Tassone, and James Walsh; two (2) nays, Councillors Judy Mack and George Tyros, to CONFIRM the Mayor's appointment:

A Measure Confirming the Mayor's Appointment of **Debra Pond** to the Position of Human Resources Director, for term expiring October 31, 2026.

#11084

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

A Measure Confirming the Mayor's Appointment of **David Hackett** to the Position of Disability Commission Member, for term expiring October 30, 2026.

#11085

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

A Measure Confirming the Mayor's Appointment of **Debra Pond** to the Position of Disability Commission Member, for term expiring October 30, 2026

REGULAR MEETING OF DECEMBER 4, 2023

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

Councillor Craig Cormier requests More Time, *An Ordinance to Amend the Code of the City of Gardner Chapter 600, Entitled "Vehicles and Traffic", Section 24, Entitled "Parking Prohibited on Certain Streets" – Comee Street.*

There were no objections, more time was granted.

UNFINISHED BUSINESS AND MATTERS FOR RECONSIDERATION**#11061**

On a motion made by Councillor Aleksander Dernalowicz and seconded by Councillor George Tyros, it was voted on call of the roll, eleven (11) yeas, President Elizabeth Kazinskas and Councillors James Boone, Craig Cormier, Ronald Cormier, Aleksander Dernalowicz, Karen Hardern, Dana Heath, Judy Mack, Paul Tassone, George Tyros and James Walsh to APPROVE and send to second and final printing of *An Ordinance to Amend the Code of the City of Gardner by Adding a New Chapter to be Entitled, Chapter 504: Wage Theft Protection, Which Shall Provide for Protections for Workers and Employees of Contractors Working on City Projects.*

EXECUTIVE SESSION

President Kazinskas entertained a motion that the City Council enter into Executive Session for the purpose to approve the Executive Session minutes of August 7, 2023 and September 18, 2023. The City Council will reconvene open session at the conclusion of the executive session for the remainder of the meeting. As required by MGL 30a, the discussion is related to items that is privileged information from the August 7, 2023 and September 18, 2023 executive sessions.

On a motion by Councillor Paul Tassone and seconded by Councillor James Boone, it was voted on roll call, eleven (11) yeas, President Elizabeth Kazinskas, and Councillors James Boone, Craig Cormier, Ronald Cormier, Aleksander Dernalowicz, Karen Hardern, Dana Heath, Judy Mack (via phone conference), Paul Tassone, George Tyros and James Walsh, to enter in Executive Session.

The Regular City Council Meeting resumed at 8:12 PM.



REGULAR MEETING OF DECEMBER 4, 2023

CLOSING PRAYER

President Elizabeth Kazinskas led the Council in the Closing Prayer.

ADJOURNMENT

On a motion made by Councillor Paul Tassone and seconded by Councillor James Boone, it was voted viva voce, eleven (11) yeas, President Elizabeth Kazinskas and Councillors James Boone, Craig Cormier, Ronald Cormier, Aleksander Dernalowicz, Karen Hardern, Dana Heath, Judy Mack, Paul Tassone, George Tyros, and James Walsh to adjourn at 8:13 p.m.

Accepted by the City Council:

**REGULAR MEETING OF DECEMBER 18, 2023**

Regular Meeting of the City Council was held in the Council Chambers, Room 219, City Hall, on Monday evening, December 18, 2023.

CALL TO ORDER

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

CALL OF THE ROLL

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

OPENING PRAYER

President Kazinskas led the Council in reciting the Opening Prayer.

PLEDGE OF ALLEGIANCE

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

OPEN MEETING RECORDING & PUBLIC RECORDS ANNOUNCEMENT

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

READING AND ACCEPTANCE OF MINUTES

On a motion made by Councillor Ronald Cormier and seconded by Councillor James Walsh, it was voted viva voce, ten (10) yeas, President Elizabeth Kazinskas and Councillors James Boone, Craig Cormier, Ronald Cormier, Karen Hardern, Dana Heath, Judy Mack, Paul Tassone, George Tyros and James Walsh to waive the reading and accept the MINUTES of:

- September 18, 2023, Regular Meeting
- October 2, 2023, Regular Meeting
- October 16, 2023, Informal Meeting
- October 16, 2023, Regular Meeting

REGULAR MEETING OF DECEMBER 18, 2023

- October 30, 2023, Special Meeting
- November 6, 2023, Regular Meeting

PETITIONS, APPLICATIONS, COMMUNICATIONS, ETC.

#11115

On a motion made by Councillor Craig Cormier and seconded by Councillor Paul Tassone, it was voted viva voce, ten (10) yeas, President Elizabeth Kazinskas and Councillors James Boone, Craig Cormier, Ronald Cormier, Karen Hardern, Dana Heath, Judy Mack, Paul Tassone, George Tyros and James Walsh, to refer to the Public Safety Committee for further study and report, *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.*

#11114

On a motion made by Councillor George Tyros and seconded by Councillor James Boone, it was voted viva voce, ten (10) yeas, President Elizabeth Kazinskas and Councillors James Boone, Craig Cormier, Ronald Cormier, Karen Hardern, Dana Heath, Judy Mack, Paul Tassone, George Tyros and James Walsh, to *schedule a Joint Convention with the Gardner School Committee to Appoint a Gardner Representative/Member to the Montachusett Regional Vocational Technical School District Committee and Advertise the availability to the public.*

REPORTS OF STANDING COMMITTEESSAFETY COMMITTEE

#11086

Councillor Craig Cormier requests More Time, *An Ordinance to Amend the Code of the City of Gardner Chapter 600, Entitled "Vehicles and Traffic", Section 24, Entitled "Parking Prohibited on Certain Streets"* – *Comee Street.*

There were no objections, more time was granted.

#11109

On a motion made by Councillor Craig Cormier and seconded by Councillor Paul Tassone, it was voted viva voce, ten (10) yeas, President Elizabeth Kazinskas and Councillors James Boone, Craig Cormier, Ronald Cormier, Karen Hardern, Dana Heath, Judy Mack, Paul Tassone, George Tyros and James Walsh, to APPROVE *Applications for Motor Vehicle Dealers Licenses, Class I.*

REGULAR MEETING OF DECEMBER 18, 2023

- (a) Salvadore Chevrolet, 442 West Broadway
- (b) Salvadore Chrysler-Dodge-Jeep-Ram, 442 West Broadway

#11110

On a motion made by Councillor Craig Cormier and seconded by Councillor Paul Tassone, it was voted viva voce, ten (10) yeas, President Elizabeth Kazinskas and Councillors James Boone, Craig Cormier, Ronald Cormier, Karen Hardern, Dana Heath, Judy Mack, Paul Tassone, George Tyros and James Walsh, to APPROVE *Applications for Motor Vehicle Dealers Licenses, Class II*

- (a) AC Auto Clinic, 411 Parker Street
- (b) Brian's Auto Sales, 549 W Broadway
- (c) Gardner Automart, Inc., 182 West Street
- (e) JPJ Automotive, LLC, 78 East Broadway
- (f) Mike's Auto, 251 E Broadway
- (g) Osagi Enterprise, LLC., 43 Tobey Street
- (h) Ric's Radiator Repair Used Car Sales, 800 W Broadway
- (i) Salvadore Chevrolet, 421 W Broadway
- (j) Salvadore Chevrolet, 249 Timpany Blvd.
- (k) Rob's Dyno Services, LLC, 268 Coleman Street
- (l) J. Wood Inc., 361 West Street

Councillor Craig Cormier mentioned that Gardner Motors, LLC, 119 Pearson Blvd, was the only license that was not recommended for approval by the Public Safety Committee.

#11111

On a motion made by Councillor Craig Cormier and seconded by Councillor Paul Tassone, it was voted viva voce, ten (10) yeas, President Elizabeth Kazinskas and Councillors James Boone, Craig Cormier, Ronald Cormier, Karen Hardern, Dana Heath, Judy Mack, Paul Tassone, George Tyros and James Walsh, to APPROVE *Applications for Motor Vehicle Dealers Licenses, Class III, Osagi Enterprise, LLC., Used Auto Parts Sales, 43 Tobey Street.*

UNFINISHED BUSINESS AND MATTERS FOR RECONSIDERATION**#11112**

Councillor Dana Heath requested More Time on, *An Ordinance to Amend the Code of the City of Gardner, Chapter 675 thereof, entitled "Zoning," to Add "Sports Betting" to the Zoning Table of Uses.*

REGULAR MEETING OF DECEMBER 18, 2023

There were no objections, more time was granted.

#11113

Councillor Dana Heath requested More Time on, *An Ordinance to Amend the Code of the City of Gardner, Chapter 675 thereof, entitled "Zoning," to Amend Section 1070 thereof, entitled, "Marijuana Establishments" to Change the Method to Increase the Quota Allowed by the Code of the City of Gardner.*

There were no objections, more time was granted.

CLOSING PRAYER

President Elizabeth Kazinskas led the Council in the Closing Prayer.

ADJOURNMENT

On a motion made by Councillor James Boone and seconded by Councillor James Walsh, it was voted viva voce, eleven (11) yeas, President Elizabeth Kazinskas and Councillors James Boone, Craig Cormier, Ronald Cormier, Aleksander Dernalowicz, Karen Hardern, Dana Heath, Judy Mack, Paul Tassone, George Tyros, and James Walsh to adjourn at 8:13 p.m.

Accepted by the City Council:



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 1st 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.

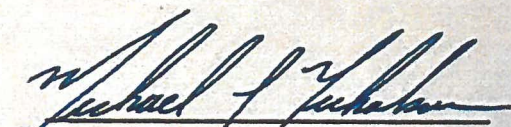
IN WITNESS WHEREOF the parties to this Agreement have executed same as of the date first written above.


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, which appears 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 - Executive Department
Mayor Michael J. Nicholson

RECEIVED
2021 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: Resolution in support of the City of Gardner's Statement of Interest to the Massachusetts School Building Authority for funding to replace the roof at Gardner Middle School

Dear Madam President and Councilors,

The School Department has applied to the Massachusetts School Building Authority (MSBA) several times in the hopes of gaining funding to replace the Gardner Middle School (GMS) roof. The roof is beginning to fail and if we are not successful, it is possible the full cost of replacement will fall to the City.

The MSBA has re-opened the Statement of Interest (SOI) process for its Accelerated Repair (AR) program. The AR SOI is the first step toward funding, but the timeline is tight. While the SOI just opened, we must submit everything by March 1. Both the School Committee and City Council must vote to approve the attached language prior to March 1. The School Committee has this resolution on their agenda for their February 12th meeting.

I respectfully request that the City Council vote to support the resolution in support of the City's statement of interest in order to allow the City to be eligible for these funds.

Respectfully submitted,

Michael J. Nicholson
Mayor, City of Gardner

RESOLUTION

To support the Statement of Interest (“SOI”) of the City of Gardner to the Massachusetts School Building Authority (“MSBA”) for funding to replace the roof of the Gardner Middle School.

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

Resolved: Having convened in an open meeting on **February 19, 2024**, prior to the SOI submission closing date, the **City Council** of the **City of Gardner**, in accordance with its charter, by-laws, and ordinances, has voted to authorize the Superintendent to submit to the Massachusetts School Building Authority the Statement of Interest Form dated **February 2024** for the **Gardner Middle School** located at **297 Catherine Street, Gardner, MA** which describes and explains the following deficiencies and the priority category(s) for which an application may be submitted to the Massachusetts School Building Authority in the future:

Priority Category:

Priority 5. Replacement, renovation or modernization of school facility systems, such as roofs, windows, boilers, heating and ventilation systems, to increase energy conservation and decrease energy related costs in a school facility.

Description of Deficiencies:

The Gardner Middle School opened in 1997. The roof is original to the building and has been maintained as leaks have occurred, however, new leaks continue to occur at an increased pace and three assessments by different outside companies in the past several year have recommended repair or replacement;

and hereby further specifically acknowledges that by submitting this Statement of Interest Form, the Massachusetts School Building Authority in no way guarantees the acceptance or the approval of an application, the awarding of a grant or any other funding commitment from the Massachusetts School Building Authority, or commits the **City** to filing an application for funding with the Massachusetts School Building Authority.

**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: Resolution in Support of the City of Gardner's Application for the RAISE Discretionary Grant from the United States Department of Transportation

Dear Madam President and Councilors,

As you are aware, there is a large amount of residential and commercial growth anticipated for the downtown area in Gardner. This growth not only raises several concerns regarding parking but also the infrastructure to meet the anticipated increased foot traffic in the area as well.

The Administration, working with our on-call grant writers at the Central Massachusetts Regional Planning Commission ("CMRPC"), are working to submit a grant application to the United States Department of Transportation's RAISE Discretionary Grant program for funding for the design and construction of a new four-story parking garage in the downtown, additional crossing beacons, lighting upgrades, and other infrastructure upgrades to make the area a safer environment when these new housing units go on the market. A full copy of the plan, budget, and initial conceptual designs of the garage are attached.

I ask that the City Council vote to support the application through the attached resolution, so that this can be sent along with the City's application. The Administration will also be asking members of the public and the City's business community for letters of support for the application, as required by this grant from the Department of Transportation.

Respectfully Submitted,

Michael J. Nicholson
Mayor, City of Gardner

Resolution

In Support of the Application for the City of Gardner for the Rebuilding American Infrastructure with Sustainability and Equity (RAISE) Discretionary Grant from the United States Department of Transportation

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

WHEREAS, the City of Gardner has seen unprecedented economic growth since 2020, creating avenues for economic growth and housing opportunities; and

WHEREAS, since 2020 over 50 new businesses have either newly opened their doors or expanded their services in Gardner; and

WHEREAS, since 2020, over 25 buildings in the Downtown area alone have been sold to new owners after periods of facing challenges with absentee landlords, leading to these buildings to be currently under construction and renovation; and

WHEREAS, as a result of this growth, over 225 new housing units are planned for the downtown area alone within the next 18 months, with the first 30 of these units going live in February 2024 leading to an expected increase in population to the area between 300 and 900 new residents; and

WHEREAS, the City of Gardner Zoning Code states that in Commercial Districts, like the Downtown area, so long as a property owner does not construct new additional floors to a building, any conversion of spaces from commercial use to residential units does not require the property owner to allocate dedicated parking spaces for the residents of these new locations; and

WHEREAS, this anticipated increase in population, along with the 10% increase in population seen in Gardner between 2010 and 2020, creates the need for the City to explore new avenues for parking infrastructure and ease of access to public and multimodal transportation opportunities;

NOW THEREFORE, the City Council of the City of Gardner hereby officially endorses and supports the plan presented by the City's Administration for submission for the RAISE Discretionary Grant from the United States Department of Transportation, and believe it to be in the best interest of the City.

Hon. Elizabeth J. Kazinskas
City Council President
On Behalf of the City Council

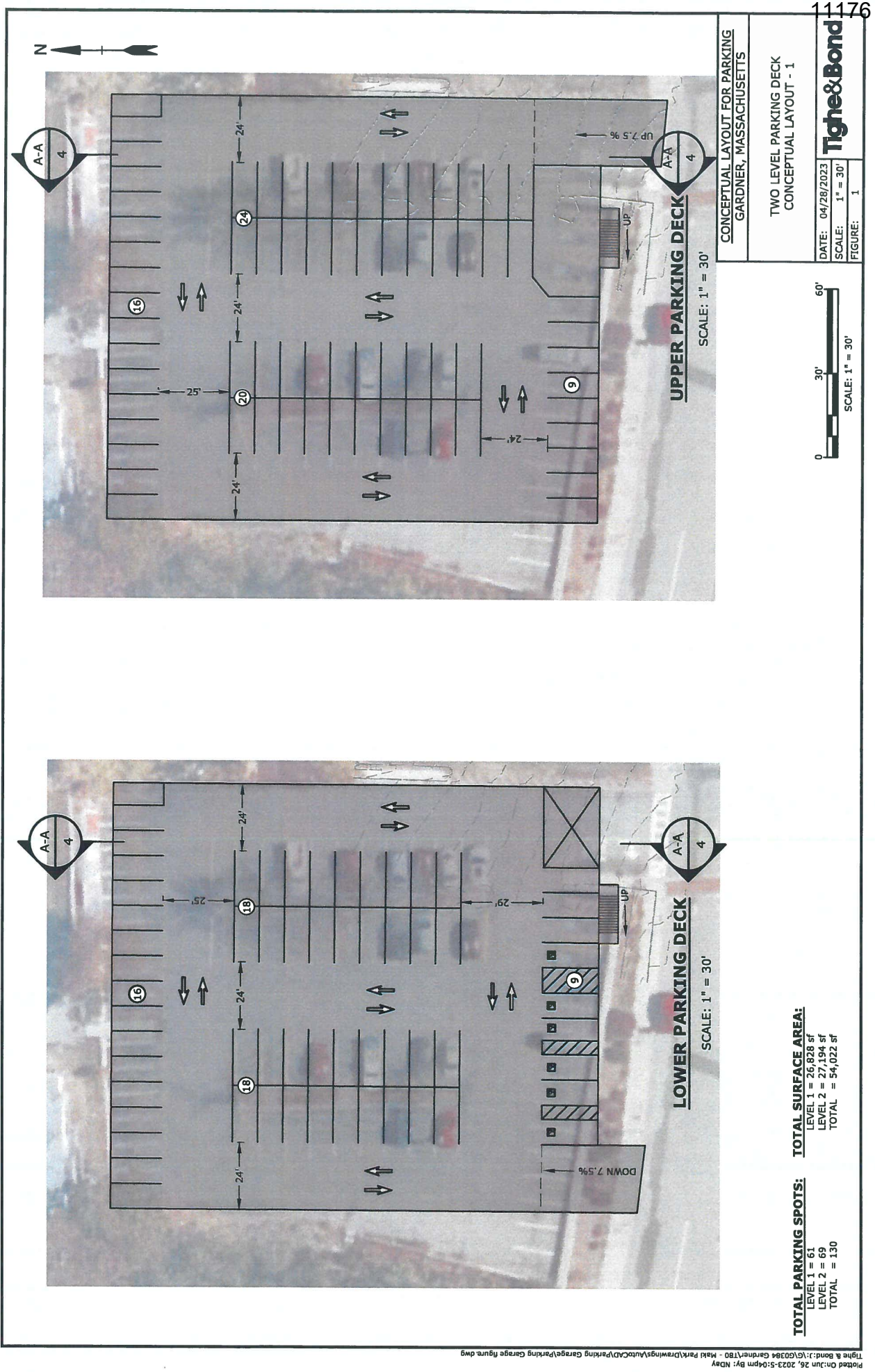
Voted by the City Council on: _____

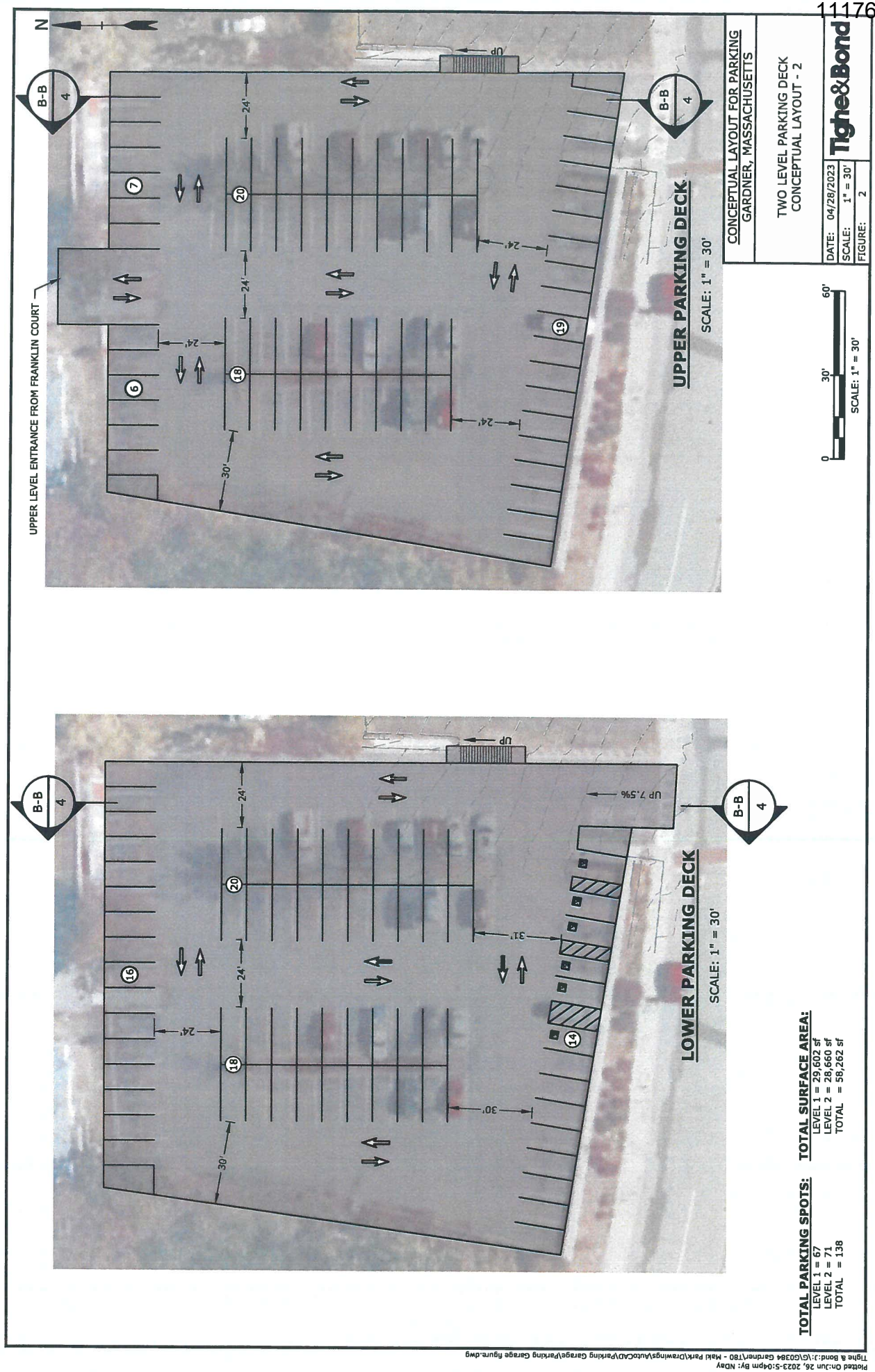


- Victorian St Lights
- Lighted Crossing Beacons

RAISE Grant Budget

Parking Garage	\$	10,000,000.00
Public Art Opportunities	\$	65,000.00
Parking Enforcement Devices	\$	500,000.00
Lighted Crossing Beacons	\$	1,260,000.00
Victorian Lights	\$	286,000.00
EV Chargers in Connors Lot	\$	30,000.00
Upgraded lighting in Nichols Lot	\$	350,000.00
Traffic Signals	\$	150,000.00
Rear Main Street Completion	\$	2,500,000.00
	\$	15,141,000.00

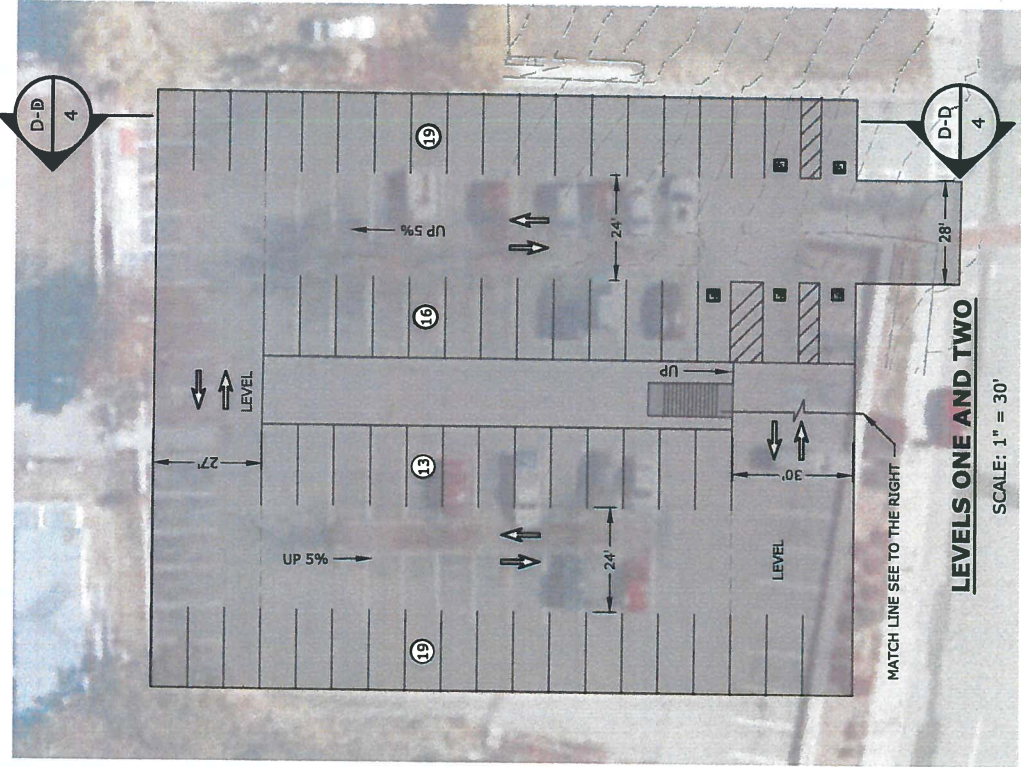




TOTAL PARKING SPOTS:

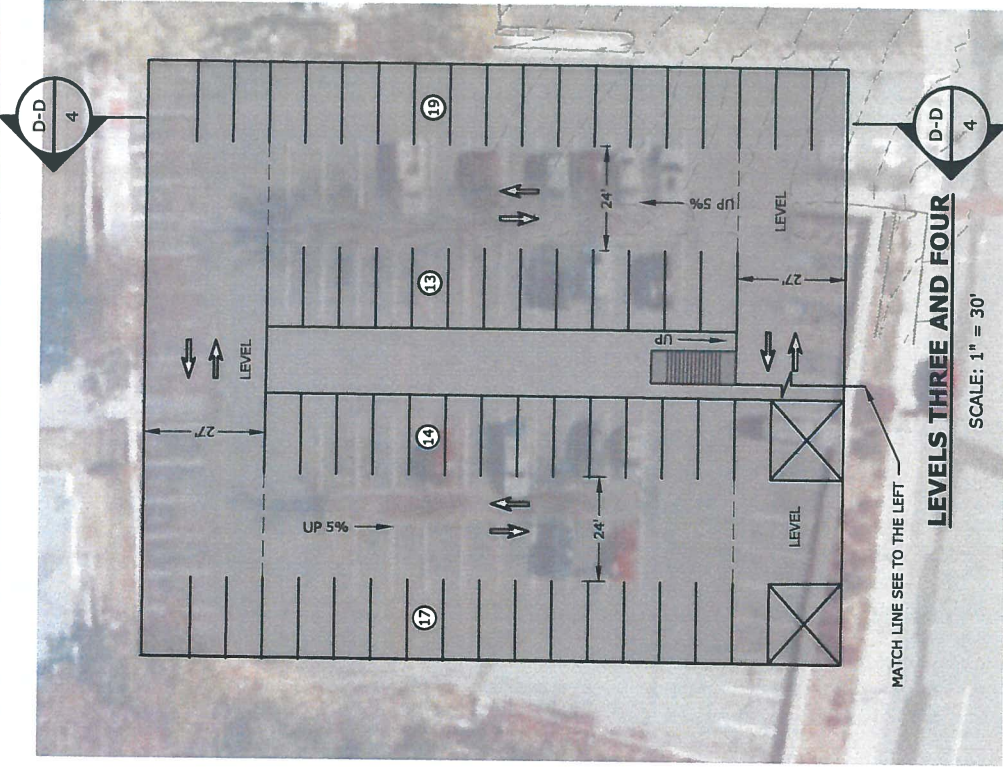
LEVEL 1 = 67	TOTAL SURFACE AREA:
LEVEL 2 = 71	LEVEL 1 = 29,602 sf
TOTAL = 138	LEVEL 2 = 28,660 sf
	TOTAL = 58,262 sf





TOTAL PARKING SPOTS:

LEVEL 1 AND 2 = 66	TOTAL SURFACE AREA:
LEVEL 3 AND 4 = 63	LEVEL 1 AND 2 = 22,929 sf
TOTAL = 129	LEVEL 3 AND 4 = 20,477 sf
	TOTAL = 49,406 sf



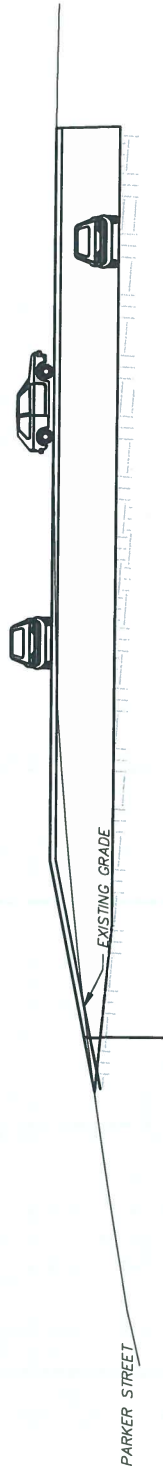
CONCEPTUAL LAYOUT FOR PARKING
GARDNER, MASSACHUSETTS

FOUR LEVEL PARKING GARAGE
CONCEPTUAL LAYOUT

DATE: 04/28/2023
SCALE: 1" = 30'
FIGURE: 4

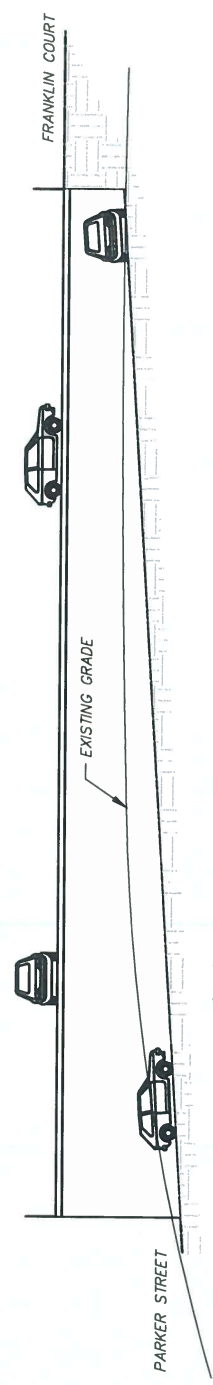
Tighe & Bond





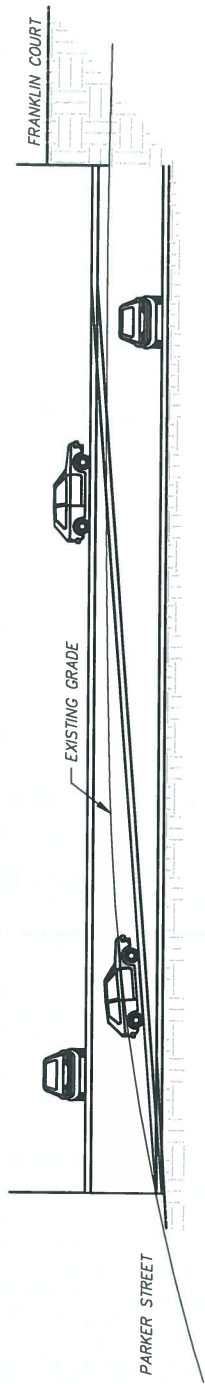
SECTION A-A - TWO LEVEL PARKING DECK - 1

SCALE: 1" = 20'



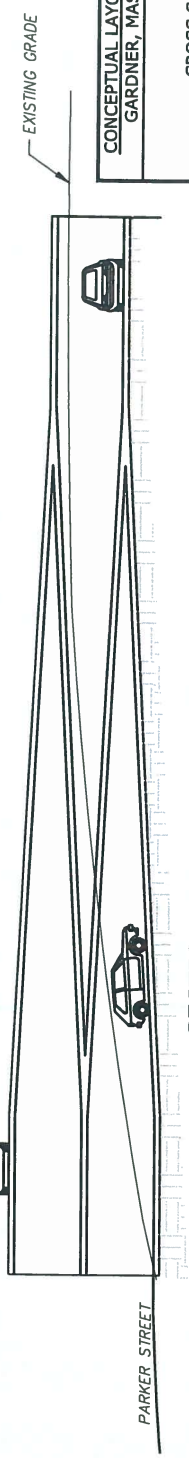
SECTION B-B - TWO LEVEL PARKING DECK - 2

SCALE: 1" = 20'



SECTION C-C - TWO LEVEL PARKING DECK - 3

SCALE: 1" = 20'



SECTION D-D - FOUR LEVEL PARKING GARAGE

SCALE: 1" = 20'



CONCEPTUAL LAYOUT FOR PARKING
GARDNER, MASSACHUSETTS

CROSS SECTIONS

DATE: 04/28/2023	FIGURE: 5
SCALE: 1" = 20'	

Tighe & Bond

ENGINEER'S OPINION OF PROBABLE COST

Project: Conceptual Parking Garage Layouts

Location: Gardener, MA

Tighe&Bond

Prepared By: ND

Date Prepared: 6/12/2023

Updated:

Estimate Type:

☒ Conceptual
☐ Preliminary (w/o plans)
☐ Design Development @

☐ Construction
☐ Change Order
☐ % Complete

ENGINEER'S OPINION OF PROBABLE COST

Project: Conceptual Parking Garage Layouts

Location: Gardener, MA

Prepared By: ND

Date Prepared: 6/12/2023

Updated:

Tighe&Bond

Estimate Type:

☒ Conceptual

☐ Preliminary (w/o plans)

☐ Design Development @

☐ Construction Change Order

☐ % Complete

Item No.	Quantity	Unit		Unit Price	Amount
Conceptual Two Level Parking Deck - 2					
1	1	LS	Mobilization	\$ 100,000.00	\$ 100,000
2	1	Allowance	Police Detail	\$ 43,500.00	\$ 43,500
3	3,000	CY	Rock Excavation	\$ 100.00	\$ 300,000
6	1	LS	Sidewalks and Landscaping	\$ 50,000.00	\$ 50,000
7	138	EA	Garage Structure (cost per stall)	\$ 39,000.00	\$ 5,382,000
8	1	LS	Cast-In-Place Concrete Retaining Wall	\$ 175,000.00	\$ 175,000
9	1	LS	Roadway Improvements	\$ 100,000.00	\$ 100,000
10	1	LS	Bike Racks and Lockers	\$ 10,000.00	\$ 10,000
11	1	LS	EV Charging Stations	\$ 125,000.00	\$ 125,000
			Subtotal:	\$ 6,285,500	\$ 6,285,500
Construction Total: \$ 6,285,500					
Contingency (5%) \$ 314,275					
Escalation (5% at 3 years) \$ 990,752					
Design and Construction Phase Services (15%) \$ 942,825					
TOTAL \$ 8,533,352					
SAY: \$ 8,534,000					

ENGINEER'S OPINION OF PROBABLE COST

Project: Conceptual Parking Garage Layouts

Location: Gardener, MA

Tighe&Bond

Prepared By: ND

Date Prepared: 6/12/2023

Updated:

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Project: Conceptual Parking Garage Layouts

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☐ Design Development @

☐ Construction
☐ Change Order
☐ % Complete

**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: Notification regarding receipt of Prison Mitigation Funds from the Commonwealth

Dear Madam President and Councilors,

As part of the FY2024 budget, the Commonwealth allocated funding to municipalities that house state correctional facilities.

The attached correspondence was received regarding the funding we are receiving this year as the host community for the NCCI Gardner facility.

Respectfully submitted,

Michael J. Nicholson
Mayor, City of Gardner



MAURA T. HEALEY
Governor

KIMBERLEY DRISCOLL
Lieutenant Governor

TERRENCE M. REIDY
Secretary

The Commonwealth of Massachusetts
Executive Office of Public Safety & Security
Department of Correction
50 Maple Street, Suite 3
Milford, MA 01757
Tel: (508) 422-3300
www.mass.gov/doc



CAROL A. MICI
Commissioner

SHAWN P. JENKINS
Chief of Staff

KELLEY J. CORREIRA
ROBERT P. HIGGINS
MITZI S. PETERSON
THOMAS J. PRESTON
Deputy Commissioners

January 22, 2024

Mayor Michael J. Nicholson
95 Pleasant Street - Room 125
Gardner, MA 01440

Dear Mayor Nicholson:

The Department of Correction's FY 2024 operating budget contains funds earmarked for cities and towns hosting correctional facilities.

Based on the average state inmate population housed in your community from July 1, 2022, through June 30, 2023, a payment in the amount **\$143,694.00** will be processed for the City of Gardner. This payment will be issued via the State Treasurer's Office and sent to your local Treasurer by electronic transfer. This payment has a scheduled disbursement date of January 24, 2024.

If there are any questions, I can be reached at 508-422-3332.

Sincerely,

Thomas Brennan
Budget Director

Cc: Shawn Jenkins, Chief of Staff
Thomas J. Preston, Deputy Commissioner Administration
Matthew Dailey, Executive Director of Admin Services
Thomas Simeone, Director of Legislative Affairs
Kristine Marcotte, Director, Fiscal Services



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: Notification regarding the fully executed Collective Bargaining Agreement between the City of Gardner and the Gardner Patrol Union for the period of July 1, 2023 through June 30, 2026

Dear Madam President and Councilors,

The Administration has recently completed negotiations with the Gardner Patrol Union, Massachusetts Coalition of Police, AFL-CIO, Local 400, for the period of July 1, 2023 through June 30, 2026.

A copy of the fully executed collective bargaining agreement is attached here for your information.

Respectfully submitted,

Michael J. Nicholson
Mayor, City of Gardner

CONTRACT

BETWEEN

GARDNER POLICE UNION

AND

THE CITY OF GARDNER

DURATION

JULY 1, 2023– JUNE 30, 2026

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PREAMBLE

This Agreement entered into by the City of Gardner, hereinafter referred to as the "Employer" or the "City," and Massachusetts Coalition of Police, AFL-CIO, Local 400, hereinafter referred to as the "Union," has its purpose the promotion of harmonious relations between the Employer and the Union, the establishment of an equitable and peaceful procedure for the resolution of differences, and the establishment of rates of pay, hours of work and other conditions of employment.

ARTICLE 1 **RECOGNITION & SCOPE**

Item 1: **Recognition:** The City hereby recognizes the Union as the exclusive representative for the purpose of collective bargaining with respect to wages, hours, standards of productivity and performance, and any other terms or conditions of employment for all permanent full-time Patrol Officers in the City of Gardner.

Item 2: **Scope:** The Agreement includes all of the agreements reached by the parties respecting matters pertaining to wages, hours, and other conditions of employment of employees covered by this Contract; however, any matter not mentioned in this Contract, or any matter mentioned in this Contract for which specific directions are not set forth herein, or which is not specifically delegated to the employees or to the Arbitrator, shall be reserved for decision by the appointing authority in his/her full discretion; and in the exercise of such a discretion, they shall not be subject to the Grievance and Arbitration Procedures provided in this Contract to the extent that such matters are not subject to collective bargaining law.

Item 3: If any provision of this Contract or any application of this Contract to any employees covered by the terms of this Contract shall be contrary to Law, such provisions or applications shall have effect only to the extent permitted by Law and all other provisions or applications of this Contract shall continue in full force and effect.

Item 4: Except to the extent that there is contained in this Agreement an express and specified provision to the contrary, the City retains, whether exercised or not, all of the authority, power, rights, jurisdiction, and responsibility provided by the Laws of the Commonwealth of Massachusetts to such City for the control, direction and management of the City and its work force, including but not limited to: the right to manage the affairs of the City and of the Department and to

maintain and improve the efficiency of its operation; to determine the methods, means, processes, and personnel by which operations are to be conducted; to determine and schedule hours of duty consistent with the statutes and ordinances and collective bargaining agreement of the City and the assignment of employees to work; to require from each employee the efficient utilization of his/her services; to hire, promote, assign and retain bargaining unit employees; and to promulgate and support rules and regulations pertaining to the operations of the Department and to the bargaining unit employees.

Item 5: Nothing in this Agreement shall limit the City in the exercise of its function of management and in the direction and supervision of the City's business. This includes, but is not limited to the right to: add or eliminate departments; require and assign overtime; increase or decrease the number of jobs; change process; assign work and work to be performed; schedule shifts and hours to work and lunch or break periods in unexpected circumstances; hire, suspend, demote, discipline, or discharge; transfer or promote; layoff because of lack of work or other legitimate reason; establish rules, regulations, job descriptions, policies and procedures; conduct orderly operations; establish new jobs; abolish and change existing jobs; determine where, when, how and by whom work will be done; determine standards of proficiency in police skills and physical fitness standards; except where any such rights are modified or abridged by terms of this Agreement.

Unless an express, specific provision of this Agreement clearly provides otherwise, the City, acting through its Mayor, Police Chief or any other appropriate officials as may be authorized to act on their behalf, retains all the rights and prerogatives it had prior to the signing of this Agreement either by Law, custom, practice, usage or precedent to manage and control the Police Department.

By way of example but not limitation, management retains the following rights:

- a. to determine the mission, budget and policy of the Department;
- b. to determine the organization of the Department, the number of employees, the work functions, and the technology of performing them;
- c. to determine the number, types, and grades of positions or employees assigned to an organizational unit, work project, or to any location, task, vehicle, building, station or facility;

- d. to determine the methods, means and personnel by which the Department's operations are to be carried out;
- e. to manage and direct employees of the Department;
- f. to maintain and improve orderly procedures and the efficiency of operations;
- g. to hire, promote and assign employees;
- h. to transfer, temporarily reassign, or detail employees to other shifts or other duties;
- i. to determine the equipment to be used and the uniforms to be worn in the performance of duty;
- j. to determine the policies affecting the hiring promotion, and retention of employees;
- k. to establish qualifications for ability to perform work in classes and/or ratings, including physical, intellectual, and mental health qualifications;
- l. to layoff employees in the event of lack of work or funds or under conditions where management believes that continuation of such work would be less than efficient, less productive, or less economical;
- m. to establish or modify work schedules and shift schedules and the number and selection of employees to be assigned subject to Article IX;
- n. to take whatever actions may be necessary to carry out its responsibilities in situations of emergency;
- o. to maintain the efficiency of operations entrusted to the Department, by establishing and enforcing reasonable rules, regulations, policies and procedures consistent with the collective bargaining law;
- p. to suspend, demote, discharge, or take other disciplinary action against employees.

Management also reserves the right to decide whether, when, and how to exercise its prerogatives, whether or not enumerated in this Agreement. Accordingly, the failure to exercise any right shall not be deemed a waiver.

The parties agree that each side has had a full opportunity during the course of negotiations to bargain over any and all mandatory bargaining subjects, whether or not included in this Agreement.

ARTICLE 2

EMPLOYEE RIGHTS & REPRESENTATION

Item 1: Employees have, and shall be protected in exercise of, the right without fear of penalty or reprisal, to join and assist the Union. The freedom of employees to assist the Union shall be recognized as extending to participation in the management of the Union and acting for the Union in the capacity of a Union Officer or representative or otherwise and including the right to present Union views and positions to the public and the officials of the City. Without limiting the foregoing, the City agrees that it will not aid, promote, or finance any Labor group or organization which would violate any rights of the Union. No official or agent of the City shall:

- (a) Interfere with the formation, existence, operations or administrations of the Union;
- (b) Discriminate against any employee because he/she has given testimony, taken part in any grievance procedures or hearings, negotiations, or conferences for on behalf of the Union or any employee;
- (c) Refuse to meet, negotiate, or confirm proper matters with officers or representatives of the Union as set forth in this Agreement.

Item 2: The members of the Union's bargaining committee limited to two (2) persons who are scheduled to work a tour of duty during collective bargaining negotiations shall be granted leave of absence without loss of pay or benefits for all meetings between the City, its agents or representatives and the Union for the purpose of negotiating the terms of the Contract or any supplement thereto.

Item 3: No more than one (1) Union official designated in advance by the Union to the City shall, during the life of the Contract, be granted reasonable time during working hours to process and settle grievances provided that such persons

shall first require permission from the Chief of Police. Permission may be withheld by the Chief because of operating requirements, but such permission may not be withheld for more than twenty-four (24) hours. Such designated persons shall not be denied the reasonable use of departmental facilities, including typewriters, or bulletin boards in connection with the activities protected by this clause.

Item 4: Elected Union Officials not to exceed two (2) (Union President and his/her designee) shall be granted time off without loss of pay or benefits to attend Union conventions when held and two (2) Union seminars annually. The Union will keep the Employer informed of any change in union officers.

ARTICLE 3 **INSURANCE & HOSPITALIZATION**

Item 1: Each bargaining unit employee will be offered participation in the City sponsored health, dental and basic life insurance plans. Currently the City offers the Blue Care Elect and the HMO Blue New England Plans of Blue Cross & Blue Shield.

The City and employees enrolled in the health, dental and/or life insurance plans will share the cost of all premium charges. The premium charges will be paid for as follows:

	<u>City</u>	<u>Employee</u>
Blue Cross Blue Shield HMO Blue New England	75%	25%
Blue Cross Blue Shield – Blue Care Elect Plan	50%	50%
Blue Cross Blue Shield Dental Plan	75%	25%
Basic Life Insurance (\$10,000 City offered plan)	75%	25%

For those bargaining unit employees who elect to include their spouse and/or unmarried dependent children until the age of 19 or if a full-time student, as specified by the dental plan, and/or their spouse or children until the age of 26, as specified by the health insurance, in the City sponsored health and/or dental plans.

The premium charges will be paid for as follows:

	<u>City</u>	<u>Employee</u>
Blue Cross Blue Shield HMO Blue New England	75%	25%
Blue Cross Blue Shield – Blue Care Elect Plan	50%	50%
Blue Cross Blue Shield Dental Plan	75%	25%

Those bargaining unit employees enrolled in the health, dental and/or life insurance plans may also elect participation in the City's Section 125 Cafeteria plan for the premiums of the health, dental and/or life insurance plans.

If the City wishes to change or add plans offered to collective bargaining unit members, it will present such changes or additions to the Insurance Advisory Committee. The Insurance Advisory Committee will evaluate such requests and shall then present their findings to their union membership and a vote shall be taken to determine whether or not the membership wishes to make the requested change or addition. The City will offer the approved changes for all bargaining units, if, and only if, two-thirds (2/3) of the City's bargaining units vote to do so.

Item 2: Any claim for payment under said policy shall not be subject to the grievance and arbitration procedures of this Contract.

ARTICLE 4 **AGENCY SERVICE FEE OR UNION SECURITY**

All employees covered by this Agreement shall be required, as a condition of employment to make payment on/or after the thirtieth (30th) day following the beginning of such employment, or the effective date of this Agreement, whichever is the later of any Agency Service Fee to the Union. Such Agency Service Fee shall be in the amount equal to ninety (90%) percent of the Union dues. At the election of the employee, said Agency Service Fee may be deducted from his/her wages upon presentation to the City of a signed authorization. Said authorization may be cancelled by sixty (60) days written notice to the City. An employee who does not authorize the City to make weekly payroll deductions as provided herein shall make the Agency Service Fee directly to the Union Controller.

ARTICLE 5
WAGES

Wages shall be paid in accordance with Appendix "B" and attached hereto and made part thereof.

ARTICLE 6
GRIEVANCE & ARBITRATION PROCEDURE

Item 1: A grievance is a dispute concerning the interpretation, meaning or application of this Agreement or any amendment or supplement thereto, except such disputes concerning such matters which are specifically excluded from the Grievance & Arbitration Procedure by other paragraphs of this Contract.

Item 2: The time limits indicated hereunder will be considered maximum unless extended by mutual agreement in writing, and a failure to comply with said time limits shall waive the grievance.

Level 1: (a) An employee with a grievance shall submit the grievance signed by the grievant and the Chairman of the Grievance Committee in writing to the Deputy Chief as soon as practicable after the receipt of the written grievance (non-employee representative of the Union may attend such meeting).

(b) If the grievance is not received by the Deputy Chief within fifteen (15) days, after the aggrieved knew or should have known of the act or condition upon which the grievance is based, the grievance is waived.

Level 2: If the grievance is not settled within five (5) days of the receipt of the grievance by the Deputy Chief, the aggrieved employee or the Committee may submit said grievance in writing to the Chief of Police. There shall be a meeting with a representative of the Committee and the Chief of Police or his/her representative as soon as practicable after receipt of the written grievance by the Chief of Police. (A non-employee representative of the Union may be present at this meeting).

Level 3: If the grievance is not settled at Level 2, and if the grievance alleges a violation by the City or any of its agents of any of the provisions of this Agreement, this grievance may, within ten (10) working days after written reference by the Committee to the Chief of Police, be referred to the Mayor.

Level 4: If the grievance is not settled within fifteen (15) working days of the receipt of the grievance by the Mayor, arbitration may be sought as hereinafter provided.

Item 3: Any grievance which alleges a violation by the City or any one of its agents of one or more of the provisions of this Agreement and/or which have not been settled under the procedures set forth herein, may be submitted by either party to the *American Arbitration Association* within the time prescribed. Failure to submit within the time prescribed shall waive the grievance. The parties will be bound by the rules and procedures of the American Arbitration Association in the selection of an Arbitrator if they cannot mutually agree upon an Arbitrator.

Item 4: The Arbitrator so selected will confer with the representatives of the Union and the City, and will issue his/her decision, award, and reasons therefore, not later than thirty (30) days from the date of the close of hearings, or, if all the hearings have been waived, then twenty (20) days from the day the final statements have been submitted to him. The Arbitrator will be without power or authority to make any decision or award that violates the Common Law, or Statutory Law of the Commonwealth, or any rules and regulations promulgated pursuant thereto. The Arbitrator shall be without power to add or to subtract from the terms of this Agreement. The Arbitrator shall be without power to require the commission of any act prohibited by Law, or which violates any terms of this Agreement. The Arbitrator will be without power or authority to render any award or decision concerning any matter which is excluded from the Grievance & Arbitration Procedure of the Contract. The Arbitrator will be without power or authority to make any decision or award concerning any matter or grievance which occurred or failed to occur prior to the first day of July, 1987. The decision of the Arbitrator will be final and binding except for review and confirmation as provided by the provisions of Chapter 150C of the General Laws.

Item 5: Employees shall exercise such rights as are granted by provisions of the Civil Service Statute, rules and regulations promulgated pursuant thereto, most particularly Section 43 and Section 39 of said Law, and the provisions of Section 16 of Chapter 32 of the General Laws as set forth in such statutes including the rights of appeal. These matters shall be excluded from the Grievance & Arbitration Clause of the Contract and the Arbitrator shall have no authority to render a decision or award concerning them.

ARTICLE 7
UNION DUES

The Union dues of employees covered by this Agreement shall be deducted each week from the wages of each employee who has signed an authorization form provided by the Union and presented to the Treasurer of the City in accordance with the provisions of Section 17A of Chapter 180 of the General Laws as amended. The Treasurer shall transmit all dues deducted and an up-to-date listing from payroll section of all employees to the Secretary-Treasurer of the Union each month.

ARTICLE 8
WORK SCHEDULE

Item 1: The normal work week will consist of seven (7) days, Sunday through Saturday, in which each employee shall work an average thirty-seven and one-half (37.5) hours per week in a calendar year on a 4 & 2 schedule which provides each employee scheduled to work four (4) days in succession with two (2) days off.

Item 2: The annual department group changes, if any, shall occur on the first Sunday in January in each year. If as a result of said annual group change, a patrolman is required to work in excess of his/her normal work schedule (four (4) days) prior to his/her two successive days off such officer shall be compensated at a later date in compensatory time off at straight time provided manpower warrants.

Item 3: Any Patrol Officer assigned as the Safety Officer, Prosecutor, B.C.I. Commander, and any other positions agreed to between the Chief of Police, Employee, and the Union shall be exempted from the 4 & 2 rotation but will work a five (5) day schedule, but, in such an event, such employee shall receive an additional seventeen (17) days off each calendar year, so that they shall be scheduled to work an average of thirty-seven and one-half (37.5) hours per week during the calendar year. The normal workday will be eight (8) hours.

Item 4: All assignments including those which may be exempted from the work schedule described in Item 1 shall be made in the discretion of the Chief of Police.

Item 5: **Flex Time**

Bargaining unit members holding positions that allow for the completion of their regularly assigned duties outside of their normal work schedule, may flex their work schedule start and end time for the following purposes:

- a.) The performance of details.
- b.) The performance of other approved City related duties (i.e., School Department Coach).

The allowance of flex time for the purposes noted herein will be approved as long as it does not have a detrimental effect on the functions of the department or other bargaining unit members. The detail schedule procedure as defined in Article 14 shall remain in force and effect. Bargaining unit members who flex their time for the purpose of working a detail will be subject to the detail schedule procedure.

Any other approved flex time shall be at the discretion of the Chief of Police or his/her designee.

Item 6: **In Lieu of Time**

In the event the need for a bargaining unit member of any specialty unit to attend a special police event/duty on a day other than his/her normal workday, the bargaining unit member may voluntarily request the use of "in lieu of time," which must be approved by the specialty unit supervisor. In lieu of time is swapping the working of another day in place of a day off in order to perform a special assignment so as not to result in overtime.

ARTICLE 9
OVERTIME PAY

Item 1: All employees covered by this Agreement shall be paid at the rate of one and one-half (1½) times their hourly rate of pay for work in excess of eight (8) hours in one day. For the purpose of this Item, a day means 7:00 AM - 6:59 AM the following day. Outside details shall not be deemed work for the purpose of this clause. Any employee called back to work on the same day having completed his/her assigned work and left his/her place of employment before his/her next regularly scheduled starting time, shall be paid the overtime rate for all hours worked on such recall and will be guaranteed a minimum of four (4) hours of pay at such rate.

Item 2: If an employee is required to correct or complete a function which he/she would have normally performed during his/her regular hours, on time other than the period of his/her regularly assigned duty, he/she shall be paid at the overtime rate but in fifteen (15) minute increments.

Item 3: An employee may elect to earn compensatory time in lieu of overtime payment.

Item 4: Bargaining unit employees shall be permitted to take compensatory time off provided sufficient manpower (as determined by the Chief of Police) warrants same.

Item 5: Bargaining unit employees may also elect to submit for payment of compensatory time through the normal payroll cycle.

Item 6: All overtime shall be distributed as equally as possible and impartially amongst the permanent members of the Gardner Police Department.

Item 7: Normal overtime records shall be updated every two (2) weeks and kept posted in a place open to employees' inspection.

Item 8: Any officer working overtime shall work the same assignment as the officer he/she is replacing.

Item 9: An index card file shall be maintained with the name of each officer on a card. All overtime worked shall be recorded in said index cards. Said index cards shall be open to inspection at all times. Overtime as described in this Article shall be assigned and distributed by utilization of the index card file in the same manner as described in Appendix A. Overtime may be swapped between officers or may be given from one officer to another, provided, however, a signed report is given prior thereto to the supervisor in charge of overtime. Full responsibility shall remain with the officer accepting the overtime assignment.

ARTICLE 10 **CLOTHING**

Item 1: All employees covered by this Agreement shall receive a clothing allowance of Eleven Hundred and Twenty-Five (\$1,125.00) Dollars. (Effective date 07/01/12) When a patrolman is permanently promoted to Sergeant or Lieutenant then in the year of appointment he/she shall receive an additional two-hundred fifty

dollars (\$250.00) to purchase his/her new uniform. Said payment shall be a one-time payment.

Item 2: Bargaining unit employees shall receive their clothing allowance by selecting one of the following methods:

Plan A: Bargaining unit employees shall receive their clothing allowance in a separate check untaxed and without basis toward their retirement in the full amount as allowed by this Contract. Each bargaining unit employee shall be allowed to submit allowable receipts for the upkeep and purchase of clothing, equipment and footwear until the first pay period in December of each year, or until the contractually allowed amount is attained. Any remaining clothing allowance not substantiated by allowable receipts, shall be subject to taxation and reflected in the bargaining unit employee's annual wages.

Plan B: Bargaining unit employees who do not submit receipts for their clothing allowance shall receive their clothing allowance in a separate check. This amount shall be taxed and shall not exceed the amount allowed by Contract.

Item 3: Clothing allowance will be a onetime check, issued separately on or before the third (3rd) pay period in January.

Item 4: In no event shall an employee receive a clothing allowance, either taxed as regular compensation, untaxed as a separate check or a combination of both, in an amount that exceeds the amount allowed by Contract.

Effective January 1, 2023:

Item 1: All employees covered by this Agreement shall receive a clothing allowance of Eleven Hundred and Twenty-Five (\$1,125.00) Dollars, which will be rolled into the base pay for bargaining unit members as reflected in the Wage Schedule attached hereto as Appendix B. When a patrolman is permanently promoted to Sergeant or Lieutenant then in the year of appointment, he/she shall receive an additional two-hundred fifty dollars (\$250.00) to purchase his/her new uniform. Said payment shall be a one-time payment.

Effective July 1, 2023:

Item 1: All employees covered by this Agreement shall receive a clothing allowance of Fifteen Hundred (\$1,500.00) Dollars, which will be rolled into the

base pay for bargaining unit members as reflected in the Wage Schedule attached hereto as Appendix B. When a patrolman is permanently promoted to Sergeant or Lieutenant then in the year of appointment, he/she shall receive an additional two-hundred fifty dollars (\$250.00) to purchase his/her new uniform. Said payment shall be a one-time payment.

Item 2: In no event shall an employee receive a clothing allowance in an amount that exceeds the amount allowed by Contract.

ARTICLE 11 **VACATIONS**

All permanent full-time employees covered by this Agreement shall be granted an annual vacation without loss of pay as follows:

Item 1: Employees shall be eligible for vacation leave with pay within the meaning of this section if they have actually worked for the City thirty (30) weeks during the twelve (12) months preceding the first day of June of each year.

Item 2: Employees who have actually worked thirty (30) weeks or more in the aggregate within the twelve (12) months preceding the first day of June each year, shall be entitled to fourteen (14) working days of vacation.

Item 3: Employees continuously employed by the City for five (5) years through nine (9) years, shall be granted an annual vacation of twenty-one (21) working days.

Item 4: Employees continuously employed by the City for ten (10) years through fourteen (14) years, shall be entitled to an annual vacation of twenty-eight (28) working days without loss of pay.

Item 5: Employees continuously employed by the City for fifteen (15) or more years, shall be entitled to an annual vacation of thirty-one (31) working days without loss of pay.

Item 6: Bids for vacation shall be made from January 1st to February 28th of the same year. Such vacations will be granted in accordance with length of service. All other vacation time will be granted in order of request regardless of seniority in accordance with the following procedures:

Section 1: While selecting for the seniority vacations, officers will make their choice within three (3) days. The next senior employee will make his/her choice within three (3) days. This process will continue until the junior employee has made his/her choice. The same procedure will be repeated for the second choice of vacations.

Section 2: Vacation weeks will begin on Sunday and end on Saturday (full weeks only).

Section 3: No more than six (6) police officers within the bargaining unit may be on vacation at any one time (excluding Group 4 and the Old English Village Officer). No more than two (2) police officers may be on vacation from any one group. A group is defined as the first, second, or third shift. Annually, prior to January 1, the Chief shall post a roster designating the shift assignment of each member of the bargaining unit. Said roster shall be used as a basis for bidding on vacations for and during the calendar year.

Section 4: Officers will be allowed to take vacation at their discretion such as 1, 2, or 3 days at a time or in full weeks, unless an emergency situation exists in which case the Chief of Police may refuse to permit vacation in such manner. Officers will be permitted to take vacation time on the day of a scheduled shift, if after he/she reports to work it is determined that the utilization of a vacation day will not cause overtime. An officer may only bid a maximum of three (3) weeks on 1st bid or 2nd bid, but after everyone has bid, that officer may bid more weeks. Anyone who has not bid for vacation by February 28th, will be considered to have waived his/her right to bid and will come under the first come first served bases of bidding.

Section 5: A bargaining unit employee on vacation will not be restricted as to where he/she may travel or be held on standby except in the case of a declared state of emergency. Bargaining unit employees absent during the year for injury or sick leave shall be allowed to schedule their vacations if they do not interfere with the regular schedules of others.

Section 6: Vacation days must be taken in the calendar year in which they are earned, except a bargaining unit employee may carry no more than five (5) days of vacation into the following year. *(Effective 01/01/2015)*

Section 7: Upon retirement, any bargaining unit employee may take his/her salary in lieu of vacation due.

Section 8: Vacations to be determined within a manner not to affect the efficiency of the City.

Section 9: Employees' vacations shall be granted according to seniority as one group and such bargaining unit employees may take their vacation subject to approval of the Chief and according to the needs of the department and provided relief staff officers are available to fill jobs under this section.

Section 10: After the successful completion of the Massachusetts Police Academy new permanent full-time bargaining unit employees will earn one and one-half (1.5) vacation days per month up to fourteen (14) working days per calendar year for a 4 & 2 schedule, and fourteen (14) calendar days for a 5 & 2 schedule. This time will be credited the last day of each month. The new bargaining unit employee shall continue to earn vacation in this manner until the first anniversary of the date of employment, at which time they shall be credited with the difference between the number of days of vacation days they have earned up until such date, and fourteen (14) vacation days. This vacation will only be allowed upon the completion of six (6) months of service in the department. In no event shall a new employee be eligible for more than fourteen (14) days of vacation per calendar year.

Item 7: Effective July 1, 2012, bargaining unit members normally assigned to a shift falling between the hours of 3:00 PM and 7:00 AM who are eligible to receive a shift differential payment as defined in Appendix B – Item 1 shall continue to receive this shift differential when taking and using vacation time.

Item 8: Upon termination, resignation or retirement the annual allotment of vacation time for the year in which the bargaining unit member's employment ends shall be prorated monthly from the date the bargaining unit member's employment ends.

ARTICLE 12 **HOLIDAYS**

Item 1: Employees covered by this Agreement shall be granted holiday pay for each of the following twelve (12) holidays: *New Year's Day, Martin Luther King Day, Washington's Birthday, Patriots' Day, Memorial Day, Juneteenth, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving Day, & Christmas Day.* If any additional legal holiday is granted by the State, it will be given with pay.

Item 2: Pay for such holidays for employees covered by the Agreement shall be at a one and one-half (1½) times the eight (8) hour rate. Employees covered by the Agreement shall receive such holiday pay whether they work or fail to work on such a date. (Effective 01/01/2015)

Item 3: An employee shall be paid all of his/her accrued holiday pay on the date of his/her termination except if he/she is terminated for cause.

Item 4: Holiday pay shall be paid in a lump sum, six (6) days payable the last pay period in June and six (6) days payable the first pay period in December of each year. If a bargaining unit member's employment terminates prior to the Christmas holiday, but after the lump sum holiday payment has been made on the first pay period of December, payment for that holiday must be reimbursed to the City by the bargaining unit member."

Item 5: New permanent full-time bargaining unit members shall not be eligible for Holiday Pay until he/she has successfully completed the Massachusetts Police Academy.

ARTICLE 13 **SICK LEAVE**

Item 1: All permanent full-time bargaining unit employees, except any new bargaining unit employees when entitled thereto, shall be granted sick leave aggregating no more than twelve (12) days in any one (1) year, exclusive of regularly scheduled days off to be allotted on January 1st of each year. Newly hired employees shall earn sick leave at the rate of one day per month worked. Sick time will be credited to all newly hired employees the last day of each calendar month. New employees that start on or before the fifteenth of the month shall be credited with that month's sick leave accrual. In no event shall a new employee be eligible for more than twelve (12) days of sick leave per calendar year. On the first anniversary of the date of employment, they shall be credited with the difference between the number of days of sick leave they have earned up until such date, and twelve (12) sick leave days. Sick leave allowances not used in any particular year may be accumulated up to an unlimited number of days for use in any subsequent year. (Effective 01/01/2015)

A doctor's certificate at the expense of the employee may be required by the Department Head if any employee is absent from work three (3) consecutive days or more at one time.

Any employees claiming benefits under injury leave or sick provisions of this Agreement, shall submit to an examination at the expense of the City by a physician designated by the Municipal Employer as requested during the period of such disability. Part-time employees shall not earn sick leave.

In the case where an employee has an approved FMLA leave for the birth of a child, the employee will be authorized to use sick time should he/she elect for the first three (3) weeks, for a total of 15 working days, following the birth of the child to allow for the provision of care to the parent recovering from childbirth. This time may be extended upon request and the approval of the Mayor in the event of unforeseen medical circumstances requiring additional time for the care of the parent recovering from childbirth or for the child occurs.

Item 2:

- a) Permanent full-time employees shall be granted four (4) hours of sick leave incentive time without loss of pay for each calendar month during which they do not report out sick, cumulative to six (6) days per calendar year.
- b) The maximum total amount of sick leave incentive time a permanent full-time employee shall be allowed to carry over as of January 1st of each year will be equivalent to fifteen (15) days. Any time in excess of fifteen (15) days after December 31st will be forfeited by the bargaining unit employee.
- c) Upon termination of employment, whether voluntary or involuntary, the maximum number of sick leave incentive time days a full-time bargaining unit will receive by and through separation payment from the City will be six (6) days.
- d) Sick leave incentive time may be requested by an officer by telephone or in person as manpower permits.

Item 3: If an employee has accumulated Sick Leave upon the date of his/her retirement or the date of his/her death, he/she shall be entitled to re-numeration according to the following:

The number of sick days allowable for cash reimbursement upon retirement or death shall be paid according to the following formula:

The first sixty (60) days actually accrued shall be at full pay. The remaining days shall be paid at fifty (50%) percent.

All bargaining unit employees hired before June 30, 1999 will continue to receive the sick leave buy back benefit. Employees hired on or after June 30, 1999, will not receive the sick leave buy back benefit.

Item 4: When an employee's sick leave record is held suspect, the Chief of Police will issue a written warning to said bargaining unit employee stating that upon the next day used as sick leave, the employee may be required to be examined by a physician of the City's choice, at no expense to the bargaining unit employee, to verify illness. Said warnings will be reviewed at six (6) month intervals, and if a bargaining unit employee's record has improved, a statement to that effect will be attached to said warning after one (1) year.

Item 5: Bargaining unit employees may donate sick leave to another employee of the City of Gardner who is in serious need (due to a serious illness or injury and that employee has utilized all of his/her available sick, personal and vacation time). The donated time shall be paid to the employee in need at that employee's rate of pay. Authorization of the donation of this time shall be at the sole discretion of the Mayor.

Item 6: Upon termination, resignation or retirement the annual allotment of sick time for the year in which the bargaining unit member's employment ends shall be prorated monthly from the date the bargaining unit member's employment ends.

Item 7: After fifteen (15) calendar day absence due injury or illness, a bargaining unit member may be eligible for modified duty for return to work as defined and outlined in Appendix C - Modified Duty for Return to Work.

RETIREMENT NOTICE:

Payment for sick leave in the event of retirement and/or death shall remain as it exists in the Contract with the following exception:

Any bargaining unit member hired on or after July 1, 1999 who has accumulated sick leave upon the date of his/her retirement and provides the City with a minimum of six (6) months' notice of his/her retirement, will be granted sick leave pay for five (5) days of actually accrued sick leave.

Any bargaining unit member hired before July 1, 1999, who has accumulated sick leave upon the date of his/her retirement and provides the City with a minimum of six (6) months' notice of his/her retirement shall be granted sick leave pay for such accumulation according to the following formula: The first sixty-five (65) days actually accrued shall be at full pay. The remaining shall be at fifty (50%) percent.

ARTICLE 14

COURT TIME & OUTSIDE DETAILS

Item 1: **Court Time:** Any employee who is required to appear in court in a criminal or civil case consistent with his/her duties as a police officer for the City of Gardner at any time other than his/her regularly scheduled duty hours, shall receive pay at the overtime rate for not less than four (4) hours for attending Gardner District Court and/or for attending Court outside of Gardner provided however if an officer is placed on call for attending Worcester Superior Court but is not required to leave the Gardner area he/she shall only receive three (3) hours pay. This shall include appearances by the bargaining unit employee during his/her vacation, scheduled days off and other times than his/her regularly scheduled shift. Once an officer has completed his/her court case, at any time other than regularly scheduled duty hours, he/she will not be obligated to perform any other function nor to report to anyone without receiving a "Callback".

Item 2: **Outside Details:** Outside details shall be defined as any work performed for third parties and are further defined as either "City Details" or "Contractor Details". By definition, a "City Detail" is a road or event detail scheduled specifically by the City and to be paid for by a City department (i.e., Gardner High School Football game is scheduled and paid for by the School Department). By definition, a "Contractor Detail" is a road or event detail scheduled specifically by a contractor and paid for by a contractor. All such outside details shall be distributed as equally as possible among all permanent members of the Gardner Police Department by roster. Except in emergency situations notice of special assignments shall be posted at least forty-eight (48) hours in advance. Commencing July 1, 2020, all bargaining unit employees shall be paid a detail rate in accordance with the following schedule ("detail rate") for all Contractor Detail work for the first eight (8) hours of such work:

- Effective upon the execution of the contract, the private detail rate shall be changed to \$52.00/hour however, this rate will not be changed until the Superior Officer's contract has been settled with regard to the detail rates.

- Thereafter the detail rate shall be increased by \$1.00 each year at the commencement of each fiscal year.

For City Details bargaining unit employees will be paid the respective bargaining unit member's individual overtime rate, except for in no event shall the bargaining unit member be paid less than the per hour rate as noted in the above detail rate schedule. If a bargaining unit employee shall work in excess of eight (8) hours continuous on such detail, he or she shall be paid at the rate of one and one-half (1½) times the detail rate for all hours actually worked in excess of the said eight (8) hours. A bargaining unit employee shall be paid a minimum of four (4) hours pay for any outside detail, with the exception of outside details (non-City) worked on a holiday, for which bargaining unit members shall be paid a minimum of six (6) hours pay. If the detail runs over four (4) hours he or she shall be paid a minimum of eight (8) hours. Bargaining unit members will be paid at double the rate established for the Sergeants at the top salary step for all strike duty details for the first eight (8) hours of such work. After eight (8) hours, the rate for strike details shall be one-and-a-half (1.5) times the double rate. At 11:59 PM on June 30, 2020, the detail rate as defined herein shall expire and bargaining unit employees shall thereafter be paid at the overtime rate established for the Sergeants at the top salary step for all outside details.

- Item 3:**
- A. Whenever a permit is issued by the City to a private contractor or City employees for street openings or excavations, a regular Gardner Police Officer will be required to be hired when it is recommended by the Chief of Police or his/her designee.
 - B. Detail assignments to liquor establishments and events involving the distribution of alcohol shall be on a voluntary basis. Officers who accept such assignments shall be paid at time and one half the detail rate.
 - C. For safety reasons, a minimum of two (2) officers shall be assigned to concert details.

Item 4: **Detail Classifications**

Details will be listed as either Class A or Class B details.

- A. Class A Details: Any detail called out or scheduled that is longer than four (4) hours in duration (most common example 7 am to 3 pm).

- B. Class B Details: Any detail called out or scheduled that is four (4) hours or less in duration (most common example 7 am to 11 am).
- C. Any officer who is scheduled or accepts a call out for a Class A detail shall be paid for eight (8) hours so long as the detail is not cancelled (at which time the existing cancellation policy begins). Class B (four (4) hour details) whether scheduled or accepted as a call out will be paid out for four (4) hours unless such details continue past four (4) hours after which they shall be paid out at eight (8) hours.

Item 5: **Distribution:** See Appendix "A".

Item 6: Detail records shall be updated every two (2) weeks and kept posted in an area open to bargaining unit employees' inspection.

Item 7: All records used to compute overtime and details shall be made easily accessible for all members of the bargaining unit to see whether posted or upon request.

Item 8: The City may offer outside details to the Police Chief and/or Deputy Police Chief only after all Patrolmen and Supervisors have been called. The Police Chief and Deputy Police Chief will not be included as part of the detail callback card rotation process. The City will assign City Police Department retirees to work outside details after all Patrolmen, Supervisors, the Police Chief and Deputy Police Chief and before outside officers are called. This may be accomplished through special legislation or the designation of retirees as special police officers.

Item 9: City and private contractors who cancel scheduled details will provide a minimum of a two (2) hours' notice prior to cancelling such detail. Officers shall be paid a four (4) hour minimum for any scheduled details that are not cancelled prior to the two (2) hour window of the start time for the detail. This four (4) hour minimum will not apply if an officer takes another available detail for the same time period.

Item 10: Officers shall be paid at a rate of 1½ times the detail rate when working in excess of eight (8) hours. All time after eight (8) hours shall paid in one (1) hour increments.

ARTICLE 15
BEREAVEMENT LEAVE

Item 1: In the event of death in the immediate family of any bargaining unit employee, he/she will be granted leave with straight time pay for normally scheduled working hours, not to exceed three (3) consecutive days and such leave shall not be charged to sick leave or vacation leave.

The immediate family will include spouse, parent, stepparent, parent of spouse, children, brother, sister, grandparents, grandparents of spouse, grandchildren, or a person living in the immediate household of the employee.

Item 2: Bereavement leave of one (1) day without loss of regular straight-time pay for normally scheduled working hours may be granted per occurrence for the death of an employee's niece, nephew, brother-in-law, sister-in-law, son-in-law, daughter-in-law, aunt or uncle and such leave shall not be charged to sick leave or vacation leave.

Additional days may be taken and charged against the bargaining unit employee's personal days, vacation days or time accrued or may be taken non-consecutively with extenuating circumstances and prior approval of the Chief.

ARTICLE 16
MISCELLANEOUS

Item 1: **No Strike:** (a) During the period of this Agreement, no employee covered by this Agreement shall engage in, induce, encourage any strike, work stoppage, slowdown or withholding of services by such employees. Provisions of this Section shall be applicable to all employees during the period of bargaining for a new Contract subsequent to this Contract, not to exceed three (3) years from the effective date of this Contract.

(b) Any action by the City to enforce the provisions of this Item shall not be subject to the Grievance & Arbitration Procedures set forth in this Contract. Violations of the terms of this Item shall be cause for discharge, and/or discipline in the sole discretion of the City.

Item 2: **Waiver:** Failure of either party to this Agreement to execute his/her rights or obligations hereunder, at any one time, shall not be deemed a waiver of the right of such party to exercise his/her rights or obligations in the future.

Item 3: **Amendment to this Agreement:** This Agreement may only be amended by a written instrument executed by the duly authorized representatives of both parties thereto.

Item 4: **Education Incentive Program:**

Effective July 1, 2021:

- 1) all officers with a qualifying degree with 0-5 years of service will receive an educational incentive equivalent to 25% of the full Quinn.
- 2) all officers with a qualifying degree with 5-10 years of service will receive an educational incentive equivalent to 50% of the full Quinn.
- 3) all officers with a qualifying degree with 10-15 years of service will receive an educational incentive equivalent to 75% of the full Quinn, and
- 4) all officers with a qualifying degree with 15 years of service or more will receive an educational incentive equivalent to 100% of the full Quinn.

Effective July 1, 2022:

- 1) all officers with a qualifying degree with 0-5 years of service will receive an educational incentive equivalent to 50% of the full Quinn.
- 2) all officers with a qualifying degree with 5-10 years of service will receive an educational incentive equivalent to 75% of the full Quinn and
- 3) all officers with a qualifying degree with 10 years of service or more will receive an educational incentive equivalent to 100% of the full Quinn.

Full Quinn” means 10% for an Associates degree, 20% for a Bachelor's degree, and 25% for a Masters degree.

Item 5: **Seniority:** Seniority is defined for the purpose of this section in accordance with Civil Service Laws, rules and regulations. For purposes of this Contract, except for vacations, seniority shall be determined by the date of an employee's appointment by the City of Gardner to his/her rank.

With the exception of the Community Policing, Bureau of Criminal Investigations, Prosecutor, School Resource and Canine Officer positions, no later than November 1st of each year, a list of assignments by shift for patrolmen shall be posted on the bulletin board in the Station. Patrol officers may indicate their preferences for assignment by submitting in writing to the Chief, two (2) choices no later than

December 1st of each year, said preference to be effective for the following calendar year only. Thereupon, the senior patrolman bidding shall be assigned to said assignment. When there are no bidders for an assignment, the officer with the least amount of seniority shall be assigned to fill it. The Community Policing, Bureau of Criminal Investigations, Prosecutor, School Resource and Canine Officer positions shall be posted by November 1st every third year, commencing on November 1, 2006.

Insofar as possible and compatible with the needs of the Department, officers shall be assigned based on their preference on the basis of seniority, with the exception of Bureau of Criminal Investigations ("BCI") assignments, which shall be assigned on the basis of the bargaining unit member's seniority specifically with BCI. Any officer who feels that seniority has not been considered in his/her assignment may request a hearing before the Chief in this regard. The decision of the Chief shall be final. (Past performance and training shall be taken into consideration by the Chief in making his decision).

All jobs under this section shall be bid under one hundred (100%) percent full seniority.

Should the Chief at any time during the calendar year desire to change the then existing job assignments (this would include all assignments), a new list of assignments by shift shall then be posted for bidding with the opportunity for all members to bid by seniority. (At least thirty (30) days in advance of the effective date of such change, all job assignments will be defined by a full job description.) The decision of the Chief shall be final. Past performance and training shall be taken into consideration by the Chief in making this decision.

In the event that a bargaining unit member who holds the Community Policing, Bureau of Criminal Investigations, Prosecutor, School Resource or Canine Officer position should receive a promotion or who should request of the Chief the ability to relinquish said position, which request shall not be unreasonably denied, then that position shall be posted for bidding with the opportunity for all members to bid by seniority pursuant to the stipulations are referenced in Paragraph 5.

Except as provided in Article 9, Item 3, shifts for the purpose of this section shall be 7:00 AM to 3:00 PM, 3:00 PM to 11:00 PM and 11:00 PM to 7:00 AM and one (1) officer, 7:00 PM to 3:00 AM as needed.

The desk assignment/dispatching may be filled by civilian dispatchers according to the following terms:

1. If there are any lay-offs in the department, the civilian dispatchers shall be laid off first.
2. If civilians are being utilized and a shift needs to be filled, the City will first attempt to fill it with another civilian.
3. If another civilian is not available, the shift may be filled with an off-duty police officer.
4. If no off-duty patrol officer is available, the City may fill the shift with an on-duty patrol officer by seniority with right of refusal.

The choice of vacation periods shall be governed by the date of an employee's permanent appointment to the Department. The City agrees to supply a seniority list to the Union during the period of this Contract which shall contain the classification of each employee, his/her rate of pay and his/her seniority date within rank.

Item 6: **In-Service Training:** The Employer may provide an in-service training program which shall include the following:

- (a) Employer paid educational leave for job improvement, while employed by the City of Gardner as approved by the Chief of Police.
- (b) Employer paid tuition for job improvement courses, while employed by the City of Gardner as approved by the Chief of Police.
- (c) Each member of the bargaining unit shall attend the time necessary for C.P.R. training, re-certification and any other mandatory training by Law.
 - (1) Instruction to be arranged by the City at reasonable times, upon reasonable notice and without cost to members of the bargaining unit.
 - (2) Members that have the training necessary to satisfy the requirement of Law shall be exempt from training.
 - (3) Employees who attend such mandated training shall be compensated at a

later date in compensatory time off at straight time rate provided manpower warrants, and at the overtime rate if said employee is compelled to attend on regularly scheduled time off.

- (4) Employees who attend such mandated training shall be compensated at the overtime rate if such training does not fall during his regular scheduled hours.
- (d) When a member of the bargaining unit is directed by the Chief of Police or his or her supervisor to perform training duties on his/her regular shift and not on an overtime shift, additional compensation of two (2) hours of straight time per shift will be awarded for each shift training duties are performed.
- (e) When a bargaining unit member is assigned a ride along as part of their shift, they will be paid for one (1) hour of overtime.
- (f) When a bargaining unit member is assigned a training shift to work with new City recruits, they will be paid for two (2) hours of overtime.

Item 7: **Personal Days:** (a) Employees shall be granted three (3) personal days per calendar year that may not be accumulated, unless circumstances prevail where an employee had not been able to use pre-arranged time off in the calendar year. Under no circumstances shall an employee carry over said days beyond the next calendar year. Personal days are of no loss of pay to employees and shall not be charged to sick or vacation leaves.

(b) Employees shall notify the officer in charge when using a personal day and shall not be denied unless an emergency or just cause for denial exists. If an emergency is in effect, a personal day can be denied with just cause given by the Chief of Police or his/her designee. Personal days shall be on a first come first serve basis, with only one (1) member of the bargaining unit per shift allowed a personal day at one (1) time.

(c) Notwithstanding the wording of section (b) above, no officer may use a personal day except upon thirty (30) days advance notice at the following times: Thanksgiving Day, Christmas Eve, Policeman's Ball, Police Outing or Police Banquet.

(d) After the successful completion of the Massachusetts Police Academy new permanent full-time bargaining unit employees shall be granted three (3) personal days per calendar year that may not be accumulated.

(e) Upon termination, resignation or retirement the annual allotment of personal days for the year in which the bargaining unit member's employment ends shall be prorated quarterly from the date the bargaining unit member's employment ends.

Item 8: **Additional Union Activities** – A Union representative will be allowed time during roll call to make important announcements.

Bulletin board announcements may be placed by the Union on bulletin boards located at places where employees leave and enter the premises provided however that such announcement may not be inflammatory, insulting, or insubordinate toward the department of any member thereof.

Item 9: The City agrees to adopt a revolving fund for payment of Police Officers for outside duties. Said payments will be made within two (2) pay periods of the duties performed.

Item 10: All requests for time off will be answered within four (4) working days (5 & 2 schedule) of the request.

Item 11: Employees will have the right to review the contents of their personnel file within a reasonable time of request. An employee will be entitled to have a representative of the Union accompany him during such review. No material derogatory to an officer's conduct, service, character or personality will be placed in his/her personnel file unless the officer has had an opportunity to review the material. The officer shall acknowledge that he/she has had the opportunity to review the material by affixing his/her signature to the copy to be filed with the express understanding that such signature in no way indicates agreement with the contents thereof. The officer will also have the right to submit a written answer to such a derogatory material, and his/her answer shall be reviewed by the Chief and attached to the file copy. This item shall be retroactive to include all material presently on file.

Item 12: For the purpose of Statutory on duty indemnification, on duty shall include uninterrupted time spent in route directly to and from the officer's home and police station on a public way or City property.

Item 13: Effective with the execution of the Contract, all new cruisers ordered for the department shall be equipped with air conditioning.

Item 14: Whenever the temperature at the start of the second or third shift is at or below ten (10) degrees Fahrenheit at the Police Station, or at the discretion of the Shift Commander, because of wind chill factor of zero (0) degrees, storm or other adverse conditions, the officers assigned to beat detail shall either be allowed to use a spare four (4) wheel vehicle or to double up with a cruiser operator on cruiser duty with the understanding that both the cruiser route and beat will be patrolled by such cruiser. This paragraph shall apply only during the hours of 7:00 PM to 7:00 AM on such day. The Union shall pay and install a weather station for use in connection with this clause.

Item 15: Officers absent from duty on account of injury or disability incurred in the performance of his/her duty shall receive full pay during his/her absence in accordance with the terms and conditions of M.G.L., c. 41, §111F. Sick leave incentive time shall not be accrued during any time which an officer is out on injured on duty status.

Item 16: The first Detective Police Officer shall work five (5) days per week with Saturday and Sunday off. His/her hours of work shall be flexible at the discretion of the officer, with the approval of the B.C.I. Commander.

All other Detective Police Officers positions may work either a 5&2 or a 4&2 schedule. His/her hours shall be flexible at the discretion of the officer with the approval of the B.C.I. Commander.

The B.C.I. Commander shall make the final determination as to work schedule and hours at the time of the job bid.

Item 17: A Supervisor, with approval of the Chief of Police, may order a drug or alcohol test when there is documentation that an employee is, or has been, impaired or incapable of performing his or her assigned duties, or is displaying behavior which is inconsistent with previous performance. Refusal to undergo an ordered test is subject to disciplinary action.

The contents of documentation shall be made available to the employee.

Item 18: Female Police Officers or other female department employees shall handle all female juvenile and female adult arrestees whenever practicable.

Item 19: Commencing July 1, 2018, for the purpose of calculating longevity based step increases, previous full time municipal police experience with another City and/or Town, upon confirmation, will be factored into the longevity years of service at one-half (1/2) a year for every full year of service (i.e., 8 years with the Town of Templeton will be equivalent to 4 years of service). Previous service as defined herein shall only be used for the stated purpose and will not be used for the calculation or assessment of any other benefit provided by the City (i.e., vacation time). Bargaining unit members who have previously worked as a police officer for a state facility (such as a state college) may be eligible for this benefit upon review and approval of his/her previous work history by the Mayor or his/her designee.

Commencing July 1, 2023, for the purpose of calculating longevity based pay step increases, previous full time municipal police experience with another City and/or Town, which must include the MPTC full time academy training, upon confirmation, will be factored on a year for year basis (i.e., four (4) years of full time service with the Town of Templeton will equal four (4) years of service for the City of Gardner). Previous service as defined herein shall only be used for the stated purpose and will not be used for the calculation or assessment of any other benefit provided by the City (i.e., vacation time, department seniority). Eligibility for this benefit for service as a college campus police officer shall be evaluated and determined by the Chief of Police or his/her designee.

Item 20: A bargaining unit employee's time spent as a Reserve Police Officer of the City of Gardner shall count toward vacation and longevity benefits.

Item 21: **Meal Allowance**

Permanent full-time employees shall be provided with a meal allowance for attendance at in-service training and/or pre-approved (by the Chief or his/her designee) outside seminars as follows:

Up to a maximum of*	- Breakfast:	\$5.00
	Lunch:	\$10.00
	Dinner:	\$15.00

(*Can be combined for a full or partial day for a maximum total of \$30.00 for a full day.)

Reimbursement is contingent upon the submission of meal receipts.

Item 22: Military Time Benefit

Permanent full-time employees who are enlisted in the military (i.e., Marine Corps., Army, Navy, National Guards, etc.) are eligible for the benefits for training and/or active duty as defined in MGL, c. 33, §59, which will be referred to as “Military Benefit Time.” *(Effective 01/01/2021)*

- A. Training days shall only be used for those days an eligible employee is regularly scheduled to work. Eligible employees shall receive their regular base pay rate for these benefit days. This benefit will not accrue. Benefit time not utilized at the end of each year will not carry over to the following year. Upon discharge from their respective military unit employees previously eligible for this benefit will no longer receive this benefit. This benefit time will not be used for active duty.
- B. For active-duty purposes, when eligible for continued pay as defined by MGL, c. 33, §59, the eligible employee shall provide the Human Resources Department with amount he/she is paid by either the United States or the Commonwealth for military service performed during the same pay period.


ARTICLE 17
DURATION

This Agreement and its provisions shall upon execution be effective from July 1, 2023 and continue in full force and effective until June 30, 2026. Either party may, on or before the 1st day of March 2026, give written notice to the other of its desire to extend or revise the Agreement during the period to commence July 1, 2026. If lawful and enforceable, this Agreement shall remain in full force and effect until the new contract is ratified by both parties.


Either party may terminate this Agreement by such notice as is described above, any time, following the termination date set forth above by written notice one to the other, except that the no strike clause contained herein shall remain in force and effect until three (3) years from the date of execution of this Agreement.

In witness whereof, the parties hereto cause this instrument to be executed in their names and on their behalves by the duly authorized Officers thereto this 19th day of January, in the year 2024.

FOR THE UNION:


Robert Allard, Union Steward
Massachusetts Coalition of Police
AFL-CIO, Local 400

FOR THE CITY:


Michael Nicholson, Mayor
City of Gardner

Ian Collins, Esq.
Massachusetts Coalition of Police
AFL-CIO, Local 400

In witness whereof, the parties hereto cause this instrument to be executed in their names and on their behalves by the duly authorized Officers thereto this 19th day of January, in the year 2024.

FOR THE UNION:

FOR THE CITY:

Robert Allard 1-2-24
Robert Allard, Union Steward
Massachusetts Coalition of Police
AFL-CIO, Local 400

Michael Nicholson, Mayor
City of Gardner

Ian Collins
Ian Collins, Esq.
Massachusetts Coalition of Police
AFL-CIO, Local 400

APPENDIX A

In order to provide an equitable distribution of outside details and to expeditiously provide the police service to those desiring such, the following guidelines are established:

1. Details will be posted forty-eight (48) hours in advance whenever possible.
2. Once an officer is assigned a detail it is his/her responsibility. He/she will be charged with the detail whether he works it or not. He/she may work it, swap it or give it away. Failure to cover the detail will result in the assigned officer being charged with a refusal.
3. Any employee refusing such details (twelve (12) month period January to December) shall not receive a detail for one (1) month from the date of refusal.
 - a) An index card file shall be maintained with the names of each officer on the detail list. In order to distribute details equitably and equally the following procedure is established:
 - 1) The Chief shall, with the approval of the Union, designate a member of the Department to call officers for details with this section;
 - 2) Assignments shall be made by calling the officers in order as their cards are pulled in the box. If an officer is not reached his/her card shall remain in position and the next officer shall be called. If an officer accepts a detail his/her card shall be placed in the rear of the box and the detail noted thereon. All other assignments shall be in like fashion.
 - 3) Officers requested to work details with less than forty-eight (48) hours notice shall not be charged with a refusal if they refuse. However, if they accept, the detail will be counted.
 - 4) All members of the bargaining unit desiring details shall sign a posted list. It will be assumed that the officers not signing do not desire details. Officers may change their minds and request their names be placed on the list at any time.

Appendix B
Patrolman's Wage Schedule
2021 - 2023

Grade A - No degree

MUNIS STEPS	Grade	01/01/23 (Clothing Added)	PRIOR CLOTHING	CLOTHING ADDED		07/01/23 2%	07/01/24 2%	07/01/24 2% (38.5 Hours)	07/01/25 2%	07/01/25 2% (39.5 Hours)	06/30/26 (40 Hours)
Step 1	GRADE 1AP	\$40,654.78	\$1,125.00	\$375.00	\$41,029.78	\$41,850.38	\$42,687.38	\$43,825.71	\$44,702.23	\$45,863.32	\$46,443.87
Step 2		\$43,891.53	\$1,125.00	\$375.00	\$44,266.53	\$45,151.86	\$46,054.89	\$47,283.02	\$48,228.69	\$49,481.38	\$50,107.72
Step 3		\$53,425.79	\$1,125.00	\$375.00	\$55,800.79	\$55,876.81	\$55,974.35	\$57,456.99	\$58,616.33	\$60,138.84	\$60,900.09
Step 4 (5 yrs)		\$55,040.84	\$1,125.00	\$375.00	\$56,415.84	\$57,544.16	\$58,695.04	\$60,260.24	\$61,465.44	\$63,061.95	\$63,860.20
Step 5 (10 yrs)		\$58,786.63	\$1,125.00	\$375.00	\$59,161.63	\$60,344.86	\$61,551.76	\$63,193.14	\$64,457.00	\$66,131.21	\$66,968.32
Step 6 (15 yrs)		\$61,669.70	\$1,125.00	\$375.00	\$62,044.70	\$63,285.60	\$64,551.31	\$66,272.68	\$67,598.13	\$69,353.93	\$70,231.83
Step 7 (20 yrs)		\$64,696.95	\$1,125.00	\$375.00	\$65,071.95	\$66,373.39	\$67,700.85	\$69,506.21	\$70,896.33	\$72,737.80	\$73,658.53
Step 7A	8	\$65,968.38	\$1,125.00	\$375.00	\$66,343.38	\$67,670.24	\$69,023.65	\$70,864.28	\$72,281.57	\$74,159.01	\$75,097.73
Step 8 (25 yrs)	9	\$67,875.53	\$1,125.00	\$375.00	\$68,250.53	\$69,615.55	\$71,007.86	\$72,901.40	\$74,359.43	\$76,290.84	\$77,256.55
Step 8A	10	\$69,210.54	\$1,125.00	\$375.00	\$69,585.54	\$70,977.26	\$72,396.80	\$74,327.38	\$75,813.93	\$77,783.12	\$78,767.72

Step 7A applies only to Patrol Officers who served the City of Gardner as Patrol Officers for 20 to 24 years and Step 8A applies only to Patrol Officers who served the City of Gardner as Patrol Officers for 25+ years. Step 7A and Step 8A are established solely in recognition of the Patrol Officer's agreement to remove the City of Gardner from participation in the Commonwealth of Massachusetts' Civil Service system. Such officers shall not be eligible for any advancement through grades of the wage schedule regardless of any academic degree achieved. These Steps - 7 A and 8A shall only apply to those Patrol Officers employed by the City of Gardner as of the effective date of this CBA and shall terminate upon the retirement of the last Officer qualified for this Step of the Wage Schedule. Thereafter, these steps 7A and 8A shall be eliminated from the Wage Schedule and no other Officer shall be eligible.

Grade B - Associates Degree

Grade	01/01/23 (Clothing Added)	PRIOR CLOTHING	CLOTHING ADDED		07/01/23 2%	07/01/24 2%	07/01/24 2% (38.5 Hours)	07/01/25 2%	07/01/25 2% (39.5 Hours)	06/30/26 (40 Hours)
Step 1	GRADE 1BP	\$42,655.97	\$1,125.00	\$375.00	\$43,030.97	\$43,891.59	\$44,769.43	\$45,963.28	\$46,882.54	\$48,709.14
Step 2		\$46,056.59	\$1,125.00	\$375.00	\$46,431.59	\$47,360.22	\$48,307.42	\$49,593.62	\$50,597.53	\$52,558.47
Step 3		\$56,073.52	\$1,125.00	\$375.00	\$56,448.52	\$57,577.49	\$58,729.04	\$60,295.15	\$61,501.06	\$63,897.20
Step 4 (5 yrs)		\$60,228.17	\$1,125.00	\$375.00	\$60,603.17	\$61,815.24	\$63,051.54	\$64,732.91	\$66,027.57	\$67,742.57
Step 5 (10 yrs)		\$64,660.91	\$1,125.00	\$375.00	\$65,035.91	\$66,336.63	\$67,663.36	\$69,467.71	\$70,857.07	\$72,697.51
Step 6 (15 yrs)		\$67,724.18	\$1,125.00	\$375.00	\$68,099.18	\$69,461.16	\$70,850.38	\$72,739.73	\$74,194.52	\$76,121.65
Step 7 (20 yrs)		\$71,054.14	\$1,125.00	\$375.00	\$71,429.14	\$72,857.73	\$74,314.88	\$76,296.61	\$77,822.54	\$79,843.91
Step 8 (25 yrs)		\$74,550.58	\$1,125.00	\$375.00	\$74,925.58	\$76,424.10	\$77,952.58	\$80,031.31	\$81,631.94	\$83,752.25
										\$84,812.41

Grade C - Bachelor's Degree

Grade	01/01/23 (Clothing Added)	PRIOR CLOTHING	CLOTHING ADDED		07/01/23 2%	07/01/24 2%	07/01/24 2% (38.5 Hours)	07/01/25 2%	07/01/25 2% (39.5 Hours)	06/30/26 (40 Hours)
Step 1	GRADE 1CP	\$44,706.58	\$1,125.00	\$375.00	\$45,081.58	\$45,983.21	\$46,902.88	\$48,153.62	\$49,116.69	\$50,392.45
Step 2		\$48,275.09	\$1,125.00	\$375.00	\$48,650.09	\$49,623.09	\$50,615.55	\$51,965.30	\$53,004.61	\$54,381.35
Step 3		\$58,786.62	\$1,125.00	\$375.00	\$59,161.62	\$60,344.85	\$61,551.75	\$63,193.13	\$64,456.99	\$66,131.20
Step 4 (5 yrs)		\$64,552.80	\$1,125.00	\$375.00	\$64,927.80	\$66,226.36	\$67,550.88	\$69,352.24	\$70,739.28	\$72,576.67
Step 5 (10 yrs)		\$70,751.42	\$1,125.00	\$375.00	\$71,126.42	\$72,548.95	\$73,999.93	\$75,973.26	\$77,492.72	\$79,505.52
Step 6 (15 yrs)		\$73,778.65	\$1,125.00	\$375.00	\$74,153.65	\$75,636.72	\$77,149.46	\$79,206.78	\$80,790.91	\$82,889.38
Step 7 (20 yrs)		\$77,411.33	\$1,125.00	\$375.00	\$77,786.33	\$79,342.06	\$80,928.90	\$83,087.00	\$84,748.74	\$86,950.01
Step 8 (25 yrs)		\$81,225.65	\$1,125.00	\$375.00	\$81,600.65	\$83,232.66	\$84,897.32	\$87,161.24	\$88,904.47	\$91,213.68
										\$92,368.28

Appendix B
Patrolman's Wage Schedule
2021 - 2023

Grade D - Master's/Law Degree

	Grade	01/01/23 (Clothing Added)	PRIOR CLOTHING	CLOTHING ADDED		07/01/23 2%	07/01/24 2%		07/01/24 2% (38.5 Hours)	07/01/25 2%		07/01/25 2% (39.5 Hours)		06/30/26 (40 Hours)
Step 1		\$45,750.41	\$1,125.00	\$375.00	\$46,125.41	\$47,047.92	\$47,988.88	\$24.61	\$49,268.58	\$50,253.95	\$25.10	\$51,559.25	\$25.10	\$52,211.90
Step 2		\$49,404.40	\$1,125.00	\$375.00	\$49,779.40	\$50,774.99	\$51,790.49	\$26.56	\$53,171.57	\$54,235.00	\$27.09	\$55,643.70	\$27.09	\$56,348.05
Step 3		\$60,167.69	\$1,125.00	\$375.00	\$60,542.69	\$61,753.54	\$62,988.61	\$32.30	\$64,668.31	\$65,961.68	\$32.95	\$67,674.97	\$32.95	\$68,531.61
Step 4 (5 yrs)	GRADE	\$66,766.58	\$1,125.00	\$375.00	\$67,141.58	\$68,484.41	\$69,854.10	\$35.82	\$71,716.88	\$73,151.21	\$36.54	\$75,051.24	\$36.54	\$76,001.26
Step 5 (10 yrs)	1DP	\$73,877.76	\$1,125.00	\$375.00	\$74,252.76	\$75,737.82	\$77,252.57	\$39.62	\$79,312.64	\$80,898.89	\$40.41	\$83,000.16	\$40.41	\$84,050.80
Step 6 (15 yrs)		\$76,805.88	\$1,125.00	\$375.00	\$77,180.88	\$78,724.50	\$80,298.99	\$41.18	\$82,440.29	\$84,089.10	\$42.00	\$86,273.23	\$42.00	\$87,365.30
Step 7 (20 yrs)		\$80,589.93	\$1,125.00	\$375.00	\$80,964.93	\$82,584.23	\$84,235.91	\$43.20	\$86,482.20	\$88,211.85	\$44.06	\$90,503.07	\$44.06	\$91,648.67
Step 8 (25 yrs)		\$84,563.17	\$1,125.00	\$375.00	\$84,938.17	\$86,636.93	\$88,369.67	\$45.32	\$90,776.20	\$92,540.72	\$46.22	\$94,944.38	\$46.22	\$96,146.20

The following work time changes will be added to wage schedule:

* July 1, 2024 - 1 Hour for a total of 38.50 hours

* July 1, 2025 - 1 Hour for a total of 39.50 hours

* June 1, 2026 - 1/ (0.5) Hour for a total of 40 hours

Item 1:

- a) Newly hired police officers who at the time of hire have successfully completed the Massachusetts Police Academy and have worked for at least one full year with another municipality shall commence employment at Step 3 of the Wage Schedule.
- b) All members of the bargaining unit will receive additional compensation of ten (10%) percent of their hourly rate for each eight (8) hour shift worked on the second relief.
- c) All members of the bargaining unit will receive additional compensation of ten (10%) percent of their hourly rate for each eight (8) hour shift worked on the third relief.
- d) Any patrol officer assigned to the Bureau of Criminal Investigation (BCI), Prosecutor, Community Policing, Canine Officer, Translator (certification/verification required) and/or Safety Officer shall, receive in addition to his/her regular salary as a police officer, an additional five (5%) percent per day differential (to be calculated as 5% of their hourly rate for each hour worked), to be paid in addition to the compensation set forth above.
- e) All patrol officers shall be entitled to shift differential if they work a minimum of four (4) hours into the 3:00 PM – 11:00 PM shift.
- f) In the case that an officer is either assigned to work as the Officer in Charge or is the most senior officer on duty and must work as the Officer in Charge due to the absence of a supervisor on an overtime shift, said officer shall be paid overtime calculated at the top sergeant's pay rate of the wage schedule. Shift differential will not be factored into this overtime calculation. Upon the removal from Civil Service and the change in wage to the schedule that includes educational incentive, the Officer in Charge pay will be calculated at the top sergeant's pay rate of the wage schedule inclusive of the educational incentive rate that is commensurate with that of the assigned officer (not retroactive to 07/01/2021).
- g) Effective 07/01/2021 bargaining unit members who work as the on-call detective shall receive a \$250.00 weekly stipend.
- h) Effective 07/01/2018 bargaining unit members who have successfully

completed the previous fiscal period with an on duty no fault (clean) driving record shall receive a \$250.00 stipend to be paid the first pay week in August. Any bargaining unit member who has criminal motor vehicle charges brought against him/her for an on or off duty offense shall NOT be eligible for the safe driving stipend for the fiscal period that the charges occurred.

- i) Bargaining unit members who have successfully completed all City of Gardner public safety dispatcher training components may work unfilled dispatcher shifts when available.
- j) Bargaining unit members who are qualified through education and training are eligible to apply for and be hired as athletic coaches for the City of Gardner School Department. Coaching duties will be performed on the bargaining unit member's own time and will not conflict with his/her regular work schedule. Compensation will be a stipend set and paid for by the School Department.
- k) It has been voted on by the City Council to remove the position of police officer from Civil Service. The specified changes to the educational incentive program set forth in the 2020-2021 and 2021-2023 Contracts, which originally were to take effect only upon the confirmed removal of the City of Gardner from Civil Service, shall be implemented upon execution of this agreement. As to the changes listed below within this Section 2, the condition precedent in the 2020-2021 and 2021-2023 Contracts of the City's removal from Civil Service is hereby waived. The changes shall take effect retroactively and officers will receive retroactive pay to the effective dates.

When and if the City of Gardner is removed from Civil Service for the hiring and promotion of police officers, the full educational incentive percentages as defined by the Quinn Bill will be implemented for all steps of the wage schedule upon the exact date of removal. The wage schedule will be created for the removal date utilizing the wage schedule currently in effect (FY24, FY 25 or FY26). The effective date of the increases will be the exact date of the removal.

Only those members of the Union who have a degree in criminal justice as defined in Article 16, Item 4 of the Contract shall receive the base pay inclusive of the educational incentive pay.

- l) Bargaining Unit members who are designated trainers, as confirmed by the Chief of Police or his/her designee shall receive an annual stipend to be paid the first week of August, as noted below:
 - CPR/First Responders and Taser Certified Trainers: \$500.00
 - Certified Firearms Trainers: \$750.00
- m) The bargaining unit member who has obtained the TruNarc certification and is assigned to utilize the Thermo Scientific raman spectrometer will receive an annual stipend of \$500.00 paid the first pay week in August.
- n) The bargaining unit member who is certified as and works as the Arson Investigator in tandem with the Fire Department will receive an annual stipend of \$1,300.00 to be paid the first pay week in August. This stipend will be limited to one (1) bargaining unit member.

APPENDIX C

Modified Duty For Return To Work

There are injuries or illness, which may be sustained on or off the job, which may permit a bargaining unit member to perform certain modified, and job-related duties which will improve the Department, provide meaningful work activities for the injured employee, and improve the employees' opportunity to achieve full psychological and physical recovery from the injury.

If after fifteen (15) calendar days, a police officer out on injury leave is unable to return to full duty status, the Chief, after review with the individual employee and the Union, may assign an officer who is recovering from a job related sickness or injury to modified duty. This shall be done after review by the employee's physician and the City's physician, who shall have approved such modified duty, after having been provided with a written job description of the modified duty assignment. If unable to agree, a third physician from the appropriate medical specialty, agreed to by the employee's and the City's physician, shall, if he/she deems necessary, examine the employee and make a determination which shall be binding on both parties. The City would pay the third physician.

Employees experiencing injury or illness in a non-duty status shall participate in a modified duty program subject to the conditions of this agreement. Modified duty assignments shall also be made available for bargaining unit members who are pregnant.

A modified duty assignment may, by agreement of the Chief, the Union and the individual employee, begin prior to the normal fifteen (15) calendar day waiting period.

Once application for retirement is made, the employee shall return to his/her prior injury leave status or sick leave, whatever his/her status was prior to modified duty status. If the local retirement board denies his/her application, the employee shall return to modified duty only to fill the remainder of his/her one-year term and then shall revert to injury leave or sick leave, whatever his/her status was prior to modified duty status. (The one-year term shall not include that period of time that his/her application for retirement was pending.)

Benefits accruing to employees by law, Contract, and practice shall not be diminished by virtue of injured on duty or modified duty status.

The Chief will make modified duty assignments to minimize public contact, when practical given the individual's injury and/or physical constraints, and in any event no employee will be held responsible for failure to render emergency assistance when prevented from doing so by the condition necessitating the modified duty status.

Modified duty assignments shall be, so far as practical, particularized to the individual abilities and limitations of each employee so assigned.

Modified duty shall not include driving of emergency vehicles.

The employee on modified duty shall be released by the Chief to attend physician appointments or therapy. Such requests for release shall not be unreasonably withheld.

Modified duty hours will be assigned by the Chief at his/her discretion which will best serve the department's needs.

Employees on modified duty status shall be eligible for regular overtime opportunities as long as he/she is able to provide the appropriate supporting medical authorization and no more than one employee on modified duty status works on the same shift.

The following list of modified duty assignments may be modified by mutual consent of both the City and the Union.

MODIFIED DUTY ASSIGNMENTS

1. Administrative Officer: Shall assist with administrative tasks including paperwork and data filing.
2. House Officer: Shall assist dispatch with taking and entering calls. Shall provide advice to citizens entering the lobby seeking assistance. Shall assist victims with applying for and seeking restraining or harassment prevention orders at the station.
3. Investigative Assistant: Shall provide assistance to BCI at the direction of the LT. Detective in charge of the detective unit including: analyzing data, search warrants and subpoena applications. Evidence processing at the station.

4. Community Policing Assistant: Shall provide light duties assigned to them at the discretion of the Lieutenant in command of the community policing unit.
5. Dispatch Duties: As noted in Appendix A, Item 1, Section J - Bargaining unit members who have successfully completed all City of Gardner public safety dispatcher training components may work unfilled dispatcher shifts when available.
6. Additional Duties: Any additional modified duty assignments if agreed upon by the Chief, Human Resources Director and officer on modified duty as long as the duties are in compliance with medical accommodations required.

Nothing in this Article shall preclude an employee from returning to regular duty or from returning from injury leave or sick leave to modified duty on the advice of his/her own physician.

In the event a bargaining unit member has a scheduled vacation during the course of time he/she is working on modified duty, although it is the preference of the City that the member utilize the vacation as scheduled, the member may request that he/she be allowed to reschedule vacation time. Said request shall be made to the Police Chief or his designee and must be presented with a valid reason for said request (i.e., member has scheduled a vacation which involves physical abilities of which he/she is not capable of utilizing due to the circumstances upon which his/her modified duty status is based upon). Police Chief shall not unreasonably withhold authorization.



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,

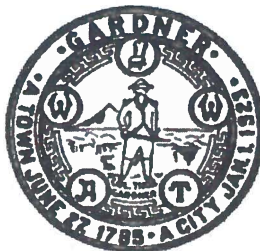
Michael J. Nicholson
Mayor, City of Gardner

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
 Total	 \$ 603,000.00
Contingency	\$ 22,000.00
 Total	 \$ 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 GARDNER, MA											
CITY OF GARDNER										TOPO WET		EASEMENT		TRAFFIC		CORNER		Description EXM LAND		Code 9300		Appraised 110400		Assessed 110,400							
95 PLEASANT ST STE 125										DRAINAGE				VIEW		COMMUNITY															
GARDNER MA 01440																															
Alt Prcl ID Sub-Div Photo Ward Prec.																															
GIS ID M_159103_923523																															
RECORD OF OWNERSHIP										BK-VOL/PAGE		SALE DATE		QU VI		SALE PRICE		VC		PREVIOUS ASSESSMENTS (HISTORY)											
CITY OF GARDNER										1 0		01-01-1900		Q V		0 1E				Year 2023		Code 9300		Assessed 68,300		Year 2021		Code 9300		Assessed 60,500	
																				Total 68,300		Total 60,500		Total 60,500							
EXEMPTIONS										Amount		Code		Description		Number		Amount		Comm Int											
Total										0.00																					
ASSESSING NEIGHBORHOOD										Nbhd Name		B		Tracing				Batch													
0001																															
NOTES																															

CONSTRUCTION DETAIL			CONSTRUCTION DETAIL (CONTINUED)										
Element	Cd	Description	Element	Cd	Description								
Style	99	Vacant Land	Usrflid 108										
Model	00	Vacant	Usrflid 101										
Grade:			Usrflid 102										
Stories:			Usrflid 100										
Occupancy			MIXED USE										
Exterior Wall 1			Code	Description	Percentage								
Exterior Wall 2			9300	City of Gardner V	100								
Roof Structure:					0								
Roof Cover					0								
Interior Wall 1			COST / MARKET VALUATION										
Interior Wall 2			Adj Base Rate										
Interior Flr 1			RCN		0								
Interior Flr 2			Net Other Adj		0								
Heat Fuel			Year Built		0								
Heat Type:			Effective Year Built		0								
AC Type:			Depreciation Code										
Total Bedrooms			Remodel Rating										
Total Bthrms:			Year Remodeled										
Total Half Baths			Depreciation %		0								
Total Xtra Fixtrs			Functional Obsol		0								
Total Rooms:			Economic Obsol		0								
Bath Style:			Cost Trend Factor		1								
Kitchen Style:			Condition										
Num Kitchens			% Complete		0								
Cndtn			Overall % Condition										
Usrflid 103			RCNLD		0								
Usrflid 104			Dep % Ovr										
Usrflid 105			Dep Ovr Comment										
Usrflid 106			Misc Imp Ovr										
Basement			Misc Imp Ovr Comment										
Num Park			Cost to Cure Ovr										
Fireplaces			Cost to Cure Ovr Comment										
Fndtn Cndtn													
OB - OUTBUILDING & YARD ITEMS(L)/XF - BUILDING EXTRA FEATURES(B)													
Code	Description	Su	Sub Type	Lan	Units	Unit Price	Yr-Blt	%	Dep.	Cond	Gra	Qual	Apprais Va
BUILDING SUB-AREA SUMMARY SECTION													
Subarea	Description	Living	Gross	Eff Area	Unit Cost	Undeprec Value							
Ttl Gross Liv / Lease Area													
		0	0	0	0	0							

No Sketch

[illegible]

PROJECT INFORMATION

LAND INFORMATION
 MAP SHEET: 104-1
 PROPOSED PROJECT: 104-1
 PROJECT LOCATION: 104-1
 PROJECT OWNER: 104-1
 PROJECT DATE: 104-1

GENERAL NOTES
 1. THE CITY OF GARDNER HAS REVIEWED THE PLANS AND SPECIFICATIONS FOR THE PROPOSED PROJECT AND HAS FOUND THEM TO BE IN ACCORDANCE WITH THE CITY ORDINANCES AND REGULATIONS.
 2. THE CITY OF GARDNER HAS REVIEWED THE PLANS AND SPECIFICATIONS FOR THE PROPOSED PROJECT AND HAS FOUND THEM TO BE IN ACCORDANCE WITH THE CITY ORDINANCES AND REGULATIONS.

EXISTING CONDITIONS PLAN
 GARDNER, MASSACHUSETTS

PREPARED FOR:
 CITY OF GARDNER
 50 MANCA DRIVE
 GARDNER, MASSACHUSETTS 01440

SCALE: 1"=30'
 CALC: D.L.
 CHKD: D.L.
 SRV: J.G.
 TAB: EX-CON

OWNER:
 CITY OF GARDNER
 50 PLEASANT STREET
 SUITE 125
 GARDNER, MA 01440

DATE: JUNE 1, 2022
JOB NO: 3104
PLAN NO: 10-30

DATE: JUNE 1, 2022
JOB NO: 3104
PLAN NO: 10-30

DATE: JUNE 1, 2022
JOB NO: 3104
PLAN NO: 10-30

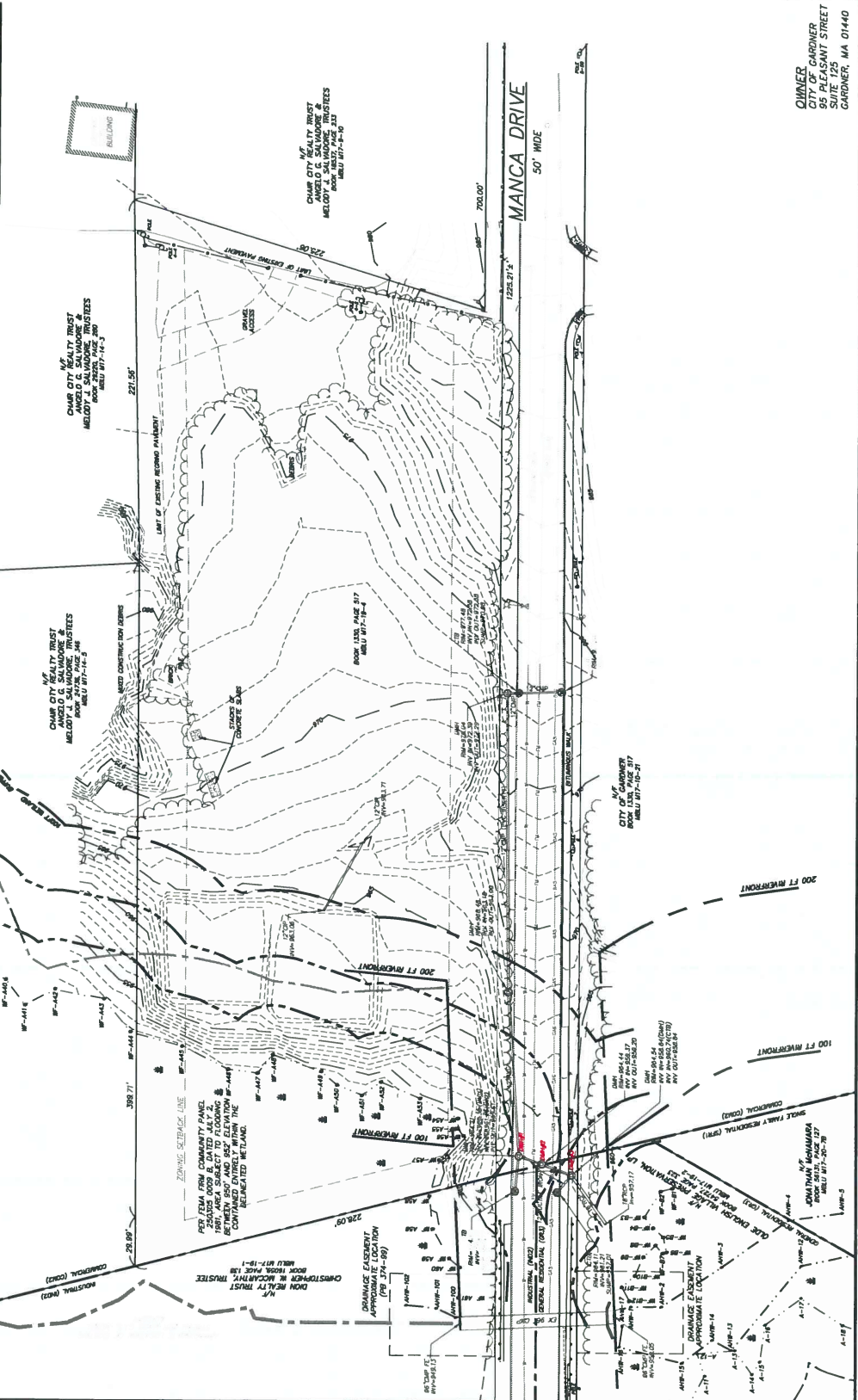
DATE: JUNE 1, 2022
JOB NO: 3104
PLAN NO: 10-30

DATE: JUNE 1, 2022
JOB NO: 3104
PLAN NO: 10-30

DATE: JUNE 1, 2022
JOB NO: 3104
PLAN NO: 10-30

DATE: JUNE 1, 2022
JOB NO: 3104
PLAN NO: 10-30

DATE: JUNE 1, 2022
JOB NO: 3104
PLAN NO: 10-30



RECEIVED

January 22, 2024

2024 JAN 22 PM 4:01

Commonwealth of Massachusetts

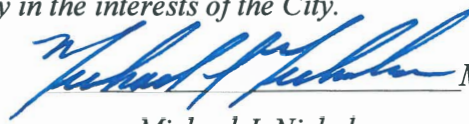
Worcester County

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 _____

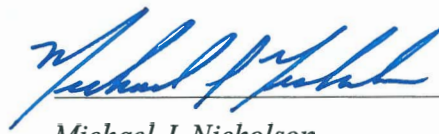
RECEIVED

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 _____

RECEIVED

January 25, 2024

2024 JAN 25 PM 1:50

Commonwealth of Massachusetts

CITY CLERK'S OFFICE

Worcester County

City of Gardner

CERTIFICATE OF APPOINTMENT

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

 Mayor
Michael J. Nicholson

Confirmed by City Council: _____

Titi Siriphan
City Clerk

Expires: Permanent

Worcester, ss., _____ 2024

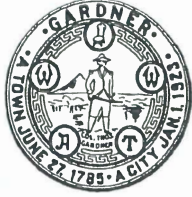
Then personally appeared the above named Elijah Williams and made oath that he would bear
true faith and allegiance to the United States of America and the Commonwealth of Massachusetts and
would support the Constitution and laws thereof.

Before me,

City Clerk

Chapter 303 Acts of 1975
and
Chapter 409 Acts of 1983

Received _____



CITY OF GARDNER, MASSACHUSETTS
City Hall - Room 121 - 95 Pleasant Street
Gardner, MA 01440-2630
Tel: 978-630-4058 Fax: 978-630-2589



APPLICATION FOR LICENSE TO BUY AND SELL SECOND HAND MOTOR VEHICLES

New ☐ Renewal ☐ Class 1 - Class 2 ☒ Class 3 (Circle all that apply to this Application)

1. Legal Name of Business: GARDNER MOTORS LLC
(Name as registered with the Secretary of the Commonwealth's Corporations Division. If individual or partnerships enter names)
2. Doing Business As: VILSON AUTO SALES
(If conducted under any name other than the Applicant's Legal Name. An active Business Certificate must be on file with the City Clerk)
3. Business Address: 119 PARSON BLVD
(Complete street address where business will be conducted and P.O. Box, if any)
4. Business Tel. (978) 870 0033 Cellular _____ Fax _____ E-Mail WORCMG@HOTMAIL.COM
5. Is the business an individual, partnership, association or corporation? YES
6. If an individual, state full name and residential address: _____
7. If a partnership, state full names and residential addresses of all partners: _____
8. If an association or corporation, state full names of the principal officers:
President VILSON CAMARCO
Secretary _____
Treasurer _____
9. Are you engaged principally in the business of buying, selling, or exchanging motor vehicles? YES
 - a. If so, is your principal business the sale of new motor vehicles? _____
 - b. Is your principal business the buying and selling or exchanging of second hand motor vehicles? YES
 - c. Is your principal business that of a motor vehicle junk dealer? NO
 - d. Is your principal business that of a "Repairs"? YES
 - e. Is your principal business that of "Repossession"? NO
9. Provide a complete description of all the premises to be used for the purpose of carrying on the business:
THE GARAGE, OFFICE AND PARKING LOT AT 119 PARSON BLVD.
10. Are you a recognized agent of a motor vehicle manufacturer? YES _____ NO X
If yes, state the name of the manufacturer: _____

11. Do you have a signed contract as required by Section 58, Class I? YES _____ NO ✓
12. Have you ever applied for a license to deal in second hand motor vehicles or parts thereof? YES ✓ NO _____
 If yes, in what city or town? GARDNER MA
 Did you receive a license? YES ✓ NO _____ For what year? 2016 ~ 2023
13. Has any license issued to you in Massachusetts or any other state to deal in motor vehicles or parts thereof ever been suspended or revoked? YES ✓ NO _____ If yes, please explain: IT WAS ALLEGED THAT THE PLACE WAS NOT FULLY COMPLYING, PARKING OF VEHICLES

Provide the following items/documentation with the completed Application form:

- ☐ **Applicable License Application Processing Fee(s)**, check payable to "City of Gardner"
- ☐ **Surety Bond** in the amount of \$25,000 executed by a surety company authorized to transact business in Massachusetts, or other equivalent proof of financial responsibility satisfactory to the municipal licensing authority. A separate bond shall be required for each different name under which the dealer conducts his business. (Applies only to Class 2 Dealers).
- ☐ **State and Federal Tax Certification Affidavit**
- ☐ City of Gardner **PERMIT/APPLICATION GOOD STANDING CERTIFICATE**
- ☐ **Criminal Offender Record Information (CORI) Authorization form.**
- ☐ **Workers Compensation Insurance Affidavit: General Businesses**
- ☐ **Parking Plan** (scaled 1" = 40 ft.) showing Building Department-approved parking layout. Six (6) copies shall be reduced to either 8½" x 11", or if applicable, 11" x 17".
- ☐ **Site Plan** (scaled 1" = 40 ft.) showing all available parking, driveways, entrances and exits, building location, etc. Six (6) copies shall be reduced to either 8½" x 11", or if applicable, 11" x 17".
- ☐ **Zoning Opinion** from the Building Commissioner.
- ☐ Planning Board and/or Board of Appeals Decisions (if applicable).

THE APPLICANT CERTIFIES THAT ALL STATE TAX RETURNS HAVE BEEN FILED AND ALL STATE AND LOCAL TAXES REQUIRED BY LAW HAVE BEEN PAID AND AGREES TO COMPLY WITH THE TERMS OF ITS LICENSE AND APPLICABLE LAW, AND ALL RULES AND REGULATIONS PROMULGATED THERETO. APPLICANT FURTHER CERTIFIES THAT THE INFORMATION CONTAINED IN THIS APPLICATION IS TRUE AND ACCURATE AND ALSO AUTHORIZE THE LICENSING AUTHORITY OR ITS AGENTS TO CONDUCT WHATEVER INVESTIGATION IS NECESSARY TO VERIFY THE INFORMATION CONTAINED IN THIS APPLICATION.

SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY.

[Signature]
 INDIVIDUAL, PARTNER OR AUTHORIZED CORPORATE
 OFFICER OR APPLICANT

DATE SIGNED

01/14/2024

SOCIAL SECURITY NUMBER _____

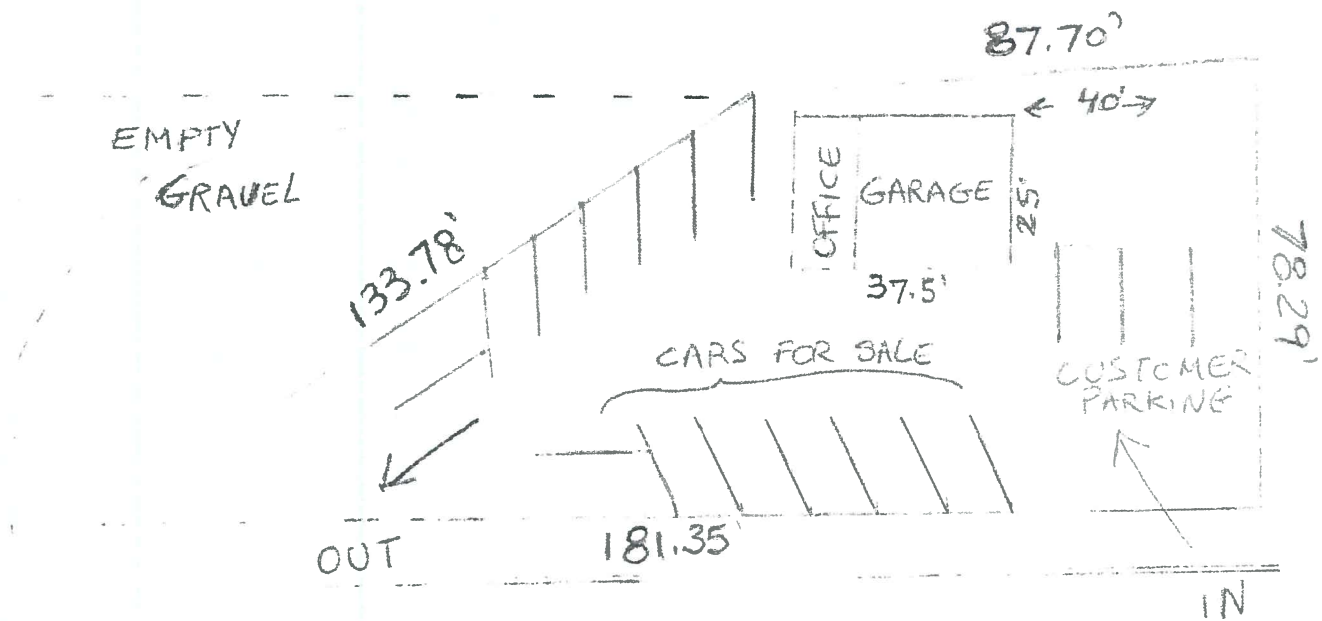
OR

(841) 988 84-1988-73

EMPLOYER IDENTIFICATION NUMBER (EIN)

License Fee must be submitted with this form. Make check payable to City of Gardner. Mail completed Application Form, along with all required documentation and check to: City Clerk, 95 Pleasant Street, Room 121, Gardner, MA 01440.

NOTICE: The filing of this application confers no rights on the part of the Applicant to undertake any activities until the license has been granted. The issuance of a license under this section or sections is subject to the Applicant's compliance with all other applicable Federal, State or local statutes, ordinances, bylaws, rules or regulations. The Licensing Authority reserves the right to request any additional information it reasonably deems appropriate for the purpose of determining the terms and conditions of the License and its decision to issue a License. The provisions of G.L. c.152 requires the filing of a Workers' Compensation Insurance Affidavit with this application. Failure to file the Affidavit, along with any other required information and/or documentation, shall be sufficient cause for the denial of the License application.



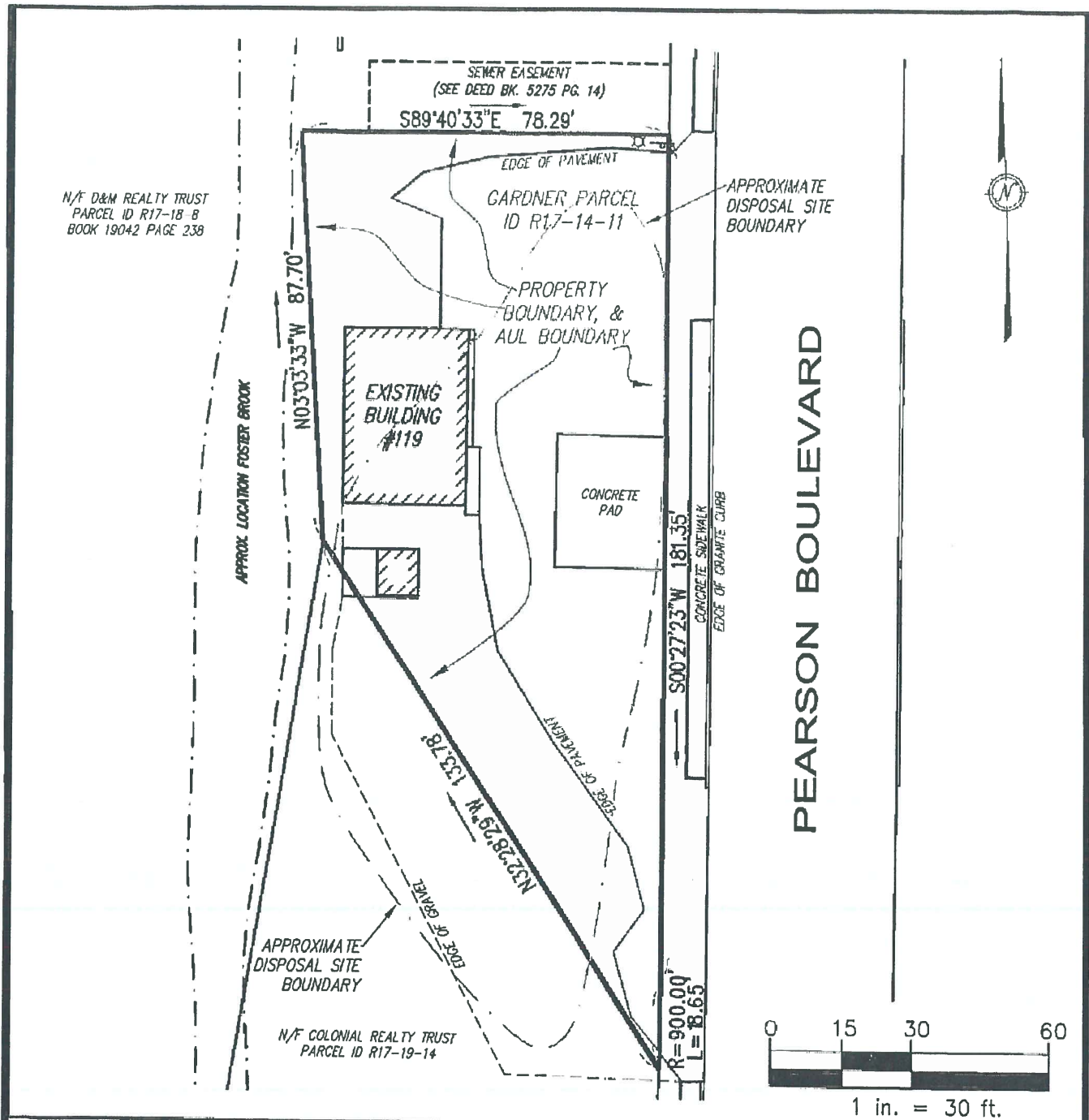


EXHIBIT B, SKETCH PLAN OF AREA SUBJECT TO AUL

Prepared By:

DILLIS & ROY
CIVIL DESIGN GROUP

CIVIL ENGINEERS LAND SURVEYORS WETLAND CONSULTANTS
1 MAIN STREET, SUITE 1 PHONE: (978) 779-6091
LUNENBURG, MA 01462 www.dillisandroy.com

1"=30'

DATE: JANUARY 20, 2022

PREPARED FOR:

SURE OIL AND CHEMICAL CORPORATION
PO BOX 446
NORTH GRAFTON, MA



CITY OF GARDNER

FIRE DEPARTMENT
70 CITY HALL AVENUE
GARDNER, MA 01440-2671

OFFICE OF FIRE CHIEF
GREGORY F. LAGOY

(978) 632-1616 Ext. 5
FAX (978) 630-4028

January 26, 2024

Mayor Michael Nicholson
95 Pleasant Street
Gardner, MA 01440

RE: Fire Department Appointments

Dear Mayor Nicholson,

I am writing to update you on the recent appointments of new Firefighters to the Gardner Fire Department. They are Firefighters Jacob Logan and Richard Belanger, III. Both have recently graduated from the 10-week Recruit Training Program at the Massachusetts Firefighting Academy. They have also completed in-house training and are now assigned to Groups as part of the Firefighting Force.

Also, a former member that resigned in 2021 to pursue other career options recently re-joined the Gardner Fire Department. Firefighter Lorenzo Calderon, Jr. returned to work on January 8, 2024, is fully trained, and has been assigned to Group 4. Firefighter Calderon filled the last vacant position at the Fire Department, bringing us to **full staffing with all positions filled**, which over the last several years has been a challenge to achieve. Calderon is the third Firefighter that had left for personal reasons and subsequently returned to the Gardner Fire Department within the last year. Currently, we do have one Firefighter that is away on a year-long deployment with his military unit.

Respectfully,

Gregory F. Lagoy
Fire Chief

RECEIVED
2024 JAN 29 PM 2:26
CITY OF GARDNER
GARDNER, MA

RECEIVED

Effective February 5, 2024

2024 JAN 29 PM 2:26


Commonwealth of Massachusetts

Worcester County

City of Gardner

CERTIFICATE OF APPOINTMENT

I appoint Lorenzo Calderon, Jr., to the position of Firefighter, of the Gardner Fire 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.

 Fire Chief
Gregory F. Lagoy

Confirmed by City Council: Not Required

Titi Siriphan
City Clerk

Expires: Permanent.Worcester, ss., February 5, 2024

Then personally appeared the above named Lorenzo Calderon, Jr. 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 _____

RECEIVED

Effective February 5, 2024

2024 JAN 29 PM 2:26

CITY CLERK'S OFFICE

GARDNER, MA


Commonwealth of Massachusetts

Worcester County

City of Gardner

CERTIFICATE OF APPOINTMENT

I appoint Jacob Logan, to the position of Firefighter, of the Gardner Fire 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.

 Fire Chief
Gregory F. Lagoy

Confirmed by City Council: Not Required

Titi Siriphan
City Clerk

Expires: Permanent.Worcester, ss., February 5, 2024

Then personally appeared the above named Jacob Logan 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 _____

RECEIVED

Effective February 5, 2024

2024 JAN 29 PM 1:11

Commonwealth of Massachusetts

Worcester County

City of Gardner

CERTIFICATE OF APPOINTMENT

I appoint Richard Belanger, III, to the position of Firefighter, of the Gardner Fire 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.

 Fire Chief

Gregory F. Lagoy

Confirmed by City Council: Not Required_____
City Clerk

Titi Siriphan

Expires: Permanent.Worcester, ss., February 5, 2024

Then personally appeared the above named Richard Belanger, III 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, 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 COMMITTEECITY 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)



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 - 20th Floor, Boston, MA 02108. Emails may be sent to: 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.



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.

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: _____

1/28/2024

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.

FY24 SCOTT VAILLANCOURT RETRO FROM 06-11-23 THRU 12-10								
Emp #	Last Name	First Name	Pay	Desc	Org Code	Obj Code	Old Rate	New Rate
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

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

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

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

<u>Name of Street</u>	<u>Side</u>	<u>Location</u>
Comee St	West	Entire Length
Comee St	East	From Pearl Street southerly for a distance of 30 feet



CITY OF GARDNER POLICE DEPARTMENT

200 Main Street • Gardner, Massachusetts 01440

Emergency-Dial 911

Main line: (978) 632-5600

Fax Line: (978) 630-4027



TRAFFIC COMMISSION - MEETING MINUTES

Date: Thursday August 10, 2023 Time: 10am

Location: Community Classroom, GPD

Provided by Dept. Chief of Police Nick Maroni

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

Member(s) not in attendance- Trevor Beauregard
2. Waive reading / acceptance of meeting minutes from April 24, 2023
 - a. Motion by Dane, 2nd 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 2nd, 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 2nd 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 2nd, 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 2nd 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 2nd all in favor, unanimous will be forwarded to public safety committee.
- b. Speeding on Elm St & Lawrence St, request more enforcement with school starting.
- c. Craig asked about speeding issues on Chesley St
 - i. Nick stated Officers did enforcement in that area and we have not received any further complaints.

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

All in favor - Unanimous

Next Traffic Committee Meeting Schedule: TBD

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

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

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

<u>Name of Street</u>	<u>Side</u>	<u>Location</u>
Douglas Rd	South	From Coleman Street westerly for a distance of 30 feet



CITY OF GARDNER POLICE DEPARTMENT
200 Main Street
Gardner, MA 01440
Phone (978) 632-5600
Fax (978) 630-9045



Eric P. McAvene
Chief of Police

Nicholas P. Maroni
Deputy Chief of Police

Date: 12/5/2023

To Councilor Cormier, Committee Chairman, and members of the Public Safety Committee,

The Traffic Committee met on November 28, 2023 and discussed a few changes and recommendations to increase the safety of the City's roadways. The following are the changes and recommendations the Traffic Committee voted on, unanimously (6 of 6) to send to the Public Safety Committee for review.

1. City Ordinance change to §600-24 (Parking prohibited on certain Streets) due to parking spots being eliminated by new construction around Monument Park.

Name of Street	Side	Location
Park Street	South	From Cottage Street to Central St

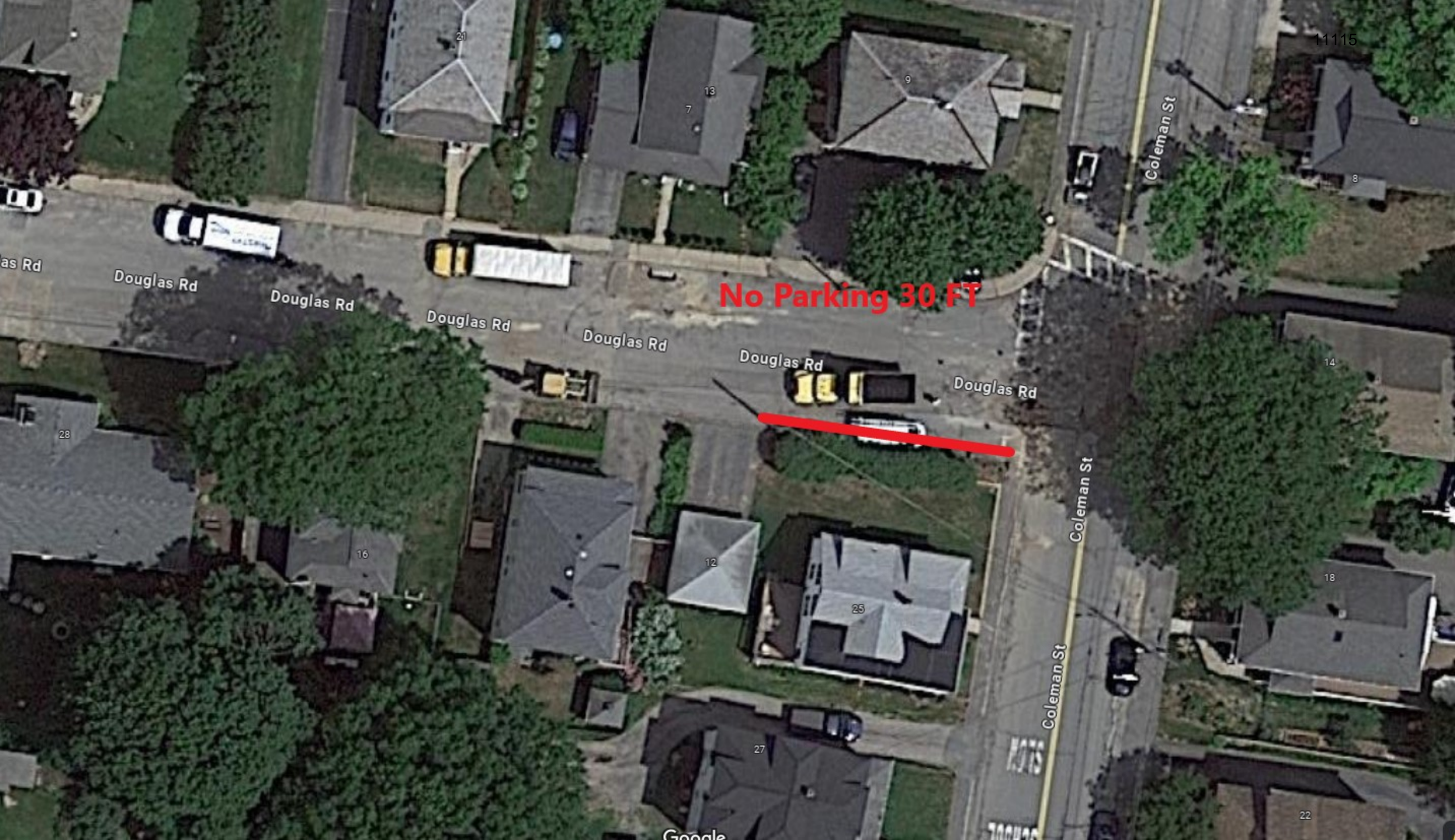
2. Temporary 60 Day restricted parking trial on the North side of Edgell St to Westford St.
3. Recommended eliminating parking 30 ft southerly side of Douglas Rd.

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



Cherry St

11115

No parking

Westford St

Comee St

Westford St

Edgell St

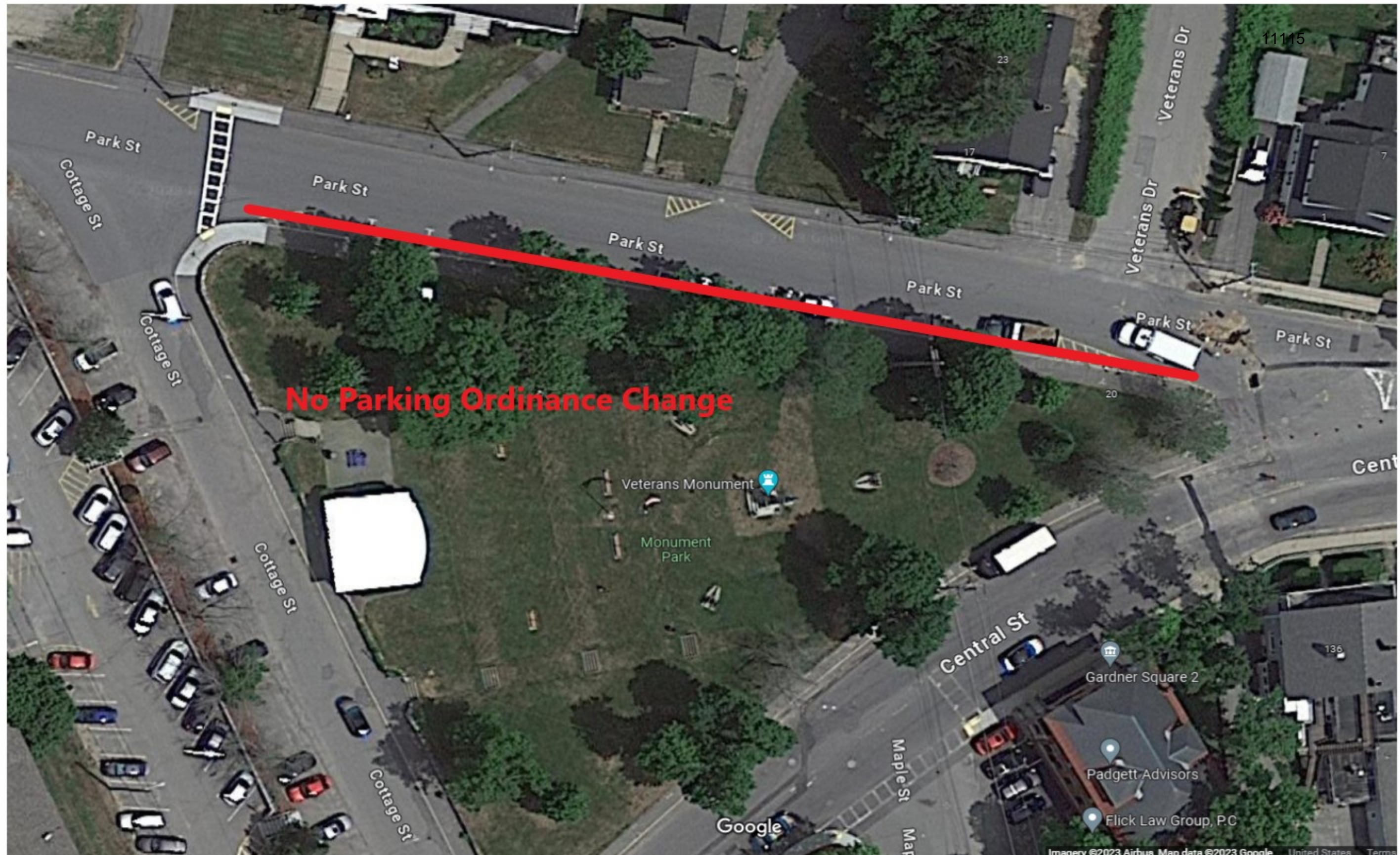
Edgell St

Edgell St

Lawrence St

Edgell St

Edgell St



No Parking Ordinance Change

Veterans Monument

Monument Park

Central St

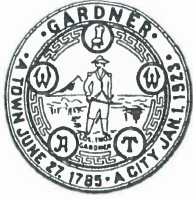
Gardner Square 2

Padgett Advisors

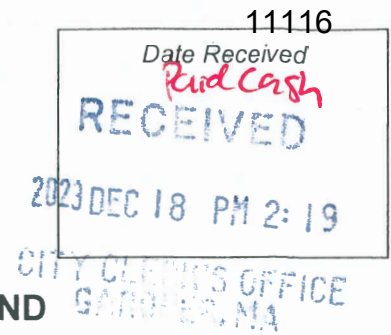
Flick Law Group, P.C.

Google

Imagery ©2023 Airbus, Map data ©2023 Google, United States, Terms



CITY OF GARDNER, MASSACHUSETTS
City Hall - Room 121 - 95 Pleasant Street
Gardner, MA 01440-2630
Tel: 978-630-4058 Fax: 978-630-2589



APPLICATION FOR LICENSE TO BUY AND
SELL SECOND HAND MOTOR VEHICLES

New ___ Renewal ✓ Class 1 - Class 2 - Class 3 (Circle all that apply to this Application)

1. Legal Name of Business: Northeast bus an truck sales LLC
(Name as registered with the Secretary of the Commonwealth's Corporations Division. If individual or partnerships enter names)
2. Doing Business As: Gardner five Star Auto Sales
(If conducted under any name other than the Applicant's Legal Name. An active Business Certificate must be on file with the City Clerk)
3. Business Address: 407 chestnut st Gardner MA 01440
(Complete street address where business will be conducted and P.O. Box, if any)
4. Business Tel: 9784107171 Cellular 436950177 Fax _____ E-Mail Busandtruck@outlook.com
5. Is the business an individual, partnership, association or corporation? individual
6. If an individual, state full name and residential address: Jesús A Merino Monge
170 E hadley Rd apt 138 Amherst MA 01440
7. If a partnership, state full names and residential addresses of all partners: _____
8. If an association or corporation, state full names of the principal officers:
President _____
Secretary _____
Treasurer _____
9. Are you engaged principally in the business of buying, selling, or exchanging motor vehicles? yes
 - a. If so, is your principal business the sale of new motor vehicles? NO
 - b. Is your principal business the buying and selling or exchanging of second hand motor vehicles? yes
 - c. Is your principal business that of a motor vehicle junk dealer? NO
 - d. Is your principal business that of a "Repairs"? NO
 - e. Is your principal business that of "Repossession"? NO
9. Provide a complete description of all the premises to be used for the purpose of carrying on the business:
Used car dealer
small small car repair
10. Are you a recognized agent of a motor vehicle manufacturer? YES _____ NO (circled)
If yes, state the name of the manufacturer: _____

11. Do you have a signed contract as required by Section 58, Class I? YES _____ NO _____
12. Have you ever applied for a license to deal in second hand motor vehicles or parts thereof? YES _____ NO ✓
 If yes, in what city or town? _____
 Did you receive a license? YES _____ NO _____ For what year? _____
13. Has any license issued to you in Massachusetts or any other state to deal in motor vehicles or parts thereof ever been suspended or revoked? YES _____ NO ✓ If yes, please explain: _____

Provide the following items/documentation with the completed Application form:

- ☐ **Applicable License Application Processing Fee(s)**, check payable to **"City of Gardner"**
- ☐ **Surety Bond** in the amount of **\$25,000** executed by a surety company authorized to transact business in Massachusetts, or other equivalent proof of financial responsibility satisfactory to the municipal licensing authority. A separate bond shall be required for each different name under which the dealer conducts his business. (Applies only to Class 2 Dealers).
- ☐ **State and Federal Tax Certification Affidavit**
- ☐ City of Gardner **PERMIT/APPLICATION GOOD STANDING CERTIFICATE**
- ☐ **Criminal Offender Record Information (CORI) Authorization form.**
- ☐ **Workers Compensation Insurance Affidavit: General Businesses**
- ☐ **Parking Plan** (scaled 1" = 40 ft.) showing Building Department-approved parking layout. Six (6) copies shall be reduced to either 8½" x 11", or if applicable, 11" x 17".
- ☐ **Site Plan** (scaled 1" = 40 ft.) showing all available parking, driveways, entrances and exits, building location, etc. Six (6) copies shall be reduced to either 8½" x 11", or if applicable, 11" x 17".
- ☐ **Zoning Opinion** from the Building Commissioner.
- ☐ Planning Board and/or Board of Appeals Decisions (if applicable).

THE APPLICANT CERTIFIES THAT ALL STATE TAX RETURNS HAVE BEEN FILED AND ALL STATE AND LOCAL TAXES REQUIRED BY LAW HAVE BEEN PAID AND AGREES TO COMPLY WITH THE TERMS OF ITS LICENSE AND APPLICABLE LAW, AND ALL RULES AND REGULATIONS PROMULGATED THERETO. APPLICANT FURTHER CERTIFIES THAT THE INFORMATION CONTAINED IN THIS APPLICATION IS TRUE AND ACCURATE AND ALSO AUTHORIZES THE LICENSING AUTHORITY OR ITS AGENTS TO CONDUCT WHATEVER INVESTIGATION IS NECESSARY TO VERIFY THE INFORMATION CONTAINED IN THIS APPLICATION.

SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY.

Jesus A Merino Mance
 INDIVIDUAL, PARTNER OR AUTHORIZED CORPORATE
 OFFICER OR APPLICANT

DATE SIGNED

12/18/23

OR

EMPLOYER IDENTIFICATION NUMBER (EIN)

License Fee must be submitted with this form. Make check payable to City of Gardner. Mail completed Application Form, along with all required documentation and check to: City Clerk, 95 Pleasant Street, Room 121, Gardner, MA 01440.

NOTICE: The filing of this application confers no rights on the part of the Applicant to undertake any activities until the license has been granted. The issuance of a license under this section or sections is subject to the Applicant's compliance with all other applicable Federal, State or local statutes, ordinances, bylaws, rules or regulations. The Licensing Authority reserves the right to request any additional information it reasonably deems appropriate for the purpose of determining the terms and conditions of the License and its decision to issue a License. The provisions of G.L. c.152 requires the filing of a Workers' Compensation Insurance Affidavit with this application. Failure to file the Affidavit, along with any other required information and/or documentation, **shall be sufficient cause for the denial of the License application.**

RECEIVED

January 8, 2024

2024 JAN 11 AM 8:37

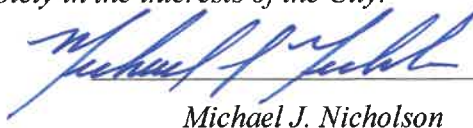
Commonwealth of Massachusetts

CITY CLERK'S OFFICE
Worcester County, MA

City of Gardner

CERTIFICATE OF APPOINTMENT

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

 Mayor
Michael J. Nicholson

Confirmed by City Council _____

Titi Siriphan City Clerk

Expires: January 8, 2027

Worcester, ss., _____

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

Before me,

City Clerk

Chapter 303 Acts of 1975
and
Chapter 409 Acts of 1983

Received _____

January 8, 2024

RECEIVED

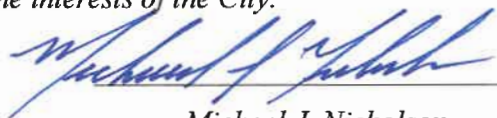
Commonwealth of Massachusetts

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

City of Gardner

CERTIFICATE OF APPOINTMENT

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



Mayor

Michael J. Nicholson

Confirmed by City Council _____

City Clerk

Titi Siriphan

Expires: January 8, 2027

Worcester, ss., _____

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

Before me,

City Clerk

Chapter 303 Acts of 1975
and
Chapter 409 Acts of 1983

Received _____

RECEIVED

January 17, 2024

2024 JAN 17 AM 8:59

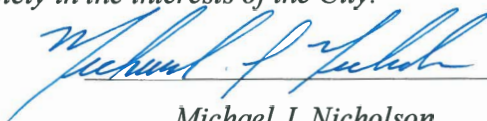
Commonwealth of Massachusetts

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 _____

City Clerk

Titi Siriphan

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

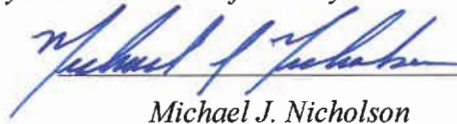
Worcester County

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

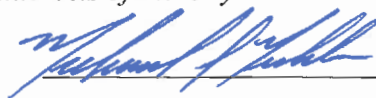
Commonwealth of Massachusetts

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

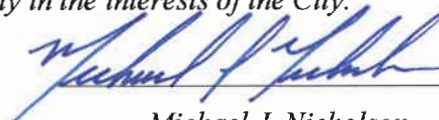
Commonwealth of Massachusetts

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

2024 JAN 11 AM 8:38

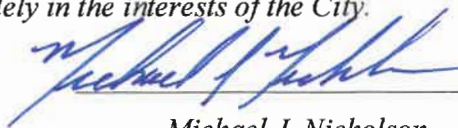
Commonwealth of Massachusetts

CITY CLERK'S OFFICE
Worcester County
GARDNER, MA

City of Gardner

CERTIFICATE OF APPOINTMENT

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

 Mayor
Michael J. Nicholson

Confirmed by City Council _____

Titi Siriphan
City Clerk

Expires: January 4, 2027

Worcester, ss., _____

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

Before me,

City Clerk

Chapter 303 Acts of 1975
and
Chapter 409 Acts of 1983

Received _____

January 4, 2024

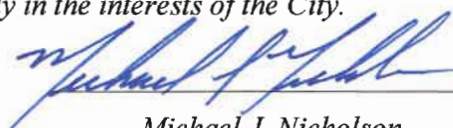
RECEIVED

2024 JAN 11 AM 8:38

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

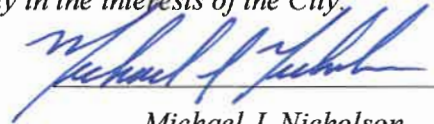
Worcester County

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 _____

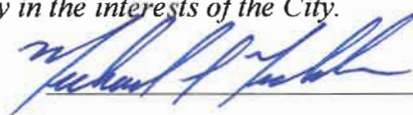
RECEIVED

January 4, 2024

2024 JAN 11 AM 8:38

Commonwealth of MassachusettsWorcester 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 _____

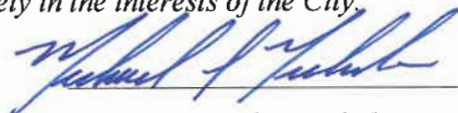
January 4, 2024

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

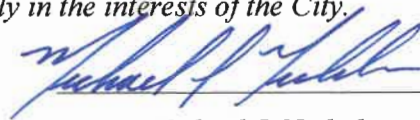
2024 JAN 11 AM 8:38

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

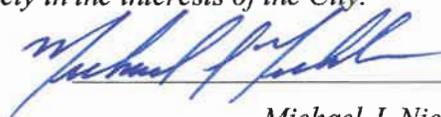
CITY CLERK'S OFFICE
Worcester County
GARDNER, MA

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

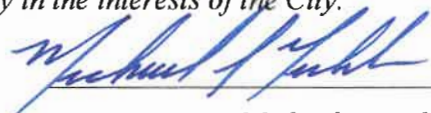
Chapter 303 Acts of 1975
and
Chapter 409 Acts of 1983

Received _____

RECEIVED

January 4, 2024

2024 JAN 11 AM 8:38

Commonwealth of MassachusettsWorcester 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

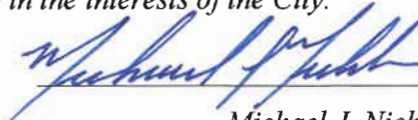
Worcester County
CITY CLERK'S OFFICE
GARDNER, MA

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 _____

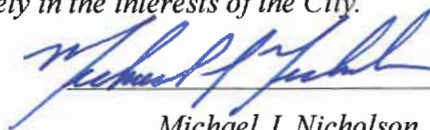
RECEIVED

January 4, 2024

2024 JAN 11 AM 8:39

Commonwealth of MassachusettsCITY CLERK'S OFFICE
Worcester County
GARDNER, MA**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 _____

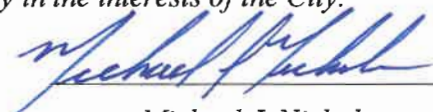
RECEIVED

January 4, 2024

2024 JAN 11 AM 8:39

Commonwealth of MassachusettsCITY 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 _____

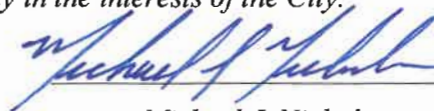
RECEIVED

January 4, 2024

2024 JAN 11 AM 8:39

Commonwealth of MassachusettsWorcester 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

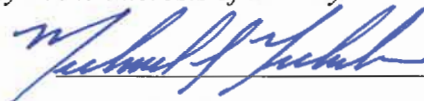
Chapter 303 Acts of 1975
and
Chapter 409 Acts of 1983

Received _____

RECEIVED

January 4, 2024

2024 JAN 11 AM 8:45

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

 _____ Mayor
 Michael J. Nicholson

Confirmed by City Council _____

 _____ City Clerk
 Titi Siriphan
Expires: January 4, 2027

Worcester, ss., _____

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

Before me,

_____ City Clerk

Chapter 303 Acts of 1975
 and
 Chapter 409 Acts of 1983

Received _____

RECEIVED

January 12, 2024

2024 JAN 12 AM 10:17

Commonwealth of Massachusetts

CITY CLERK'S OFFICE

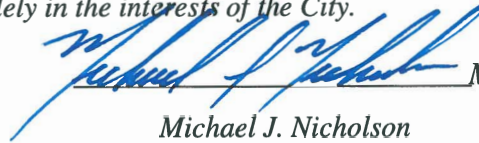
Worcester County GARDNER, MA

City of Gardner

CERTIFICATE OF APPOINTMENT

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

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


 _____ Mayor
 Michael J. Nicholson

Confirmed by City Council: _____

 Titi Siriphan
 City Clerk

Expires: January 4, 2027

Worcester, ss., _____

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

Before me,

 City Clerk

Chapter 303 Acts of 1975
 and
 Chapter 409 Acts of 1983

Received _____

RECEIVED

January 4, 2024

Commonwealth of Massachusetts

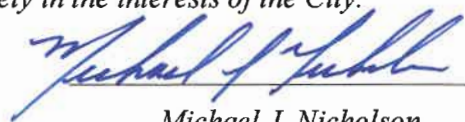
2024 JAN 11 AM 8:40

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.

 Mayor
Michael J. Nicholson

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 _____

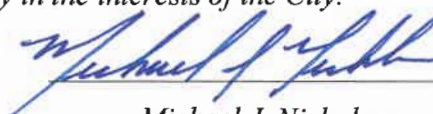
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January 4, 2024

2024 JAN 11 AM 8:41

Commonwealth of MassachusettsCITY 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 _____

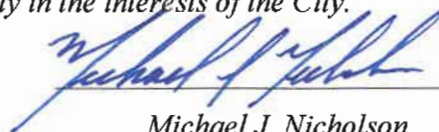
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January 4, 2024

2024 JAN 11 AM 8:41

Commonwealth of MassachusettsCITY 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

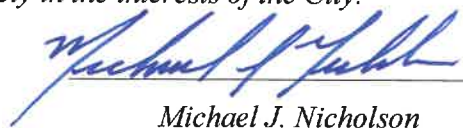
Worcester County

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 _____

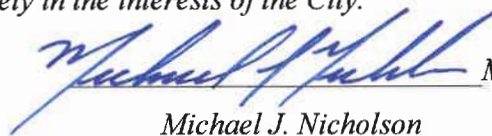
RECEIVED

January 8, 2024

2024 JAN 11 AM 8:41

Commonwealth of MassachusettsCITY 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 _____

City Clerk
Titi Siriphan
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 _____

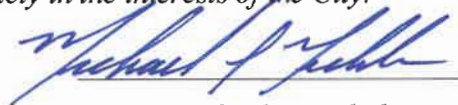
RECEIVED

January 8, 2024

2024 JAN 11 AM 9:47

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

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


 _____ Mayor
 Michael J. Nicholson

Confirmed by City Council _____

 Titi Siriphan
 City Clerk

Expires: January 8, 2027

Worcester, ss., _____

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

Before me,

City Clerk

Chapter 303 Acts of 1975
 and
 Chapter 409 Acts of 1983

Received _____

January 8, 2024

RECEIVED

Commonwealth of Massachusetts

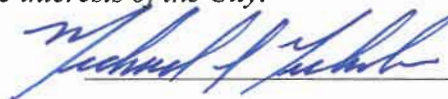
2024 JAN 11 11:04
Worcester County

City of Gardner

CITY CLERK'S OFFICE
GARDNER, MA

CERTIFICATE OF APPOINTMENT

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



Mayor

Michael J. Nicholson

Confirmed by City Council _____

City Clerk

Titi Siriphan

Expires: January 8, 2027

Worcester, ss., _____

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

Before me,

City Clerk

Chapter 303 Acts of 1975
and
Chapter 409 Acts of 1983

Received _____

January 8, 2024

RECEIVED
Commonwealth of Massachusetts

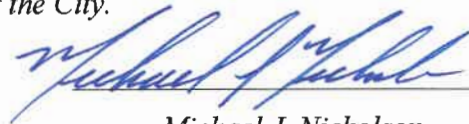
2024 JAN 11 AM 8:41
 Worcester County

City of Gardner

CITY CLERK'S OFFICE
 GARDNER, MA

CERTIFICATE OF APPOINTMENT

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



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

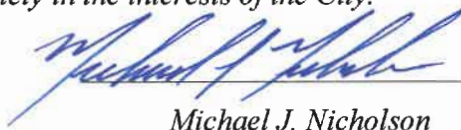
Chapter 303 Acts of 1975
 and
 Chapter 409 Acts of 1983

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

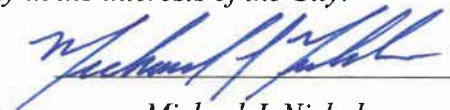
Worcester County
CITY CLERK'S OFFICE
GARDNER, MA

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 _____

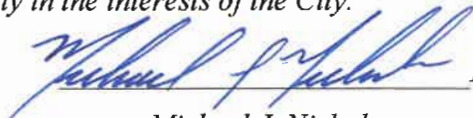
RECEIVED

January 8, 2024

2024 JAN 11 AM 8:42

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

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


 _____ Mayor
 Michael J. Nicholson

Confirmed by City Council _____

 _____ City Clerk
 Titi Siriphan
Expires: January 8, 2027

Worcester, ss., _____

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

Before me,

_____ City Clerk

 Chapter 303 Acts of 1975
 and
 Chapter 409 Acts of 1983

Received _____

RECEIVED

January 8, 2024

2024 JAN 11 AM 8:41


Commonwealth of Massachusetts

Worcester County
GARDNER, MA

City of Gardner

CERTIFICATE OF APPOINTMENT

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

 Mayor
Michael J. Nicholson

Confirmed by City Council _____

Titi Siriphan City Clerk

Expires: January 8, 2027

Worcester, ss., _____

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

Before me,

City Clerk

Chapter 303 Acts of 1975
and
Chapter 409 Acts of 1983

Received _____

RECEIVED

January 9, 2024

2024 JAN 11 10:10

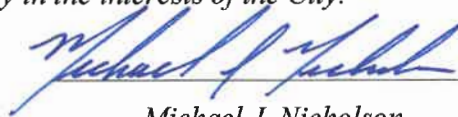
Commonwealth of Massachusetts

Worcester County
CITY CLERK'S OFFICE
GARDNER, MA

City of Gardner

CERTIFICATE OF APPOINTMENT

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

 Mayor
Michael J. Nicholson

Confirmed by City Council _____

Titi Siriphan
City Clerk

Expires: January 9, 2027

Worcester, ss., _____

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

Before me,

City Clerk

Chapter 303 Acts of 1975
and
Chapter 409 Acts of 1983

Received _____

RECEIVED

January 11, 2024

2024 JAN 11 PM

Commonwealth of Massachusetts

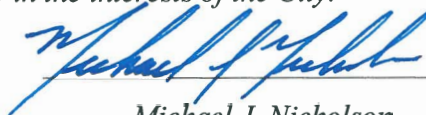
Worcester County
GARDNER, MA

City of Gardner

CERTIFICATE OF APPOINTMENT

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

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



Mayor

Michael J. Nicholson

Confirmed by City Council _____

City Clerk

Titi Siriphan

Expires: January 11, 2027

Worcester, ss., _____

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

Before me,

City Clerk

Chapter 303 Acts of 1975
and
Chapter 409 Acts of 1983

Received _____



CITY of GARDNER
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.

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”)¹, also known as the Bradley Act, as unconstitutional in their ruling of *Murphy v. National Collegiate Athletic Association*². 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

¹ 28 U.S.C. ch.178 §3701 et seq.

² *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.

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.

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,

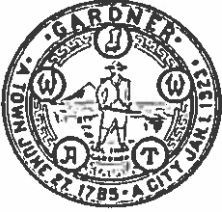
I have reviewed the proposed addition of the new Sports Betting Ordinance and do not see any issues from the police department. Any proposed facility should have a buffer between any residential zone and this ordinance reflects the new law.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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.

512 (2) An operator shall conduct a single background check on any employee hired before
513 the operator was issued an operator license. Background checks shall search for criminal history,
514 charges or convictions involving corruption or manipulation of sporting events and association
515 with organized crime.

516 Section 12. (a) An operator shall: (i) employ a monitoring system utilizing software to
517 identify irregularities in volume or changes in odds that could signal suspicious activities and
518 promptly report such information to the commission for further investigation; provided,
519 however, that system requirements and specifications shall be developed according to industry
520 standards and implemented by the commission as part of the minimum internal control
521 standards; (ii) promptly report to the commission any facts or circumstances related to the
522 operation of a sports wagering license that constitute a violation of state or federal law and
523 promptly report to the appropriate state or federal authorities any suspicious betting over a
524 threshold set by the operator that has been approved by the commission; (iii) conduct all sports
525 wagering activities and functions in a manner that does not pose a threat to the public health,
526 safety or welfare of the residents of the commonwealth; (iv) keep current in all payments and
527 obligations to the commission; (v) prevent any person from tampering or interfering with the
528 operation of any sports wagering; (vi) ensure that mobile sports wagering occurs only using a
529 commission-approved mobile application or other digital platform to accept wagers initiated
530 within the commonwealth; (vii) maintain sufficient cash and other supplies to conduct sports
531 wagering at all times; (viii) maintain daily records showing the gross sports wagering receipts
532 and adjusted gross sports wagering receipts of the operator from sports wagering; (ix) timely file
533 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 sport wagering operator of the
549 requirement to use official league data to settle tier 2 sports wagers pursuant to subsection (c), or
550 such longer period as may be agreed between the sports governing body and the applicable
551 sports wagering operator, a sports wagering operator shall use only official league data to
552 determine the results of tier 2 sports wagers on sporting events of that sports governing body,
553 unless:

554 (1) the sports governing body or its designee cannot provide a feed of official league data
555 to determine the results of a particular type of tier 2 sports wager, in which case a sports
556 wagering operator may use any data source for determining the results of the applicable tier 2
557 sports wager until such time a data feed becomes available from the sports governing body on
558 commercially reasonable terms and conditions; or

559 (2) a sports wagering operator can demonstrate to the commission that the sports
560 governing body or its designee will not provide a feed of official league data to the sports
561 wagering operator on commercially reasonable terms and conditions.

562 (e) In evaluating whether official league data is offered on commercially reasonable
563 terms and conditions for purposes of paragraphs (1) and (2) of subsection (d), the commission
564 may consider factors, including, but not limited to:

565 (1) the availability of official league data to a sports wagering operator from more than 1
566 authorized source;

567 (2) market information, including, but not limited to, price and other terms and conditions
568 regarding the purchase by sports wagering operators of comparable data for the purpose of
569 settling sports wagers in the commonwealth and other jurisdictions;

570 (3) the nature and quantity of data, including the quality and complexity of the process
571 used for collecting the data; and

572 (4) the extent to which a sports governing body or its designee has made data used to
573 settle tier 2 wagers available to sports wagering operators and any terms and conditions relating
574 to the use of that data.

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

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

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

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

Unlawful Internet Gambling Enforcement Act of 2006, 31 U.S.C. section 5361 to 5367, inclusive, the intermediate routing of electronic data related to a lawful intrastate wager authorized pursuant to this chapter shall not determine the location or locations in which the wager is initiated, received or otherwise made.

(c) An operator may: (i) accept wagers placed by other operators and (ii) place wagers with other operators; provided, that any operator that places a wager with another operator shall inform the operator accepting the wager that the wager is being placed by an operator and shall disclose the operator's identity.

(d) An operator shall not accept: (i) a wager from a person who is less than 21 years of age; or (ii) a credit card .

(e)(1) The commission or operator may ban any person from participating in the play or operation of any sports wagering consistent with rules and regulations promulgated by the commission. A list of all excluded patrons shall be kept by the commission and provided to each licensee. No patron on the exclusion list shall be permitted to conduct sports wagering pursuant to this chapter.

(2) The commission shall establish a list of self-excluded persons from sports wagering. A person may request their name to be placed on the list of self-excluded persons by filing a statement with the commission acknowledging that they are a problem gambler and by agreeing that, during any period of voluntary exclusion, they shall not collect any winnings or recover any losses resulting from any sports wagering. The commission shall adopt further regulations for the self-excluded persons list including procedures for placement, removal and transmittal of the list to sports wagering operators. The commission may revoke, limit, condition, suspend or fine a

619 sports wagering operator if the operator knowingly or recklessly fails to exclude or eject from its
620 premises any person placed on the list of self-excluded persons. The list of self-excluded persons
621 from sports wagering shall not be open to public inspection.

622 (3) An operator that operates sports wagering through a mobile application or other
623 digital platform may allow patrons to set self-imposed limitations on sports wagering when the
624 patron joins the mobile application or digital platform.

625 (f) No employee may place a sports wager at any facility or through any mobile
626 application or digital platform owned or operated by their employer.

627 (g) Sections 24, 24A and 27 of chapter 10 of the General Laws shall not apply to an
628 operator conducting sports wagering in accordance with this chapter.

629 (h) Unclaimed winning sports wagers shall be retained by the operator for the person
630 entitled to the wager for 1 year after the game or event in which the wager was won. If no claim
631 is made for the wager within 1 year, the cash or equivalent cash value of the wager shall be
632 deposited in the Sports Wagering Control Fund established in section 15.

633 Section 14. (a) An excise is hereby imposed upon sports wagering operators in the
634 commonwealth at the rate of: (i) 15 per cent of the operator's adjusted gross sports wagering
635 receipts from the operation of in-person sports wagering; (ii) 20 per cent of the operator's
636 adjusted gross sports wagering receipts from the operation of sports wagering through mobile
637 applications and other digital platforms approved by the commission; and (iii) 15 per cent of the
638 adjusted gross fantasy wagering receipts of a person or entity that offers fantasy contests, as
639 defined in section 11M½. The accrual method of accounting shall be used for purposes of

calculating the amount of the tax owed by the licensee. The excise shall be paid to the commission at the time provided for filing the return pursuant to subsection (b).

(b)(1) The excise imposed and collected pursuant to subsection (a) shall be due and payable to the commission in monthly installments on or before the fifteenth calendar day following the calendar month in which the adjusted gross sports wagering receipts were received.

(2) On or before the fifteenth calendar day of each month, the operator shall complete and submit the return for the preceding month by electronic communication to the commission in a form prescribed by the commission that provides:

(i) the total gross sports wagering receipts and adjusted gross sports wagering receipts from operation of sports wagering during that month;

(ii) the total gross fantasy wagering receipts and adjusted gross fantasy wagering receipts from the offering of fantasy contests, as defined in section 11M½ of chapter 12, during that month;

(iii) the tax amount for which an operator or a person or entity that offers fantasy contests, as defined in said section 11M½ of said chapter 12, is liable; and

(iv) any additional information necessary in the computation and collection of the tax on adjusted gross sports wagering receipts and adjusted gross fantasy wagering receipts required by the commission.

(3) The excise amount shown to be due shall be remitted by electronic funds transfer simultaneously with the filing of the return.

660 (4) When an operator's adjusted gross sports wagering receipts for a month is a negative
661 number because the winnings paid to wagerers and excise taxes paid pursuant to federal law
662 exceed the operator's total gross receipts from sports wagering, the commission shall allow the
663 operator to carry over the negative amount to returns filed for subsequent months. The negative
664 amount of adjusted gross sports wagering receipts shall not be carried back to an earlier month
665 and taxes previously received by the commission shall not be refunded unless the operator
666 surrenders its license and the operator's last return reported negative adjusted gross sports
667 wagering receipts.

668 (c) The excise on adjusted gross sports wagering receipts imposed by this section shall be
669 in lieu of all other state and local taxes and fees imposed on the operation of, or the proceeds
670 from operation of, sports wagering.

671 (d) Annually, not later than July 1, the commission shall publish on its website a report
672 stating the amount in fees, surcharges and civil penalties received from operators and taxes
673 received from operators and from people or entities that offer fantasy contests, as defined in
674 section 11M½ of chapter 12.

675 Section 15. (a) There shall be established and set up on the books of the commonwealth a
676 separate fund to be known as the Sports Wagering Control Fund. The commission shall be the
677 trustee of the fund and shall expend money to finance the operational activities of the
678 commission pertaining to sports wagering. The fund shall be credited with: (i) any appropriation,
679 bond proceeds or other monies authorized by the general court and specifically designated to be
680 credited thereto; (ii) the proceeds of any fees collected pursuant to this section unless otherwise
681 specified; (iii) fees collected pursuant to sections 7 and 8; (iv) breaks; and (v) such additional

682 funds as are subject to the direction and control of the commission. All available money in the
683 fund that is unexpended at the end of each fiscal year shall not revert to the General Fund and
684 shall be available for expenditure in the subsequent fiscal year.

685 (b) The commission shall establish fees for any investigation into a violation of this
686 chapter or regulation promulgated hereunder by a sports wagering operator to be paid by the
687 sports wagering operator including, but not limited to, billable hours by commission staff
688 involved in the investigation and the costs of services, equipment or other expenses that are
689 incurred by the commission during the investigation.

690 (c) Any remaining costs of the commission necessary to maintain regulatory control over
691 sports wagering operators that are not covered by: (i) the fees set forth in subsection (b); (ii) any
692 other fees assessed pursuant to this chapter; or (iii) any other designated sources of funding, shall
693 be annually assessed on sports wagering operators pursuant to this chapter in proportion to each
694 operator's share of the commonwealth's total adjusted gross sports wagering receipts. Each
695 operator shall pay the amount assessed against the operator not more than 30 days after the date
696 of the notice of assessment from the commission.

697 (d) If the fees collected pursuant to subsections (b) and (c) exceed the cost required to
698 maintain regulatory control, the surplus funds shall be credited in proportional shares against
699 each sports wagering operator's next assessment.

700 (e) The commission shall annually assess and collect a \$1,000,000 fee in shares to be
701 determined by the commission against each sports wagering operator that is not a category 1 or
702 category 2 gaming licensee, as defined in section 2 of chapter 23K. The fee collected pursuant to
703 this subsection shall be deposited into the Public Health Trust Fund established in section 58 of

704 said chapter 23K and shall be used for the costs of services and public health programs provided
705 for in said section 58 of said chapter 23K.

706 Section 16. (a) The commission may assess a civil administrative penalty on an operator
707 who fails to comply with any provision of this chapter, house rules or any regulation or order
708 adopted by the commission; provided, however, that the noncompliance shall have occurred after
709 the commission has given such operator written notice of the noncompliance and the time stated
710 in the notice for coming into compliance has elapsed; provided further, that the commission may
711 assess a penalty without providing written notice if the failure to comply: (i) was part of a pattern
712 of noncompliance and not an isolated instance; (ii) was willful or neglectful and not the result of
713 error; (iii) resulted in a significant breach to the integrity of the operator or the sports wagering
714 laws of the commonwealth; or (iv) consisted of failure to promptly report to the commission any
715 knowledge of evidence or circumstances that would cause a reasonable person to believe that a
716 violation of this chapter has been committed. The civil administrative penalty shall be in addition
717 to any other civil penalty that may be prescribed by law.

718 (b) For the purpose of determining whether such noncompliance was part of a pattern of
719 noncompliance and not an isolated instance, the commission shall consider, but not be limited to;
720 (i) whether the commission had previously notified the operator of such noncompliance on more
721 than 1 occasion during the previous month or of any noncompliance with the same provision of a
722 law, regulation, order, license or approval as the current noncompliance during the previous 6-
723 month period; or (ii) whether the current and previous instances of noncompliance, considered
724 together, indicate a potential threat to the integrity of the operator and sports wagering in the
725 commonwealth or an interference with the commission's ability to efficiently and effectively
726 regulate sports wagering in the commonwealth and enforce any regulation, license or order. If an

727 operator that has received a notice of noncompliance fails to come into compliance within the
728 time period stated in the notice, the civil administrative penalty may be assessed by the
729 commission upon the operator from the date of receipt of such notice.

730 (c) If the commission seeks to assess a civil administrative penalty on an operator, the
731 commission shall cause to be served upon the operator, by service in hand or by certified mail,
732 return receipt requested, a written notice of its intent to assess a civil administrative penalty that
733 shall include: (i) a concise statement of the alleged act or omission for which such civil
734 administrative penalty is sought to be assessed; (ii) each law, regulation, order, license or
735 approval that has not been complied with as a result of such alleged act or omission; (iii) the
736 amount that the commission seeks to assess as a civil administrative penalty for each alleged act
737 or omission; (iv) a statement of the operator's right to an adjudicatory hearing on the proposed
738 assessment; (v) the requirements the operator shall comply with to avoid being deemed to have
739 waived the right to an adjudicatory hearing; and (vi) the manner of payment thereof if the
740 operator elects to pay the penalty and waive an adjudicatory hearing. After written notice of
741 noncompliance or intent to assess a civil administrative penalty has been given, each day
742 thereafter during which noncompliance occurs or continues shall constitute a separate offense
743 and shall be subject to a separate civil administrative penalty if reasonable efforts have not been
744 made by the operator to promptly come into compliance.

745 (d) If the commission seeks to assess a civil administrative penalty on an operator, the
746 operator shall have the right to an adjudicatory hearing under chapter 30A, the provisions of
747 which shall apply except when they are inconsistent with the provisions of this chapter.

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

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

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

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

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

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

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

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

(1) 45 per cent to the General Fund;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

CITY OF GARDNER

DEPARTMENT OF COMMUNITY DEVELOPMENT AND PLANNING

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

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



December 14, 2023

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

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

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

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

Sincerely,

Mark M. Schafron
Chairman

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

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

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

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

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

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

CITY OF GARDNER

DEPARTMENT OF COMMUNITY DEVELOPMENT AND PLANNING



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 looses 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.

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.

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.

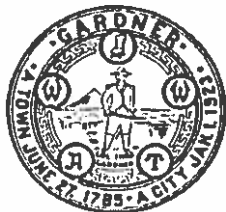
The Gardner Police Department has responded to calls at the current recreational retail dispensary, but the vast majority of the calls are general service calls (accidents, lockouts, burglar alarms, etc.). The police department rarely deals with anything else there.

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
TOTAL	\$ 131,140.75	\$ 361,744.81	\$ 438,984.85	\$ 502,245.18	\$ 97,402.58

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

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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)^[1]

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

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

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

D. Special permit requirements.

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

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

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

E. Abandonment or discontinuance of use.

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

CITY OF GARDNER

DEPARTMENT OF COMMUNITY DEVELOPMENT AND PLANNING

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

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

11112



December 14, 2023

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

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

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

Dear President Kazinskas:

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

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

Sincerely,

Mark M. Schafron
Chairman

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

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

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

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

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

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

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

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

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

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

CITY OF GARDNER

DEPARTMENT OF COMMUNITY DEVELOPMENT AND PLANNING
March 30, 2023



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

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

Dear President Kazinskas:

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

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

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

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

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

Sincerely,

Mark M. Schafron, Planning Board Chairman

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

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



City of Gardner - *Executive Department*

Mayor Michael J. Nicholson

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

March 29, 2023

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

RE: Item #: 10892 - Planning Board Follow Up

Dear Madam President and Councilors,

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

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

Respectfully Submitted,

Michael J. Nicholson
Mayor, City of Gardner



City of Gardner - Executive Department

Mayor Michael J. Nicholson

RECEIVED

2023 MAR 29 PM 1:21

CITY CLERK'S OFFICE
GARDNER, MA

March 15, 2023

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

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

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

Dear Madam President and Councilors,

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

In May of 2018, the United States Supreme Court struck down the federal Professional and Amateur Sports Protection Act (“PASPA”)¹, also known as the Bradley Act, as unconstitutional in their ruling of *Murphy v. National Collegiate Athletic Association*². 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

¹ 28 U.S.C. ch.178 §3701 et seq.

² *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.

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

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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.

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, appearing to read "Michael J. Nicholson", is written over a horizontal line.

Michael J. Nicholson
Mayor, City of Gardner

CC:

City Council Public Welfare Committee
Planning Board



CITY OF GARDNER POLICE DEPARTMENT

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



Eric P. McAvene
Chief of Police

Nicholas P. Maroni
Deputy Chief of Police

February 3, 2023

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

Re: Sports Betting Zoning Ordinance

Dear Mayor,

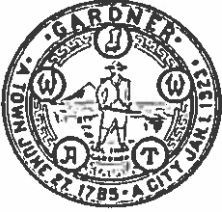
I have reviewed the proposed addition of the new Sports Betting Ordinance and do not see any issues from the police department. Any proposed facility should have a buffer between any residential zone and this ordinance reflects the new law.

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

Very truly yours,

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

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

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

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

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

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

close associates that would not qualify for a license or whose relationship with the applicant may pose an injurious threat to the interests of the commonwealth in awarding an operator license to the applicant; or (vi) in the case of an operator or an applicant for an operator license, is not the true owner of the business or is not the sole owner and has not disclosed the existence or identity of other persons who have an ownership interest in the business.

(b) The commission may deny, suspend or revoke an operator license or reprimand any licensee if the applicant or licensee has not met the requirements of this chapter.

Section 10. (a) An operator shall adopt comprehensive house rules for game play governing sports wagering transactions with the operator's patrons. The house rules shall specify the amounts to be paid on winning wagers and the effect of sports event schedule changes. An operator shall not conduct sports wagering until the commission has approved the house rules and an operator shall not conduct sports wagering in a manner inconsistent with approved house rules.

(b) The house rules, together with any other information the commission deems appropriate, shall be accessible to any patrons of the sports wagering operator. The operator shall make copies readily available to patrons and shall post the house rules as required by the commission, including on a prominent place on the operator's public website and mobile application or other digital platform.

Section 11. (a) An operator shall employ commercially reasonable methods to: (i) prohibit the operator, directors, officers, owners and employees of the operator and any relative living in the same household as any such person from placing bets with the operator; (ii) prohibit athletes, coaches, referees, team owners, employees of a sports governing body or its member

401 teams and player and referee union personnel from wagering on any sporting event of their
402 sport's governing body; provided, however, that the operator shall use lists of such persons that a
403 sports governing body may provide to the commission to determine which persons are excluded
404 from placing wagers under this subsection; and provided further, that the commission may use
405 the list of barred employees from the operator and may work directly with a member team to
406 determine the risk posed by certain employees for obtaining nonpublic confidential information
407 on a sporting event and may remove an employee without knowledge of team strategy or game
408 operations from such a list if the commission determines any such risk is de minimis; (iii)
409 prohibit any individual with access to nonpublic confidential information held by the operator
410 from placing wagers with the operator; (iv) prohibit persons from placing wagers as agents or
411 proxies for others; and (v) maintain the security of wagering data, customer data and other
412 confidential information from unauthorized access and dissemination; provided, however, that
413 nothing in this chapter shall preclude the use of internet or cloud-based hosting of such data and
414 information or disclosure as required by court order, other law or this chapter; and provided
415 further, that such data and information shall be hosted in the United States.

416 (b) A sports governing body or players association representing athletes who participate
417 in sporting events of the sports governing body may submit to the commission, in writing, by
418 providing notice in a form and manner as the commission may require, a request to restrict, limit
419 or exclude a certain type, form or category of sports wagering with respect to sporting events of
420 the sports governing body, if the sports governing body or players association believes that such
421 type, form or category of sports wagering with respect to sporting events of the sports governing
422 body: (i) is contrary to public policy; (ii) unfair to consumers; (iii) may undermine the perceived
423 integrity of the sports governing body, sporting events of the sports governing body or the

424 athletes participating therein; or (iv) affects the integrity of the sports governing body or sporting
425 events of the sports governing body or the athletes participating therein.

426 The commission shall request comment from operators on all such requests. After giving
427 due consideration to all comments received, the commission shall, upon a demonstration of good
428 cause from the requestor, grant the request. The commission shall respond to a request
429 concerning a particular event before the start of the event or, if it is not feasible to respond before
430 the start of the event, not later than 7 days after the request is made; provided, however, that if
431 the commission determines that the requestor is more likely than not to prevail in successfully
432 demonstrating good cause for its request, the commission may provisionally grant the request
433 until the commission makes a final determination as to whether the requestor has demonstrated
434 good cause. Absent a provisional grant by the commission, an operator may continue to offer
435 sports wagering on sporting events that are the subject of a request during the pendency of the
436 consideration of the applicable request.

437 (c) The commission shall designate a state law enforcement entity to have primary
438 responsibility for conducting, or assisting the commission in conducting, investigations into
439 abnormal betting activity, match fixing and other conduct that corrupts a betting outcome of a
440 sporting event for purposes of financial gain.

441 (d) The commission and operators shall use commercially reasonable efforts to cooperate
442 with investigations conducted by sports governing bodies or law enforcement agencies,
443 including, but not limited to, using commercially reasonable efforts to provide or facilitate the
444 provision of anonymized account-level betting information and audio or video files relating to
445 persons placing wagers. All disclosures under this section are subject to the obligation of an

446 operator to comply with all federal, state and local laws and regulations, including, but not
447 limited to, laws and regulations relating to privacy and personally identifiable information.

448 (e) An operator shall immediately report to the commission any information relating to:
449 (i) criminal or disciplinary proceedings commenced against the operator in connection with its
450 operations; (ii) abnormal betting activity or patterns that may indicate a concern with the
451 integrity of a sporting event; (iii) any potential breach of the internal rules and codes of conduct
452 pertaining to sports wagering of a relevant sports governing body; (iv) any other conduct that
453 corrupts a betting outcome of a sporting event for purposes of financial gain, including, but not
454 limited to, match fixing; or (v) suspicious or illegal wagering activities, including, but not limited
455 to: (A) use of funds derived from illegal activity; (B) wagers to conceal or launder funds derived
456 from illegal activity; (C) use of agents to place wagers; and (D) use of false identification. An
457 operator shall immediately report information relating to conduct described in clauses (ii), (iii)
458 and (iv) of this subsection to the relevant sports governing body.

459 (f) The commission and operators shall maintain the confidentiality of information
460 provided by a sports governing body for purposes of investigating or preventing the conduct
461 described in clauses (ii), (iii) and (iv) of subsection (e), unless disclosure is required by this
462 chapter, the commission, other law or court order or unless the sports governing body consents to
463 disclosure.

464 (g) With respect to any information provided by an operator to a sports governing body
465 relating to conduct described in clauses (ii), (iii) and (iv) of subsection (e), a sports governing
466 body shall: (i) only use such information for integrity purposes and shall not use the information
467 for any commercial or other purpose; and (ii) maintain the confidentiality of such information,

unless disclosure is required by this chapter, the commission, other law or court order or unless the operator consents to disclosure; provided, however, that the sports governing body may make any disclosure necessary to conduct and resolve integrity-related investigations and may publicly disclose such information if required by its integrity policies or if deemed by the sports governing body in its reasonable judgment to be necessary to maintain the actual or perceived integrity of its sporting events, and subject in all cases to the sports governing body's compliance with federal, state and local laws and regulations, including, but not limited to, laws and regulations relating to privacy and personally identifiable information; and provided further, that prior to any such public disclosure that would identify the operator by name, the sports governing body shall provide the operator with notice of such disclosure and an opportunity to object to such disclosure.

(h) An operator shall maintain records of all wagers placed by its patrons, including: (i) personally identifiable information of a patron who places a sports wager through a mobile application or other digital platform or a patron who places an in-person sports wager that exceeds an amount determined by the commission; (ii) amount and type of the bet; (iii) the time the bet was placed; (iv) the location of the bet, including the Internet Protocol address if applicable; (v) the outcome of the bet; and (vi) records of abnormal betting activity for 3 years after a sporting event occurs and video camera recordings in the case of in-person wagers for at least 1 year after a sporting event occurs. An operator shall make these records available for inspection upon request of the commission or as required by court order.

(i) An operator shall use commercially reasonable efforts to maintain, in real time and at the account level, anonymized information for each patron, including: (i) the amount and type of bet; (ii) the time the bet was placed; (iii) the location of the bet, including the Internet Protocol

491 address if applicable; (iv) the outcome of the bet; and (v) records of abnormal betting activity.
492 The commission may request the information in the form and manner as it requires. Nothing in
493 this section shall require an operator to provide any information prohibited by federal, state or
494 local laws or regulations, including, but not limited to, laws and regulations relating to privacy
495 and personally identifiable information.

496 (j) If a sports governing body has notified the commission and demonstrated a need for
497 access to the information described in subsection (i) for wagers placed on sporting events of the
498 sports governing body for integrity monitoring purposes and demonstrated the capability to use
499 the data for the purpose of effectively monitoring the integrity of sporting events of the sports
500 governing body, an operator shall share, in a commercially reasonable frequency, form and
501 manner, with the sports governing body or its designee the same information the operator is
502 required to maintain pursuant to said subsection (i) with respect to sports wagers on sporting
503 events of the sports governing body. A sports governing body and its designee shall only use
504 information received pursuant to this section for integrity-monitoring purposes and shall not use
505 information received pursuant to this section for any commercial or other purpose. Nothing in
506 this section shall require an operator to provide any information that is prohibited by federal,
507 state or local law or regulation, including, but not limited to, laws and regulations relating to
508 privacy and personally identifiable information.

509 (k)(1) An operator shall conduct a background check on each newly hired employee.
510 Background checks shall search for criminal history, charges or convictions involving corruption
511 or manipulation of sporting events and association with organized crime.

(2) An operator shall conduct a single background check on any employee hired before the operator was issued an operator license. Background checks shall search for criminal history, charges or convictions involving corruption or manipulation of sporting events and association with organized crime.

Section 12. (a) An operator shall: (i) employ a monitoring system utilizing software to identify irregularities in volume or changes in odds that could signal suspicious activities and promptly report such information to the commission for further investigation; provided, however, that system requirements and specifications shall be developed according to industry standards and implemented by the commission as part of the minimum internal control standards; (ii) promptly report to the commission any facts or circumstances related to the operation of a sports wagering license that constitute a violation of state or federal law and promptly report to the appropriate state or federal authorities any suspicious betting over a threshold set by the operator that has been approved by the commission; (iii) conduct all sports wagering activities and functions in a manner that does not pose a threat to the public health, safety or welfare of the residents of the commonwealth; (iv) keep current in all payments and obligations to the commission; (v) prevent any person from tampering or interfering with the operation of any sports wagering; (vi) ensure that mobile sports wagering occurs only using a commission-approved mobile application or other digital platform to accept wagers initiated within the commonwealth; (vii) maintain sufficient cash and other supplies to conduct sports wagering at all times; (viii) maintain daily records showing the gross sports wagering receipts and adjusted gross sports wagering receipts of the operator from sports wagering; (ix) timely file with the commission any additional reports required by this chapter or by any rule or regulation;

534 and (x) use commercially reasonable efforts to prevent a person under 21 years old from placing
535 a wager.

536 (b) Sports wagering operators may use any data source for determining:

537 (1) the results of any and all tier 1 sports wagers on any and all sporting events; and

538 (2) the results of any and all tier 2 sports wagers on sporting events of an organization
539 that is not headquartered in the United States.

540 (c) A sports governing body may notify the commission that it desires sports wagering
541 operators to use official league data to settle tier 2 sports wagers on sporting events of such
542 sports governing body. The notification shall be made in the form and manner as the commission
543 may require. Within 5 days of receipt of the notification, the commission shall notify each sports
544 wagering operator of the requirement to use official league data to settle tier 2 sports wagers. If a
545 sports governing body does not notify the commission of its desire to supply official league data,
546 a sports wagering operator may use any data source for determining the results of any and all tier
547 2 sports wagers on sporting events of the sports governing body.

548 (d) Within 60 days of the commission notifying a sports wagering operator of the
549 requirement to use official league data to settle tier 2 sports wagers pursuant to subsection (c), or
550 such longer period as may be agreed between the sports governing body and the applicable
551 sports wagering operator, a sports wagering operator shall use only official league data to
552 determine the results of tier 2 sports wagers on sporting events of that sports governing body,
553 unless:

554 (1) the sports governing body or its designee cannot provide a feed of official league data
555 to determine the results of a particular type of tier 2 sports wager, in which case a sports
556 wagering operator may use any data source for determining the results of the applicable tier 2
557 sports wager until such time a data feed becomes available from the sports governing body on
558 commercially reasonable terms and conditions; or

559 (2) a sports wagering operator can demonstrate to the commission that the sports
560 governing body or its designee will not provide a feed of official league data to the sports
561 wagering operator on commercially reasonable terms and conditions.

562 (e) In evaluating whether official league data is offered on commercially reasonable
563 terms and conditions for purposes of paragraphs (1) and (2) of subsection (d), the commission
564 may consider factors, including, but not limited to:

565 (1) the availability of official league data to a sports wagering operator from more than 1
566 authorized source;

567 (2) market information, including, but not limited to, price and other terms and conditions
568 regarding the purchase by sports wagering operators of comparable data for the purpose of
569 settling sports wagers in the commonwealth and other jurisdictions;

570 (3) the nature and quantity of data, including the quality and complexity of the process
571 used for collecting the data; and

572 (4) the extent to which a sports governing body or its designee has made data used to
573 settle tier 2 wagers available to sports wagering operators and any terms and conditions relating
574 to the use of that data.

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

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

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

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

597 Unlawful Internet Gambling Enforcement Act of 2006, 31 U.S.C. section 5361 to 5367,
598 inclusive, the intermediate routing of electronic data related to a lawful intrastate wager
599 authorized pursuant to this chapter shall not determine the location or locations in which the
600 wager is initiated, received or otherwise made.

601 (c) An operator may: (i) accept wagers placed by other operators and (ii) place wagers
602 with other operators; provided, that any operator that places a wager with another operator shall
603 inform the operator accepting the wager that the wager is being placed by an operator and shall
604 disclose the operator's identity.

605 (d) An operator shall not accept: (i) a wager from a person who is less than 21 years of
606 age; or (ii) a credit card .

607 (e)(1) The commission or operator may ban any person from participating in the play or
608 operation of any sports wagering consistent with rules and regulations promulgated by the
609 commission. A list of all excluded patrons shall be kept by the commission and provided to each
610 licensee. No patron on the exclusion list shall be permitted to conduct sports wagering pursuant
611 to this chapter.

612 (2) The commission shall establish a list of self-excluded persons from sports wagering.
613 A person may request their name to be placed on the list of self-excluded persons by filing a
614 statement with the commission acknowledging that they are a problem gambler and by agreeing
615 that, during any period of voluntary exclusion, they shall not collect any winnings or recover any
616 losses resulting from any sports wagering. The commission shall adopt further regulations for the
617 self-excluded persons list including procedures for placement, removal and transmittal of the list
618 to sports wagering operators. The commission may revoke, limit, condition, suspend or fine a

619 sports wagering operator if the operator knowingly or recklessly fails to exclude or eject from its
620 premises any person placed on the list of self-excluded persons. The list of self-excluded persons
621 from sports wagering shall not be open to public inspection.

622 (3) An operator that operates sports wagering through a mobile application or other
623 digital platform may allow patrons to set self-imposed limitations on sports wagering when the
624 patron joins the mobile application or digital platform.

625 (f) No employee may place a sports wager at any facility or through any mobile
626 application or digital platform owned or operated by their employer.

627 (g) Sections 24, 24A and 27 of chapter 10 of the General Laws shall not apply to an
628 operator conducting sports wagering in accordance with this chapter.

629 (h) Unclaimed winning sports wagers shall be retained by the operator for the person
630 entitled to the wager for 1 year after the game or event in which the wager was won. If no claim
631 is made for the wager within 1 year, the cash or equivalent cash value of the wager shall be
632 deposited in the Sports Wagering Control Fund established in section 15.

633 Section 14. (a) An excise is hereby imposed upon sports wagering operators in the
634 commonwealth at the rate of: (i) 15 per cent of the operator's adjusted gross sports wagering
635 receipts from the operation of in-person sports wagering; (ii) 20 per cent of the operator's
636 adjusted gross sports wagering receipts from the operation of sports wagering through mobile
637 applications and other digital platforms approved by the commission; and (iii) 15 per cent of the
638 adjusted gross fantasy wagering receipts of a person or entity that offers fantasy contests, as
639 defined in section 11M½. The accrual method of accounting shall be used for purposes of

calculating the amount of the tax owed by the licensee. The excise shall be paid to the commission at the time provided for filing the return pursuant to subsection (b).

(b)(1) The excise imposed and collected pursuant to subsection (a) shall be due and payable to the commission in monthly installments on or before the fifteenth calendar day following the calendar month in which the adjusted gross sports wagering receipts were received.

(2) On or before the fifteenth calendar day of each month, the operator shall complete and submit the return for the preceding month by electronic communication to the commission in a form prescribed by the commission that provides:

(i) the total gross sports wagering receipts and adjusted gross sports wagering receipts from operation of sports wagering during that month;

(ii) the total gross fantasy wagering receipts and adjusted gross fantasy wagering receipts from the offering of fantasy contests, as defined in section 11M½ of chapter 12, during that month;

(iii) the tax amount for which an operator or a person or entity that offers fantasy contests, as defined in said section 11M½ of said chapter 12, is liable; and

(iv) any additional information necessary in the computation and collection of the tax on adjusted gross sports wagering receipts and adjusted gross fantasy wagering receipts required by the commission.

(3) The excise amount shown to be due shall be remitted by electronic funds transfer simultaneously with the filing of the return.

660 (4) When an operator's adjusted gross sports wagering receipts for a month is a negative
661 number because the winnings paid to wagerers and excise taxes paid pursuant to federal law
662 exceed the operator's total gross receipts from sports wagering, the commission shall allow the
663 operator to carry over the negative amount to returns filed for subsequent months. The negative
664 amount of adjusted gross sports wagering receipts shall not be carried back to an earlier month
665 and taxes previously received by the commission shall not be refunded unless the operator
666 surrenders its license and the operator's last return reported negative adjusted gross sports
667 wagering receipts.

668 (c) The excise on adjusted gross sports wagering receipts imposed by this section shall be
669 in lieu of all other state and local taxes and fees imposed on the operation of, or the proceeds
670 from operation of, sports wagering.

671 (d) Annually, not later than July 1, the commission shall publish on its website a report
672 stating the amount in fees, surcharges and civil penalties received from operators and taxes
673 received from operators and from people or entities that offer fantasy contests, as defined in
674 section 11M½ of chapter 12.

675 Section 15. (a) There shall be established and set up on the books of the commonwealth a
676 separate fund to be known as the Sports Wagering Control Fund. The commission shall be the
677 trustee of the fund and shall expend money to finance the operational activities of the
678 commission pertaining to sports wagering. The fund shall be credited with: (i) any appropriation,
679 bond proceeds or other monies authorized by the general court and specifically designated to be
680 credited thereto; (ii) the proceeds of any fees collected pursuant to this section unless otherwise
681 specified; (iii) fees collected pursuant to sections 7 and 8; (iv) breaks; and (v) such additional

682 funds as are subject to the direction and control of the commission. All available money in the
683 fund that is unexpended at the end of each fiscal year shall not revert to the General Fund and
684 shall be available for expenditure in the subsequent fiscal year.

685 (b) The commission shall establish fees for any investigation into a violation of this
686 chapter or regulation promulgated hereunder by a sports wagering operator to be paid by the
687 sports wagering operator including, but not limited to, billable hours by commission staff
688 involved in the investigation and the costs of services, equipment or other expenses that are
689 incurred by the commission during the investigation.

690 (c) Any remaining costs of the commission necessary to maintain regulatory control over
691 sports wagering operators that are not covered by: (i) the fees set forth in subsection (b); (ii) any
692 other fees assessed pursuant to this chapter; or (iii) any other designated sources of funding, shall
693 be annually assessed on sports wagering operators pursuant to this chapter in proportion to each
694 operator's share of the commonwealth's total adjusted gross sports wagering receipts. Each
695 operator shall pay the amount assessed against the operator not more than 30 days after the date
696 of the notice of assessment from the commission.

697 (d) If the fees collected pursuant to subsections (b) and (c) exceed the cost required to
698 maintain regulatory control, the surplus funds shall be credited in proportional shares against
699 each sports wagering operator's next assessment.

700 (e) The commission shall annually assess and collect a \$1,000,000 fee in shares to be
701 determined by the commission against each sports wagering operator that is not a category 1 or
702 category 2 gaming licensee, as defined in section 2 of chapter 23K. The fee collected pursuant to
703 this subsection shall be deposited into the Public Health Trust Fund established in section 58 of

704 said chapter 23K and shall be used for the costs of services and public health programs provided
705 for in said section 58 of said chapter 23K.

706 Section 16. (a) The commission may assess a civil administrative penalty on an operator
707 who fails to comply with any provision of this chapter, house rules or any regulation or order
708 adopted by the commission; provided, however, that the noncompliance shall have occurred after
709 the commission has given such operator written notice of the noncompliance and the time stated
710 in the notice for coming into compliance has elapsed; provided further, that the commission may
711 assess a penalty without providing written notice if the failure to comply: (i) was part of a pattern
712 of noncompliance and not an isolated instance; (ii) was willful or neglectful and not the result of
713 error; (iii) resulted in a significant breach to the integrity of the operator or the sports wagering
714 laws of the commonwealth; or (iv) consisted of failure to promptly report to the commission any
715 knowledge of evidence or circumstances that would cause a reasonable person to believe that a
716 violation of this chapter has been committed. The civil administrative penalty shall be in addition
717 to any other civil penalty that may be prescribed by law.

718 (b) For the purpose of determining whether such noncompliance was part of a pattern of
719 noncompliance and not an isolated instance, the commission shall consider, but not be limited to;
720 (i) whether the commission had previously notified the operator of such noncompliance on more
721 than 1 occasion during the previous month or of any noncompliance with the same provision of a
722 law, regulation, order, license or approval as the current noncompliance during the previous 6-
723 month period; or (ii) whether the current and previous instances of noncompliance, considered
724 together, indicate a potential threat to the integrity of the operator and sports wagering in the
725 commonwealth or an interference with the commission's ability to efficiently and effectively
726 regulate sports wagering in the commonwealth and enforce any regulation, license or order. If an

727 operator that has received a notice of noncompliance fails to come into compliance within the
728 time period stated in the notice, the civil administrative penalty may be assessed by the
729 commission upon the operator from the date of receipt of such notice.

730 (c) If the commission seeks to assess a civil administrative penalty on an operator, the
731 commission shall cause to be served upon the operator, by service in hand or by certified mail,
732 return receipt requested, a written notice of its intent to assess a civil administrative penalty that
733 shall include: (i) a concise statement of the alleged act or omission for which such civil
734 administrative penalty is sought to be assessed; (ii) each law, regulation, order, license or
735 approval that has not been complied with as a result of such alleged act or omission; (iii) the
736 amount that the commission seeks to assess as a civil administrative penalty for each alleged act
737 or omission; (iv) a statement of the operator's right to an adjudicatory hearing on the proposed
738 assessment; (v) the requirements the operator shall comply with to avoid being deemed to have
739 waived the right to an adjudicatory hearing; and (vi) the manner of payment thereof if the
740 operator elects to pay the penalty and waive an adjudicatory hearing. After written notice of
741 noncompliance or intent to assess a civil administrative penalty has been given, each day
742 thereafter during which noncompliance occurs or continues shall constitute a separate offense
743 and shall be subject to a separate civil administrative penalty if reasonable efforts have not been
744 made by the operator to promptly come into compliance.

745 (d) If the commission seeks to assess a civil administrative penalty on an operator, the
746 operator shall have the right to an adjudicatory hearing under chapter 30A, the provisions of
747 which shall apply except when they are inconsistent with the provisions of this chapter.

(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
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.

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

RECEIVED
CITY CLERK'S OFFICE
DECEMBER 14, 2023

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

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

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

Sincerely,

Mark M. Schafron
Chairman

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

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

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

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

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

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

CITY OF GARDNER

DEPARTMENT OF COMMUNITY DEVELOPMENT AND PLANNING



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

March 30, 2023

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

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

Dear President Kazinskas:

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

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

Sincerely,

Mark M. Schafron, Planning Board Chairman

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



City of Gardner - *Executive Department*

Mayor Michael J. Nicholson

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

March 29, 2023

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

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

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

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

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

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

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

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

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

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

Respectfully,

Michael J. Nicholson
Mayor, City of Gardner



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

CITY OF GARDNER
 NOTICE OF JOINT PUBLIC HEARING, continued

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

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

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

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.

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.

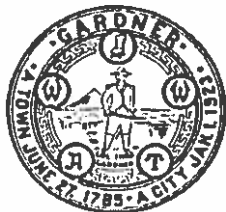
The Gardner Police Department has responded to calls at the current recreational retail dispensary, but the vast majority of the calls are general service calls (accidents, lockouts, burglar alarms, etc.). The police department rarely deals with anything else there.

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
TOTAL	\$ 131,140.75	\$ 361,744.81	\$ 438,984.85	\$ 502,245.18	\$ 97,402.58

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

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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)^[1]

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

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

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

D. Special permit requirements.

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

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

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

E. Abandonment or discontinuance of use.

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