



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

CALENDAR FOR THE MEETING

of

**MONDAY, MARCH 4, 2024
CITY COUNCIL CHAMBER
7:30 P.M.**

ORDER OF BUSINESS

I. CALL TO ORDER

II. CALL OF THE ROLL OF COUNCILLORS

III. OPENING PRAYER

IV. PLEDGE OF ALLEGIANCE

V. ANNOUNCEMENT OF OPEN MEETING RECORDINGS

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

VI. READING OF MINUTES OF PRIOR MEETING(S)

VII. PUBLIC HEARINGS

VIII. COMMUNICATIONS FROM THE MAYOR

COMMUNICATIONS

11203 – A Communication from the Mayor Regarding City Property Damage as a result of the Wind Storm of 2/28/2024 to 2/29/2024.

IX. PETITIONS, APPLICATIONS, COMMUNICATIONS, ETC.

11198 – A Notice from the City Clerk Relative to a Vacancy in the Position of Councillor at Large.

11199 – A Petition by National Grid and Verizon New England, Inc., Allen Street – to install 1 Jointly Owned Pole on Allen Street beginning at a point approximately 430 feet west of the centerline of the intersection of Allen Street and Winslow Street. Install 1 Jointly Owned Pole #7 for new houses.
(Service Committee)

11200 – A Request from Councillor George Tyros to have an Informal Meeting to Review the City’s management of the Community Development Block Grant Program.

11201 – An Open Meeting Law Complaint Filed by Paul DeMeo Regarding Open Meeting Law Discussion with the City Council.

X. REPORTS OF STANDING COMMITTEES

SAFETY COMMITTEE

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

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

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)*

11126 – A Measure Confirming the Mayor’s Appointment of Tammy Erdmann, to the position of Municipal Grounds Commission Member, for term expiring January 9, 2027. *(In the City Council and Referred to the Appointments Committee 1/16/2024)*

11127 – A Measure Confirming the Mayor’s Appointment of Thomas Zuppa, to the position of Building Commissioner, for term expiring January 9, 2027. *(In the City Council and Referred to the Appointments Committee 1/16/2024)*

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)*
- 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)*
- 11139** – A Measure Confirming the Mayor’s Appointment of Robert Bettez, to the position of Planning Board Member, for term expiring January 4, 2027. *(In the City Council and Referred to the Appointments Committee 1/16/2024)*
- 11140** – A Measure Confirming the Mayor’s Appointment of Robert Swartz, to the position of Planning Board Member, for term expiring January 4, 2027. *(In the City Council and Referred to the Appointments Committee 1/16/2024)*
- 11141** – A Measure Confirming the Mayor’s Appointment of Stephen Cormier, to the position of Planning Board Member, for term expiring January 4, 2027. *(In the City Council and Referred to the Appointments Committee 1/16/2024)*
- 11142** – A Measure Confirming the Mayor’s Appointment of Charles LeBlanc, to the position of Board of Assessors, for term expiring January 4, 2027 *(In the City Council and Referred to the Appointments Committee 1/16/2024)*
- 11143** – A Measure Confirming the Mayor’s Appointment of Rick Germano, to the position of Local Inspector, for term expiring January 4, 2027. *(In the City Council and Referred to the Appointments Committee 1/16/2024)*
- 11144** – A Measure Confirming the Mayor’s Appointment of James E. Imprescia, to the position of Plumbing & Gas Inspector, for term expiring January 4, 2027. *(In the City Council and Referred to the Appointments Committee 1/16/2024)*
- 11145** – A Measure Confirming the Mayor’s Appointment of Michael Fitzsimmons, to the position of License Commission Member, for term expiring January 4, 2027. *(In the City Council and Referred to the Appointments Committee 1/16/2024)*

- 11146** – A Measure Confirming the Mayor’s Appointment of Kenneth Arsenault, to the position of License Commission Member, for term expiring January 4, 2027. *(In the City Council and Referred to the Appointments Committee 1/16/2024)*
- 11147** – A Measure Confirming the Mayor’s Appointment of Nancy Binder, to the position of License Commission Member, for term expiring January 4, 2027. *(In the City Council and Referred to the Appointments Committee 1/16/2024)*
- 11148** – A Measure Confirming the Mayor’s Appointment of Ann Twohig, to the position of Golf Commission Member, for term expiring January 4, 2027. *(In the City Council and Referred to the Appointments Committee 1/16/2024)*
- 11149** – A Measure Confirming the Mayor’s Appointment of Kathy O’Brien, to the position of Council on Aging Member, for term expiring January 8, 2027. *(In the City Council and Referred to the Appointments Committee 1/16/2024)*
- 11150** – A Measure Confirming the Mayor’s Appointment of Timothy Horrigan, to the position of Redevelopment Authority, for term expiring January 8, 2027. *(In the City Council and Referred to the Appointments Committee 1/16/2024)*
- 11151** – A Measure Confirming the Mayor’s Appointment of Theresa Hillman, to the position of Council on Aging Member, for term expiring January 8, 2027. *(In the City Council and Referred to the Appointments Committee 1/16/2024)*
- 11153** – A Measure Confirming the Mayor’s Appointment of Susan Avallone, RN, to the position of Board of Health Member, for term expiring January 8, 2027. *(In the City Council and Referred to the Appointments Committee 1/16/2024)*
- 11154** – A Measure Confirming the Mayor’s Appointment of Geoffrey Tobia, to the position of Board of Health Member, for term expiring January 8, 2027. *(In the City Council and Referred to the Appointments Committee 1/16/2024)*
- 11155** – A Measure Confirming the Mayor’s Appointment of Michele Parker, to the position of MD, Board of Health Member, for term expiring January 8, 2027. *(In the City Council and Referred to the Appointments Committee 1/16/2024)*
- 11156** – A Measure Confirming the Mayor’s Appointment of Marcelle S. Cormier, to the position of Board of Registrar Member, for term expiring January 8, 2027. *(In the City Council and Referred to the Appointments Committee 1/16/2024)*
- 11157** – A Measure Confirming the Mayor’s Appointment of Patricia Darby, to the position of Board of Registrar Member, for term expiring January 9, 2027. *(In the City Council and Referred to the Appointments Committee 1/16/2024)*

11158 – A Measure Confirming the Mayor’s Appointment of Kevin McNerney, to the position of Contributory Retirement Board, for term expiring January 11, *(In the City Council and Referred to the Appointments Committee 1/16/2024)*

11181 – A Measure Confirming the Mayor’s Appointment of Paul Cormier, to the position of Golf Commission Member, for term expiring January 22, 2027. *(In the City Council and Referred to Appointments Committee 2/5/2024)*

11191 – A Measure Confirming the Mayor’s Appointment of Corinne Smith, to the position of Conservation Commission Member, for term expiring February 1, 2027. *(In the City Council and Referred to Appointments Committee 2/20/2024)*

11192 – A Measure Confirming the Mayor’s Appointment of Laura Cassady, to the position of Cultural Council Member, for term expiring February 9, 2027. *(In the City Council and Referred to Appointments Committee 2/20/2024)*

XI. UNFINISHED BUSINESS AND MATTERS FOR RECONSIDERATION

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

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

11180 – An Order Appropriating \$625,000.00 from Stabilization to DPW Salt Shed. *(In the City Council and Referred to Committee of the Whole 2/5/2024; More Time 2/20/2024)*

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.



City of Gardner - Executive Department
Mayor Michael J. Nicholson

February 29, 2024

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

RECEIVED
 2024 FEB 29 PM 1:15
 CITY CLERK'S OFFICE
 GARDNER, MA

RE: A Communication regarding City Property Damage as a result of the Wind Storm of 2/28/24 to 2/29/24

Dear Madam President and Councilors,

On the evening of February 28, 2024 through the morning of February 29, 2024, there were substantial winds in the area. The National Weather Service had placed the City under a severe wind advisory.

While Gardner made out well in terms of not having many power outages, there were two City properties that experienced significant amounts of damage as a result.

Gardner Fire Department Headquarters Roof:

At approximately 1:50am on Thursday, February 29, 2024, the wind gauge of the Gardner Fire Department recorded a 60 mile per hour gust of wind. This gust of wind blew a portion of the Fire Department's roof off and folded over itself.

This section of the roof is located above the living quarters of station.

The roof is made of lead lined copper. It is original to the building's 1978 construction and was patched in 2001.

At the informal meeting of the City Council held on September 19, 2022, at which the City Council reviewed the Fire Department Audit by Parrow and Associates, I notified the City Council that the City needed to take action on the roof soon, because of the leaks, air quality issues, and instability concerns that it was causing.

In October of 2022, the City had CM Chartier, the City's on call general carpentry contractor remove all insulation from under the roof in the apparatus bay from the information in the Parrow Report and reviews that were done on the structure.

On November 9, 2023, I notified the City Council that the Administration was going to be making the roof's replacement a priority for the 2024 calendar year. This was before the City Council as *Agenda Item 11098 – A Notification from the Mayor Regarding Upcoming*

Appropriation Request for Fire Department Roof Repairs, for the meeting of November 20, 2023. And further reiterated in my inaugural address, delivered on January 6th, 2024.

During the week of February 19th, 2024, the City had engaged in architectural and building design engineers – Tighe & Bond and Weston & Samson – do a review of the roof and provide the City with Opinions of Probable Costs, so that the City could move forward with a full replacement project based off of an actual financial projection.

The roof is currently having a short term emergency repair made and we are working with our insurance company, the Massachusetts Interlocal Insurance Agency (MIIA) on what would be covered in terms of replacements.

73 Stuart Street – Former Factory Building:

The building at 73 Stuart Street, at the intersection of Stuart and Nadeau Streets was taken by tax title proceedings in the fall of 2022.

At the regular meeting of the Gardner City Council of December 19, 2022, the City Council voted to declare the land surplus for sale.

While the City tried to sell this property, the interested purchaser, and the only one individual who put in an offer on the property, wanted the property subject to a zoning variance, which the City could not wait for, per the General Laws of the Commonwealth, since the solicitation required that the property be sold “as is.”

During the aforementioned windstorm, a portion of the roof collapsed, which caused one of the outside walls of the factory to collapse onto the neighbors fence.

The full report of the building commissioner is attached.

The City was already under the process of finding ways to demolish this structure as it is fully condemned already. According to the Opinion of Probable Cause that we received from Tighe and Bond, the cost to demolish the structure would be \$369,400, largely due to the unknown environmental factors of the demolition.

The Building Commissioner, per the provisions of the General Laws, does however, have the right to order a building to be removed when extreme safety of life and property arise.

The Administration is looking at how best to proceed with this property before any further damage or collapse occurs.

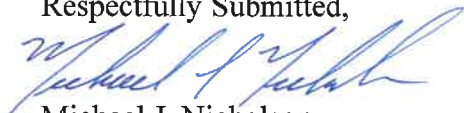
Gardner City Hall Flagpole:

The main flagpole behind the World War I monument at Gardner City Hall is largely in disrepair. The pulley system inside the pole was slightly damaged but repaired earlier this year. Following this storm, the mechanism completely broke, causing the flag to completely fall off the pole.

The flag was retrieved by members of the Fire Department who saw the flag on the ground when they drove by. It was properly folded and is currently being stored in the City's Veteran's Services Department.

Current estimates have a repair of the existing pole around \$8,000 and the cost of a full replacement being \$75,000.

Respectfully Submitted,



Michael J. Nicholson
Mayor, City of Gardner

Gardner Fire Department Roof Information

- Picture of Damage
- Notification from Mayor, November 9, 2023
- Inaugural Address, January 6, 2024
- City Council Informal Meeting Pack, December 19, 2022





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

November 9, 2023

 **COPY**

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

RE: Notification of Upcoming Appropriation Request for Fire Department Roof Repairs

Dear Madam President and Councilors,

In the spirit of transparency and collaboration, I am writing to notify you that I have instructed Chief Lagoy of the Gardner Fire Department and Commissioner Zuppa of the Gardner Building Department to begin seeking price quotes to replace the roof on the Gardner Fire Department Headquarters Building located at 70 City Hall Avenue.

This roof has had substantial leaking issues, causing air quality and stability concerns in the building. The roof was patched in the early 2000s, but aside from that, it is originally to the 1980 construction.

Once price estimates are received, I plan to submit an appropriation request to the City Council from the City's stabilization account to pay for this urgent repair.

As you are aware, the City has financial administration policies that dictate that annually upon certification of free cash, the Administration will submit a request of an amount equivalent to five percent (5%) of certified free cash for the stabilization account. The Administration's current plan is to increase this to ten percent (10%) of certified free cash until the amount is fully paid back, once the appropriation is made.

The current balance of the City's stabilization account is \$3,532,486.54.

Again, while this is still in the early stages of its planning process, since I expect this to be a large expenditure, I wanted to notify the Council that this was taking place as early as possible to better prepare for this when it is submitted.

Respectfully Submitted,

Michael J. Nicholson
Mayor, City of Gardner

CITY OF GARDNER



MASSACHUSETTS

INAUGURAL ADDRESS BY MAYOR MICHAEL J. NICHOLSON

JANUARY 4, 2024

Page 6 of 7

Good Evening,

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

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

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

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

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

Previous section translated:

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

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

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

CITY OF GARDNER



MASSACHUSETTS

INAUGURAL ADDRESS BY MAYOR MICHAEL J. NICHOLSON

JANUARY 4, 2024

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

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

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

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

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

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

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

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

CITY OF GARDNER



MASSACHUSETTS

INAUGURAL ADDRESS BY MAYOR MICHAEL J. NICHOLSON

JANUARY 4, 2024

Accomplishments:

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

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

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

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

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

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

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

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

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

CITY OF GARDNER



MASSACHUSETTS

INAUGURAL ADDRESS BY MAYOR MICHAEL J. NICHOLSON

JANUARY 4, 2024

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

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

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

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

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

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

CITY OF GARDNER



MASSACHUSETTS

INAUGURAL ADDRESS BY MAYOR MICHAEL J. NICHOLSON

JANUARY 4, 2024

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

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

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

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

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

Goals

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

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

CITY OF GARDNER



MASSACHUSETTS

INAUGURAL ADDRESS BY MAYOR MICHAEL J. NICHOLSON

JANUARY 4, 2024

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

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

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

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

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

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

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

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

CITY OF GARDNER



MASSACHUSETTS

INAUGURAL ADDRESS BY MAYOR MICHAEL J. NICHOLSON

JANUARY 4, 2024

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

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

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

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

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

Thank you.

PRESIDENT
 Elizabeth J. Kazinskas

COUNCILLORS AT LARGE
 James S. Boone
 Craig R. Cormier
 Ronald F. Cormier
 Judy A. Mack
 George C. Tyros

CITY OF GARDNER
MASSACHUSETTS 01440-2630



OFFICE OF THE
 CITY COUNCIL



WARD 1 COUNCILLOR
 James M. Walsh, Esq.

WARD 2 COUNCILLOR
 Dana M. Heath

WARD 3 COUNCILLOR
 Nathan R. Boudreau

WARD 4 COUNCILLOR
 Karen G. Hardern

WARD 5 COUNCILLOR
 Alek Dernalowicz, Esq.

September 14, 2022

CITY COUNCIL INFORMAL MEETING

Date: Monday, September 19, 2022
Time: 6:30 P.M.
Location: City Council Chambers, Room 219, City Hall

AGENDA

10779 – A Notification from the Mayor Regarding the Fire Department Operations Audit. *(In the City Council and Referred to Committee of the Whole 9/7/2022)*

CITY COUNCIL OF GARDNER

Elizabeth J. Kazinskas

ELIZABETH J. KAZINSKAS
 Council President

NOTICE: *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.*



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

August 25, 2022

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

RE: Fire Department Operations Audit

Dear Madam President and Councilors,

Attached, please find the Operations Audit of the Gardner Fire and Ambulance Departments conducted by John Parow Consulting & Associates.

Ret. Chief Parow has stated that if the Council wishes, he would gladly present his findings to the City Council in a meeting as well.

The report outlines the current financial surplus generated by the City Ambulance Service, the positive outcomes of our agreement with Woods Ambulance, civil service, staffing level, facilities conditions, and other topics related to the operations of these departments.

Respectfully Submitted,

Michael J. Nicholson
Mayor, City of Gardner

CC: Finance Committee
Public Safety Committee

City of Gardner Fire Department

Emergency Medical System Review

Overview of Facility Needs

Civil Service - Pros and Cons

Review Current Staffing Model

Conducted By:

John Parow Consulting & Associates

32 School Street

Chelmsford, MA. 01863

978.490.4736

John_Parow@comcast.net

Parowconsulting.com

July 2022

Table of Contents

Project Overview	3
Emergency Medical System Review	4
Gardner Fire Department Facilities	10
MA Civil Service System and the Hiring of Firefighter/EMTs	17
Review Gardner Fire Department Staffing Model	21
Appendix A - Surveyed MA Fire Department Organizational Charts	26
Appendix B – NFPA 1710 Fact Sheet	37

Project Overview

Scope of Work

1. Conduct an overview of the Emergency Medical Response system at the 5-year mark
2. Examine the department facilities and needs
3. Review how the MA Civil Service System works for the department and if improvements can be made
4. Review the current department staffing model against industry standards and comparison departments in the Commonwealth of MA.

Methodology

1. Conducted multiple site visits to become familiar with operations of the Gardner Fire Department and the Community included:
 - a. Fire/EMS operations
 - b. Department's organizational structure
 - c. Current staffing model
 - d. Deployment patterns
 - e. Review of Facilities
 - f. Future needs
 - g. Community demographics, etc.
2. Multiple requests for supporting information from the Fire Department via
 - a. Email
 - b. Phone Conversations
3. Gathered statistical department data to determine current and trending activity
 - a. This data requested and provided by the department and/or City
 - i. Fire/EMS statistics over the last five years
 - ii. EMS Collections – City Auditor
 - iii. Past studies or reports
 - iv. Civil Service history
4. Gather statistical data from comparison departments
 - a. Electronic Surveys
 - b. Phone Conversations
5. Review and Compare National Fire and Emergency Medical Services Best Practices

Emergency Medical System Review

The Edward Collins Center Study 2015

The Edward Collins Center completed a study, in early 2015, regarding the Gardner Fire Department running 1 Basic Life Support (BLS) for the City of Gardner. The study had the following projections and advantages of Gardner Fire Department staffing an in-house BLS ambulance:

1. One Gardner Fire Department BLS ambulance would transport an estimated 75% of all emergency medical patients;
2. Additional staffing at fires and emergency situations ("more boots on the ground");
3. Additional funding to offset costs of maintaining a busy fire department;
4. Additional services to residents, property owners and businesses with no increase in taxes.

General Overview of the Current Fire/Ambulance System

Moving forward with Gardner Fire Department BLS Ambulance in 2016

In 2016 the city decided to move forward with the fire based in-house BLS ambulance service. They hired an additional seven dual role firefighter/EMTs in October of 2016. The purpose of the dual role Firefighter/EMTs is to staff the ambulance and/or respond to fires or emergency calls ("more boots on the ground"). The concept of a dual role firefighter/EMT is that when they are not out on an ambulance call they are available to supplement the fire and emergency response staffing in the City. In the Fire Service this system of dual role responsibilities has proven to be a very efficient use of personnel.

In order to get the BLS ambulance system off the ground, the Fire Department needed to acquire a fully equipped ambulance. They purchased a used 2007 ambulance from the Town of Westminster for \$8,000.00, Rescue 2. In 2018 the department purchase a new 2018, state of the art, ambulance to run as the primary ambulance for \$235,000.00, Rescue 3, and retired Rescue 2 to the position of the reserve or back-up ambulance.

Relationship with Wood's Ambulance

Gardner Fire Department has a very interesting relationship with Wood's Ambulance Company. Wood's Ambulance provides two ALS ambulances to the city on a 24/7 basis and operates out of Gardner Fire Department Headquarters, Station 2. The interesting part of this relationship is that when the Gardner Fire Department ambulance is tied up on a call, Wood's will respond to all secondary calls. Additionally, Wood's provides for all the Advance Life Support (ALS) needs in support of the Gardner Fire Department BLS ambulance.

An example of how an ALS call would be handled, Gardner Fire Department Rescue 3 and one of Wood's ambulances would respond to a call deemed "ALS" by the response matrix. When they arrive on scene, and if it is further determined the patient's needs is "ALS" the Gardner Fire Department Rescue 3 would transport the patient to the hospital with the Wood's Paramedic and the Gardner Fire Department EMT providing care to the patient in the back of the ambulance.

The other advantage of having Wood's Ambulance providing secondary coverage for the city, is that it fully supports the dual role firefighter/EMT model. For example, if Gardner Fire Department receives a

call for a fire in the city the two firefighter/EMTs assigned to the ambulance respond immediately to the fire call. This provides two additional firefighters on the fireground that were not available prior to Gardner Fire Department running the BLS ambulance system. In these situations, Wood's two ambulances would provide primary ambulance coverage for the city.

(Note that the first 18 months of the program were with Med-Star and the arrangement was different with Gardner Fire Department only transporting BLS patients)

Cost for the Additional Dual/Role Firefighter/EMTs

Gardner Fire Department has a very unique budgeting system for their fire and ambulance operations. While most fire departments would include all firefighter costs in a single budget, Gardner Fire Department separates the two and has all ambulance related expenses, including personnel, broken out in a separate budget area. The advantage of this type of budgeting is that it makes it very easy to monitor the ambulance service, and to assure that it is paying for itself and what additional revenue are being generated for the city.

Evaluate the Current Ambulance System over the last Five Years and Against the Original Edward Collins Center Study:

1. One Gardner Fire BLS ambulance would transport an estimated 75% of all emergency medical patients in the City.

It was difficult to pull this data because neither Gardner Fire Department's or Wood's Ambulance's reporting software specifically track this data. However, after the data was pulled manually, we were able to compile a 21-month period of data ranging between June 2020 through February 2022 which was sufficient to make this evaluation.

During this 21-month period there were a total of 4,840 ambulance transports, 3,692 were transported by Gardner Fire Department and 1,148 transported by Wood's Ambulance.

Total Transports	Trans GFD	Trans Wood's
4840	3,692	1,148
Percent	76%	24%

Figure 1

As noted in Figure 1 above Gardner Fire Department transported 76% of the emergency medical patients and Wood's transported 24%. Over this 21-month period Gardner Fire Department met and slightly exceeded the estimate in the Collin's Study of 75%. A number we were not able to capture was mutual aid and 3rd or 4th ambulance calls.

Moving forward, we feel that this data should be collected on an annual basis and reviewed to ensure this benchmark is being met or exceeded.

2. Additional staffing at fires and emergency situations ("more boots on the ground")

Bringing the Ambulance in-house has increased the staffing of Gardner Fire Department by 33%. This is based on simple math, before the in-house system six firefighters were assign to each shift, after the in-house system, eight firefighters are assigned to each shift. The additional two dual role firefighter/EMTs,

per shift, are available to respond to non-related ambulance calls (fires and other emergencies) when not out on an ambulance call.

We did an analysis to see what percentage of the time the dual role firefighter/EMTs were unavailable on ambulance calls and what their availability was to work in a firefighter role. The analysis first took the number of transports the Gardner Fire Department ambulance did per year and divided that by 365 to get the average number of times they were out on an ambulance call per day. We then calculated the average time they were committed on the call. This included response time to the call, time on scene and the time of transport to the hospital and until back in service. The primary hospital is Heywood, and there are very few secondary destinations. We used the average of the response and return time to Heywood based on the data, response to the incident and average time on scene. It breaks out to a 4-minute response to the call, 20 minutes on scene and 45 minutes to and from the hospital and back in service. This gives us an approximate of 1 hour and 10 minutes per ambulance call.

	Transports/yr	Transports/day	Hours/day tied up on Amb	Hours/day for non Amb calls
FY/18	1,509	4	4 hrs, 40 minutes	19 hrs, 20 minutes
FY/19	2,187	6	7 hrs	17 hrs
FY/20	2,112	6	7 hrs	17 hrs
FY/21	2,091	6	7 hrs	17 hrs
FY/22	2,164	6	7 hrs	17 hrs

Figure 2

If we look at the high side of this data, in Figure 2, we can see that the dual role firefighter/EMTs are tied up performing ambulance duties 7 hours per day, on average, using the average of 1 hour and 10 minutes of time being tied up on each ambulance call. This gives the city the availability of the firefighter/EMT for fire and other non-ambulance calls an average of 17 hours per day, "more boots on the ground".

3. Additional funding to offset costs of maintaining a busy fire department.

Ambulance Activity, Cost and Revenues

Gardner Fire Department BLS ambulance bills for all its ambulance transports to the hospital at 2.5 times the Medicare rate. Additionally, Gardner Fire Department bills when they transport ALS patients with Wood's Ambulance paramedic onboard providing the ALS level of care. The revenue collect from these calls are split 50/50 between Gardner Fire Department and Woods Ambulance.

On the very rare occasion that Gardner Fire Department's ambulance and the two Wood's ambulances are tied up at the same time and another medical call comes in a Woods backup ambulance from their base on Main Street would respond.

Gardner Fire Department, contracts with Coastal Billing, an ambulance billing Company, to do the actual billing for its ambulance services. Coastal Billing charges a fee of 3% for all revenue collected as per the contract negotiated with the City (this figure has been reduce to 2.5% starting in FY/23). Using a third-party billing company is very typical with municipal fire/EMS departments across the Commonwealth. Additionally, Gardner Fire Department uses First Financial Resources to pursue unpaid bills.

Figure 3 shows activity and collections for FY/18 through FY/22:

	Calls	Transports	Collections	Collection/Expense	Net Income
FY/18	2278	1509	572574	54375	518199
FY/19	2961	2187	871137	203764	667372
FY/20	2751	2112	1004272	308789	695483
FY/21	2715	2091	1184798	306901	877897
FY/22	2858	2164	1265787	289029	976758

Figure 3

Calls = total emergency medical calls for the fiscal year.

Transports = total transports by GFD Ambulance

Collections = total money collected by Coastal Billing

Collections Expense = total cost for collections

Net Income = total income for the fiscal year after other costs

For FY/21 and FY/22 Gardner Fire Department participated in the Medicare CPE Reimbursement Program. The program was instituted by the Commonwealth up to help Cities and Towns offset the very low Medicare and Medicaid reimbursement currently allowed. Gardner Fire Department has successfully applied for this reimbursement over the last two years:

FY/21 - \$210,026.00 received 6/30/2021

FY/22 - \$234,407.00 project to be received 6/30/2022

It is recommended that Gardner Fire Department continues to apply for these offset revenues, from the Commonwealth, on an annual basis.

Ambulance Costs

The cost for running the ambulance service has been broken out in the Gardner Fire Department budget, this is a practice that should continue and makes it very easy to monitor the direct budget costs. The cost breakdown FY/18 through FY/22 are as follows:

12231 Ambulance

	FY/18	FY/19	FY/20	FY/21	FY/22
51013 Salaries/wages	311674.19	330153.15	353284.97	365327.75	360096.4
51030 Overtime	83847.55	76623.64	102317.94	112894.53	107106.5
51050 Holiday Pay	29434.77	29173.38	33761.52	38876.02	38839.81
51090 Clothing/Uniforms	9000	9000	7875	9000	9000
51101 College Credits	0	2000	0	0	0
51102 Collateral jobs	23721.63	35283.09	39989.2	37134.27	40225.01
51103 Education incentive	0	0	112.34	0	0
51415 AMB Service Stipend	16929	17025	17396	17667	17469.52
52030 Repair and Maint	9606.79	9566.8	4452.27	14979.39	6465.92
52037 AMB Supplies	11546.81	19293.89	14975.81	21109.89	16670.78
52040 Information Tech	0	0	5855.13	2730.99	6500
52041 Lic Renewals/Fees	5729.86	3291.8	6381.83	5622.69	6940.32
52050 Minor Equipment	1683.01	3303	0	0	0

52151	Telecommunications	979.47	1280.33	1620.61	2518.01	2645.85
52170	Prof. Dev & Travel	320.4	413.7	3334.25	3619.68	2764.23
52190	Prof. Services	54375.19	203764.45	308788.81	306901.25	289382.4
52230	Office Supplies	0	0	368.46	471.38	243.75
52240	Vehicle Supplies	741.71	2512.6	2709.1	1846.22	3542.01
55090	New Vehicle	254997.53	0	0	0	
Total Ambulance		814587.91	742684.83	903223.24	940699.07	907892.4
		FY/18	FY/19	FY/20	FY/21	FY/22

Figure 4

On the budget sheet, most of the line items are self-explanatory. Professional services are also included in Figure 2 and are the cost for the billing company and the Private split with Wood's Ambulance.

As we look at total expenses versus revenues for FY/18 through FY/22 we see the following:

	Collections	Medicare CPE	Budget cost	Revenue +/-	
FY/18	572,574		814,588	-242,014	** new Amb purchase
FY/19	871,137		742,685	128,452	
FY/20	1,004,272		903,223	101,049	
FY/21	974,772	210,026	940,699	244,099	
FY/22	1,031,391	234,407	907,892	357,906	

Figure 5

In the first full year of operation, FY/18, the ambulance budget ran a deficit of \$242,014.00. This deficit was directly related to the purchase of a new ambulance in the amount of \$254,998.00. In the following years, FY/19 through FY/22 a significant amount of revenue was generated, FY/19 \$128,452.00, FY/20 \$101,049.00, FY/21 \$244,099.00 and FY/22 \$357,906.00.

It is clear, that the current ambulance system with the Medicare CPE reimbursement is now generating significant revenues back into the City's general fund beyond the cost of maintaining the ambulance service and additional firefighters.

Ambulance Replacement

Gardner Fire Department should continue to keep two ambulances available for service, one as the primary response ambulance (currently Rescue 3, a Ford F550/Horton) and a reserve or back-up ambulance (currently Rescue 2, a Ford F350/Horton). What this system allows for is the newer and most up-to-date ambulance, Rescue 3, to respond to calls on a routine basis and the reserve ambulance, Rescue 2, to be put in service whenever Rescue 3 is out of service for routine maintenance, service, or inspections.

An ambulance replacement schedule should be put in place to assure reliability of the BLS service and reasonable maintenance costs over the life of the ambulances. The life expectancy of the primary Gardner Fire Department ambulance is five years. This is based on the current level of use and past history.

The reserve or back-up ambulance will have a total life of ten years, five as the primary ambulance and five as the reserve or back-up. By creating this ten-year cycle it makes the cost of an ambulance very reasonable over its life span. For example, Rescue 3 was purchased, in 2018, for \$255,000.00. Over ten years the annual cost for the ambulance is \$25,500.00, similar to the cost of a police cruiser.

A five-year replacement plan for Gardner Fire Department would look like this.

GDF Ambulance 5/yr Capital Replacement Plan

	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028
Primary Ambulance Rescue 3 2018					Replace New Rescue 2					Replace New Rescue 3
Reserve Ambulance Rescue 2 2007					Re assign Rescue 3 to Reserve					Re assign Rescue 2 to Reserve

Figure 6

Gardner Fire Department is in the process of ordering a new ambulance with a replacement cost of \$290,500.00, which will be paid for with ARPA** funds, no cost to the city. This replacement will keep the primary ambulance on a five-year replacement schedule. The current ambulance, Rescue 3 will go into a reserve or back-up status for the next five years.

** Under the American Rescue Plan Act, passed by the federal government in March 2021. State, county, tribal and local entities will receive federal aid to respond to the public health and economic impacts of the public health emergency created by the COVID-19 pandemic.

4. Additional services to residents, property owners and businesses with no increase in taxes

The additional Fire Department services realized by the current ambulance system to the city, with no increase in taxes, mostly revolves around the addition of two firefighters on duty to respond to emergency calls throughout the city. As noted earlier, the dual role firefighter/EMT is available an average of 17 hours per day to respond to these "other" emergencies. In general terms, this figure to approximately a 25% increase in response capabilities to these "other" emergencies at no additional cost to the city. In fact, and as shown above, the ambulance system, with 2 firefighter/EMTs, generates a positive revenue source for the city and provides revenues to offset fire department costs.

Recommendations:

1. Stay with the hybrid system of having GFD provide the primary BLS with Wood's (or some private) to provide both back-up and ALS services.
2. GFD should continue to apply for offset revenues, from the Medicare CPE Reimbursement Program, on an annual basis.
3. GFD should continue to keep two ambulances available for service, a primary and a reserve and follow a five-year replacement plan to assure reliability and reduce unnecessary maintenance costs.
4. Budget for the capital expense of a new ambulance every five years. With inflation it is assumed a new ambulance in 2028 will cost around \$350,000.00. Putting aside \$70,000.00 from the revenues each year would cover this capital expense in 2028.
5. The ratio of transport, Gardner Fire Department/Wood's Ambulance should be collected on an annual basis and reviewed to ensure this benchmark is being met or exceeded.

Overview and Recommendations for Gardner Fire Department Facilities

A fire station supports the needs of the fire department and the community in which it is located. It must accommodate extremely diverse functions, including housing, recreation, administration, training, community education, equipment and vehicle storage, equipment and vehicle maintenance, and hazardous materials storage. While it is usually only occupied by trained personnel, the facility may also need to accommodate the general public for community education or outreach programs.

Major fire station functional areas include the following:

- Apparatus bay(s): This is where the firefighting and emergency response vehicles are stored.
- Apparatus bay support and vehicle maintenance: These industrial spaces are where the vehicles and other firefighting equipment are cleaned, maintained, and stored.
- Administrative and training areas: These include offices, dispatch facilities, and training and conference rooms.
- Residential areas: These include the dorm rooms, day room/kitchen, and residential support areas such as bathrooms and fitness spaces.

Apparatus Bays

Sizing the apparatus bay is critical, and it should be designed to accommodate variable vehicle sizes. Typically, the entire room is sized based on the bay size for the largest vehicle in the fleet or the largest anticipated vehicle. Bays also include vehicle exhaust removal systems, compressed air and power drop lines, and hot and cold-water connections. Bay doors must also accommodate the largest vehicle and include a manual means to open in case of power failure. Ideally, the site will accommodate drive-through bays.

Apparatus Bay Support and Vehicle Maintenance

Apparatus bay support functions include cleaning and maintenance areas for the firefighter's self-contained breathing apparatus (SCBA), protective clothing, fire extinguishers, and other equipment. It also includes storage areas for firefighting gear and equipment and secure storage for medical supplies. Some of these areas are specialized spaces for disinfecting protective equipment and for maintaining and recharging the SCBA in a clean environment.

Agent storage including gasoline, degreasers, pure oxygen, and other potentially dangerous materials are typically stored in a single-story structure separate from the fire station building. It should be located along the driveway leading into the Apparatus Bay for ease of loading and unloading of firefighting agents. In some cases, it may be attached to the main structure.

A vehicle maintenance bay may also be included in a fire station. It is a dedicated maintenance area for the firefighting apparatus and includes a heavy-duty lift and all utility connections required for large vehicle maintenance.

Administrative and Training Areas

Administrative areas include standard offices and conference and training rooms. The area will also likely include additional specialized spaces such as the chief's office and computer training/testing facilities for firefighter continuing education. Some stations may include a highly specialized dispatch room for receiving emergency calls from the public.

Residential Areas

Fire stations are occupied 24 hours a day, seven days a week by personnel in continuous 24-hour shifts. Therefore, ensuring a comfortable living environment for the firefighters is paramount.

The day room accommodates kitchen, dining, and living/recreation functions. It is often separated into subspaces for these three functions, but an open design may also be effective to encourage interaction between the spaces. The dining space may also double as training or meeting space and might include provisions for audiovisual equipment.

Dorm room design can vary widely and provide each firefighter with a place to sleep, work, and store personal items. Typically, each room is shared between firefighters of different crews/shifts so that the room is never occupied simultaneously. Individual lockers are provided for each firefighter. A bed, nightstand, and desk are shared.

Other residential areas include a laundry room, a physical fitness room, bathrooms and showers.

Maintain a Safe and Healthy Environment

Due to the continuous occupation of the facility by firefighters and the presence of hazardous materials, special attention must be given to designing the facility to accommodate equipment and operational strategies to both protect the occupants and maintain a healthy environment. Consider the following critical elements:

- Provide a secure facility for both personnel and materials such as controlled medical supplies and hazardous fire suppression agents.
- Ensure good indoor air quality and abundant natural light in the residential and administrative areas.
- Ensure good ventilation of industrial areas such as the apparatus bay and prevent contamination of clean spaces such as the SCBA maintenance areas.

Garner Fire Department facilities consist of 3 buildings:

Station 1, built in 1935 and located at East Broadway and Prospect Street is used for reserve apparatus and equipment storage.



Station 2, built in 1978 located at 70 City Hall Avenue serves a Fire Headquarter in which all operations of the department are located.

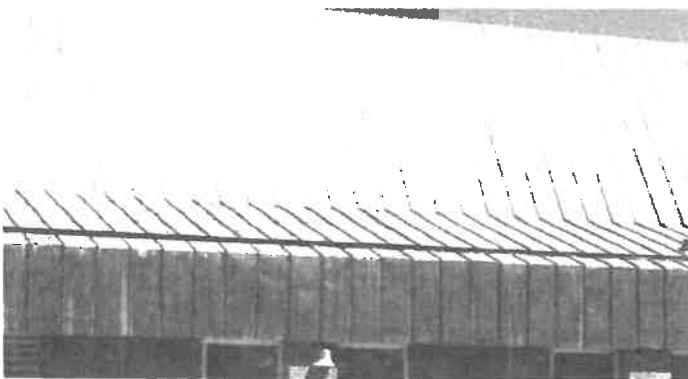


Annex Building, located next to Fire Headquarters is used to store the Reserve Ambulance and some equipment.

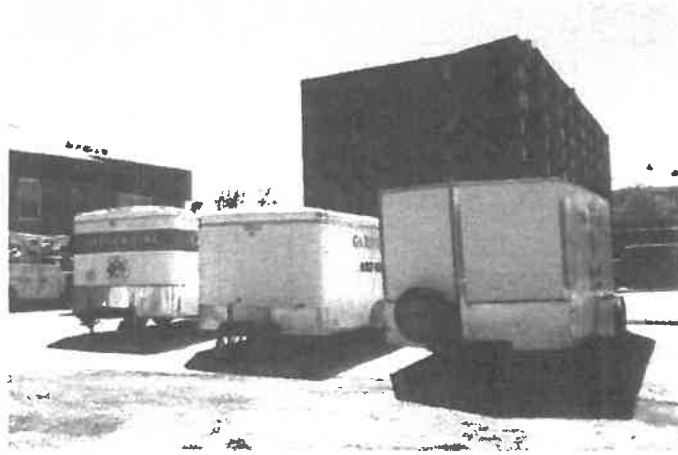


During a site visit we noted many limitations that these facilities present to Fire Department operations and current needs of the department. The top terf issues are as follows:

1. There is a major roof leak both at the front and rear of the apparatus bay running the entire length of the bays. This leak has damaged the sheetrock covering the ceiling and has saturated the roof insulation. It seems to be related to an interior roof gutter system and should be repaired as soon as possible.



2. Lack of space for apparatus. Currently the front-line apparatus and the 2 ambulances from Wood's Ambulance occupy the entire apparatus floor area. The Reserve Engine and Reserve Ambulance are housed in Station 1 and the Annex Building, respectfully. Additionally, response trailers are stored outside and exposed to the elements. Storing and housing apparatus and trailers in this manner does not meet the needs of the Fire Department.



3. When Station 2 was built there was no consideration given to mixed gender use of facilities. There is only 1 bathroom and gang shower facility for both male and female members to use. Additionally, the 2 sleeping areas are open dorm style, giving little privacy between genders. Adding an additional bathroom and shower room in the current footprint of Headquarters is most likely not possible. Providing private sleeping rooms in the 2 current dorm rooms is a possibility in the current layout.



4. There is a lack of adequate lockers/storage/proper ventilation for turnout gear. Research, testing and evaluation of PPE tells us that there are several things that can have an adverse impact on the life cycle of firefighting PPE, particularly the integrity of the PPE fabric, including deteriorating UV light and surface contamination.

Over the past decade, the Fire Service has become more active regarding the storage of our PPE. This is based on science and studies regarding firefighters and their exposure to toxic materials and carcinogens during structural firefighting activities. Furthermore, this contamination can be brought back to the fire station and spread throughout the station by "off gassing". Because of this, in modern

fire stations, all structural firefighting gear is prohibited from living areas of the building and all gear is stored in a properly vented structural firefighter gear storage room.

At Headquarters firefighters are forced to store their second set of structural firefighting gear on the 2nd floor living area (picture bottom right). Although this gear is required to be cleaned and bagged before it is brought to the 2nd floor hallway area it is not a good practice. The size and configuration of the building give fire department management no real option for proper storage.



5. There is no dedicated decontamination area for Fire & EMS equipment.

6. Fire Headquarters needs a proper building air handling system for ventilation and air purification. This is needed to keep the contaminants created and stored in the apparatus bay area of the station out of the residential side of the building.

7. There is an absence of adequate storage space at headquarters. Currently, apparatus, equipment and gear are stored between 3 buildings of which only 1 is occupied. Currently the Reserve Ambulance is stored in the Annex Building. This Reserve Ambulance, Rescue 2, will be replaced by the current front-line ambulance, Rescue 3, in the next year when a new ambulance is purchased. Rescue 3 (when it becomes the Reserve) will not fit in the Annex Building.

Additionally, in the administrative area there is very limited room for department files and records storage and the department has been forced to store these in the stairwells of the fire station.

The need for adequate firefighting gear and locker storage has been addressed above in Item 4.

8. Office space is very limited and does not meet the current needs of the department. In today's fire service office space is needed for Administration, Administration Support, Fire Prevention, EMS Officer, Training Officer, Apparatus/equipment maintenance person and 4 Shift Officers.



9. Similar to the lack of gender specific bathrooms and showers, separate locker rooms, for male and female are needed. However, under the current footprint of the building this is not possible.

10. Training is the backbone of any fire department. Hands on training produces well-prepared firefighters that through repetitive basic training increases the speed of an operation and enhances proper execution while reducing injuries. Although GFD has an area to use for classroom training it does not have an area, facilities or props dedicated to hands on training as pictured below.



The 10 issues addressed above are not uncommon for a fire facility that was built 44 years ago. However, the operations and services of today's fire service have changed dramatically.

Recommendations:

1. The city should investigate the needs for a new or substantially remodeled Fire Headquarters to meet current and future needs.

Review of the Civil Service system and if improvements can be made in hiring Firefighter/EMTs

Civil Service, as a government agency, was designed to provide fairness in the public sector, in entry level hiring, promotions, (including bypass in rank), demotions, (layoffs) and discipline (which includes suspensions and terminations). The Civil Service website under Mass.gov states that Civil Service strives to recruit a qualified diverse labor force and evaluate current and potential employees desiring a career in public safety, to fill jobs in agencies and municipalities across the Commonwealth.

The Commonwealth is made up of 39 cities and 312 towns. Out of these 351 cities and towns, 103 Fire Departments are currently under Civil Service, and 11 have opted out of Civil Service in recent years: Acushnet, Athol, Franklin, Greenfield, Mansfield, Marlborough, North Attleborough, Plainville, Swampscott, Wellesley, and Westwood.

The remainder of Fire Departments in the Commonwealth are not under Civil Service.

Some Civil Service key points on hiring and promoting:

- Children of firefighters killed in the line of duty go to the top of the Civil Service eligibility list.
- Children of firefighters permanently disabled in the line of duty go to the top of the Civil Service eligibility list.
- Disabled Veterans and Veterans with residence preference are next on the Civil Service eligibility list. Military personnel deployed at the time the test is scheduled, can make up the test at another time.
- People with residency can have preference if the city or town requests (Civil Service requires a person to have lived 1 year in a city or town they claim residency in).
- Civil Service provides for all testing both entry and promotions. Tests are generically written with the same questions Statewide.
- Hiring candidates through the civil service system is designed to remove Nepotism within the department and collusion with applicants.
- If a candidate is bypassed for employment or promotion, Civil Service provides a means for that applicant appeal the bypass and has a right to a hearing on why they were not hired.
- Civil Service allows for cities and towns to request a selective certification under Personnel Administration Rule (PAR).08, i.e., a selective certification based on gender, a specific language fluency or EMT can be requested.
- Civil Service protects firefighters that are laid off, with those officers being placed on a Lay Off List and have preference to work for another Civil Service city or town that has an opening in their department. The individual laid off has the first right to the job they were laid off from when or if it becomes open.

Recently, many police agencies and 9 fire agencies have chosen to leave Civil Service. Additionally, and over the past 30 years or so, many cities and towns have decided to take their police chiefs and fire chiefs out of Civil Service.

The communities that have left Civil Service have cited many of the following reason and or advantages in their decision to leave:

- Their minimal entrance and promotional standards are a high school education or GED, Mass driver's license.
- Absolute preferences are given to disabled veterans, veterans and children of deceased or severely injured officers.
- Leaving Civil Service allows for greater flexibility within the hiring and promotional process.
- Departments would not be required to hire from an existing lay off list.
- The department can determine the expiration date of the hiring and promotional lists.
- The police/fire department can set minimum eligibility guidelines not allowed under Civil Service such as higher education levels.
- The department can determine what hiring preferences they want to acknowledge (residency, military experience, Paramedic/EMT certifications, language proficiency, prior academy training).
- Instead of the candidate ratio of (2N+1) departments would have a much larger candidate pool to select from.
- Departments can diversify their workforce without jumping through the hurdles Civil Service presents when asking for a specialized certification.
- Flexibility to hire lateral transfers or reinstatements.
- Ability to incorporate community and department specific criteria into promotional exams.
 - Ability to offer promotional exams that more accurately gauge an officer's suitability to become a supervisor.
 - Attributes beyond test score, such as work productivity, contribution to the community and performance evaluations would factor into promotions.
 - Ability to mandate a probationary period for promotions.

As with any hiring or promotional system there are Pros and Cons.

First and foremost, there are collective bargaining issues with the Firefighters' Union that will need to be overcome if you leave Civil Service. Many of the key points under Civil Service offer various levels of protection for Union members. Furthermore, they view the independent Civil Service system as testing on an even playing field which can help to keep local politics and favoritism to a minimum.

The Civil Service testing system is independent of the city or town and requires little effort for the community in the process. They develop the tests for both entry and promotion and administer them. When you need to fill a vacancy or position, they send you a list of eligible candidates based on the established ratio of 2N+1 (2 names for every open position plus 1 additional candidate). For example, if you have 1 opening you get 2 names plus 1 for a total of 3, if you have 2 openings you get 4 names plus 1 for a total of 5.

The argument against using this system, on the management side, is that the test(s) is based on statewide questions and not unique to the specific community and that you are very limited to the candidate pool you can choose from. Additionally, Civil Service sets minimal entrance and promotional standards, only requiring a high school education or GED and a Massachusetts driver's license.

When a city or town leaves Civil Service, the entrance testing and promotional process now becomes the responsibility of the community. Depending how the city or town chooses to develop and administer the testing and promotional process there could be an additional cost. The positive side to a city or town when conducting its own testing process is they can develop it specifically for the needs of that community. There are many companies and consultants in Massachusetts that provide entrance exam testing and promotional services, but it is typically at a cost to the community.

In recent years, fire departments trying to hire certified Emergency Medical Technicians (EMT) and Paramedics off the civil service "new hire" list have been very disappointed because the "new hire" list with this type of candidate is exhausted very quickly, leaving the city or town with no candidates to hire until the next civil service entrance exam is given. Recently, civil service has changed its entrance testing cycle from once every two years to once every year. It is not known at this time if this change will improve the number of available candidates in the EMT or Paramedic pool.

Recent experience at Gardner Fire Department

The City of Gardner only hires off the civil service EMT list. Recently, Chief Lagoy tried to hire four firefighter/EMTs. He was sent a list with 180 names, 11 signed the list, 6 came for an interview, 3 withdrew when they found out they had to live within 10 miles of the city (a Civil Service requirement), 1 did not pass the background check, leaving Chief Lagoy with 2 candidates, which he hired. At this point the fire department must wait for the next Civil Service entrance exam before they can fill the two vacant positions. This can lead to additional overtime cost and potentially fatigue to department members. It is our understanding that Chief Lagoy is experiencing these difficulties, once again, with his most recent round of hiring.

If the fire department is looking to hire trained and certified firefighter/EMTs from other communities, under Civil Service, you are restricted to hire from only other Civil Service departments. This greatly reduces the pool of potential candidates, especially in the Gardner area where many of the area fire departments are non-Civil Service.

As originally stated, there are Pros and Cons in being a Civil Service department or not. The Gardner Police Department has partitioned the State to leave Civil Service and to our understanding was recently granted permission the leave. We would suggest that if remaining in the Civil Service system is inhibiting the fire department from meeting its mission, leaving Civil Service should be explored.

In either case, we believe that there are ways to increase the pool for potential local candidates. Reaching out to the local high school is a great resource for potential candidates by participating in career days and/or offering internships. Additionally, working with the schools to provide CPR and first aid classes can give the fire department an opportunity to reach the student population. Teenagers are making decisions about what their adult lives might be like and can process substantial information about a possible career in the fire service. Firefighters can talk honestly with this group about what it is really like to be a firefighter and what opportunities exist.

Marketing local colleges are also a good resource for potential candidates. Two very local colleges, Quinsigamond Community College, and Anna Maria College both offer fire science programs, including Emergency Medical Technician training.

The use of media outreach, and social media, is a particularly helpful tool to make potential candidates aware of job openings and dates of upcoming Civil Service entrance exams and can include information on how to register for these exams.

Recommendations:

1. Review the success of the upcoming hiring process to see if it yields sufficient qualified firefighter/EMT candidates. If it does not meet these needs and it is clear that remaining in the Civil Service system is inhibiting the fire department from meeting its mission, leaving Civil Service should be explored.
2. Whether the fire department remains in or leaves Civil Service, we would recommend that a proactive recruitment program be established to assist in providing qualified firefighter/EMT candidates for the Gardner Fire Department, into the future.

Review the current department staffing model against industry standards and comparison departments in the Commonwealth of Massachusetts

Fire Departments across the Commonwealth vary greatly in size and scope due to size, economics, incident volume, traditions and needs of the communities they serve. No matter the size or community served, all successful fire departments share certain principles of organization for effective and safe function. These performance principles include:

- **Chain of command.** An established command hierarchy from the lowest to the highest department level, ensuring that each subordinate reports to one supervisor. The chain of command not only establishes accountability, it lays out a company's lines of authority and decision-making power. This chain of command is used for organizational day to day functions and for emergency incidents.
- **Supervisory limits or span of control.** This refers to the number of individuals or resources that one supervisor can manage effectively in emergency and non-emergency situations. Although the number can vary according to circumstance the Fire Chief's Handbook, 7th ed. uses a general guideline for fire service company supervision of up to five or six firefighters per one supervisor.
- **Division of labor.** Ensures that all responsibilities are assigned and prevents the duplication of efforts. Additionally, the process divides large jobs into smaller jobs to make them more manageable, equalize workloads, and increase efficiency.
- **Discipline and regulations.** Written policies, procedures, and guidelines to set boundaries and enforcement for expected individual and departmental performance.

To meet these expectations and achieve these principles, fire departments must be structured, organized, and staffed properly.

We looked at 10 fire departments in the Commonwealth that were either small cities or similar size departments and looked at the call volume, staffing and command structure.

	Population	calls other	calls EMS	total calls	# Stations	AMB
Agawam	28,613	1104	5254	6358	2	3 ALS
Amesbury	17,532	1106	1844	2950	1	1 BLS
Bridgewater	27,619	2500	3600	6100	2	2/ALS/2 res.
Foxborough	16,700	1300	2900	4200	1	3/ALS
Gardner	20,683	1938	3477	5415	1	1 BLS
Greenfield	17,258	1305	1763	3068	1	BLS/BU
Leominster	41,581	2728	5728	8495	3	2 BLS
Melrose	28,016	1798	2480	4278	3	ALS
Southbridge	16,878	764	3690	4454	1	3 ALS
Wilmington	22,325	2424	2332	4756	1	3 BLS
Winthrop	18,544	1061	2132	3193	2	No AMB

Figure # 7

ALS = Advanced Life Support, BLS = Basic Life Support, BU = Back Up Ambulance

Each department provided us with an Organizational Chart (see Appendix A).

What we noticed with the current Gardner Fire Department staffing model were two things, the lack of a Deputy Fire Chief and that the standard span of control for a fire department of five or six firefighters to one supervisor is exceeded on each Group.

We would recommend the city looks at making a nonunion (confidential) Deputy Fire Chief's position. The Deputy Fire Chief would serve as second in command of a fire department. The Deputy Fire Chief would manage day-to-day operations, direct and coordinate activities of personnel under their command, collaborating with internal and external stakeholders. This person may also act as a department head in the absence of the Fire Chief and assist in succession planning. This position will include a combination of administrative work and time spent in the field to keep operations running efficiently in the fire department.

Currently, all the positions below Fire Chief are union positions. This leaves the Fire Chief without a confidential employee on the department to assist and act in a confidential capacity when formulating, determining, and effectuating management policies and dealing with disciplinary issues. Additionally, it puts the current 2nd in command, the Fire Captain, in a very difficult position as he or she tries to balance their high-level management position and being a union member.

The current "Group" span of control in the Gardner Fire Department is eight firefighters to one supervisor, exceeding the recommended span of control for a fire department. Exceeding the span of control in this fashion becomes more apparent and potentially dangerous during emergency operations with the potential that the span of control can become unmanageable. Maintaining a manageable span of control is particularly important at incidents where safety and accountability are a top priority.

Because of this large span of control, we would recommend the city looks at creating a Captain's position on each Group in addition to the current Group Lieutenant. This would bring the span of control to four firefighters to one supervisor. This can be done with little impact to the budget by continuing the current staffing level of nine on the Group and promoting one of the nine members to the newly created position of "Group" Fire Captain. The budget cost would be the difference between a Firefighter/EMT's rate and that of a Fire Captain.

The Fire Captain would manage the Group and run the day-to-day operations on that Group including managing duties surrounding firefighting, training, accountability, emergency care, hazardous materials, etc.

The Fire Lieutenant would act in a supervisory/foreman type position and assist the Captain in day-to-day operations and oversee a company at emergency scenes.

Both these positions would add to successful succession planning for the department moving forward.

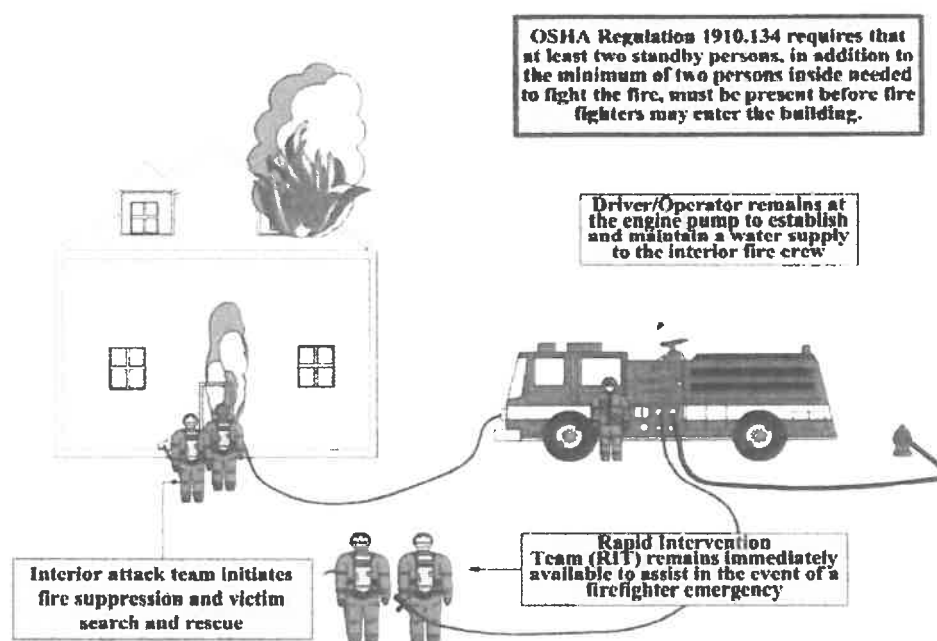
OSHA 2in/2out law and NFPA Standard 1710 for Career Fire Departments

The report would be incomplete if we did not address the current OSHA 29 CFR 1910.134 law "2in-2out" and the NFPA Standard 1710 for Career Fire Departments.

The "2 in-to-out" law was designed for the safety of firefighters engaged in interior structural firefighting and is the major focus of paragraph (g)(4) of the OSHA Respiratory Protection standard. This provision

requires that at least two firefighters enter the Immediately Dangerous to Life or Health (IDLH) atmosphere and remain in visual or voice contact with each other at all times. It also requires that at least two others be located outside the IDLH atmosphere, thus the term, "two in/two out". This assures that the "two in" can monitor each other and assist with equipment failure or entrapment or other hazards, and the "two out" can monitor those in the building, initiate rescue, or call for back-up. One of the "two out" can be assigned another role such as incident commander. I am pleased to say that we found that Gardner Fire Department complies this law under normal response conditions.

OSHA '2 In/2 Out' Illustrated



Credit: Fairview Fire District

NFPA 1710 Standard for Organization and Deployment of Fire Suppression Operations, Emergency Medical Operations, and Special Operations to the Public by Career Fire Departments (see appendix B).

Appropriate staffing levels deliver effective and efficient deployment for fire suppression operations, emergency medical operations, and special operations to the public. NFPA 1710 is a standard/guideline for an all-career fire department to help protect citizens and provide for the occupational safety and health of its fire department employees. Provisions of 1710 cover functions and objectives of fire department emergency service delivery, response capabilities, and resources, including staffing levels, response times, and levels of service. General criteria for managing resources and systems, such as health and safety, incident management, training, communications, and pre-incident planning are also provided in NFPA 1710.

NFPA guidelines are based on research performed by trained members of the association. Scientific research, such as fire behavior in different environments and how different synthetic materials affect the burn process, are used in part to establish these guidelines.

NFPA 1710 addresses the structure and operation of organizations providing such services, which include fire suppression and other assigned emergency response responsibilities such as EMS and special operations.

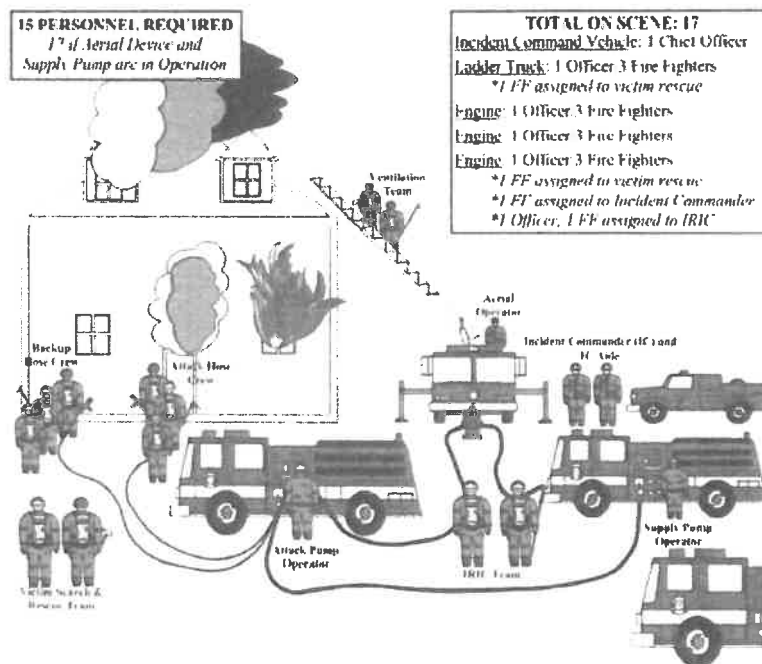
The requirements intend to provide effective, efficient, and safe protective services to help prevent fires, reduce risk to lives and property, deal with incidents that occur, and help prepare for anticipated incidents.

The requirements are listed in NFPA 1710 for fire department service deployment based on the type of occupancy, along with the appropriate response staffing levels for each. The minimum staffing level for a single-family dwelling according to the standard is:

Occupancy Type: Single-Family Dwelling Deployment: Minimum of 15 members or 17 if aerial device is used.

The initial full alarm assignment to a structure fire in a typical 2000 sq/ft two-story, single-family dwelling without a basement and with no exposures must provide for a minimum of 15 members (17 if an aerial device is used).

NFPA 1710 Illustrated



Credit: Peoria Fire Department

Additionally, NFPA 1710 provides essential benchmarks, fire departments often measure baseline performance in terms of total response time, which is the time it takes from the call to be received at the Public Safety Answering Point (PSAP) until the first unit arrives on the scene of the emergency.

incident. Total response time should be measured and reported for all first-due units *and* the effective response force (ERF) assembly. Total response time is composed of call-processing time, turnout time and travel time:

- Alarm Answering Time: 15 seconds for 95% of calls; 40 seconds for 99% of calls
- Alarm Processing Time: 64 seconds for 90% of calls; 106 seconds for 95% of calls
- Turnout Time: 60 seconds for EMS responses; 80 seconds for fire responses
- First Engine Arrive on Scene Time: 240 sec (4 minutes) for 90% of responses with a minimum staffing of 4 personnel
- Second Company Arrive on Scene Time: 360 seconds (6 minutes) for 90% of responses with a minimum staffing of 4 personnel
- Initial Full Alarm – Low and Medium Hazard Assembly Time: 480 seconds (8 minutes) on 90% of responses
- Initial Full Alarm – High Hazard/High-Rise Assembly Time: 610 seconds (10 minutes 10 seconds) on 90% of responses

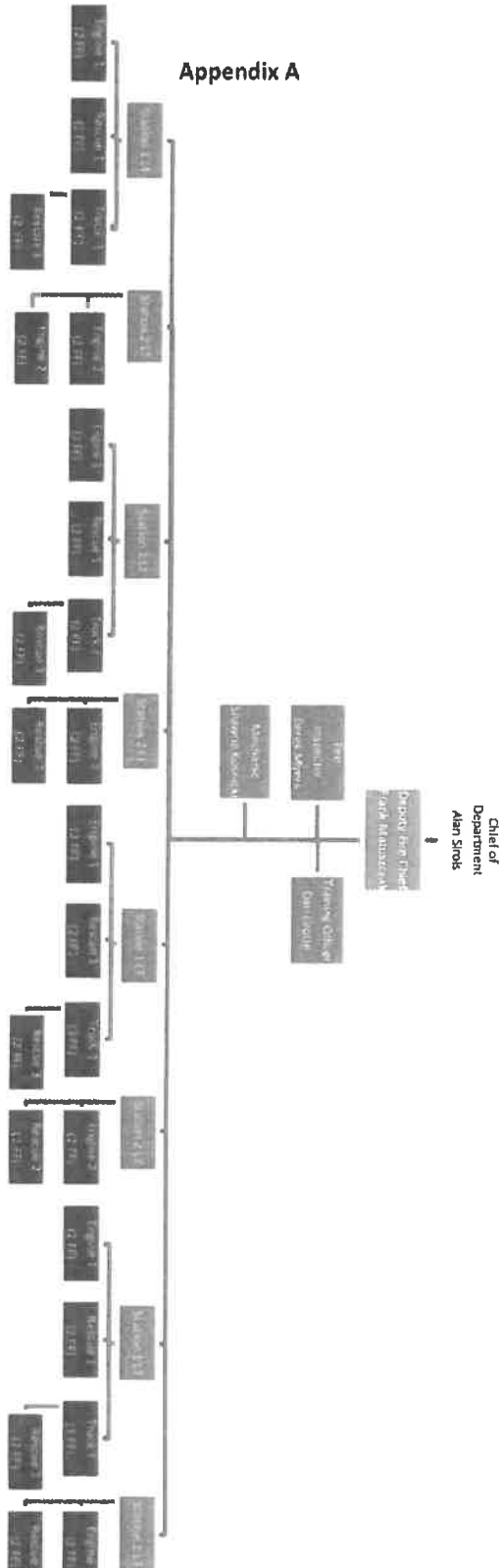
As stated earlier, NFPA Standards are guidelines for fire departments to be aware of and hopefully work towards implementing. There are many ways to move towards compliance with NFPA 1710 such as automatic aid, mutual aid with other neighboring communities, pre-fire plans, etc. It is suggested that Gardner Fire Department work towards meeting the guidelines of NFPA 1710 over time.

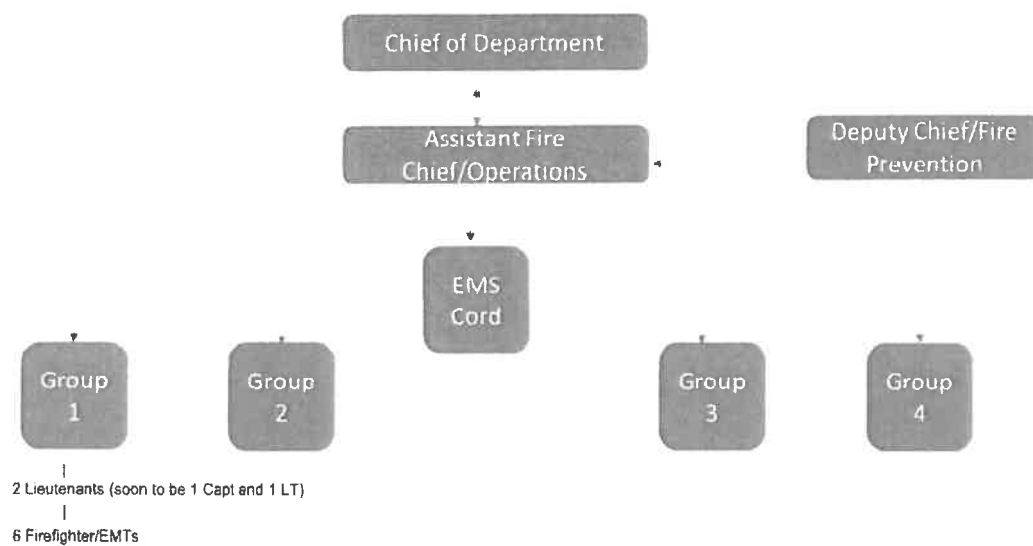
Taking this into account and after reviewing the organizational structures and shift manning of other Fire Departments in the study we would recommend adding a non-union Deputy Fire Chief's position and a Fire Captain to each group to be the Group Commander to solve the span of control issue.

Recommendations:

1. The city looks at making a nonunion (confidential) Deputy Fire Chief's position. The Deputy Fire Chief would serve as second in command of a fire department
2. The city looks at creating a Captain's position on each Group to be the Group Commander. This would be within the current Group staffing of nine and in addition to the current Group Lieutenant to bring the span of control to 4 firefighters to 1 supervisor.
3. That Gardner Fire Department should work towards meeting the guidelines of NFPA 1710, over time.

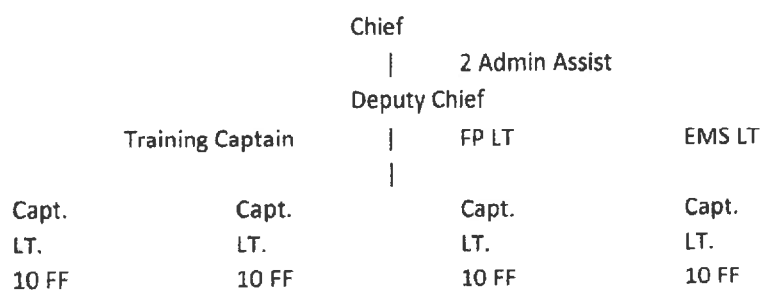
Current Agawam Fire Department Organizational Chart, 2022





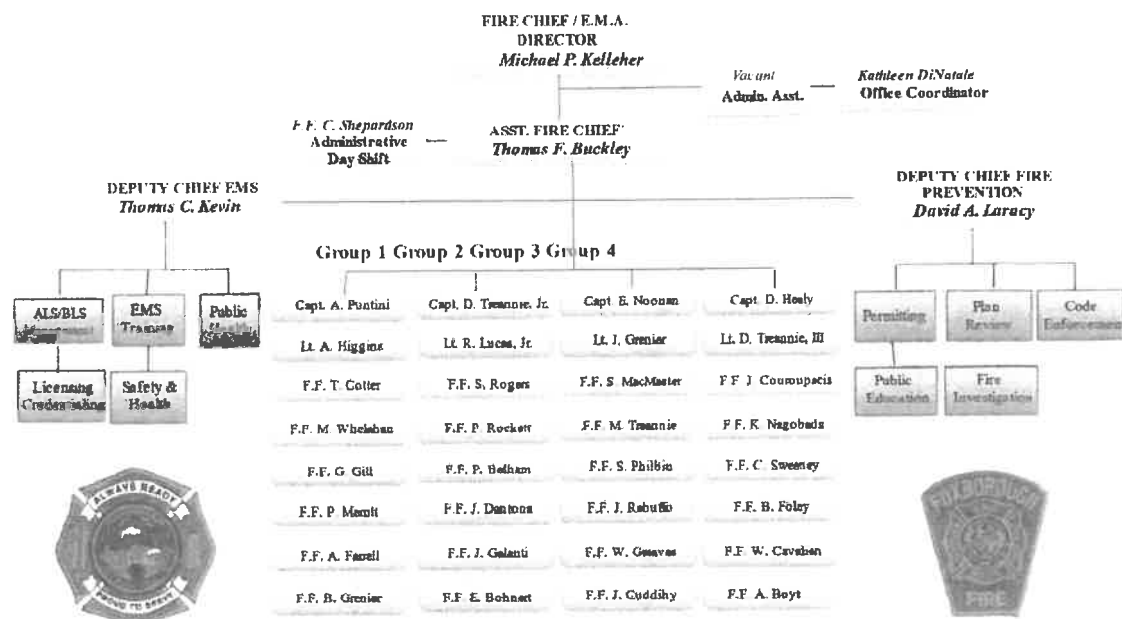
Amesbury Fire Rescue

Bridgewater FD



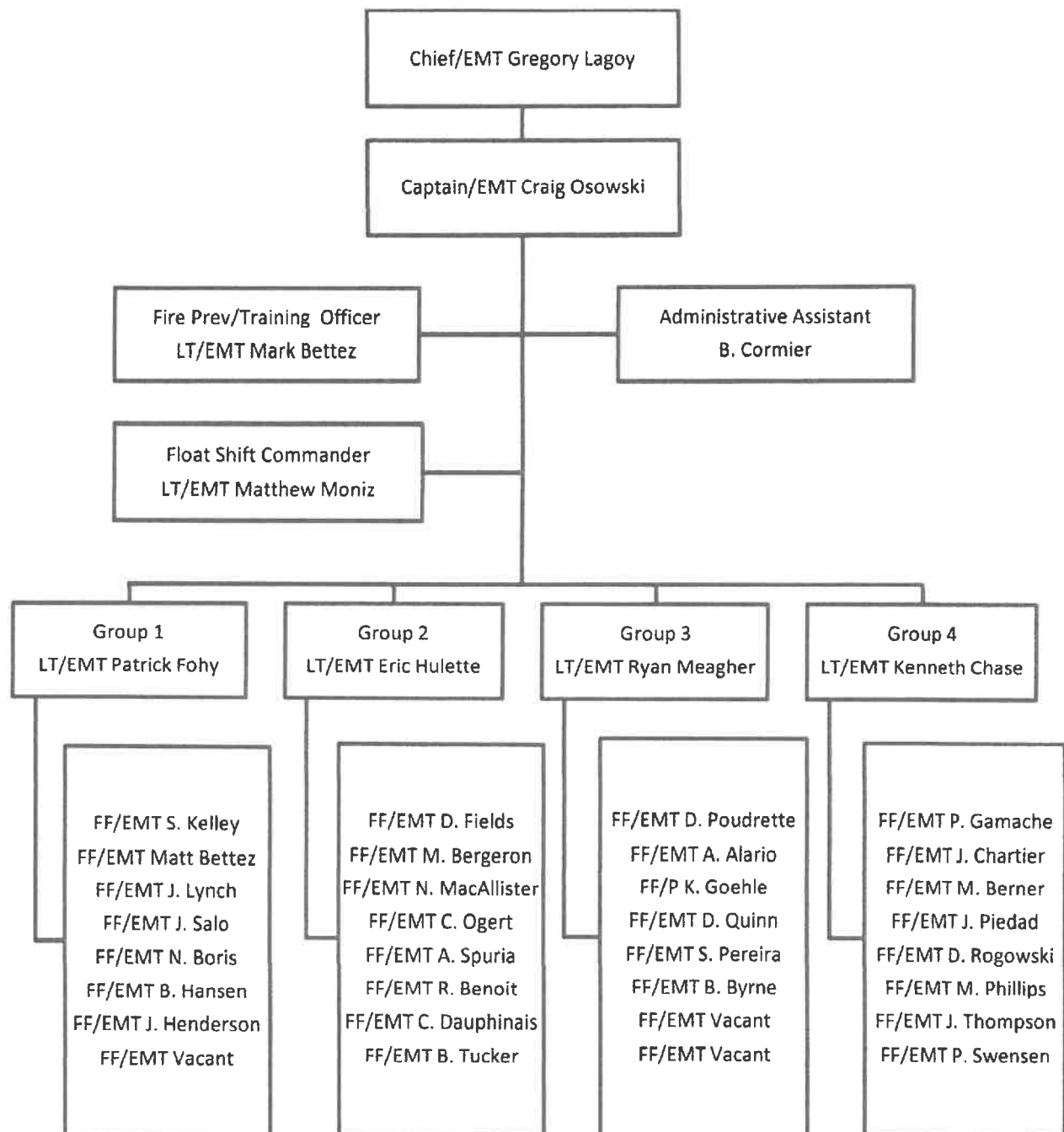
Rev. 10/5/2021

TOWN OF FOXBOROUGH DEPARTMENT OF FIRE, RESCUE & EMERGENCY SERVICES

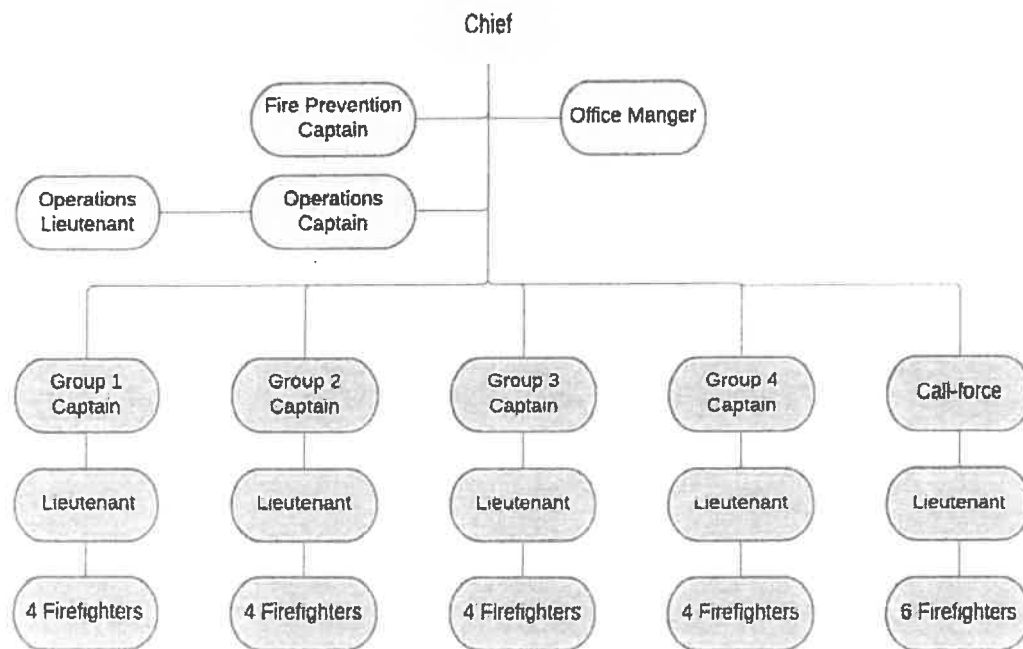


GARDNER FIRE - RESCUE

2022 ORGANIZATIONAL CHART



Greenfield Fire Department





FIRE/EMS DEPARTMENT STAFFING SURVEY

DEPARTMENT/CITY
METRO AREA
POPULATION (2020)

Leominster Fire
Worcester, MA-CT Metro Area
43,782

SERVICE
INCIDENTS FY 2021
INCIDENTS/1,000 (POP)
STATIONS

FIRE/EMS
8,495
194
3

DIVISIONS

- ✓ EMS
- ✓ TRAINING / EQUIPMENT
- ✓ FIRE PREVENTION
- ✓ INFORMATION TECHNOLOGY
- ✓ FIRE ALARM / COMMUNICATIONS
- ✓ APPARATUS MAINTENANCE

- ✓ Group 1
- ✓ Group 2
- ✓ Group 3
- Group 4
-

Department Budget \$11,374,430

FRONT LINE APPARATUS

FIRE CAR	1
BLS AMBULANCE (s)	2
ENGINE(S)	3
TRUCK(S)	1
BRUSH	0
RESCUE	0

DIVISION HEADS

HEALTH SAFETY & WELFARE
DEPUTY CHIEF EMS / TRAIN
DEPUTY CHIEF FIRE PREVEN

SWORN	UNION
□	✓
□	□
□	□
□	□

SUPPRESSION
Deputy Chief
Deputy Chief
Deputy Chief
Deputy Chief

SWORN	UNION
□	✓
□	✓
□	✓
□	□
□	□

DIVISION

STAFF

BASE SALARY (2021)

ADMINISTRATION
CHIEF
ADMINISTRATIVE ASSISTANT
ADMINISTRATIVE CLERK

1
1
1
1

\$
-
-
-

HEALTH SAFETY & WELFARE
DEPUTY CHIEF EMS / TRAINING
DEPUTY CHIEF FIRE PREVENTION
LIEUTENANT EMS/ TRAINING
LIEUTENANT FIRE PREVENTION
INFORMATION TECHNOLOGY
FIRE ALARM SUPERINTENDENT
ASSISTANT FIRE ALARM SUPERINTENDENT
APPARATUS MAINTENANCE

1
1
1
1
1
1
1
1

\$
-
-
-
-
-
-
-

SUPPRESSION

77

DEPUTY FIRE CHIEF
LIEUTENANT
FIREFIGHTER

4
16
57

\$
-
-

MIN. STAFFING YES

CONTRACTUAL YES

PER SHIFT 19

PER APPARATUS

MEDIC 2

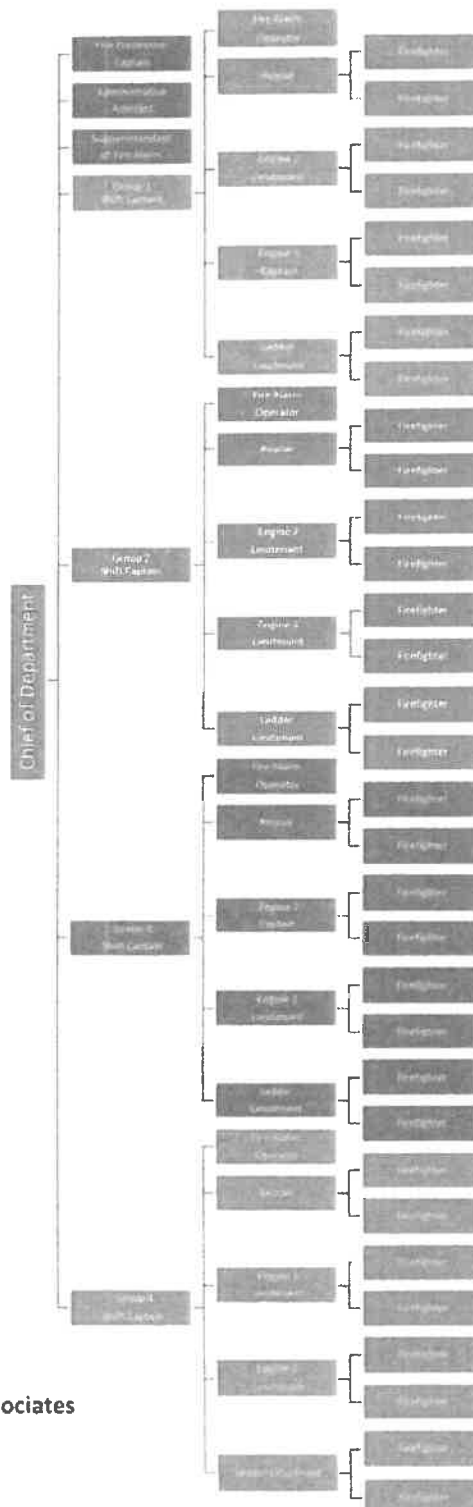
BLS

ENGINE 3

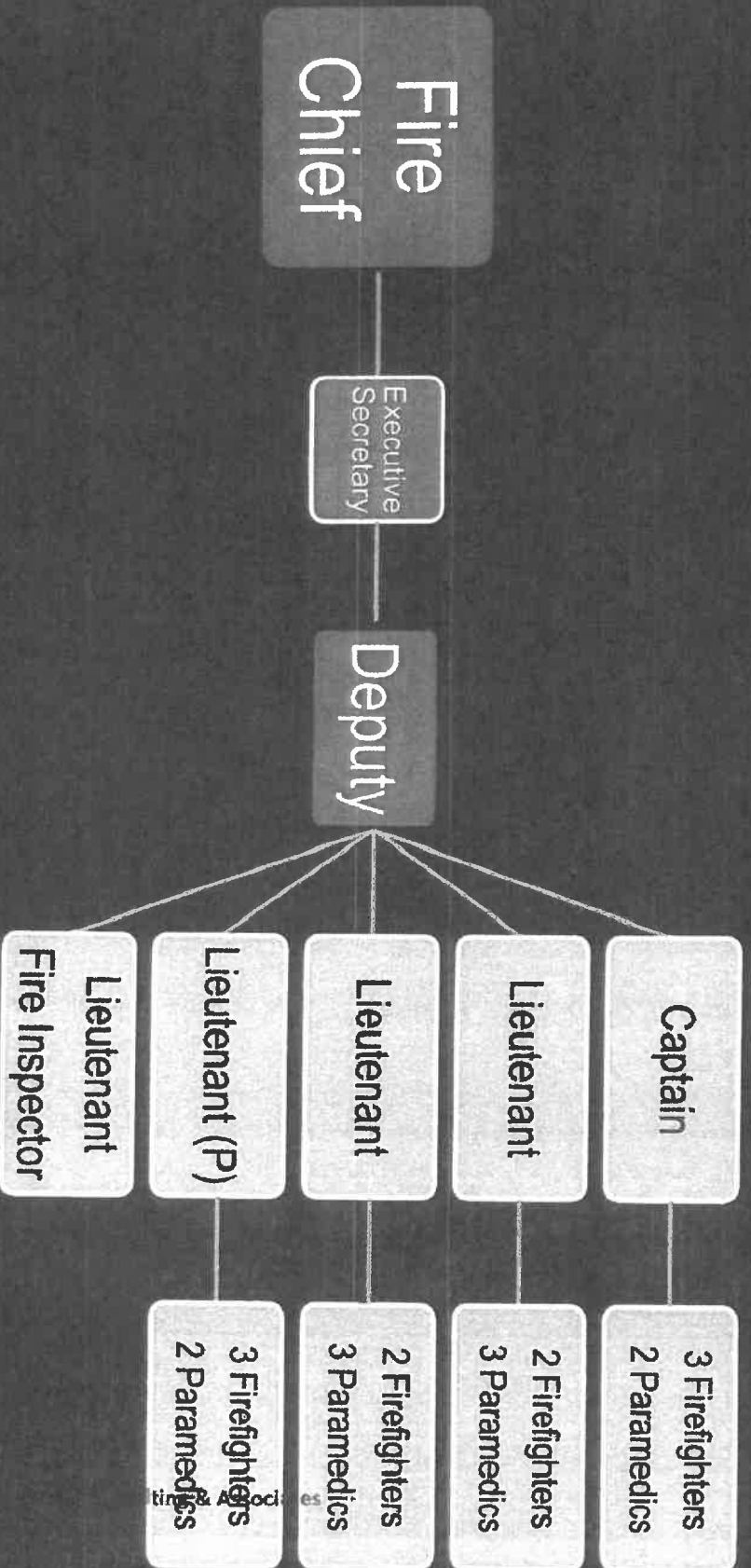
TRUCK 3

Melrose Fire Department Organizational Chart

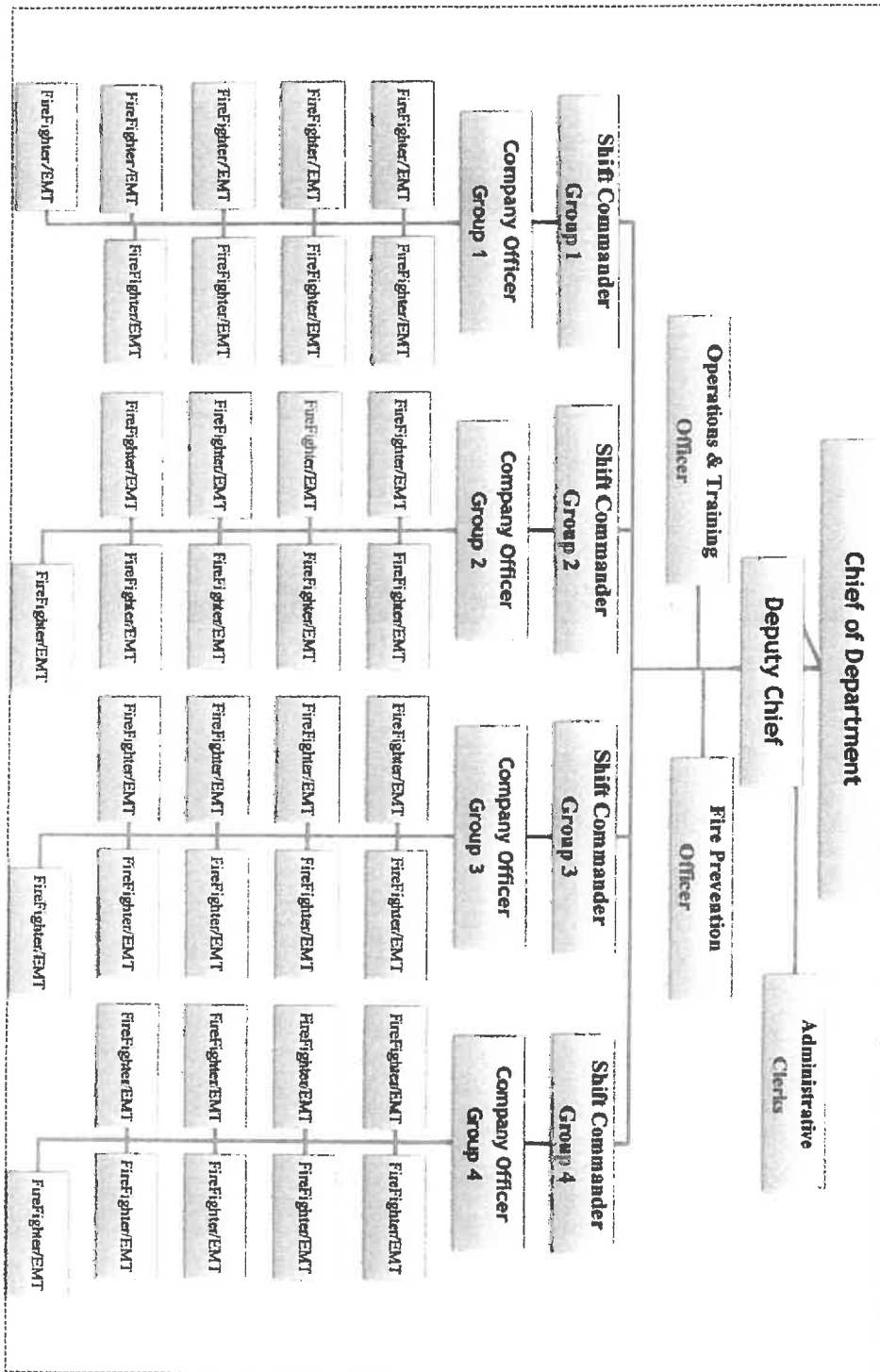
4 Staff Positions
56 Line Firefighters

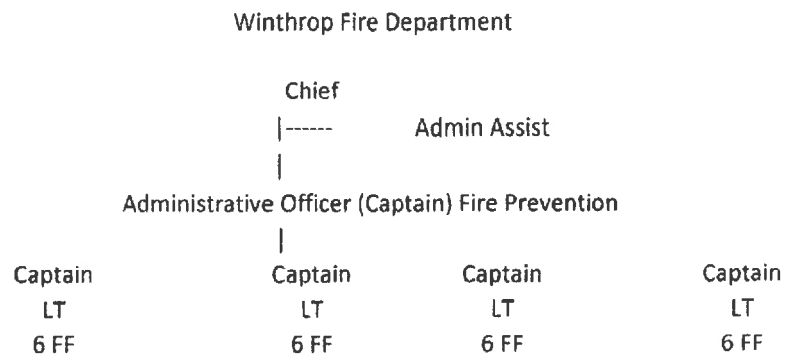


Southbridge Fire Department - Career



Wilmington Fire Department





Appendix B

NFPA Standard 1710Organization and Deployment of Fire Suppression Operations,
EMS and Special Operations in Career Fire Departments**History and Purpose**

- The 1710 Standard for was originally released in 2001. Following, there have been three revisions (2004, 2010, 2016) with the most recent released in September 2016.
- The standard is applicable to substantially all CAREER fire departments and provides the MINIMUM requirements for resource deployment for fire suppression, EMS and Special Operations while also addressing fire fighter occupational health and safety.
- The 1710 Standard addresses structure fire in three hazard levels. These included low hazard (residential single family dwellings), medium hazard (three story garden apartments or strip malls), and high hazard structures (high-rise buildings)
- The Standard addresses fire suppression, EMS, Aircraft Rescue and Firefighting, Marine Rescue and Firefighting, Wildland Firefighting, and Mutual and Auto Aid.

Fire Suppression and Special Operations Provisions

- "Company" is defined as:
 - Group of members under direct supervision
 - Trained and equipped to perform assigned tasks
 - Organized and identified as engine, ladder, rescue, squad or multi-functional companies
 - Group of members who arrive at scene and operate with one apparatus
- EXCEPTION to company arriving on one apparatus:
 - Multiple apparatuses are assigned, dispatched and arrive together
 - Continuously operate together
 - Managed by a single officer

- An Initial Alarm is personnel, equipment and resources originally dispatched upon notification of a structure fire.

■ Performance Objectives

- Alarm Answering Time:
 - 15 sec 95%
 - 40 sec 99%
- Alarm Processing Time
 - 64 sec 90%
 - 106 sec 95%
- Turnout Time --
 - 60 sec EMS
 - 80 sec Fire
- First Engine Arrive on Scene Time
 - 240 sec (4 min)
- Initial Full Alarm (Low and Medium Hazard) Time
 - 480 sec (8 min)
- Initial Full Alarm - High Hazard/ High Rise Time
 - 610 sec (10 min 10 sec)



- Fire departments shall set forth criteria for various types of incidents to which they are required/expected to respond. These types of incidents should include but not be limited to the following:

- Natural disaster
- Acts of terrorism
- WMD
- Large-scale mass casualty



- Given expected firefighting conditions, the number of on-duty members shall be determined through task analysis considering the following criteria:

- Life hazard protected population
- Safe and effective performance
- Potential property loss
- Hazard levels of properties
- Fireground tactics employed

- Company Staffing (Crow Size)

- Engine - minimum 4 on duty
 - High volume/geographic restrictions = 5 minimum on duty
 - Tactical hazards dense urban area = 6 minimum on duty
- Truck - minimum 4 on duty
 - High volume/geographic restrictions = 5 minimum on duty
 - Tactical hazards dense urban area = 6 minimum on duty

- Initial Alarm Deployment (number of fire fighters including officers)

- Low hazard - 15 Fire fighters
- Medium hazard - 28 Fire fighters
- High hazard - 43 Fire fighters

EMS Provisions

- The fire department shall clearly document its role, responsibilities, functions and objectives for the delivery of EMS. EMS operations shall be organized to ensure the fire department's capability and includes members, equipment and resources to deploy the initial arriving company and additional alarm assignments.

- EMS Treatment Levels include:

- First Responder
- Basic Life Support (BLS)
- Advanced Life Support (ALS)

- MINIMUM EMS Provision - First responder/AED

- Authority Having Jurisdiction (AHJ) should determine if Fire Department provides BLS, ALS services, and/or transport. Patient treatment associated with each level of EMS should be determined by the AHJ based on requirements and licensing within each state/province.

- On-duty EMS units shall be staffed with the minimum members necessary for emergency medical care relative to the level of EMS provided by the fire department.

- Personnel deployed to ALS emergency responses shall include:

- A minimum of two members trained at the emergency medical technician paramedic level
- AND two members trained at the BLS level arriving on scene within the established travel time.

- All fire departments with ALS services shall have a named **medical director** with the responsibility to oversee and ensure quality medical care in accordance with state or provincial laws or regulations and must have a mechanism for immediate communication with EMS supervision and medical oversight.



73 Stuart St. Information

- Building Commissioner Report, 2/29/24
- Opinion of Probable Cost for Demolition
- City Council Agenda of Monday, Dec 9, 2022



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



February 29, 2024

Mayor Nicholson
 City of Gardner
 95 Pleasant St.
 Gardner, MA 01440

Re: **Unsafe structure located at 73 Stuart St. Gardner, MA 01440 M.B.L. M32-24-6**

Dear Mayor Nicholson,

On Wednesday February 14, 2024 the building department received a complaint regarding the concrete (cmu) wall at the rear of 73 Stuart St. The complainant stated the wall had partially collapsed and damaged the vinyl fence dividing 73 Stuart and 348 Park St. I visited 73 Stuart St. on February 15, 2024... see attached report and photos.

Previously, in accordance with **§116 Unsafe Structures and Equipment** of 780 CMR, Massachusetts State Building Code and **§116.3 Marking or Identifying Certain Buildings That Are Especially Unsafe in the Case of Fire**, in cooperation with the head of the fire department, the building has been marked with an "X" as prescribed in the **Massachusetts Comprehensive Fire Code 527 CMR 1.00 10.12.5**.

I have made the determination that the above referenced structure is dangerous to life or limb and poses an immediate threat to the general public and first responders. In the interest of public safety and in accordance with M.G.L. c.143 §6, It is my recommendation that the structure be removed in its entirety.

Understanding that the city of Gardner is currently exploring options for the removal of the structure, and until such a time that the structure has been removed, I must order the city of Gardner to secure the remainder of the concrete wall which is in immediate danger of collapse and install a proper fence around the structure for the protection of passers-by as outlined in **M.G.L. c.143 §7 Removal or making structure safe; putting up fence**

Please feel free to contact me directly at 978-630-4060 or by email at tzuppa@gardner-ma.gov should you have any questions or concerns.

Respectfully,

Thomas Zuppa
 Building Commissioner
 Zoning Enforcement Officer

Mission Statement

To promote the safe and compatible development of the community through fair and consistent enforcement of building codes and zoning ordinances



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



February 16, 2024

RE: Fencing Damage @ 348 Park St.

Timeline of Events:

- On Wednesday February 14, 2024 at 09:40 hrs. the an email was received by Gayle McNally; occupant of 348 Park St. regarding damage to her fence located at the rear of her property.
- Inspector Germano made a site visit at approximately 10:45 hrs. on February 14, 2024
- At approximately 14:50 hrs. on February 15, 2024 I accompanied Inspector Germano on a second site visit.

Observations from site visit:

- A six foot vinyl fence has been installed on what appears to be the property of 348 Park St.
- The vinyl fence has sustained damage in two separate locations.
- The roof structure on the northern side of the of the structure located at 73 Stuart St. has collapsed. Time of collapse unknown.
- The collapse of the roof structure appears to have caused a portion the cmu block wall to collapse.
- Damage was observed to the adjacent trees. Time of damage unknown although it does appear recent. Bark was observed on the cmu block wall on the ground next to the trees.
- Remainder of the cmu block wall located at the northern most part of 73 Stuart St. is in a compromised state.

Conclusion:

- Owner of 348 Park St. has been given a copy of this report along with a copy of the city's claim form to complete and return to the city clerk's office.

Thomas Zuppa C.B.O.
 Building Commissioner
 Zoning Enforcement Officer
 City of Gardner, MA

Mission Statement

To promote the safe and compatible development of the community through fair and consistent enforcement of building codes and zoning ordinances

















ENGINEER'S OPINION OF PROBABLE CONSTRUCTION COST						Tighe&Bond	
Project:	Abatement and Demolition of 73 Stuart Street						
Location:	73 Stuart Street Gardner, MA						
Estimate Type:	Conceptual / Preliminary Design					Prepared By: Tighe & Bond	
					Date Prepared: 1/30/2024		
					T&B Project No.: G03840.092		
Spec. Section	Item No.	Description	Qty	Units	Material/Installed Cost		
					\$/Unit	Total	
DIVISION 1 - GENERAL REQUIREMENTS			(Costs included in unit prices in other Divisions)				
01570	1	Temp Controls / Security Fencing	1	LS	\$4,000	\$4,000	
DIV 0	2	Preparation of Contract Documents, H&S Plan, SOV, etc.	1	LS	\$3,500	\$3,500	
SUBTOTAL - DIVISION 1						\$7,500	
DIVISIONS 2 and 13 - SITE WORK							
02220	1	Building Demolition	1	LS	\$124,000	\$124,000	
02280	2	Cut and Cap / Utility Terminations	1	LS	\$3,500	\$3,500	
13281	4	Asbestos Abatement (Survey not Performed Yet)	1	LS	\$85,000	\$85,000	
02220	8	Foundation Removals	1	LS	\$5,000	\$5,000	
02220	10	Site Restoration (includes Borrow & Loam / Seed)	1	LS	\$14,000	\$14,000	
SUBTOTAL - DIVISIONS 0,1,2 and 13						\$231,500	
CONSTRUCTION TOTAL COST							
CONTRACTOR OH & P						\$239,000	
SUBTOTAL						\$35,850	
						\$274,850	
CONTINGENCY AS A PERCENTAGE OF CONSTRUCTION COST							
TOTAL						\$54,970	
						\$329,820	
ENGINEERING CONSTRUCTION PHASE MANAGEMENT							
						Construction Total:	
						\$329,820	
						Engineering (Const. Ser.):	
						\$39,578	
NOTES						TOTAL:	
						\$369,400	
This is an engineer's Opinion of probable Construction Cost (OPCC). Tighe & Bond has no control over the cost or availability of labor, equipment or materials, or over market conditions or the Contractor's method of pricing, and that the estimates of probable construction costs are made on the basis of the Tighe & Bond's professional judgment and experience. Tighe & Bond makes no guarantee nor warranty, expressed or implied, that the bids or the negotiated cost of the Work will not vary from this estimate of the Probable Construction Cost.							



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

CALENDAR FOR THE MEETING

of

MONDAY, DECEMBER 19, 2022

CITY COUNCIL CHAMBER

7:30 P.M.

**AMENDED
ORDER OF BUSINESS**

- I. CALL TO ORDER**
- II. CALL OF THE ROLL OF COUNCILLORS**
- III. OPENING PRAYER**
- IV. PLEDGE OF ALLEGIANCE**
- V. ANNOUNCEMENT OF OPEN MEETING RECORDINGS**

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

- VI. READING OF MINUTES OF PRIOR MEETING(S)**
 - August 1, 2022, Regular Meeting
 - September 7, 2022, Regular Meeting
 - September 19, 2022, Informal Meeting
 - September 19, 2022, Regular Meeting

VII. PUBLIC HEARINGS

VIII. COMMUNICATIONS FROM THE MAYOR

ORDERS

10865 – An Order Appropriating \$27,000.00 from Free Cash to the IT Department – Cyber Security Software Account. (*Finance Committee*)

COMMUNICATIONS

10866 – A Measure Declaring Surplus for the Purpose of Disposal of Land and Buildings at 73 Stuart Street. (*Finance Committee*)

10867 – A Measure Authorizing an Intermunicipal Agreement between City of Gardner and Town of Ashby for Veterans Services. (*Finance Committee*)

10871 – A Notification from the Mayor Regarding the Certification of FY2023 Tax Rate.

APPOINTMENTS

10875 – A Measure Confirming the Mayor’s Appointment of Neil Janssens, to the position of Special Act Charter Drafting Committee, for term expiring upon submission to City Council. (*Appointments Committee*)

10876 – A Measure Confirming the Mayor’s Appointment of Tina Griffin, to the position of Special Act Charter Drafting Committee, for term expiring upon submission to City Council. (*Appointments Committee*)

10877 – A Measure Confirming the Mayor’s Appointment of Robert Rice, Esq., to the position of Special Act Charter Drafting Committee, for term expiring upon submission to City Council. (*Appointments Committee*)

IX. PETITIONS, APPLICATIONS, COMMUNICATIONS, ETC.

10868 – Applications for Motor Vehicle Dealers Licenses, Class I. (*Safety Committee*)

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

10869 – Applications for Motor Vehicle Dealers Licenses, Class II (*Safety Committee*)

- (a) AC Auto Clinic, 411 Parker Street
- (b) Blake Motors, 412 Main Street
- (c) Brian’s Auto Sales, 549 W Broadway
- (d) Gardner Automart, Inc., 182 West Street
- (e) Gardner Motors, LLC, 119 Pearson Blvd
- (f) JPJ Automotive, LLC, 78 East Broadway
- (g) Mike’s Auto, 251 E Broadway
- (h) Osagi Enterprise, LLC., 43 Tobey Street
- (i) Ric’s Radiator Repair Used Car Sales, 800 W Broadway
- (j) Salvadore Chevrolet, 421 W Broadway
- (k) Salvadore Chevrolet, 249 Timpany Blvd.
- (l) Sylvester R. Anghuy Sales, 146 Sherman Street
- (m) Rob’s Dyno Services, LLC, 268 Coleman Street
- (n) J. Wood Inc., 361 West Street
- (o) T.J. & Sons Auto Sales, 537 W Broadway

PETITIONS, APPLICATIONS, COMMUNICATIONS, ETC.

- 10870** – Applications for Motor Vehicle Dealers Licenses, Class III, Osagi Enterprise, LLC., Used Auto Parts Sales, 43 Tobey Street. (*Safety Committee*)
- 10872** – A Measure Confirming the Council Presidents Appointment of Jennifer Zlotnik Pelavin, Esq., to the position of Special Act Charter Drafting Committee Member, for term expiring upon submission to City Council. (*Appointments Committee*)
- 10873** – A Measure Confirming the Council Presidents Appointment of Alan L. Agnelli, to the position of Special Act Charter Drafting Committee Member, for term expiring upon submission to City Council. (*Appointments Committee*)
- 10874** – Notification from City Clerk of Ward 3 Councillor Vacancy.

X. REPORTS OF STANDING COMMITTEES**FINANCE COMMITTEE**

- 10855** – An Order Appropriating \$10,000.00 Free Cash to City Clerk's Temporary Staffing Account. (*In the City Council and Referred to Finance Committee 12/5/2022*)
- 10860** – An Order Authorizing \$107.96 Payment of Prior Year for Airport Department Operating Expenditure. (*In the City Council and Referred to Finance Committee 12/5/2022*)
- 10863** – An Order Transferring \$36,500.00 from Veterans Department, Veterans Benefit Operating Expenditures to Clerk/Assistant Salaries and Wages Expenditures. (*In the City Council and Referred to Finance Committee 12/5/2022*)
- 10856** – An Ordinance to Amend the Code of the City of Gardner, Chapter 171, Section 68, Entitled "Personnel Compensation Schedule," – Related to FY2023 Supplemental Budget. (*In the City Council and Referred to Finance Committee 12/5/2022*)
- 10864** – An Ordinance to Amend the Code of the City of Gardner, Chapter 171, Entitled "Personnel Compensation Schedule," – Assistant Director of Veterans Services. (*In the City Council and Referred to Finance Committee 12/5/2022*)

APPOINTMENTS COMMITTEE

10858 – A Measure Confirming the Mayor’s Appointment of Anthony Whitman, to the Position of Local Inspector, for term expiring November 25, 2025. *(In the City Council and Referred to the Appointments Committee 12/5/2022)*

SAFETY COMMITTEE

10857 – An Ordinance to Amend the Code of the City of Gardner, Chapter 428, Entitled “Hawkers and Peddlers.” *(In the City Council and Referred to Safety Committee 12/5/2022)*

10861 – An Ordinance to Amend the Code of the City of Gardner, Chapter 600, Entitled “Vehicles and Traffic,” Section 42, Entitled “One Way Street.” *(In the City Council and Referred to Safety Committee 12/5/2022)*

XI. UNFINISHED BUSINESS AND MATTERS FOR RECONSIDERATION

XII. NEW BUSINESS

XIII. CLOSING PRAYER

XIV. 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.



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

TITI SIRIPHAN, City Clerk
Faith A. Glover, Asst. City Clerk
Elizabeth Doiron, Asst. City Clerk

February 27, 2024

Hon. Elizabeth J. Kazinskas, President
 And Members of the City Council
 City Hall, 95 Pleasant Street
 Gardner, MA 01440

Re: Notice of Councillor at Large Vacancy

Dear President Kazinskas and Members of the City Council:

I am writing to inform you that a vacancy shall exist in the position of Councillor at Large. The impending vacancy is due to the passing of Councillor Ronald F. Cormier.

Consequently, the provisions of Section 32 of the *Charter of the City of Gardner* state, "if a vacancy occurs in the position of councilor at large, the city council shall appoint the person who received the seventh highest vote total for the position of councilor at large during the most recent municipal election to fill the vacancy for the unexpired term, if the person is willing to serve, then to the eighth and so on until a person is appointed."

The candidate receiving the eighth highest vote total in the November 7, 2023 City Election was Brad E. Heglin, 164 Sherman Street. I have spoken to Mr. Heglin and he has notified me that he will accept the appointment.

Should you have any questions, please feel free to contact me.

Sincerely,

Titi Siriphan
 City Clerk

Brad Heglin
164 Sherman Street
Gardner, MA 01440

February 14, 2024

Titi Siriphan
City Clerk
95 Pleasant Street, Room 121
Gardner, MA 01440

Dear Clerk Siriphan,

I have received your correspondence regarding the vacancy on the city council, specifically for councillor-at-large. I write to inform you that I humbly, though with heavy heart over former Councillor Ron Cormier's passing, accept this position.

Please contact me with any questions or additional information.

Sincerely,

Brad Heglin



CITY OF GARDNER, MASSACHUSETTS
NOVEMBER 7, 2023 CITY ELECTION
Official Results

The following is a result of the votes cast in the various precincts in the City of Gardner at the City Election held on November 7, 2023, as returned by the Precinct Clerks and tabulated by the City Clerk:

MAYOR	1A	1B	2A	2B	3A	3B	4A	4B	5A	5B	TOTAL
BALLOTS CAST	536	228	405	450	334	427	320	253	301	481	3,735
KIMBERLY ANN BLAKE	137	61	126	144	122	130	108	92	92	177	1,189
MICHAEL JOSEPH NICHOLSON	381	165	271	291	206	289	204	158	202	292	2,459
Josh Cormier (Write-in)	2	-	-	-	-	-	-	-	-	-	2
Martin Gray (Write-in)	-	-	4	-	-	-	-	-	-	-	4
Neil Jansen (Write-in)	-	-	-	1	-	-	-	-	-	-	1
Dwayne Bouchard (Write-in)	-	-	-	1	-	-	-	-	-	-	1
Scott Graves (Write-in)	-	-	-	1	-	-	-	-	-	-	1
Mark Hawke (Write-in)	-	-	-	-	-	-	-	-	1	-	1
April Agnelli (Write-in)	-	-	-	-	-	-	-	-	-	1	1
Jonathan Teken (Write-in)	-	-	-	-	-	-	-	-	-	1	1
Anthony Agnelli (Write-in)	-	-	-	-	-	-	-	-	-	1	1
Gerald St. Hilaire (Write-in)	-	-	-	-	-	-	-	-	-	1	1
BLANKS	16	2	4	12	6	8	8	3	6	8	73
COUNCILLOR AT LARGE	1A	1B	2A	2B	3A	3B	4A	4B	5A	5B	TOTAL
BALLOTS CAST	536	228	405	450	334	427	320	253	301	481	3,735
CAROLYN A. KAMUDA	192	92	177	236	150	196	156	132	138	227	1,696
GEORGE C. TYROS	302	102	189	201	158	238	144	110	148	226	1,818
RONALD F. CORMIER	288	97	167	204	150	223	149	108	135	221	1,742
ELIZABETH J. KAZINSKAS	351	120	246	246	184	220	192	125	162	248	2,094
BRAD E. HEGLIN	251	75	155	180	120	164	130	99	131	192	1,497
JUDY A. MACK	291	103	188	212	156	210	156	119	141	231	1,807
JAMES M. HUNT	153	72	128	149	112	130	102	76	114	161	1,197
CALVIN D. BROOKS	291	92	187	202	159	164	145	93	117	233	1,683
CRAIG R. CORMIER	273	104	168	194	157	221	157	110	137	201	1,722
Brian Andrew (Write-in)	-	-	1	-	-	-	-	-	-	-	1
Glenn Rediker (Write-in)	-	-	-	-	-	1	-	-	-	-	1
Katherine Margoles (Write-in)	-	-	-	-	-	-	1	-	-	-	1
Bruce Chester (Write-in)	-	-	-	-	-	-	-	-	1	-	1
Scott J. Graves (Write-in)	-	-	-	-	-	-	-	-	-	1	1
BLANKS	824	511	824	876	658	795	588	546	582	945	7,149



CITY OF GARDNER, MASSACHUSETTS
NOVEMBER 7, 2023 CITY ELECTION
Official Results

The following is a result of the votes cast in the various precincts in the City of Gardner at the City Election held on November 7, 2023, as returned by the Precinct Clerks and tabulated by the City Clerk:

WARD ONE COUNCILLOR	1A	1B	2A	2B	3A	3B	4A	4B	5A	5B	TOTAL
BALLOTS CAST	536	228									764
DAVID R. THIBAUT-MUNOZ	263	92									355
JAMES F. WALLGREN	227	106									333
Peter Sargent (Write-in)	1	-									1
BLANKS	45	30									75
WARD TWO COUNCILLOR	1A	1B	2A	2B	3A	3B	4A	4B	5A	5B	TOTAL
BALLOTS CAST			405	450							855
DANA M. HEATH			299	347							646
John M. Curran (Write-in)			-	1							1
Guy McDonald (Write-in)			-	1							1
Val Cormier (Write-in)			-	1							1
Kylee Caruso (Write-in)			-	1							1
Ed Perry (Write-in)			-	1							1
Steve Rockwood (Write-in)			-	1							1
BLANKS			106	97							203
WARD THREE COUNCILLOR	1A	1B	2A	2B	3A	3B	4A	4B	5A	5B	TOTAL
BALLOTS CAST					334	427					761
JEFFREY MICHAEL PALMIERI					139	183					322
PAUL GERARD TASSONE					156	217					373
Scott Rak (Write-in)					1	-					1
Pryore Felse (Write-in)					-	1					1
BLANKS					38	26					64
WARD FOUR COUNCILLOR	1A	1B	2A	2B	3A	3B	4A	4B	5A	5B	TOTAL
BALLOTS CAST							320	253			573
KAREN G. HARDERN							226	195			421
Mark Monahan (Write-in)							2	-			2
Mark Metzger (Write-in)							2	-			2
Mark White (Write-in)							1	-			1
Tim Horrigan (Write-in)							1	-			1
Mike Horrigan (Write-in)							1	-			1
Matthew P. Jee (Write-in)							-	1			1
Tony Hawk (Write-in)							-	1			1
BLANKS							87	56			143



CITY OF GARDNER, MASSACHUSETTS
NOVEMBER 7, 2023 CITY ELECTION
Official Results

The following is a result of the votes cast in the various precincts in the City of Gardner at the City Election held on November 7, 2023, as returned by the Precinct Clerks and tabulated by the City Clerk:

WARD FIVE COUNCILLOR	1A	1B	2A	2B	3A	3B	4A	4B	5A	5B	TOTAL
BALLOTS CAST									301	481	782
ALEKSANDER H. DERNALOWICZ									227	350	577
<i>Daniel Forte (Write-in)</i>									-	1	1
BLANKS									74	130	204

SCHOOL COMMITTEE	1A	1B	2A	2B	3A	3B	4A	4B	5A	5B	TOTAL
BALLOTS CAST	536	228	405	450	334	427	320	253	301	481	3,735
JOHN M. LaFRENIERE	215	104	167	193	141	211	147	111	146	228	1,663
STEPHEN P. SANDOVAL	124	61	100	112	87	92	98	66	78	115	933
ROBERT J. SWARTZ	210	83	144	172	145	171	138	82	80	177	1,402
MARGARET BISSONNETTE	175	62	141	183	127	144	114	101	110	173	1,330
BRANDON RICHARD HUGHEY	188	64	122	152	100	130	93	72	95	139	1,155
RACHEL ANN CORMIER	357	129	193	234	162	243	177	129	165	236	2,025
<i>Jason Carl (Write-in)</i>	1	-	-	-	-	-	-	-	-	-	1
<i>Ayesha Coaxum (Write-in)</i>	-	-	2	-	-	-	1	-	1	-	4
<i>Mark Monahan (Write-in)</i>	-	-	-	-	-	-	1	-	-	-	1
<i>Joseph R. Lyman II (Write-in)</i>	-	-	-	-	-	-	-	1	-	-	1
<i>Bruce Chester (Write-in)</i>	-	-	-	-	-	-	-	-	1	-	1
BLANKS	338	181	346	304	240	290	191	197	227	375	2,689

QUESTION 1	1A	1B	2A	2B	3A	3B	4A	4B	5A	5B	TOTAL
BALLOTS CAST	536	228	405	450	334	427	320	253	301	481	3,735
YES	322	135	212	221	165	226	154	110	146	237	1,928
NO	138	72	143	179	130	152	119	98	114	175	1,320
BLANKS	76	21	50	50	39	49	47	45	41	69	487

NO. OF VOTERS CASTING BALLOTS	536	228	405	450	334	427	320	253	301	481	3,735
NO. OF REGISTERED VOTERS	1,519	887	1,513	1,548	1,513	1,501	1,371	1,345	1,313	1,562	14,072
PERCENTAGE OF REGISTERED VOTERS CASTING BALLOTS	35.29%	25.70%	26.77%	29.07%	22.08%	28.45%	23.34%	18.81%	22.92%	30.79%	26.54%

A True Copy, Attest:

Titi Siriphan

Titi Siriphan, City Clerk

nationalgrid

RECEIVED
2024 FEB 21 PM 3:43
CITY CLERK'S OFFICE
GARDNER, MA

January 26, 2024

City of Gardner

To Whom It May Concern:

Enclosed please find a petition of NATIONAL GRID and VERIZON, covering joint NATIONAL GRID-VERIZON pole location(s)

If you have any questions regarding this permit please contact:

Please notify National Grid's Vincent LoGuidice of the hearing date / time.

If this petition meets with your approval, please return an executed copy to each of the above named Companies.

National Grid Contact: Vincent LoGuidice; 1101 Turnpike Street; North Andover, MA 01845. Phone 978-725-1392.

Very truly yours,

Patrick Shea
Supervisor, Distribution Design

Enclosures

RECEIVED

2024 FEB 21 PM 3:43

CITY CLERK'S OFFICE
GARDNER, MA

Questions contact – Will Fontaine 508-414-7308

PETITION FOR JOINT OR IDENTICAL POLE LOCATIONS

North Andover, Massachusetts

To the City Council
Of Gardner, Massachusetts

Massachusetts Electric Company d/b/a National Grid and Verizon New England, Inc requests permission to locate poles, wires, and fixtures, including the necessary sustaining and protecting fixtures, along and across the following public way:

Allen St - National Grid to install 1 JO Pole on Allen St beginning at a point approximately 430 feet west of the centerline of the intersection of Allen St and Winslow St. Install 1 JO Pole # 7 for new houses.

Location approximately as shown on plan attached.

Wherefore it prays that after due notice and hearing as provided by law, it be granted a location for and permission to erect and maintain poles and wires, together with such sustaining and protecting fixtures as it may find necessary, said poles to be erected substantially in accordance with the plan filed herewith marked – Allen St - Gardner - Massachusetts.

No. **30922033** January 26, 2024

Also for permission to lay and maintain underground laterals, cables, and wires in the above or intersecting public ways for the purpose of making connections with such poles and buildings as each of said petitioners may desire for distributing purposes.

Your petitioner agrees to reserve space for one cross-arm at a suitable point on each of said poles for the fire, police, telephone, and telegraph signal wires belonging to the municipality and used by it exclusively for municipal purposes.

Massachusetts Electric Company d/b/a
NATIONAL GRID *Pat Shea*

BY _____
Engineering Department

VERIZON NEW ENGLAND, INC.

BY _____
Manager / Right of Way

RECEIVED

2024 FEB 21 PM 3:43

CITY CLERK'S OFFICE
GARDNER, MA**ORDER FOR JOINT OR IDENTICAL POLE LOCATIONS**

To the City Council - Gardner, Massachusetts

Notice having been given and public hearing held, as provided by law,
IT IS HEREBY ORDERED: that Massachusetts Electric Company d/b/a National Grid and
VERIZON NEW ENGLAND INC. (formerly known as NEW ENGLAND TELEPHONE AND
TELEGRAPH COMPANY) be and they are hereby granted joint or identical locations for and
permission to erect and maintain poles and wires to be placed thereon, together with such
sustaining and protecting fixtures as said Companies may deem necessary, in the public way or
ways hereinafter referred to, as requested in petition of said Companies dated the 26th day of
January, 2024.

All construction under this order shall be in accordance with the following conditions:

Poles shall be of sound timber, and reasonable straight, and shall be set substantially at the
points indicated upon the plan marked – Allen St - Gardner - Massachusetts.

No. 30922033 Dated January 26, 2024. Filed with this order.

There may be attached to said poles by Massachusetts Electric Company d/b/a National Grid and
Verizon New England Inc. such wires, cables, and fixtures as needed in their business and all of
said wires and cables shall be placed at a height of not less than twenty (20) feet from the ground.

The following are the public ways or part of ways along which the poles above referred to may be
erected, and the number of poles which may be erected thereon under this order:

Allen St - National Grid to install 1 JO Pole on Allen St beginning at a point approximately 430
feet west of the centerline of the intersection of Allen St and Winslow St. Install 1 JO Pole # 7 for
new houses.

Also for permission to lay and maintain underground laterals, cables, and wires in the above or
intersecting public ways for the purpose of making connections with such poles and buildings as
each of said petitioners may desire for distributing purposes.

I hereby certify that the foregoing order was adopted at a meeting of the
of the City/Town of _____, Massachusetts held on the _____ day of _____ 20__.

Massachusetts

City/Town Clerk.
20__

Received and entered in the records of location orders of the City/Town of _____
Book _____ Page _____

Attest:
City/Town Clerk

I hereby certify that on _____ 20____, at _____ o'clock, M
at _____ a public hearing was held on the petition of
Massachusetts Electric Company d/b/a National Grid and VERIZON NEW ENGLAND, INC.

for permission to erect the poles, wires, and fixtures described in the order herewith recorded, and
that we mailed at least seven days before said hearing a written notice of the time and place of said
hearing to each of the owners of real estate (as determined by the last preceding assessment for
taxation) along the ways or parts of ways upon which the Company is permitted to erect
poles, wires, and fixtures under said order. And that thereupon said order was duly adopted.

City/Town Clerk.

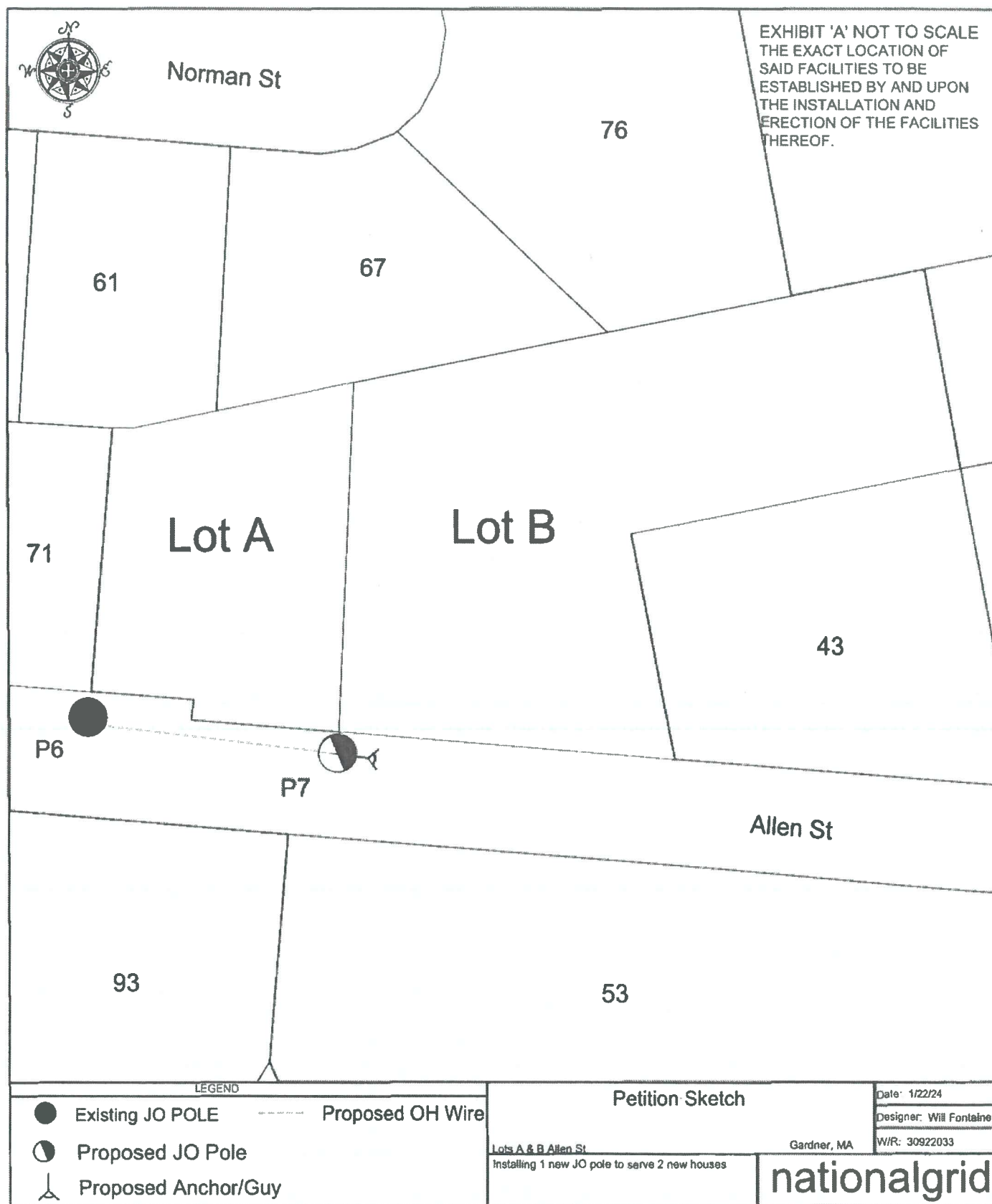
.....
.....
.....
.....

Board or Council of Town or City, Massachusetts

CERTIFICATE

I hereby certify that the foregoing is a true copy of the location order and certificate of
hearing with notice adopted by the _____ of the City of _____
Massachusetts, on the _____ day of _____ 20____, and recorded with the
records of location orders of the said City, Book _____, Page _____. This certified copy
is made under the provisions of Chapter 166 of General Laws and any additions thereto or
amendments thereof.

Attest:
City/Town Clerk





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 and sign it. 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, 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 it. At the same time, the body must send the Attorney General a copy of the response. The public body may delegate this responsibility to its counsel or a staff member, but only after it 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 that the public body's response to your complaint, you may file a copy of the complaint with the Division by mail, e-mail, or by hand, but only once you have waited for 30 days after filing the complaint with the public body.
- 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 e-mail at openmeeting@state.ma.us.



OPEN MEETING LAW COMPLAINT FORM

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: 9786321300 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

Specific person(s), if any, you allege committed the violation: Elizabeth Kazinskas, George Tyros, Dana Heath, entire City Council

Date of alleged violation: 2-5-2024

Description of alleged violation:

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.

On February 5th, 2024 the Gardner City Council took up item, " #11188 – An Open Meeting Law Complaint Filed by Paul DeMeo Regarding Executive Session Minutes of the City Council."

Council president Elizabeth (Lizzy) Kazinskas read the item number 11188.

City Councilor George Tyros made the motion, "I move to authorize the council president to respond on the behalf of the council that the executive session minutes have already been approved and are available." Motion seconded by Councilor Dana Heath. <https://www.youtube.com/watch?v=WSPhacL72jY&t=1768s>

City Council president Elizabeth then read the motion incorrectly stating, "that the executive session minutes have been approved and are ready to be released." There upon there was no discussion on the Open Meeting Law complaint and all Ten of the Councilors present, Voted in favor of the motion.

It is obvious president Kazinskas deliberated with other city council members (Tyros and Heath) prior to the meeting to come up with a plan to dismiss the Open Meeting Law complaint with NO deliberation with the Full City Council taking place.

Attorney General's Office guideline: "If a member of a public body sends an email to a quorum of a public body expressing her opinion on a matter that could come before that body, this communication violates the law even if none of the recipients responds."

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.

Self report the Open Meeting Law violation to the Attorney General's Office.
Release the Executive Session Minutes immediately and provide me a copy, proving they have been released in entirety.
Comply fully with Massachusetts Open Meeting Law after many previous violations.
Take a course given by the Attorney General's Office on the 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: _____

For Use By Public Body
Date Received by Public Body:

For Use By AGO
Date Received by AGO:

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

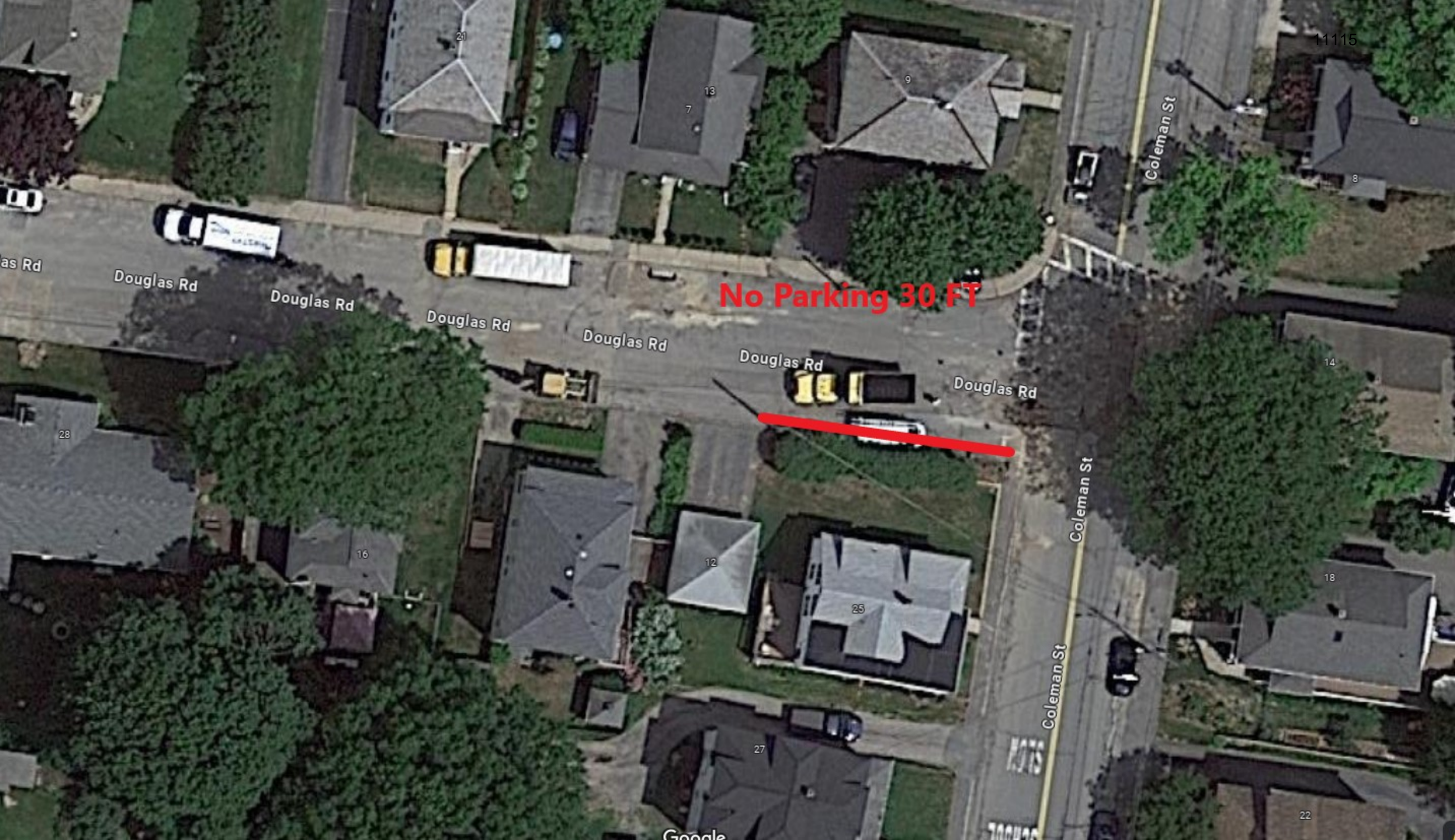
2. Temporary 60 Day restricted parking trial on the North side of Edgell St to Westford St.
3. Recommended eliminating parking 30 ft southerly side of Douglas Rd.

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

as Rd

Douglas Rd

Douglas Rd

Douglas Rd

Douglas Rd

Douglas Rd

Douglas Rd

Coleman St

Coleman St

Coleman St

Google



11115

No parking

Cherry St

Westford St

Westford St

Edgell St

Edgell St

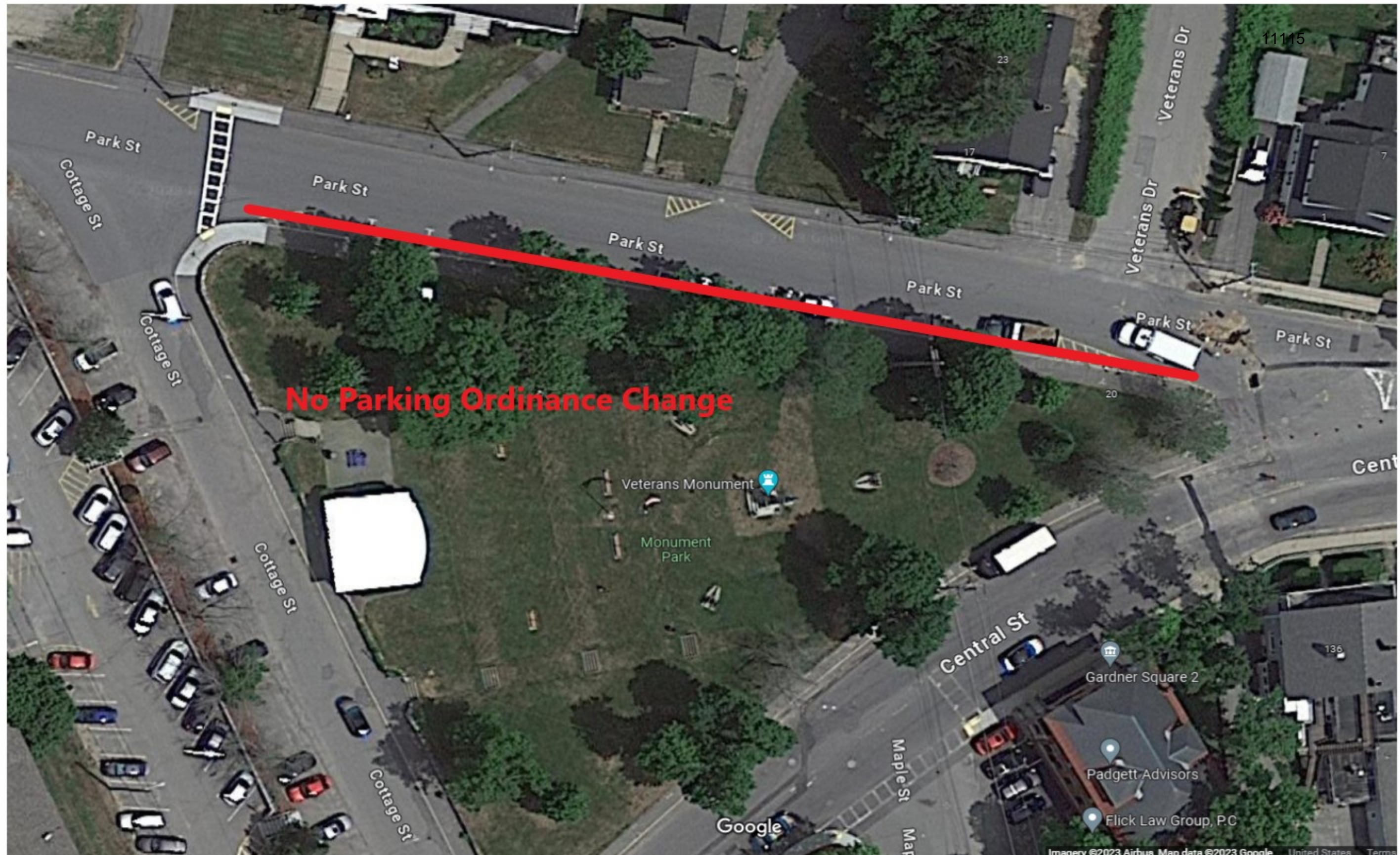
Edgell St

Edgell St

Comee St

Edgell St

Lawrence St



No Parking Ordinance Change

Veterans Monument

Monument Park

Central St

Gardner Square 2

Padgett Advisors

Flick Law Group, P.C.

Google

RECEIVED

January 8, 2024

2024 JAN 11 AM 8:37

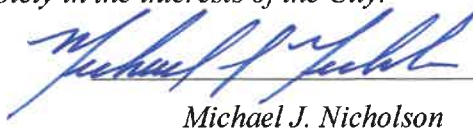
Commonwealth of Massachusetts

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 _____

RECEIVED

January 17, 2024

2024 JAN 17 AM 8:59

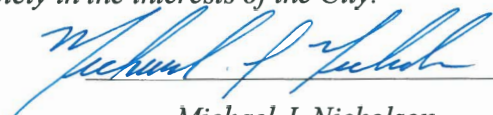
Commonwealth of Massachusetts

CITY CLERK'S OFFICE
Worcester County
GARDNER, MA

City of Gardner

CERTIFICATE OF APPOINTMENT

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

 Mayor
Michael J. Nicholson

Confirmed by City Council _____

Titi Siriphan
City Clerk

Expires: January 9, 2027

Worcester, ss., _____

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

Before me,

City Clerk

Chapter 303 Acts of 1975
and
Chapter 409 Acts of 1983

Received _____

RECEIVED

January 9, 2024

2024 JAN 11 AM 10 00

Commonwealth of Massachusetts

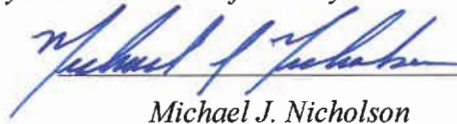
Worcester County

CITY CLERKS OFFICE
GARDNER, MA

City of Gardner

CERTIFICATE OF APPOINTMENT

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

 Mayor
Michael J. Nicholson

Confirmed by City Council _____

Titi Siriphan
City Clerk

Expires: January 9, 2027

Worcester, ss., _____

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

Before me,

City Clerk

Chapter 303 Acts of 1975
and
Chapter 409 Acts of 1983

Received _____

RECEIVED

January 4, 2024

2024 JAN 11

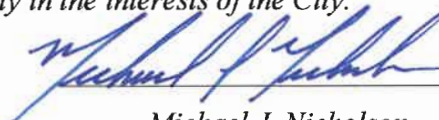
Commonwealth of Massachusetts

CITY CLERK'S OFFICE
WORCESTER, MA
Worcester County

City of Gardner

CERTIFICATE OF APPOINTMENT

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

 Mayor
Michael J. Nicholson

Confirmed by City Council _____

Titi Siriphan
City Clerk

Expires: January 4, 2027

Worcester, ss., _____

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

Before me,

City Clerk

Chapter 303 Acts of 1975
and
Chapter 409 Acts of 1983

Received _____

RECEIVED

January 4, 2024

2024 JAN 11 AM 8:38

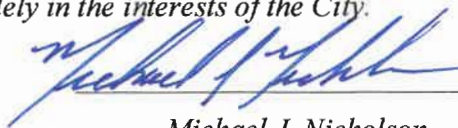
Commonwealth of Massachusetts

CITY CLERK'S OFFICE
Worcester County
GARDNER, MA

City of Gardner

CERTIFICATE OF APPOINTMENT

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

 Mayor
Michael J. Nicholson

Confirmed by City Council _____

Titi Siriphan
City Clerk

Expires: January 4, 2027

Worcester, ss., _____

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

Before me,

City Clerk

Chapter 303 Acts of 1975
and
Chapter 409 Acts of 1983

Received _____

January 4, 2024

RECEIVED

2024 JAN 11 AM 8:38

Commonwealth of Massachusetts

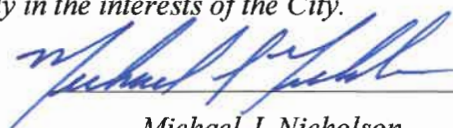
Worcester County
GARDNER, MA

City of Gardner

CERTIFICATE OF APPOINTMENT

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

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



Mayor

Michael J. Nicholson

Confirmed by City Council: _____

City Clerk

Titi Siriphan

Expires: January 4, 2025

Worcester, ss., _____

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

Before me,

City Clerk

Chapter 303 Acts of 1975
and
Chapter 409 Acts of 1983

Received _____

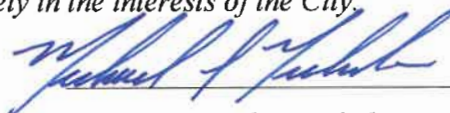
January 4, 2024

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

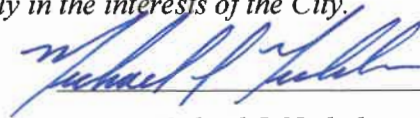
Worcester County

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 _____

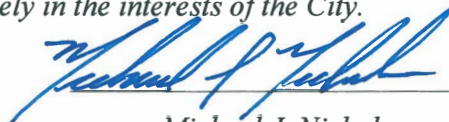
RECEIVED

January 4, 2024

2024 FEB -2 11:06:06

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

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

 Mayor
Michael J. Nicholson

Confirmed by City Council _____

Titi Siriphan
City Clerk

Expires: January 4, 2025

Worcester, ss., _____

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

Before me,

City Clerk

Chapter 303 Acts of 1975
and
Chapter 409 Acts of 1983

Received _____

January 4, 2024

RECEIVED
2024 FEB -2 11:13 AM

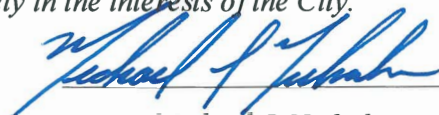
Commonwealth of Massachusetts

Worcester County

City of Gardner

CERTIFICATE OF APPOINTMENT

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


 Michael J. Nicholson Mayor

Confirmed by City Council _____

 Titi Siriphan City Clerk

Expires: January 4, 2026

Worcester, ss., _____

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

Before me,

 City Clerk

Chapter 303 Acts of 1975
 and
 Chapter 409 Acts of 1983

Received _____

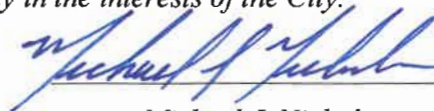
RECEIVED

January 4, 2024

2024 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

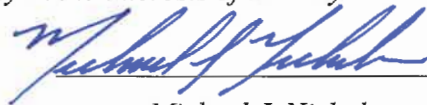
Chapter 303 Acts of 1975
and
Chapter 409 Acts of 1983

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

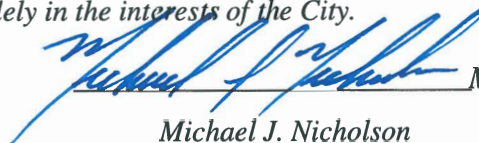
Worcester County GARDNER, MA

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 _____

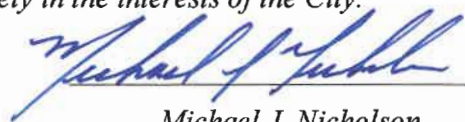
RECEIVED

January 4, 2024

2024 JAN 11 AM 8:40

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

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


 _____ Mayor
 Michael J. Nicholson

Confirmed by City Council _____

 Titi Siriphan
 City Clerk

Expires: January 4, 2027

Worcester, ss., _____

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

Before me,

 City Clerk

Chapter 303 Acts of 1975
 and
 Chapter 409 Acts of 1983

Received _____

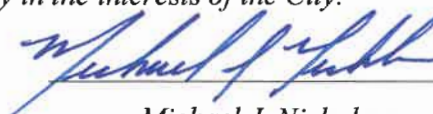
RECEIVED

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 _____

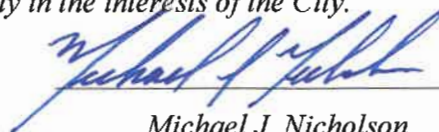
RECEIVED

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

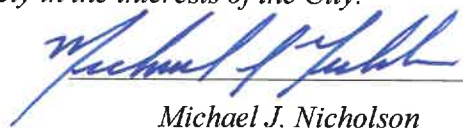
Worcester County

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 _____

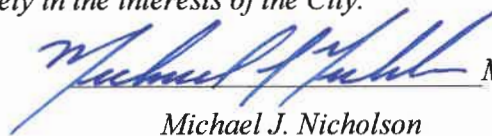
RECEIVED

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 _____

Titi Siriphan
City Clerk

Expires: January 8, 2027

Worcester, ss., _____

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

Before me,

City Clerk

Chapter 303 Acts of 1975
and
Chapter 409 Acts of 1983

Received _____

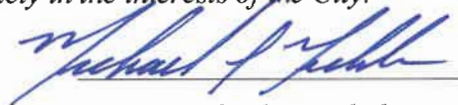
RECEIVED

January 8, 2024

2024 JAN 11 AM 9:47

Commonwealth of 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

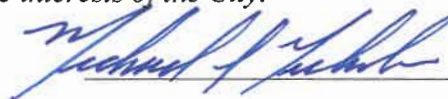
2024 JAN 11 11:04
Worcester County

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

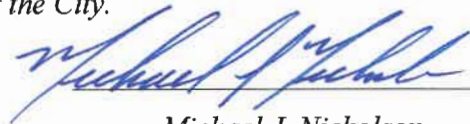
2024 JAN 11 AM 8:41
 Worcester County

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.


 Michael J. Nicholson

Mayor

Confirmed by City Council _____

City Clerk

Titi Siriphan

Expires: January 8, 2027

Worcester, ss., _____

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

Before me,

City Clerk

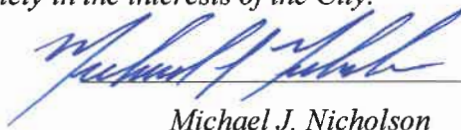
Chapter 303 Acts of 1975
 and
 Chapter 409 Acts of 1983

Received _____

January 8, 2024

RECEIVED

2024 JAN 11 AM 8:42

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

 _____ Mayor
 Michael J. Nicholson

Confirmed by City Council _____

 _____ City Clerk
 Titi Siriphan
Expires: January 8, 2027

Worcester, ss., _____

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

Before me,

_____ City Clerk

Chapter 303 Acts of 1975
 and
 Chapter 409 Acts of 1983

Received _____

RECEIVED

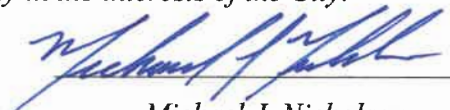
January 8, 2024

2024 JAN 11 AM 8:42

Commonwealth of MassachusettsWorcester 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.



Michael J. Nicholson Mayor

Confirmed by City Council _____

Titi Siriphan City Clerk

Expires: January 8, 2027

Worcester, ss., _____

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

Before me,

City Clerk

Chapter 303 Acts of 1975
and
Chapter 409 Acts of 1983

Received _____

RECEIVED

January 8, 2024

2024 JAN 11 AM 8:42

Commonwealth of Massachusetts

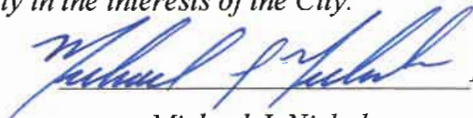
Worcester County
CITY CLERK'S OFFICE
GARDNER, MA

City of Gardner

CERTIFICATE OF APPOINTMENT

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

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

 Mayor
Michael J. Nicholson

Confirmed by City Council _____

Titi Siriphan
City Clerk

Expires: January 8, 2027

Worcester, ss., _____

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

Before me,

City Clerk

Chapter 303 Acts of 1975
and
Chapter 409 Acts of 1983

Received _____

RECEIVED

January 8, 2024

2024 JAN 11 AM 8:41


Commonwealth of Massachusetts

Worcester County
GARDNER, MA

City of Gardner

CERTIFICATE OF APPOINTMENT

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

 Mayor
Michael J. Nicholson

Confirmed by City Council _____

Titi Siriphan City Clerk

Expires: January 8, 2027

Worcester, ss., _____

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

Before me,

City Clerk

Chapter 303 Acts of 1975
and
Chapter 409 Acts of 1983

Received _____

RECEIVED

January 9, 2024

2024 JAN 11 10:10

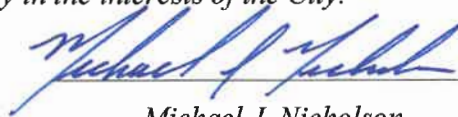
Commonwealth of Massachusetts

Worcester County
CITY CLERK'S OFFICE
GARDNER, MA

City of Gardner

CERTIFICATE OF APPOINTMENT

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

 Mayor
Michael J. Nicholson

Confirmed by City Council _____

Titi Siriphan
City Clerk

Expires: January 9, 2027

Worcester, ss., _____

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

Before me,

City Clerk

Chapter 303 Acts of 1975
and
Chapter 409 Acts of 1983

Received _____

RECEIVED

January 11, 2024

2024 JAN 11 PM

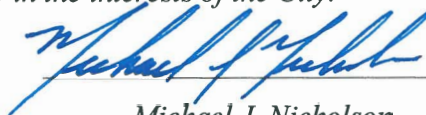
Commonwealth of Massachusetts

Worcester County
GARDNER, MA

City of Gardner

CERTIFICATE OF APPOINTMENT

I appoint Kevin McInerney to the position of Mayor's Appointee, Contributory Retirement Board and I certify that in my opinion he/she is a person specially fitted by education, training, or experience to perform the duties of said office, and that I make the appointment solely in the interests of the City.



Mayor

Michael J. Nicholson

Confirmed by City Council _____

City Clerk

Titi Siriphan

Expires: January 11, 2027

Worcester, ss., _____

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

Before me,

City Clerk

Chapter 303 Acts of 1975
and
Chapter 409 Acts of 1983

Received _____

RECEIVED

January 22, 2024

2024 JAN 22 PM 4:01

Commonwealth of Massachusetts

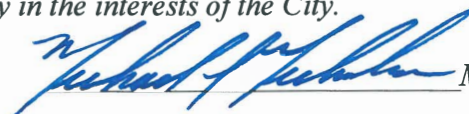
Worcester County

City of Gardner

CERTIFICATE OF APPOINTMENT

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

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

 Mayor
Michael J. Nicholson

Confirmed by City Council _____

Titi Siriphan
City Clerk

Expires: January 22, 2027

Worcester, ss., _____

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

Before me,

City Clerk

Chapter 303 Acts of 1975
and
Chapter 409 Acts of 1983

Received _____

February 1, 2024

RECEIVED

2024 FEB -1 PM 1:41

Commonwealth of Massachusetts

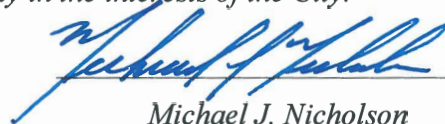
Worcester County

OFFICE

City of Gardner

CERTIFICATE OF APPOINTMENT

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



Mayor

Michael J. Nicholson

Confirmed by City Council _____

City Clerk

Titi Siriphan

Expires: February 1, 2027

Worcester, ss., _____

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

Before me,

City Clerk

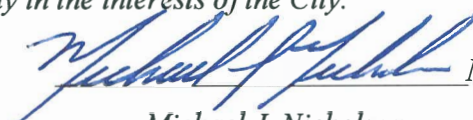
Chapter 303 Acts of 1975
and
Chapter 409 Acts of 1983

Received _____

RECEIVED

February 9, 2024

2024 FEB -9 AM 9:39

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

 _____ Mayor
 Michael J. Nicholson

Confirmed by City Council _____

 _____ City Clerk
 Titi Siriphan
Expires: February 9, 2027

Worcester, ss., _____

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

Before me,

_____ City Clerk

Chapter 303 Acts of 1975
 and
 Chapter 409 Acts of 1983

Received _____

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



February 23, 2024

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

RECEIVED
2024 FEB 23 AM 8:50
CITY CLERK'S OFFICE
GARDNER, MA

Re: Proposed Amendment to Zoning Change Classification for

Dear President Kazinskas:

Subject: Zoning Amendment – Sports Betting / Final Recommendation

Following the City Council/Planning Board Joint Public Hearing held on Tuesday, January 16, 2024, on the above referenced item, the Planning Board held a meeting on February 20, 2024, and voted unanimously to recommend adoption of the subject zoning amendment by the City Council. As part of this vote the Planning Board further recommends the City Council approve this amendment consistent with the Building Commissioner's suggestions in his letter to the City Council and Planning Board dated January 14, 2024, and attached hereto.

Please feel free 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



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



January 14, 2024

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- 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.

Joint Public Hearing- 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 and Councilors, Mr. Chairman and Board Members,

I am writing to provide my insight into and recommendations regarding the above-referenced ordinance amendments. If approved, the current recommended proposal regarding petition #10892 is listed below.

The changing of the use of #54 from "permitted by right" (P) to "Special Permit Planning Board" (SPPB) in the Commercial 1 (Com1) and Commercial 2 (Com2) districts and the rewording of #54 in the table of uses of the city of Gardner Zoning Ordinance 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.

By making the change as it is written, the city of Gardner will impede historic levels of growth and negatively impact a lengthy list of indoor amusement, fitness, or recreational types of businesses that, under the current zoning ordinance, may open and operate "by right" in the Commercial 1 (Com1) and Commercial 2 (Com2) zoning districts.

Mission Statement

To promote the safe and compatible development of the community through fair and consistent enforcement of building codes and zoning ordinances

Therefore, the best and most effective way to move Gardner forward is to leave both #54, and #56 in the table of uses unchanged. If the changes are so approved, my recommendation is as follows.

- Section 210(B) of Chapter 675, entitled "Word Usage and Definitions", be amended by adding the following definition to the 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.

- A new line item be added to the table of uses bearing the name "Sports Betting Facility"

As the chairman previously stated, the scope of opening a sports betting facility is significant and potentially complex in nature. Due to its complexity, it is my recommendation that a sports betting facility be permitted by "Special Permit from the Planning Board" (SPPB) in the Commercial 1 (Com1) and Commercial 2 (Com2) zoning districts only.

Regarding petition #10893, I have no objections or concerns currently.

Respectfully submitted,



Thomas Zuppa, CBO
Building Commissioner
Zoning Enforcement Officer
City of Gardner Building Department
Phone: 978-630-4060
Email: tzuppa@gardner-ma.gov
115 Pleasant St. Rm. 101 Gardner, MA 01440

C: Mayor Michael J. Nicholson
Trevor M. Beauregard, Director

AN ORDINANCE TO AMEND THE CODE OF THE CITY OF GARDNER, CHAPTER 675 THEREOF, ENTITLED “ZONING,” TO ADD VARIOUS PROVISIONS RELATING TO SPORTS BETTING.

Section 1. Chapter 675-210(B) entitled “Word Usage and Definitions”, be amended by adding the following definition to the 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. Chapter 675- Attachment 1, Table of Uses, is hereby amended by adding a new line item bearing the name “Sports Betting Facility” to be permitted by “Special Permit from the Planning Board” (SPPB) in the Commercial 1 (Com1) and Commercial 2 (Com2) zoning districts.

Section 3. This Ordinance shall become effective upon passage and publication as required by law. Any claims of invalidity by reason of any defect in the procedure of adoption may only be made ninety days after the posting or the second publication.



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
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,

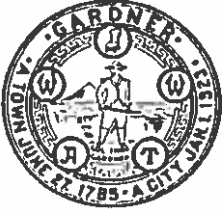
I have reviewed the proposed addition of the new Sports Betting Ordinance and do not see any issues from the police department. Any proposed facility should have a buffer between any residential zone and this ordinance reflects the new law.

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

Very truly yours,

A handwritten signature in black ink, appearing to read "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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) 45 per cent to the General Fund;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

CITY OF GARDNER

DEPARTMENT OF COMMUNITY DEVELOPMENT AND PLANNING

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

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



December 14, 2023

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

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

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

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

Sincerely,

Mark M. Schafron
Chairman

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

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

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

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

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

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

CITY OF GARDNER

DEPARTMENT OF COMMUNITY DEVELOPMENT AND PLANNING



RECEIVED
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
 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

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

Current Ordinance

City of Gardner, MA
Friday, February 3, 2023

Chapter 675. Zoning

Article X. Supplemental Regulations

§ 675-1070. Marijuana establishments.

A. Purpose.

- (1) To provide for the placement of marijuana establishments in appropriate places and under conditions in accordance with the provisions of MGL c. 94G.
- (2) To minimize the adverse impacts of marijuana establishments on adjacent properties, residential neighborhoods, schools and other places where children congregate, local historic districts, and other sensitive land uses potentially incompatible with said establishments.
- (3) To regulate the siting, design, placement, security, safety, monitoring, modification, and discontinuance of marijuana establishments.

B. Applicability.

- (1) No marijuana establishment shall be established except in compliance with the provisions of § 675-410 (Schedule of permitted uses) and this § 675-1070 (Marijuana establishments).
- (2) Nothing in this section shall be construed to supersede federal and state laws governing the sale and distribution of Class 1 Controlled Substances.
- (3) If any provision of this section or the application of any such provision to any person or circumstance shall be held invalid, the remainder of this section, to the extent it can be given effect, or the application of those provisions to persons or circumstances other than those to which it is held invalid, shall not be affected thereby, and to this end the provisions of this section are severable.

C. General requirements and conditions for all marijuana establishments.

- (1) All marijuana establishments shall be contained within a building or structure.
- (2) The hours of operation of marijuana establishments shall be set by the special permit granting authority.
- (3) No marijuana establishment property line shall be located within 500 linear feet of a lot line where the following districts, activity, or uses occur:
 - (a) (Reserved)^[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

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

Michael J. Nicholson
Mayor, City of Gardner

CC:

City Council Public Welfare Committee
Planning Board



CITY OF GARDNER POLICE DEPARTMENT

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



Eric P. McAvene
Chief of Police

Nicholas P. Maroni
Deputy Chief of Police

February 3, 2023

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

Re: Sports Betting Zoning Ordinance

Dear Mayor,

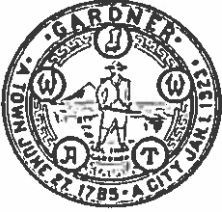
I have reviewed the proposed addition of the new Sports Betting Ordinance and do not see any issues from the police department. Any proposed facility should have a buffer between any residential zone and this ordinance reflects the new law.

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

Very truly yours,

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

Eric P. McAvene
Chief of Police



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

Feb. 7, 2023

RE: Text Amendment

Dear Mr. Mayor,

Please accept this letter as my full support for your proposed text amendment to our Zoning Ordinance regarding sports betting. I believe when new laws are enacted at a state level that a municipalities Zoning must change to reflect the new law, or be forced to react to a potential problem.

Do not hesitate to contact me should you need any further assistance.

Roland Jean
Building Commissioner/Zoning Enforcement Officer
City Hall Annex
115 Pleasant St. RM 101
Gardner, MA 01440
(978) 630 4007
rjean@gardner-ma.gov

Mission Statement

To promote the safe and compatible development of the community through fair and consistent enforcement of building codes and zoning ordinances

Current Ordinance

GARDNER CODE

Description of Use	SFR1	RR2	GR3	COM1	COM2		IND1	IND2
					P	SP		
49. Restaurant	NP	SP	NP	P	P		P	NP
50. Restaurant, fast-food, including appurtenant structures to provide drive-through or drive-in services	NP	NP	NP	SP	SP		NP	NP
51. Restaurant serving food or beverages with live or mechanical entertainment	NP	SP	NP	SP	P		NP	NP
52. Wholesale office or showroom, with storage limited to floor samples only	NP	NP	NP	P	P		P	P
53. Wholesale office or showroom with storage permitted on property	NP	NP	NP	SP	P		P	P
54. Indoor amusement, fitness, or recreational place or place of assembly, provided that the building is so insulated and maintained as to confine noise to the premises and is located not less than 100 feet from a residential district	NP	NP	NP	P	P		NP	NP
55. Outdoor commercial clubs and/or recreational establishments or use such as swimming pools, tennis courts, ski clubs, camping areas, skating rinks or other commercial facilities offering outdoor recreation	NP	SP	NP	P	P		NP	NP
56. Public or commercial outdoor amusement or recreation use but not including outdoor drive-in movie theater	NP	NP	NP	NP	P		P	NP
57. Bus station or terminal or railroad station for passengers	NP	NP	NP	P	P		P	NP
58. Transport terminal, warehouse distribution facility	NP	NP	NP	NP	NP		P	P
59. Contracting business and contractor's yard, including storage in the open'	NP	NP	NP	NP	SP		P	NP

HOUSE No. 5164

The Commonwealth of Massachusetts

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

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

FILED ON: 8/1/2022

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

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

An Act regulating sports wagering.

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

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

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

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

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

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

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

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

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

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

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

43 CHAPTER 23N

44 AUTHORIZATION AND REGULATION OF SPORTS WAGERING

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

548 (d) Within 60 days of the commission notifying a 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.

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

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

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

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

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

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

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

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

(1) 45 per cent to the General Fund;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

CITY OF GARDNER

DEPARTMENT OF COMMUNITY DEVELOPMENT AND PLANNING

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

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



February 23, 2024

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

RECEIVED
2024 FEB 23 AM 8:50
CITY CLERK'S OFFICE
GARDNER, MA

Subject: Zoning Amendment - Marijuana Establishments / Final Recommendation

Following the City Council/Planning Board Joint Public Hearing held on Tuesday, January 16, 2024, on the above referenced item, the Planning Board held a meeting on February 20, 2024, and voted unanimously to recommend adoption of the subject zoning amendment by the City Council.

Please feel free 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
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 OF GARDNER
DEPT. OF COMMUNITY DEVELOPMENT & PLANNING
DEC 14 PM 3:57

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

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

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

Sincerely,

Mark M. Schafron
Chairman

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

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

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

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

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

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

CITY OF GARDNER

DEPARTMENT OF COMMUNITY DEVELOPMENT AND PLANNING



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

March 30, 2023

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

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

Dear President Kazinskas:

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

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

Sincerely,

Mark M. Schafron, Planning Board Chairman

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



City of Gardner - *Executive Department*

Mayor Michael J. Nicholson

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

March 29, 2023

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

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

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

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

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

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

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

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

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

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

Respectfully,

Michael J. Nicholson
Mayor, City of Gardner



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

CITY OF GARDNER
 NOTICE OF JOINT PUBLIC HEARING, continued

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

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

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

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

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

Current Ordinance

City of Gardner, MA
Friday, February 3, 2023

Chapter 675. Zoning

Article X. Supplemental Regulations

§ 675-1070. Marijuana establishments.

A. Purpose.

- (1) To provide for the placement of marijuana establishments in appropriate places and under conditions in accordance with the provisions of MGL c. 94G.
- (2) To minimize the adverse impacts of marijuana establishments on adjacent properties, residential neighborhoods, schools and other places where children congregate, local historic districts, and other sensitive land uses potentially incompatible with said establishments.
- (3) To regulate the siting, design, placement, security, safety, monitoring, modification, and discontinuance of marijuana establishments.

B. Applicability.

- (1) No marijuana establishment shall be established except in compliance with the provisions of § 675-410 (Schedule of permitted uses) and this § 675-1070 (Marijuana establishments).
- (2) Nothing in this section shall be construed to supersede federal and state laws governing the sale and distribution of Class 1 Controlled Substances.
- (3) If any provision of this section or the application of any such provision to any person or circumstance shall be held invalid, the remainder of this section, to the extent it can be given effect, or the application of those provisions to persons or circumstances other than those to which it is held invalid, shall not be affected thereby, and to this end the provisions of this section are severable.

C. General requirements and conditions for all marijuana establishments.

- (1) All marijuana establishments shall be contained within a building or structure.
- (2) The hours of operation of marijuana establishments shall be set by the special permit granting authority.
- (3) No marijuana establishment property line shall be located within 500 linear feet of a lot line where the following districts, activity, or uses occur:
 - (a) (Reserved)^[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.

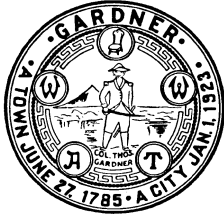
- (1) No special permit for any marijuana establishment shall be issued without site plan approval first having been obtained from the Planning Board, § 675-1010, Site plan review, of this chapter. In addition to the standards set forth within, the site plan must meet all dimensional, parking, landscaping, 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 - EXECUTIVE DEPARTMENT

Michael J. Nicholson, Mayor

February 26, 2024

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

RE: A Communication regarding Informal Meeting of Tuesday, February 20, 2024 relating to Item # 11180: An Order Appropriating \$625,000.00 from Stabilization to DPW Salt Shed

Dear Madam President and Councilors,

Thank you for taking the time to speak with the Administration regarding the proposal to construct a new salt shed at the DPW facility at your informal meeting held on February 20, 2024. At this meeting, it was requested that the Administration present a synopsis of the information that was present at that evening. That information is herein provided.

Existing Shed:



Figure 1: Existing Salt Shed facing South



Figure 2: Existing Salt Shed facing North

The existing structure is located at the DPW Garage located at 50 Manca Drive. At approximately 50 years old, the structure has completed its useful life for the City and is in extreme need of replacement.

The current building is approximately 40'x82' and holds 1,200 tons of salt. The side of the building are bellowing out due to years of holding a corrosive material in a wooden structure, and the roof has several large holes in it as well.

When the building was originally constructed 50 years ago, it met the needs of the City at that time, however, a structure that is being supported on the outside by braces on the wall, which is too short for our current salt trucks to be able to back into requiring the use of a front end loader both load the trucks but also break up the salt that has been hardened and solidified as a result of being open to the elements – simply does not meet the need of a modern City with 105 miles of road.

There were several times during the winter of 2022 – 2023, in which the City was left contacting other municipalities in the area to borrow salt, because we did not have enough supply on hand to adequately respond to the winter storm weather we were experiencing, because the City did not have a place to store the product.

The City should not be at a spot where we have to weigh storage of salt against adequately treating the roads to make sure they are safe and passable for those traveling around the City and our emergency response vehicles needing to respond as situations arrive.



Figure 3: Existing Salt Shed, West facing wall with supports and Southeast Corner of Roof with hole

Proposed Replacement:

The Administration is proposing to replace the existing salt with a new 65'x140' structure to be located on a parcel of land that the City currently owns behind Salvadore Auto across the street from the DPW Administration Building on Manca Drive.

This 2.9 acre parcel is already owned by the City. The geological survey and engineering plans for this project show that this parcel is ideal for this purpose, as there are no concerns with

running into any wetlands buffers in the area and there is sufficient room to add precautionary retention ponds at the site to mitigate any environmental concerns.



Figure 4: Concept Example of Proposed New Salt Shed

The new supplies for the new structure would be purchased from the Inspector General's "State Contract," in which the Commonwealth, through the Inspector General's Office has already gone out to bid for the goods. The structure would be constructed on a foundation for four concrete blocks, with a steel frame, covered by a heavy fabric that was designed and graded for this purpose.

The site around the structure would also be paved and the existing trees at the site would also need to be cleared.

While the actual structure itself is under state contract for procurement purposes, the City would still have to go out to bid for the labor associated with the project at prevailing wage rates.

This new structure would triple the size of the structure and allow us to store enough salt for 12 to 15 storms, approximately 3,600 tons, rather than the 4 to 7 storms that we can currently provide enough salt supply for.

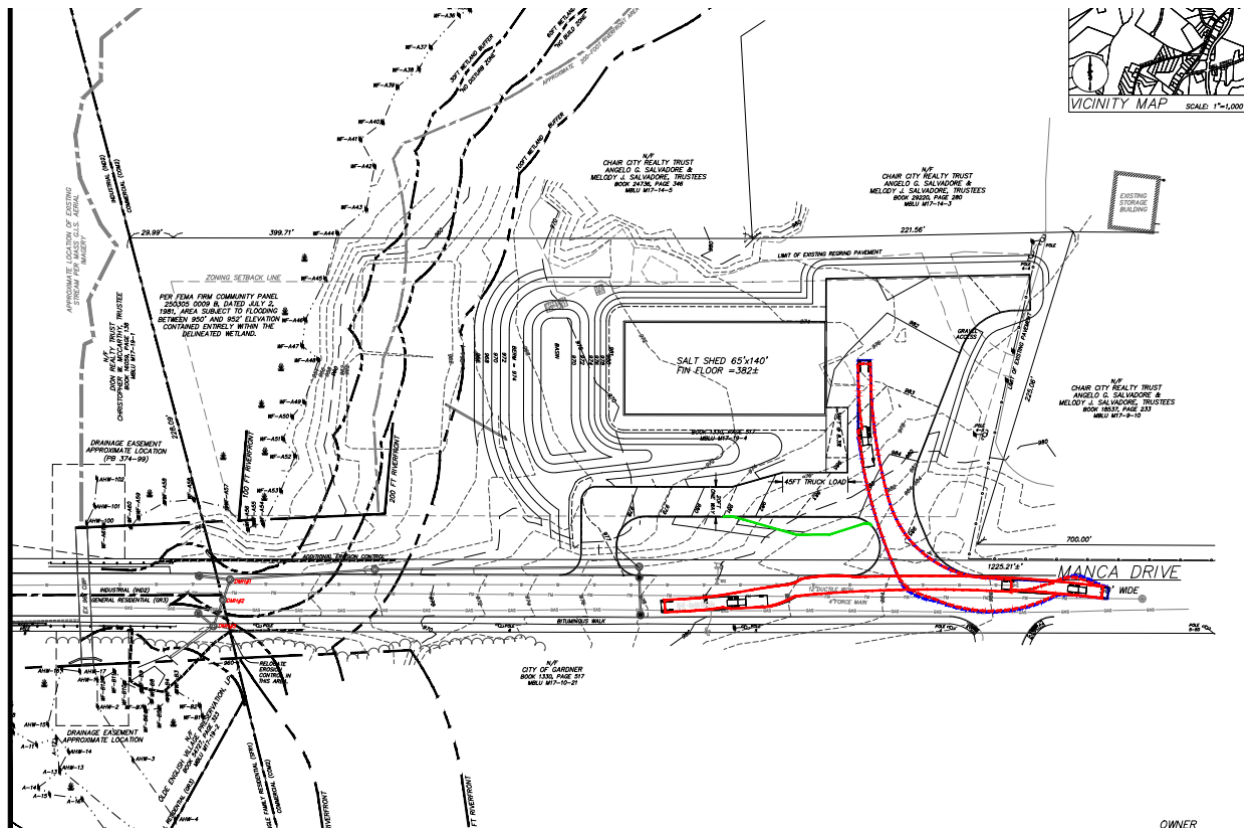


Figure 5: Engineering Content Design by Hannigan Engineering for New Salt Shed Project

Security:

The question was also raised about security at the new proposed facility.

Currently, the existing salt shed has no gate in front of its entrance and is located right next to the street on Manca Drive.

The proposed structure would be in full view of the current DPW administration building and have a chain link gate across the front that will be high enough and locked to block people from accessing the salt, except for our authorized DPW personnel.

Financial Options:

The Administration and the City Auditor reviewed several different funding options for this project. After this review, the Administration is recommending to take the funding as an appropriation from the City's stabilization account with a plan to replenish the account to where it would be in accordance with the City's financial policies.

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

Figure 6: Anticipated Project Budget

Stabilization:

Current Balance, Guidelines, and Policies:

The City's stabilization account currently has a balance of 3,599,953.49. This is the highest this balance has been since the account was created.

Stabilization Accounts	Balance		
FY2016	\$ 2,225,146.26		
FY2017	\$ 2,379,395.86		
FY2018	\$ 2,621,830.43		
FY2019	\$ 2,284,737.78		
FY2020	\$ 2,651,095.74		
FY2021	\$ 2,938,257.22	% of FY2024 General Fund	
FY2022	\$ 3,188,962.31	3%	\$ 2,198,898.03
FY2023	\$ 3,206,825.58	5%	\$ 3,664,830.05
FY2024	\$ 3,559,953.49		

Figure7: Stabilization Account History, FY2016-FY2024

Gardner's financial policies state that annually, upon certification of Free Cash by the Commonwealth's Department of Revenue, the Mayor shall put forward an appropriation request for an amount equivalent to five percent (5%) of certified Free Cash to be deposited into the stabilization account.

Additionally, the Department of Revenue best practices state that the goal for municipalities is to have a balance in their stabilization accounts equivalent to three percent (3%) to five percent (5%) of their annual operating budget, not including enterprise accounts.

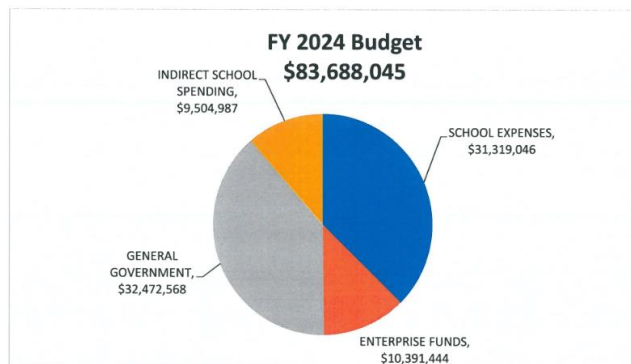


Figure 8: FY2024 Budget Breakdown

% of FY2024 General Fund	
3%	\$ 2,198,898.03
5%	\$ 3,664,830.05

Figure 9: Mass Dept of Revenue Guidelines compared to FY2024 Gardner Operating Budget

The FY2024 budget, adopted by the City Council on June 6, 2023 came to a subtotal of \$73,296,601, not including the enterprise funds.

This places the current balance of the stabilization account directly in target with the recommended balances by the Commonwealth's Department of Revenue, even if this appropriation is taken out.

Per the General Laws of the Commonwealth, the City may only appropriate funds from the Stabilization Account with a two-thirds (2/3) majority vote of the City Council.

Funding Plan:

In the last eight (8) years, the City has averaged a balance of \$ in 2,550,183.13 certified free cash every fall, following the Department of Revenue's review of the City's fiscal year close out.

Per the City's financial policies, that creates an approximate appropriation to the City's stabilization account of \$127,509.16.

Free Cash Balance	FY2016	FY2017	FY2018	FY2019	FY2020	FY2021	FY2022	FY2023
Fiscal Year	\$ 2,436,499	\$ 2,274,137	\$ 1,482,830	\$ 3,098,475	\$ 2,301,969	\$ 3,611,634	\$ 2,616,362	\$ 2,579,559.00
			Average FC	\$ 2,550,183.13				
			Average FC to Stab	\$ 127,509.16				
			Average FC 15%	\$ 382,527.47				

Figure 10: Certified Free Cash, FY2016 - FY2024

Should this appropriation pass the City Council, I would commit to have the Administration amend the City's financial policies to a total of fifteen percent (15%) of the City's certified free cash for a period of the next four (4) years.

Utilizing the projects from the average amount of free cash the City annually receives, this should get us not only to where current balance of the stabilization account is without the appropriation, but also to where it would be has the appropriation not been taken out and the usual five percent (5%) annual appropriation put into the account.

In simple terms, this is similar to the City taking a short term loan out against itself with the funds we already have available to us.

Bond (Loan Order):

The City did review the merits of taking a loan order out for the project and bonding the cost of the proposed facility for both a period of five (5) years and ten (10) years.

In both cases, it would substantially increase the costs to the City by \$56,250 in interest with a five (5) year loan, or \$118,125 in interest on a ten (10) year loan.

City of Gardner, Massachusetts \$625,000 General Obligation Bonds Dated June 1, 2024 5 Years, Equal Principal Interest Estimated; Subject to Change					
Debt Service Schedule					
Date	Principal	Coupon	Interest	Total P+I	Fiscal Total
06/01/2024	-	-	-	-	-
12/01/2024	-	-	9,375.00	9,375.00	-
06/01/2025	125,000.00	3.000%	9,375.00	134,375.00	-
06/30/2025	-	-	-	-	143,750.00
12/01/2025	-	-	7,500.00	7,500.00	-
06/01/2026	125,000.00	3.000%	7,500.00	132,500.00	-
06/30/2026	-	-	-	-	140,000.00
12/01/2026	-	-	5,625.00	5,625.00	-
06/01/2027	125,000.00	3.000%	5,625.00	130,625.00	-
06/30/2027	-	-	-	-	136,250.00
12/01/2027	-	-	3,750.00	3,750.00	-
06/01/2028	125,000.00	3.000%	3,750.00	128,750.00	-
06/30/2028	-	-	-	-	132,500.00
12/01/2028	-	-	1,875.00	1,875.00	-
06/01/2029	125,000.00	3.000%	1,875.00	126,875.00	-
06/30/2029	-	-	-	-	128,750.00
Total	\$625,000.00	-	\$56,250.00	\$681,250.00	-

Figure 11: Bond Scenario for 5 Year Loan for Project

(Section Continues on Next Page)

City of Gardner, Massachusetts
\$625,000 General Obligation Bonds Dated June 1, 2024
10 Years, Equal Principal
Interest Estimated; Subject to Change

Debt Service Schedule

Date	Principal	Coupon	Interest	Total P+I	Fiscal Total
06/01/2024	-	-	-	-	-
12/01/2024	-	-	10,937.50	10,937.50	-
06/01/2025	65,000.00	3.500%	10,937.50	75,937.50	-
06/30/2025	-	-	-	-	86,875.00
12/01/2025	-	-	9,800.00	9,800.00	-
06/01/2026	65,000.00	3.500%	9,800.00	74,800.00	-
06/30/2026	-	-	-	-	84,600.00
12/01/2026	-	-	8,662.50	8,662.50	-
06/01/2027	65,000.00	3.500%	8,662.50	73,662.50	-
06/30/2027	-	-	-	-	82,325.00
12/01/2027	-	-	7,525.00	7,525.00	-
06/01/2028	65,000.00	3.500%	7,525.00	72,525.00	-
06/30/2028	-	-	-	-	80,050.00
12/01/2028	-	-	6,387.50	6,387.50	-
06/01/2029	65,000.00	3.500%	6,387.50	71,387.50	-
06/30/2029	-	-	-	-	77,775.00
12/01/2029	-	-	5,250.00	5,250.00	-
06/01/2030	60,000.00	3.500%	5,250.00	65,250.00	-
06/30/2030	-	-	-	-	70,500.00
12/01/2030	-	-	4,200.00	4,200.00	-
06/01/2031	60,000.00	3.500%	4,200.00	64,200.00	-
06/30/2031	-	-	-	-	68,400.00
12/01/2031	-	-	3,150.00	3,150.00	-
06/01/2032	60,000.00	3.500%	3,150.00	63,150.00	-
06/30/2032	-	-	-	-	66,300.00
12/01/2032	-	-	2,100.00	2,100.00	-
06/01/2033	60,000.00	3.500%	2,100.00	62,100.00	-
06/30/2033	-	-	-	-	64,200.00
12/01/2033	-	-	1,050.00	1,050.00	-
06/01/2034	60,000.00	3.500%	1,050.00	61,050.00	-
06/30/2034	-	-	-	-	62,100.00
Total	\$625,000.00	-	\$118,125.00	\$743,125.00	-

Figure 12: Bond Scenario, 10 year loan

Additionally, Hilltop Securities, Inc., the City's Bond Counsel, recommended against taking a loan out for this project, as the amount was too small to be advantageous to bond companies that would issue the loan to the City. They recommend against taking out long term loans, defined as a period of five (5) or more years, for any amount under one million dollars (\$1,000,000) for this purpose, due to the higher chance of larger fees and interest payments due to the smaller amount.

Bond Anticipation Note (BAN):

The other funding option that the Administration explored was the possibility of taking out a Bond Anticipation Note ("BAN") for the project. However, this also proved to be more financially impracticable, as it would cost the City an extra \$62,500 to \$109,187.50 in interest on

the project with a five (5) year loan, or \$62,500 to \$173,500 in interest on the project with a ten (10) year loan.

City of Gardner, Massachusetts \$625,000 General Obligation Bonds Dated June 1, 2026 Assumes 2 years of BANs dated June 1, 2024, followed by 3-Year Bonds **interest estimated, subject to change**					
Debt Service Schedule					
Date	Principal	Coupon	Interest	Total P+I	Fiscal Total
06/01/2024	-	-	-	-	-
06/01/2025	625,000.00	5.000%	31,250.00	31,250.00	-
06/30/2025	-	-	-	-	31,250.00
06/01/2026	625,000.00	5.000%	31,250.00	31,250.00	-
06/30/2026	-	-	-	-	31,250.00
12/01/2026	-	-	11,718.75	11,718.75	-
06/01/2027	210,000.00	3.750%	11,718.75	221,718.75	-
06/30/2027	-	-	-	-	233,437.50
12/01/2027	-	-	7,781.25	7,781.25	-
06/01/2028	210,000.00	3.750%	7,781.25	217,781.25	-
06/30/2028	-	-	-	-	225,562.50
12/01/2028	-	-	3,843.75	3,843.75	-
06/01/2029	205,000.00	3.750%	3,843.75	208,843.75	-
06/30/2029	-	-	-	-	212,687.50
Total	\$625,000.00	-	\$109,187.50	\$734,187.50	-

Figure 13: Bond Scenario, 2 year BAN on a 5 year loan

(Section Continues on Next Page)

City of Gardner, Massachusetts

\$625,000 General Obligation Bonds Dated June 1, 2026

Assumes 2 years of BANs dated June 1, 2024, followed by 8-Year Bonds

interest estimated, subject to change

Debt Service Schedule

Date	Principal	Coupon	Interest	Total P+I	Fiscal Total
06/01/2024	-	-	-	-	-
06/01/2025	625,000.00	5.000%	31,250.00	31,250.00	-
06/30/2025	-	-	-	-	31,250.00
06/01/2026	625,000.00	5.000%	31,250.00	31,250.00	-
06/30/2026	-	-	-	-	31,250.00
12/01/2026	-	-	12,500.00	12,500.00	-
06/01/2027	80,000.00	4.000%	12,500.00	92,500.00	-
06/30/2027	-	-	-	-	105,000.00
12/01/2027	-	-	10,900.00	10,900.00	-
06/01/2028	80,000.00	4.000%	10,900.00	90,900.00	-
06/30/2028	-	-	-	-	101,800.00
12/01/2028	-	-	9,300.00	9,300.00	-
06/01/2029	80,000.00	4.000%	9,300.00	89,300.00	-
06/30/2029	-	-	-	-	98,600.00
12/01/2029	-	-	7,700.00	7,700.00	-
06/01/2030	80,000.00	4.000%	7,700.00	87,700.00	-
06/30/2030	-	-	-	-	95,400.00
12/01/2030	-	-	6,100.00	6,100.00	-
06/01/2031	80,000.00	4.000%	6,100.00	86,100.00	-
06/30/2031	-	-	-	-	92,200.00
12/01/2031	-	-	4,500.00	4,500.00	-
06/01/2032	75,000.00	4.000%	4,500.00	79,500.00	-
06/30/2032	-	-	-	-	84,000.00
12/01/2032	-	-	3,000.00	3,000.00	-
06/01/2033	75,000.00	4.000%	3,000.00	78,000.00	-
06/30/2033	-	-	-	-	81,000.00
12/01/2033	-	-	1,500.00	1,500.00	-
06/01/2034	75,000.00	4.000%	1,500.00	76,500.00	-
06/30/2034	-	-	-	-	78,000.00
Total	\$625,000.00	-	\$173,500.00	\$798,500.00	-

Figure 14: Bond Scenario, 2 year BAN on a 10 year loan

Under this type of financing plan, the City would pay an extra increased interest payment for a period of two (2) years in exchange for not making any payments toward the principal amount of the loan during that time period, then once the two years are expired, the payments on the principal would begin.

This is similar to a student in college who takes out a student loan before they graduate where they are still subject to interest but not required to make payments toward the principal on the loan. However, unlike that example, the City would still be liable to make the initial interest payments during the two anticipation years.

Final Funding Recommendation:

After consulting with Hilltop Securities, the City's Bond Counsel, and the City's Auditor and Treasurer, taking out a loan or a BAN for this project are not advisable due to the small amount of the project.

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

Hi Jen. Attached please find estimated debt service schedules assuming the City would issue BANs for 2 years beginning in June 2024, followed by 3-year Bonds (for a total term of 5 years) and 8-year Bonds (for a total term of 10 years). The Bonds assume equal principal payments. Do you know when the City would plan to borrow for this? Would you issue with any of the City's other authorized but unissued debt? We wanted to mention that it would make sense to combine this with other borrowing needs as \$625,000 would be quite small and unattractive as a standalone bond issue. As always, please don't hesitate to let us know if you have any questions or need anything else. Thanks!

Megan Hyland

Hilltop Securities Inc.

Vice President | Investment Banker

Figure 15: Email from Bond Counsel to City Treasurer, 24 FEB 2024

Additionally, the City's budget has already seen substantial increases in interest payments alone, simply from the Gardner Elementary School loan hitting the City's books for payment last year.

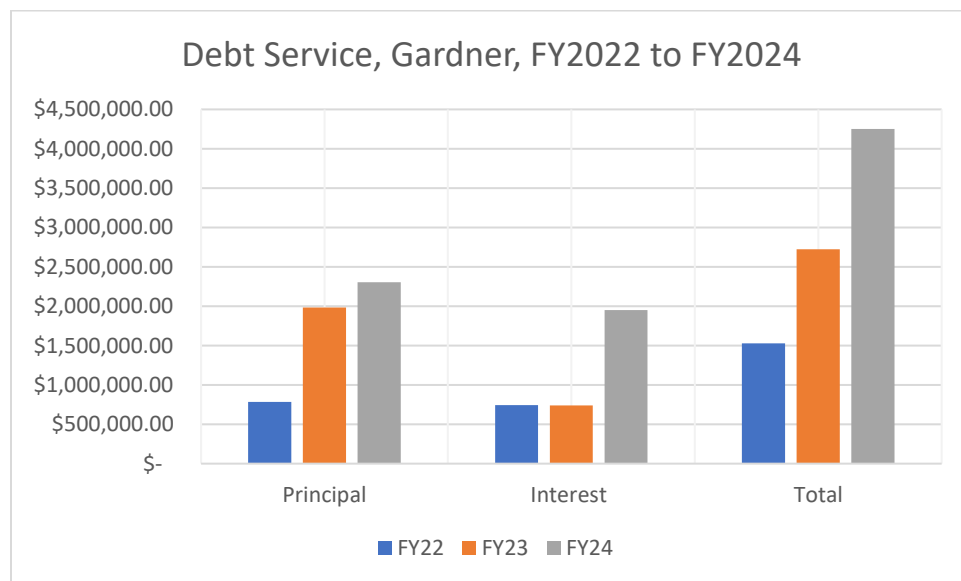


Figure 16: Gardner Debt Service, Principal, Interest, and total, FY22-24

Gardner General Fund Debt Service			
	Principal	Interest	Total
FY22	\$ 784,361.00	\$ 744,946.00	\$ 1,529,307.00
FY23	\$ 1,983,740.00	\$ 741,000.00	\$ 2,724,740.00
FY24	\$ 2,302,930.00	\$ 1,950,375.00	\$ 4,253,305.00

As such, the Administration, at the recommendation of Bond Counsel, the City Auditor, and the City Treasurer are recommending that the appropriation for this project come from the City's stabilization account.

I understand that this account is supposed to really be reserved for emergency purposes, however, there is precedent in Gardner for using these funds to cover capital projects that are an immediate need of the City, like the replacement of the existing salt shed. In 2017, the City Council voted to appropriate funds from the stabilization account to fund a portion of the Watkins Field renovation project.

If the City had a lower amount in our stabilization account or we did not have a plan to replenish this account within the proposed four (4) year period, I would not be proposing this be the funding source for this project. However, we have the funding available and we have a plan in place to protect the City financially in the long term. For these reasons, I truly believe this is the best path forward for the City on this project.

Respectfully Submitted,

A handwritten signature in blue ink, reading "Michael J. Nicholson". The signature is fluid and cursive, with the first name "Michael" and last name "Nicholson" clearly legible.

Michael J. Nicholson
Mayor, City of Gardner

Enclosures:
City Financial Policies



City of Gardner - Executive Office

Administration Budget and Financial Management Policies

23rd Administration of the City of Gardner

Introduction

The City of Gardner has an important responsibility to carefully account for public funds, to manage municipal finances wisely, and to plan and provide for the adequate funding of services desired by the public and as required by laws, rules, or regulations, including the provision and maintenance of public facilities and improvements. The following financial principles set forth the broad framework for overall fiscal planning and management of the City of Gardner's resources. In addition, these principles address both current activities and long-term planning. The budget and financial goals and policies set forth by the Administration in this document are intended to establish guidelines for the continued financial strength and stability of the City of Gardner.

Goals

- To provide full value to the residents and business owners of Gardner for each tax dollar by delivering quality services efficiently and on a cost- effective basis.
- To preserve our quality of life by providing and maintaining adequate financial resources necessary to sustain a sufficient level of municipal services, and to respond to changes in the economy, the priorities of governmental and non-governmental organizations, and other changes that may affect our financial well-being.
- To achieve and maintain a top level, AAA, credit rating
- To guide City decision makers on management and policy decisions which have significant fiscal importance
- To set forth operating principles that minimizes the cost of government and financial risk.
- To employ balanced and fair revenue policies that provides adequate funding for desired programs.
- To maintain appropriate financial capacity for present and future needs.
- To promote sound financial management by providing accurate and timely information on the City's financial condition

- To ensure the legal use of financial resources through an effective system of internal controls.

Policies

To achieve the goals mentioned in this document, the Administration has adopted the following policies. These policies were created with the full understanding that the City Council retains the full right to approve appropriations and the incurrence of debt, as required by law, and within statutory limits, such as those set forth by Proposition 2 ½.

Operating Budget

Sound financial practice and the desire to maintain a strong credit rating dictate that our budgets be balanced, constantly monitored, and responsive to changes in service demands. With these concepts in mind, the City of Gardner has adopted the following budget policy statements.

- The Mayor shall annually prepare a balanced budget and comprehensive Budget Message as required by state law and city charter. The Budget Message shall include a detailed examination of trends in tax levy “new growth” revenues, local receipts, state aid, and available funds.
- The annual operating budgets will be appropriated on a balanced basis, where operating revenues (estimated revenues) are used to fund operating expenditures/expenses (appropriations)
 - Operating revenues include property taxes, motor vehicle excises, charges for services, interest earnings, license and permit fees, fines and forfeitures, regularly recurring governmental aid, and transfers in from other funds established for operating purposes.
 - Operating expenditures/expenses include salaries and wages, employee benefits, equipment and improvements, depreciation (property funds only), materials, supplies, and contractual costs. These expenditures shall be broken down by city department in the annual budget document presented to the City Council by the Administration.
- The Administration will avoid budgetary procedures that balance current expenditures at the expense of meeting future expenses, such as postponing expenditures or accruing future years’ revenues.
- Nothing in this policy shall prohibit the use of operating revenues for capital expenditures/expenses
- The Administration will avoid relying on Free Cash to fund on-going operating expenses.
- To the extent possible, one-time revenues that are not required by law or agreement to be expended for a particular purpose will only be used for capital purposes, augmenting of City reserves, or emergency expenditures/expenses
- The operating budget will not be subsidized by the Stabilization Fund.

Revenues

Revenues determine the capacity of the City of Gardner to provide services. To ensure that revenues for the City are balanced and capable of supporting desired levels of services, the Administration has adopted the following policies:

- Revenue forecasts for local receipts and state aid shall be conservative, using generally accepted forecasting techniques and appropriate data. Revenue deficits will be avoided at all costs. To

avoid any potential deficits, estimates for local receipts will generally not exceed 100% of the prior year's actual collections.

- Each year and whenever appropriate, existing revenues will be re-examined and possible new sources of revenues will be explored to ensure that we are maximizing our revenue potential.
- The Administration shall strive to be informed and aware of all grants and other aid that may be available to us. All potential grants and other aid shall be carefully examined for matching requirements (both dollar and level-of-effort) and restrictive covenants, to ensure that our participation in such grants will be beneficial and cost-effective.
- Each year and whenever appropriate, intergovernmental revenues will be reviewed to determine their short and long-term stability, to minimize the impact of any adverse changes. Intergovernmental revenues shall be used as legally prescribed or otherwise set forth by policy.
- One-time revenues will be used for capital improvements, additions to reserves, or as legally restricted to a specific purpose.
- The City will carefully and routinely monitor all amounts due the City. An aggressive policy of collection will be followed for all receivables, including property taxes.
- Enterprise fund user charges and fees will be set to recover all direct and associated costs within the activities of these funds as well as any indirect costs associated with these accounts.

Reserves:

A municipality's fiscal policies should include a plan for maintaining reserves. Operating reserves are a prudent fiscal management tool and an important credit factor in the analysis for financial flexibility. The City of Gardner will maintain a level of reserves that protect the City from emergency conditions that require financial flexibility and contribute to the high credit rating that the City currently holds from Standard & Poor's and Moody's Investment Services. To provide for adequate levels of reserves to protect the City's financial condition over the long-term, the Administration has adopted the following financial reserves policy:

Stabilization Account:

- The City of Gardner shall maintain a Stabilization Fund to provide the reserves that are required to protect the financial condition of the City.
- The City will work toward the goal of maintaining in the Stabilization Fund an amount equal to five percent (5%) of the total projected general fund operating revenues for the previous fiscal year.
- Withdrawals from the Stabilization Fund will only be used for sudden and unexpected events, in extreme circumstances. Withdrawals from the Stabilization Fund will only be made in accordance with Massachusetts General Laws, City Ordinances and the City Charter.

Free Cash:

Whereas the amount of Free Cash certified every year may differ depending on revenue and expense trends that take place throughout the fiscal year, the Administration will avoid using Free Cash to fund portions of the operating budget. In doing so, the Administration seeks to use Free Cash for liability coverage, capital costs, and other one-time expenses that may arise during the remainder of the fiscal year. All this is done with the understanding that the City Council has appropriating authority under Massachusetts General Laws, City Ordinances, and the City Charter.

- The first request for appropriation of free cash on behalf of the Administration to the City Council shall be five percent (5%) of the total amount certified that year into the City Stabilization Account.
- One percent (1%) of the certified amount of free cash requested on behalf of the Administration from the City Council shall be appropriated into the Other Post-Employment Benefit Trust Fund annually.
- After the previous two appropriations have been approved, the Administration will request that 10% of the total certified amount be appropriated for Road Resurfacing and Repair annually.
- After the aforementioned appropriations have been approved by the City Council, the Mayor shall use the remaining available Free Cash to fund capital costs that the City may undertake or extraordinary budgetary costs that become foreseeable by the end of the fiscal year.



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,

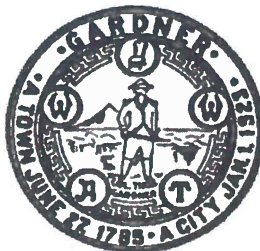
Michael J. Nicholson
Mayor, City of Gardner

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

[illegible]

[illegible]

PROJECT INFORMATION

LAND INFORMATION
 MAP SHEET: 101-10-4
 PROPOSED PROJECT: 101-10-4
 PROJECT LOCATION: 101-10-4
 PROJECT OWNER: 101-10-4
 PROJECT DATE: 101-10-4

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 ENGINEERING DEPARTMENT'S STANDARDS AND SPECIFICATIONS.
 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 ENGINEERING DEPARTMENT'S STANDARDS AND SPECIFICATIONS.
 3. 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 ENGINEERING DEPARTMENT'S STANDARDS AND SPECIFICATIONS.

EXISTING CONDITIONS PLAN
 GARDNER, MASSACHUSETTS

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

OWNER:
 CITY OF GARDNER
 50 MANCA DRIVE
 GARDNER, MA 01440

DATE: 101-10-4
APPD: 101-10-4
SRV: 101-10-4
TAB: 101-10-4

SCALE: 1"=30'
DATE: 101-10-4
APPD: 101-10-4
SRV: 101-10-4
TAB: 101-10-4

OWNER:
 CITY OF GARDNER
 50 MANCA DRIVE
 GARDNER, MA 01440

DATE: 101-10-4
APPD: 101-10-4
SRV: 101-10-4
TAB: 101-10-4

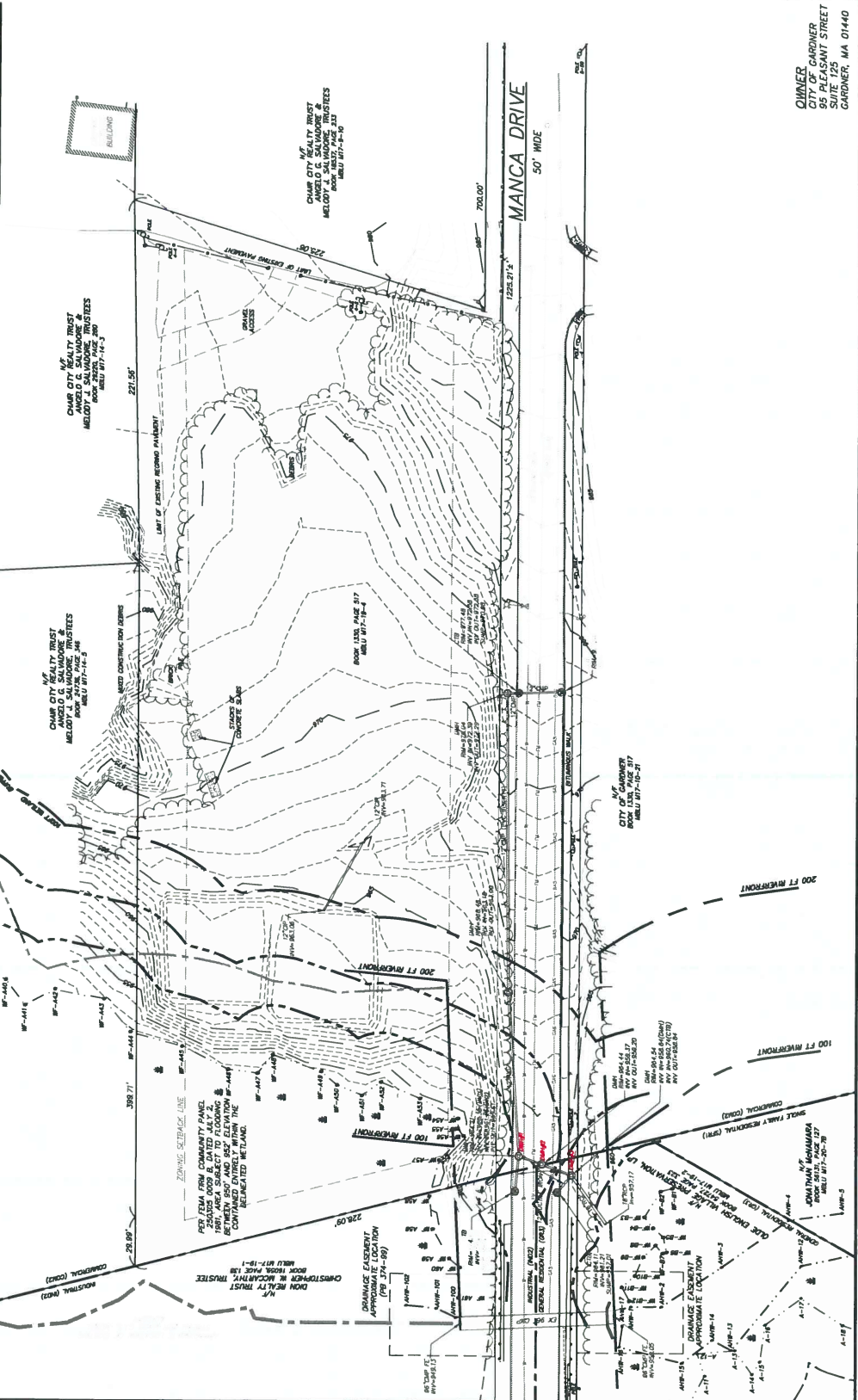
SCALE: 1"=30'
DATE: 101-10-4
APPD: 101-10-4
SRV: 101-10-4
TAB: 101-10-4

OWNER:
 CITY OF GARDNER
 50 MANCA DRIVE
 GARDNER, MA 01440

DATE: 101-10-4
APPD: 101-10-4
SRV: 101-10-4
TAB: 101-10-4

SCALE: 1"=30'
DATE: 101-10-4
APPD: 101-10-4
SRV: 101-10-4
TAB: 101-10-4

OWNER:
 CITY OF GARDNER
 50 MANCA DRIVE
 GARDNER, MA 01440



OWNER:
 CITY OF GARDNER
 50 MANCA DRIVE
 GARDNER, MA 01440

DATE: 101-10-4
APPD: 101-10-4
SRV: 101-10-4
TAB: 101-10-4

SCALE: 1"=30'
DATE: 101-10-4
APPD: 101-10-4
SRV: 101-10-4
TAB: 101-10-4

OWNER:
 CITY OF GARDNER
 50 MANCA DRIVE
 GARDNER, MA 01440

DATE: 101-10-4
APPD: 101-10-4
SRV: 101-10-4
TAB: 101-10-4

SCALE: 1"=30'
DATE: 101-10-4
APPD: 101-10-4
SRV: 101-10-4
TAB: 101-10-4

OWNER:
 CITY OF GARDNER
 50 MANCA DRIVE
 GARDNER, MA 01440