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CITY OF GARDNER
MASSACHUSETTS 01440-2630

OFFICE OF THE
CITY COUNCIL



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WARD 5 COUNCILLOR
Aleksander Dernalowicz, Esq.

CITY COUNCIL INFORMAL MEETING

Date: Monday, May 6, 2024
Time: 7:00 P.M.
Location: City Council Chambers, Room 219, City Hall

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

- 11232** – A Measure to Adopt Local Option Room Occupancy Excise Rate Increase Under MGL 64G, Sec. 3A. *(Submitted by Councillor Paul G. Tassone; In the City Council and Referred to Committee of the Whole 4/1/2024; More Time 4/16/2024)*
- 11233** – A Measure to Adopt Local Option Sales Tax on Meals Under MGL. 64L, SEC 2(a). *(Submitted by Councillor Paul G. Tassone; In the City Council and Referred to Committee of the Whole 4/1/2024; More Time 4/16/2024)*
- 11234** – A Resolution to Review the City’s Zoning Map for Accuracy. *(Submitted by Councillor Paul G. Tassone; In the City Council and Referred to Committee of the Whole 4/1/2024; More Time 4/16/2024)*

CITY COUNCIL OF GARDNER
Elizabeth J. Kazinskas
ELIZABETH J. KAZINSKAS
Council President

NOTICE: The listing of Agenda items are those reasonably anticipated by the Chair which may 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

May 3, 2024

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

RECEIVED
2024 MAY -3 PM 12:03
CITY CLERK'S OFFICE
GARDNER, MA

RE: City Council Informal Meeting of May 6, 2024

Dear Madam President and Councilors,

Upon the agenda being posted on Thursday, May 2nd, 2024, I noticed the City Council will be meeting informally on Monday, May 6th, 2024, to discuss the proposals by Councilor Tassone listed as Items #11232 and #11233.

On behalf of the Administration I am writing in support of these items.

Item #11232: A Measure to Adopt Local Option Room Occupancy Excise Rate Increase Under MGL 64G, Sec. 3A.

On March 18, 1991, the City Council voted to accept the provisions of Chapter 64G, Section 3A of the General Laws creating a lodging/hotel/local room occupancy tax in the City of Gardner.

The original rate approved in 1991 of two percent (2%) was increased in 1993 to four percent (4%) where it has stayed ever since.

As we look to ways to grow the City's revenue while keeping our property taxes a reasonable rates for our residents, the Administration has looked into increasing this rate to what is currently allowed by law to six percent (6%), as costs have increased since this was first adopted 31 years ago.

In conversations we have had with the Commonwealth's Department of Revenue, as well as data we have reviewed from years past, this increase would result in an additional \$2,972 in revenue annually, based on the average amount collected over the last four years of \$148,593.86. While this may seem like a menial amount in the grand scheme of things, every dollar counts when we are looking at ways to make the City more competitive and provide the quality of services that our residents deserve.

While taxation is always something that should be taken seriously, while we weigh out the benefit for the City and the costs imposed on our residents, it is the opinion of the Administration

that this is in the best interest of the City. This is a tax that would be paid for, almost completely, by individuals who are not our residents nor usual tax payers.

Every year since the City adopted a hotel tax in 1991, the City has increased property taxes when the annual operating budget was adopted. Most years by the full two and one half percent (2.5%), except for two years with a one and one half percent (1.5%) increase. These increases have all been increases on what our residents pay. However, this proposal is a tax not paid for by our residents and is paid by those visiting our community while still providing a financial benefit to the city.

As of the date of the authoring of this letter, 171 communities in Massachusetts have adopted a lodging tax of a the full six percent (6%) allowed by law, with the latest being the City of Fitchburg who adopted this tax in April 2024. For comparison, only 39 communities have a four percent (4%) lodging tax rate.

As was noted by Mayor Squalia's Office when this was proposed in Fitchburg last month, in the 1990s when Gardner, Fitchburg, and Leominster adopted a lower rate of only four percent (4%) it was adopted due to the idea that having a lower rate compared to other communities may draw new hotels into the North Central Massachusetts Region. However, while some hotels have changed hands between companies, since 1997, no new hotels have opened in the tri-City area. This lead Leominster to increase their hotels tax to the full six percent (6%) in 2017 and Fitchburg to make this move last month.

While an additional \$2,972 may seem like a menial amount in a budget of \$88 million, every penny counts when it comes to trying to find ways to cover increasing costs to increase employee compensation to a marketable rate and keep up with capital costs on a growing improvement list.

Please note that there is currently legislation pending at the state level to increase the limit of a local option meals tax from six percent (6%) to seven percent (7%). If this legislation passes and is signed by the Governor, it would require an additional vote of the City Council to amend the percentage to the new rate.

Item #11233: A Measure to Adopt Local Option Sales Tax on Meals Under MGL 64L, Sec 2(a)

In conversations we have had with the Commonwealth's Department of Revenue, this should bring in approximately \$400,000 to \$500,000 annually. This is based off of the average amount that the Commonwealth has received for the last five (5) fiscal years from the 6.25% tax they already place on these items.

This is something that would be paid for by both our residents and our visitors equally and is at a small enough rate, \$0.08 per \$10.00, that it is reasonable enough, and beneficial enough to the City. This is also a tax that is equally paid between the City's residents and our visitors.

As of the date this letter was written, 253 municipalities in Massachusetts have adopted a 0.75% meals tax.

It is true that the City has seen large economic investment in recent years, and I do not believe that a move like this would deter that trend from continuing. Most municipalities of the 351 in the Commonwealth have adopted this statute and the impact is almost negligible when compared to the fees and taxes that these companies are already paying.

This funding would provide crucial support to the City. When the City borrowed the loan for the new Gardner Elementary School, interest rates largely increased due to the way inflation was trending at the time. As a result, the City saw increases of close to \$750,000 in annual interest payments alone. To help cover these costs, the City has had to take funding from other programs in order to pay the interest that accrues on our debt. This has led to us cutting all supplemental paving funds out of the FY2025 proposal, as well as not being able to cover certain increases in maintenance and upkeep line items, further exacerbating the deferred maintenance issues that Gardner continues to deal with.

FISCAL YEAR	Actual Interest Paid
2010	\$ 64,667
2011	\$ 55,061
2012	\$ 45,284
2013	\$ 32,800
2014	\$ 22,000
2015	\$ 479,185
2016	\$ 459,863
2017	\$ 435,163
2018	\$ 413,663
2019	\$ 398,577
2020	\$ 523,151
2021	\$ 522,796
2022	\$ 1,574,243
2023	\$ 2,146,374
2024	\$ 2,533,790

Figure 1: Source- City of Gardner Auditing Department

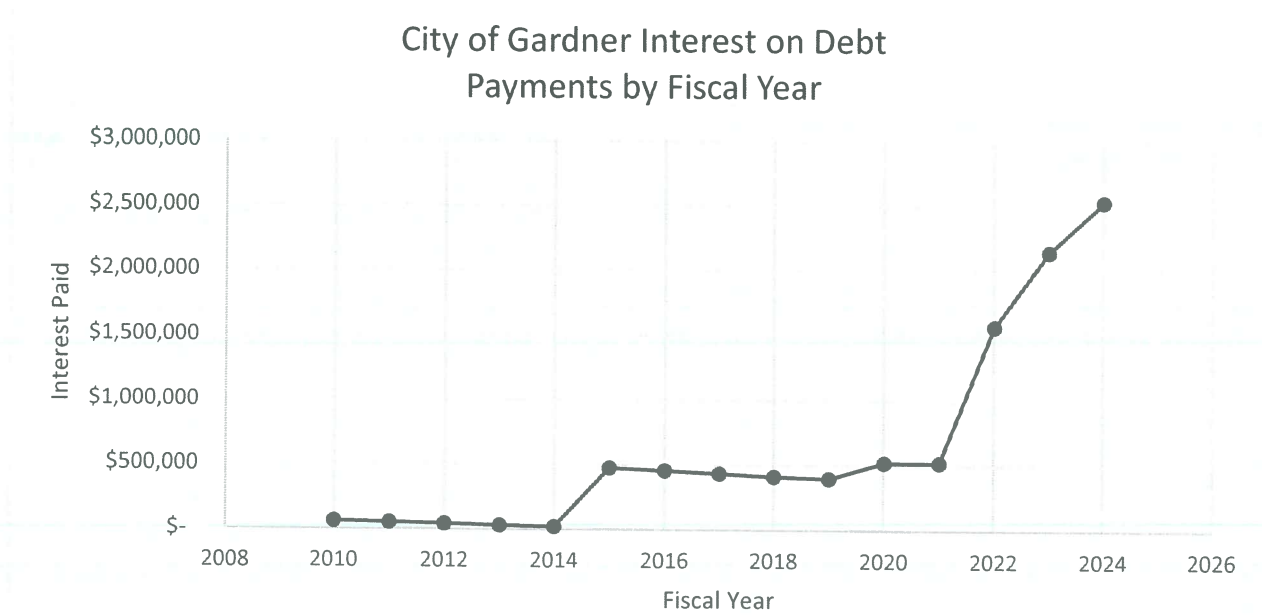


Figure 2: Source- Gardner City Auditing Department

If this is approved, this funding would be used to cover the cost of interest for the life of the loan to allow us to be able to put funding back into the paving and playground improvement accounts and give the City more financial flexibility in working to build up capital improvement funds to get us to where we need to be.

Please note that there is currently legislation pending at the state level to increase the limit of a local option meals tax from 0.75% to 1.0%. If this legislation passes and is signed by the

Governor, it would require an additional vote of the City Council to amend the percentage to the new rate.

Conclusion:

The FY2025 Budget proposal had \$13,088,995.23 cut from what department heads had requested due to the City's financial constraints. While there is no way these proposals would cover that difference, it does help increase the City's revenue streams in a way that does not overly burden the taxpayers in the City of Gardner. We continue to increase property taxes every fiscal year, but there is only so much that can be done with this with the financial constraints our residents are already paying and dealing with.

Meals taxes and hotel taxes are the least regressive taxes that a municipality can levy. If we as a City are to succeed, we must come up with new ways to generate revenue for the City to cover and build toward where we need to be to provide our residents deserve.

Respectfully Submitted,



Michael J. Nicholson
Mayor, City of Gardner

ACCEPTANCE LOCAL OPTION ROOM OCCUPANCY EXCISE RATE INCREASE
G. L. c 64G, SEC 3A

VOTED:

That the city of Gardner amend its local room occupancy excise under G.L. c. 64G, sec 3A at the rate of 6 percent.

RECEIVED
2024 MAR 21 PM 1:50
CITY CLERK'S OFFICE
GARDNER, MA



Adopting Local Option Excise on the transfer of room occupancy MGL Chapter 64G

How does a municipality adopt the local option excise on the transfer of room occupancy?

Acceptance is by a majority vote of the municipal legislative body, subject to local charter.

To accept excise the following or similar language may be used:

VOTED: That the city/town of _____ impose the local room occupancy excise under G.L. c. 64G, § 3A at the rate of _____ percent.

The following or similar language may be used to amend the local rate:

VOTED: That the city/town of _____ amend its local room occupancy excise under G.L. c. 64G, § 3A at the rate of _____ percent.

My community voted to accept the rooms occupancy excise. What's the next step?

Within 48 hours of the acceptance the city or town clerk must notify DLS by submitting this form: [Notification of Acceptance/Rescission – Room Occupancy](#). Email the notification of acceptance to databank@dor.state.ma.us.

What is local option tax rate available?

A municipality can choose to impose a rate up to 6% (6.5% in the city of Boston).

Can the rate adopted be amended?

Yes, a city or town adopting the rooms excise can choose to amend the adopted rate or even revoke it - but changes to the adopted rate can only happen once a year.

How will the excise be collected from the establishment?

Based on the effective date of the excise, DOR will collect the additional tax at the same time it collects the state tax on the room occupancy transfers.

When will DOR start collecting the excise?

The effective date is dependent on two things:

1. The wording of the article approved by the legislative body
2. The date DLS is notified of the adoption

Notification deadlines:

FY Quarter	Quarter Start Date	Local Action Deadline
Quarter 1	July 1 st	May 31 st
Quarter 2	October 1 st	August 31 st
Quarter 3	January 1 st	December 1 st
Quarter 4	April 1 st	March 1 st

For example, if a municipality votes on May 24th to adopt the local option excise effective July 1st the notification of acceptance must be received by DLS no later than May 31st. Delays in notifying DLS timely will change the effective date to the next quarter. Using this example, if DLS is notified on June 5th, the effective date will now be October 1st.

Is the local excise limited to hotels/motels?

No. Statutory changes to the room occupancy statute in 2019 expanded the definition of room occupancy transfers to include short-term rentals.

Can I request a list of all establishments registered with DOR as tax type room occupancy?

Yes. DLS can provide local officials with a list of registrations in their municipality. Email your request to databank@dor.state.ma.us.

When will we receive the local option excise collected?

DOR issues these payments quarterly. Quarterly payments are based on the taxes collected by DOR in the previous three months. For example, the September 30th local option excise distribution will be based on excise revenues received by DOR in June, July and August.

Can we request the amount of tax collected by establishment?

Unfortunately, we can't provide that detail due to DOR policy on taxpayer confidentiality. However, we can provide the revenue split between traditional lodging (hotel/motel) and short-term rentals. Email databank@dor.state.ma.us to request a report showing the revenue split.

Additional guidance is available from these sources:

- [Bulletin 2009-15B](#) Local Option Excise
- [DLS FAQs Short Term Rentals – Room Occupancy Amendments](#)
- <https://www.mass.gov/info-details/room-occupancy-excise-tax> (Mass DOR)

**Massachusetts Department of Revenue
Division of Local Services
Municipal Databank**

(City/Town)

**Notification of Acceptance/Rescission
General Laws Chapter 64G, § 3A
(Room Occupancy)**

The Commissioner of Revenue is hereby notified that the City/Town of _____, by an act of its legislative body on _____, _____, has accepted ___ or rescinded ___ the provisions of General Laws Chapter 64G, § 3A to impose a local room occupancy excise at the rate of _____ percent, effective _____.

(City/Town Clerk)

(Date)

Please email this form to:

databank@dor.state.ma.us

ACCEPTANCE LOCAL OPTION SALES TAX ON MEALS
G.L. c. 64L, SEC 2 (a)

VOTED:

That the city of Gardner accept G.L. c. 64L sec 2(a) to impose a local meal excise.

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CITY CLERK'S OFFICE
GARDNER MA



Adopting Local Option Excise on the sale of restaurant meals GL Chapter 64L

How does a municipality adopt the local option meals excise?

Acceptance is by a majority vote of the municipal legislative body, subject to local charter. To adopt this local option excise the following or similar language may be used:

VOTED: That the city/town of _____ accept G.L. c. 64L, § 2(a) to impose a local meals excise.

My community voted to adopt the local meals excise. What's the next step?

Within 48 hours of the acceptance the city or town clerk must notify DLS by submitting the form [Notification of Acceptance/Rescission – Meals Excise](#). Email the Notification of Acceptance to databank@dor.state.ma.us.

Why do I need to include contact information for our Local Licensing Authority?

Once your notification of acceptance is received, a list of establishments serving food in your community will be sent to the local licensing authority to verify they have all [registered in DOR MassTax Connect](#). This is an important step in the process as it impacts the amount of revenue a community receives.

Is there a limitation on the rate we can adopt?

A municipality can choose to impose a maximum rate of 0.75%.

Can the adopted rate be amended?

Yes. A municipality accepting an excise rate can choose to amend that rate or even revoke it, but changes to the adopted rate can only happen once a year.

How will the excise be collected from a local establishment?

DOR will collect the additional tax at the same time it collects the state tax on the sale of restaurant meals.

When will DOR start collecting the excise?

The effective date is dependent on two things:

1. The wording of the article approved by the legislative body
2. The date DLS is notified of the adoption

Notification deadlines:

FY Quarter	Quarter Start Date	Notify DLS by:
Quarter 1	July 1 st	May 31 st
Quarter 2	October 1 st	August 31 st
Quarter 3	January 1 st	December 1 st
Quarter 4	April 1 st	March 1 st

For example, if a municipality votes on May 24th to adopt the local option excise effective July 1st the notification of acceptance must be received by DLS no later than May 31st. Delays in notifying DLS timely will push the effective date to the next quarter. Using the same example: if a municipality votes on May 24th to adopt the local option excise effective July 1st but DLS is notified on June 5th, the effective date would be October 1st.

When will we receive the local option excise collected?

DOR issues these payments quarterly. Quarterly payments are based on the taxes collected by DOR in the previous three months. For example, the September 30th local option excise distribution will be based on excise revenues received by DOR in June, July and August.

Can I request a list of all establishments in my community that are registered with DOR as subject to the meals excise?

Yes. DLS can provide local officials with a list of registrations in their municipality. Email your request to databank@dor.state.ma.us.

Can we request the amount of tax collected from a specific establishment?

Unfortunately, we can't provide that detail due to DOR policy on taxpayer confidentiality.

For additional guidance consult [Bulletin 2009-15B](#) Local Option Excise.

**Massachusetts Department of Revenue
Division of Local Services
Municipal Databank**

(City/Town)

**Notification of Acceptance/Rescission
General Laws Chapter 64L, § 2
(Local Option Meals Tax)**

The Commissioner of Revenue is hereby notified that the City/Town of _____, by an act of its legislative body on _____, _____, has accepted___ or rescinded___ the provisions of General Laws Chapter 64L, § 2 to impose a local meal tax effective _____. Please complete the contact information below for the Local Licensing Authority (required for establishment verification purposes).

(City/Town Clerk)

(Date)

Local Licensing Authority

Name: _____, Title: _____

Telephone: _____ Email Address: _____

Please email this form to:

databank@dor.state.ma.us

A RESOLUTION TO REVIEW THE CITY'S ZONING MAP FOR ACCURACY

WHEREAS, the City of Gardner has adopted a zoning code to determine what businesses and property uses can operate in different areas of the City; and

WHEREAS, it is imperative to the development of the City to ensure that the City's zoning map is accurate and up to date with all actions by the City Council for zones and overlays throughout the City;

NOW THEREFORE, the City Council hereby requests the Mayor and the City's relevant department heads to review the City's Zoning Map for complete accuracy to prevent delays or undue hardships for businesses looking to open or expand in Gardner.

RECEIVED

2024 MAR 25 AM 9:23

CITY CLERK'S OFFICE
GARDNER, MA